



AGENDA OF THE REGULAR MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
February 14, 2023
6:45 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.

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

ANNOUNCEMENTS

- A. City Planner and Engineer RFPs: Due March 1st
- B. Lift Station Bids: April
- C. Permitting Software: April Implementation

CITY BUSINESS – CONSENT AGENDA

- A. Approve Treasurer's Report* (pp.4-38)
- B. Approve Regular Council Meeting Minutes from January, 2023* (pp.39-51)
- C. Approve Closed Council Meeting Minutes from January, 2023* (p.52)
- D. Approve 2023 Meeting and Holiday Schedule: 6:45pm Council Meeting Start Time, October Meeting Date Correction* (p.53)
- E. Approve RESOLUTION 2023-08: Authorize Annual Summer Concert Series* (pp. 54-55)
- F. Approve RESOLUTION 2023-09: Authorize 2 Laptop Purchases*(pp. 56-57)
- G. Approve RESOLUTION 2023-10: Issue Permit Period Extension for Variance 22-01-VB* (pp.58-61)

CITY BUSINESS

- A. Parks Committee* (pp.62-76)
 - a. Candidate(s) Review & Select
 - b. Approve Bylaws
 - c. RESOLUTION 2023-11: Authorizing the Evaluation of and Possible Relocation of the Disabled Parking at Kay Beach

* Denotes items that have supporting documentation provided

- a. RESOLUTION 2023-12: Authorizing the Parks Committee to Review and Recommend Code Revisions Related to Parks and Open Spaces
 - b. RESOLUTION 2023-13: Authorizing the Parks Committee to Review Potential Upgrades and Usages of Tighe-Schmitz Park
Time Budget: 15 Minutes
- B. Treasurer's Report on Reconciliation and Internal Controls*(pp.77-80)
Time Budget: 15 Minutes
- C. Designate the TH 120/Century Ave Coalition Representative and Back-Up
Time Budget: 10 Minutes
- D. Second Reading ORDINANCE 2022-10-02: Sec 605: Amending Investigation Fees* (pp.81-88)
 - a. Public Hearing
 - b. Council Deliberation & Approval
 - c. RESOLUTION 2023-15 Approving Summary Publication Ord. 2022-10-02
Time Budget: 10 Minutes
- E. Second Reading ORDINANCE 2022-10-05: Amending Fees Sec 701* (pp.89-91)
 - a. Public Hearing
 - b. Council Deliberation & Approval
 - c. RESOLUTION 2023-14 Approving Summary Publication Ord. 2022-10-05
Time Budget: 10 Minutes
- F. *Second Reading ORDINANCE 2022-10-07: Amending Fees Sec 407* (pp.92-94)*
 - a. *Public Hearing*
 - b. *Council Deliberation & Approval*
 - c. *RESOLUTION 2023-06 Approving Summary Publication Ord. 2022-10-07*
Time Budget: 10 Minutes
- G. *Mitigation Plan for Washington County Sheriff's Office* (p.95)*
Time Budget: 10 Minutes

* Denotes items that have supporting documentation provided

PENDING BUSINESS, as time permits

- A. Discuss Right of Way Code* (pp.96-129)
- B. Discuss Firearms Code* (pp.130-140)
- C. Building in the City of Birchwood Village (pending documentation)
- D. Canceling the Deer Hunt (pending documentation)
- E. Discuss Leave Pick Up (pending documentation)
- F. Ordinance 2022-04-02 / 302.050 (pending documentation)
- G. Ordinance to approve Past Salaries (pending documentation)

CITY ATTORNEY FOLLOW UP ITEMS

- E. Birchwood Village Water Management Plan (acceptance)
- F. 310-312: Wildwood Run Off (pending documentation)

ADJOURN

* Denotes items that have supporting documentation provided

For the Period : 12/21/2022 To 2/8/2023

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>	<u>Less Deposits In Transit</u>	<u>Plus Outstanding Checks</u>	<u>Total Per Bank Statement</u>
General Fund	\$813,034.10	\$20,611.03	\$173,976.47	\$659,668.66	\$302.00	\$59,998.00	\$719,364.66
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Federal Programs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$3,420.69	\$0.00	\$0.00	\$3,420.69	\$0.00	\$0.00	\$3,420.69
Spec Rev - Warm House	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
REIMBURSED CONTRACTED SERVICES	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab Debt	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
General Capital Projects	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$111,711.31	\$0.00	\$0.00	\$111,711.31	\$0.00	\$0.00	\$111,711.31
Water	\$29,269.51	\$37,204.48	\$15,799.03	\$50,674.96	\$0.00	\$940.00	\$51,614.96
Sewer	\$86,320.29	\$26,938.04	\$18,975.70	\$94,282.63	\$0.00	\$10,657.86	\$104,940.49
Transit System	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Water Meter Upgrade Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
American Rescue Act Proceeds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$1,043,755.90	\$84,753.55	\$208,751.20	\$919,758.25	\$302.00	\$71,595.86	\$991,052.11

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>	<u>Less Deposits In Transit</u>	<u>Plus Outstanding Checks</u>	<u>Total Per Bank Statement</u>
Justin R. McCarthy	City Council/Town Board						Date
Katherine A Weier	City Council/Town Board						Date
Margaret Arola Ford	City Council/Town Board, Mayor						Date
Robert Mark Foster	City Council/Town Board						Date
Ryan A Hankins	City Council/Town Board						Date

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<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>
12/21/2022	Payroll Period Ending 12/21/2022	32264	Becky Kellen, City Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,989.30
	Total For Check	32264					\$ 1,989.30
12/21/2022	Payroll Period Ending 12/21/2022	32265	Tom Nitti Bookkeeper/Asst Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 646.61
	Total For Check	32265					\$ 646.61
12/21/2022	Residents- Utility bill adjustments	CE12222022j*	Difference on bank stmt for utility billing- Feb 17, 2021	N	Water Utility	601-43180-382-	\$ 94.39
		CE12222022j*			MISCELLANEOUS	605-49001-430-	\$ 40.44
	Total For Check	CE12222022j					\$ 134.83
12/21/2022	Residents- ACH returns	EFT12212022A*	Returned items from Feb22, added back to utility bill	N	Water Utility	601-43180-382-	\$ 122.66
		EFT12212022A*				601-43180-382-	\$ 20.83
		EFT12212022A*				601-43180-382-	\$ 2.41
		EFT12212022A*			Sewer Utility	605-43190-430-	\$ 56.81
		EFT12212022A*				605-43190-430-	\$ 35.70
	Total For Check	EFT12212022A					\$ 238.41
12/21/2022	Residents- ACH returns	EFT12212022B*	Returned items from Feb22, added back to utility bill	N	MISCELLANEOUS	100-49001-430-	\$ 159.14
		EFT12212022B*				100-49001-430-	\$ 11.73
		EFT12212022B*			Water Utility	601-43180-382-	\$ 106.16
		EFT12212022B*				601-43180-382-	\$ 25.86
		EFT12212022B*				601-43180-382-	\$ 2.42
		EFT12212022B*			Sewer Utility	605-43190-430-	\$ 30.17
		EFT12212022B*				605-43190-430-	\$ 35.81
	Total For Check	EFT12212022B					\$ 371.29
12/21/2022	Residents- ACH returns	EFT12212022C*	Returned items from Feb22, added back to utility bill	N	Water Utility	601-43180-382-	\$ 9.99
		EFT12212022C*				601-43180-382-	\$ 20.50
		EFT12212022C*				601-43180-382-	\$ 2.37
		EFT12212022C*			Sewer Utility	605-43190-430-	\$ 13.16
		EFT12212022C*				605-43190-430-	\$ 35.13
	Total For Check	EFT12212022C					\$ 81.15

Fund Name: All Funds

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12/21/2022	Residents- NSF paper returns	EFT12212022D*	2018 NSF utility payments, added back to utility bill	N	Water Utility	601-43180-382-	\$ 6.90
		EFT12212022D*				601-43180-382-	\$ 15.00
		EFT12212022D*				601-43180-382-	\$ 9.36
		EFT12212022D*				601-43180-382-	\$ 1.59
		EFT12212022D*				601-43180-382-	\$ 13.48
		EFT12212022D*			Sewer Utility	605-43190-430-	\$ 3.12
		EFT12212022D*				605-43190-430-	\$ 36.00
		EFT12212022D*				605-43190-430-	\$ 1.96
	Total For Check	EFT12212022D					\$ 87.41
12/21/2022	Residents- NSF paper returns	EFT12212022E*	2018 NSF utility payments, added back to utility bill	N	Water Utility	601-43180-382-	\$ 41.76
		EFT12212022E*				601-43180-382-	\$ 19.64
		EFT12212022E*				601-43180-382-	\$ 24.30
		EFT12212022E*				601-43180-382-	\$ 1.59
		EFT12212022E*			Sewer Utility	605-43190-430-	\$ 34.32
		EFT12212022E*				605-43190-430-	\$ 36.00
	Total For Check	EFT12212022E					\$ 157.61
12/21/2022	Residents- NSF paper returns	EFT12212022F	2018 NSF utility payments, added back to utility bills	N	Water Utility	601-43180-382-	\$ 124.36
		EFT12212022F				601-43180-382-	\$ 45.00
		EFT12212022F				601-43180-382-	\$ 4.77
		EFT12212022F				601-43180-382-	\$ 16.80
		EFT12212022F			Sewer Utility	605-43190-430-	\$ 149.76
		EFT12212022F				605-43190-430-	\$ 108.00
		EFT12212022F				605-43190-430-	\$ 25.78
	Total For Check	EFT12212022F					\$ 474.47
12/21/2022	Residents- NSF paper returns	EFT12212022G*	2020 NSF utility payments, added back to utility bills	N	Water Utility	601-43180-382-	\$ 24.15
		EFT12212022G*				601-43180-382-	\$ 5.86
		EFT12212022G*				601-43180-382-	\$ 6.98
		EFT12212022G*				601-43180-382-	\$ 0.67
		EFT12212022G*			Sewer Utility	605-43190-430-	\$ 27.29
		EFT12212022G*				605-43190-430-	\$ 10.05
	Total For Check	EFT12212022G					\$ 75.00
12/21/2022	Residents- NSF paper returns	EFT12212022H*	2019 NSF utility payments, added back to utility bills	N	Water Utility	601-43180-382-	\$ 100.00
	Total For Check	EFT12212022H					\$ 100.00

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12/21/2022	Residents- NSF paper returns	EFT12212022I*	2018 NSF utility payments, added back to utility bills	N	Water Utility	601-43180-382-	\$ 200.00
	Total For Check	EFT12212022I					\$ 200.00
12/21/2022	Ramsey County	EFT12212022K	Correcting Entry, 1/24/20, deposit entered as delinquent utility bills, duplicate	N	Water Utility	601-43180-382-	\$ 375.38
		EFT12212022K			Sewer Utility	605-43190-430-	\$ 375.37
	Total For Check	EFT12212022K					\$ 750.75
12/22/2022	BrightView Landscapes, LLC.	32258*	Snow Removal Services	N	Ice and Snow Removal	100-43125-210-	\$ 7,852.60
		32258*				100-43125-314-	\$ 4,936.40
	Total For Check	32258					\$ 12,789.00
12/22/2022	St. Anthony Village	32259*	Q4 Utility Billing \$2188.62, Fall leaf pickup Res Fee \$100	N	Unallocated Expenditures	100-49201-430-	\$ 100.00
		32259*			Financial Administration	601-41501-314-	\$ 2,188.62
	Total For Check	32259					\$ 2,288.62
12/22/2022	Kodiak Power Solutions	32260*	Generator Repair gas leak	N	Sewer Utility	605-43190-314-	\$ 1,277.50
	Total For Check	32260					\$ 1,277.50
12/22/2022	Stoltzman, Cris	32261*	Videography - Council Mtgs, 12/13/22 4 hrs	N	Cable Eqpmt and Service	100-41950-314-	\$ 92.00
	Total For Check	32261					\$ 92.00
12/22/2022	St. Paul Stamp Works, Inc	32262*	Stands for nameplates for new council members (3)	N	Office Operations Supplies	100-41911-200-	\$ 33.36
	Total For Check	32262					\$ 33.36
12/22/2022	Toshiba America Business Solutions	32263*	Printer Maintenance - 12/09/22-1/08/23	N	Office Operations Supplies	100-41911-314-	\$ 10.62
	Total For Check	32263					\$ 10.62
12/22/2022	Andrew Gonyou	32301*	Zoom reimbursement, reissue of CK # 31845	N	General Government Buildings and Plant	100-41940-320-	\$ 16.09
	Total For Check	32301					\$ 16.09
12/22/2022	PERA	EFT12222022*	Retirement funds- Becky Kellen \$366.13, Tom Nitti \$135.24	N	Clerk - Treasurer	100-41401-121-	\$ 501.37
		EFT12222022*			Water Utility	601-43180-382-	\$ 53.50
	Total For Check	EFT12222022					\$ 554.87

Fund Name: All Funds

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12/28/2022	MENARD'S - OAKDALE	32266*	Supplies- Shovel, batteries & salt	N	General Government Buildings and Plant	100-41940-220-	\$ 7.99
		32266*			Ice and Snow Removal	100-43125-210-	\$ 6.99
		32266*				100-43125-210-	\$ 33.98
	Total For Check	32266					\$ 48.96
12/28/2022	USS Minnesota One MT LLC	32267*	Energy Charges - November	N	General Government Buildings and Plant	100-41940-380-	\$ 39.28
		32267*			Sewer Utility	605-43190-380-	\$ 104.73
		32267*				605-43190-380-	\$ 189.83
	Total For Check	32267					\$ 333.84
12/28/2022	AirFresh Industries, Inc.	32268*	Portable Restrooms- Jan Billing	N	Parks	100-45207-314-	\$ 162.50
	Total For Check	32268					\$ 162.50
12/28/2022	Washington County - Property & Tax	32269*	2022 JPA Election Svcs	N	Elections	100-41410-314-	\$ 8,968.80
	Total For Check	32269					\$ 8,968.80
12/28/2022	Washington County Sheriff	32270*	Jul - Dec 2022 Police Services	N	Police	100-42101-314-	\$ 32,401.20
	Total For Check	32270					\$ 32,401.20
12/28/2022	N&M Transfer Co, Inc.	32271*	Freight Costs for Skid Markers/Street Cones	N	Streets and Road Mntnc	100-43101-220-	\$ 159.39
	Total For Check	32271					\$ 159.39
12/29/2022	Payroll Period Ending 12/29/2022	32272	Kevin Woolstencroft, Council Member	N	Mayor	100-41310-100-	\$ 1,385.25
	Total For Check	32272					\$ 1,385.25
12/29/2022	Payroll Period Ending 12/29/2022	32273	Justin McCarthy, Council Member	N	Mayor	100-41310-100-	\$ 1,385.25
	Total For Check	32273					\$ 1,385.25
12/29/2022	Payroll Period Ending 12/29/2022	32274	Mark Foster, Council Member	N	Mayor	100-41310-100-	\$ 1,185.25
	Total For Check	32274					\$ 1,185.25
12/29/2022	Payroll Period Ending 12/29/2022	32275	Jon Fleck, Council Member	N	Mayor	100-41310-100-	\$ 1,385.25
	Total For Check	32275					\$ 1,385.25
12/29/2022	Payroll Period Ending 12/29/2022	32276	Mary Wingfield, Mayor	N	Mayor	100-41310-100-	\$ 1,883.75
	Total For Check	32276					\$ 1,883.75

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12/29/2022	Thatcher Engineering, Inc	32277*	City Engineer - engineering services	N	Engineer Service	100-41650-300-	\$ 400.00
		32277*				100-41650-300-	\$ 200.00
		Total For Check	32277				\$ 600.00
12/29/2022	Mow Joe Inc	32278*	Fall Leaf Pick up 2022. Replacement for lost ck 32220	N	Leaf Pick-Up	100-43110-314-	\$ 3,480.00
		Total For Check	32278				\$ 3,480.00
12/29/2022	Hyland Hills	CC12192022*	Accidental use of Bank Card, Reimbursed to city by Becky Kellen on ck 2278 in 12/29/22 dep	N	Unallocated Expenditures	100-49201-430-	\$ 42.00
		Total For Check	CC12192022				\$ 42.00
12/30/2022	PERA	EFT12302022*	Retirement funds- Mary Wingfield \$250.00	N	Mayor	100-41310-121-	\$ 250.00
		Total For Check	EFT12302022				\$ 250.00
01/03/2023	Steve Dean	32279*	Tree and Brush Removal	N	Tree Removal	100-43135-314-	\$ 5,800.00
		32279*				100-43135-314-	\$ 700.00
		Total For Check	32279				\$ 6,500.00
01/03/2023	Payroll Period Ending 01/03/2023	32280	Mary Cahill, Treasurer	N	Clerk - Treasurer	100-41401-100-	\$ 326.63
		Total For Check	32280				\$ 326.63
01/03/2023	Payroll Period Ending 01/03/2023	32281	Jim Rydeen, Maintenance and Rink	N	Parks	100-45207-100-	\$ 1,937.08
		Total For Check	32281				\$ 1,937.08
01/03/2023	H.A. Kantrud, P.A.	32282	Attorney Services -Dec 2022	N	Legal Services	100-41601-300-	\$ 1,500.00
		Total For Check	32282				\$ 1,500.00
01/03/2023	City of White Bear Lake Fire	32283	Fire Srvc - Dec 2022	N	Fire	100-42201-314-	\$ 2,737.08
		Total For Check	32283				\$ 2,737.08
01/03/2023	Xcel Energy	EFT01032023*	Street Lighting 11/3/22 - 12/2/22	N	Street Lighting	100-43160-380-	\$ 1,504.07
		Total For Check	EFT01032023				\$ 1,504.07
01/04/2023	White Bear Township	32284*	Contracted Services - Dec	N	Sewer Utility	605-43190-314-	\$ 378.78
		Total For Check	32284				\$ 378.78

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01/04/2023	Tennis Sanitation, LLC	32285*	Recycling for Service Period: Nov - Dec	N	Recycle	100-43300-314-	\$ 2,760.00
	Total For Check	32285					\$ 2,760.00
01/04/2023	Companion Animal Control LLC	32286	Animal Control Services -Dec	N	Animal Control	100-41916-314-	\$ 80.00
	Total For Check	32286					\$ 80.00
01/04/2023	Press Publications	32287*	PH Ordinance, Codifying Fee Schedule	N	Ordinances and Proceedings	100-41130-351-	\$ 57.21
		32287*				100-41130-351-	\$ 66.75
	Total For Check	32287					\$ 123.96
01/04/2023	Payroll Period Ending 01/04/2023	32288	Becky Kellen, City Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,998.27
	Total For Check	32288					\$ 1,998.27
01/04/2023	Payroll Period Ending 01/04/2023	32289	Tom Nitti Bookkeeper/Asst Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 536.68
	Total For Check	32289					\$ 536.68
01/05/2023	PERA	EFT01052023A	Retirement funds- Jim Rydeen \$343.54	N	Parks	100-45207-121-	\$ 343.54
	Total For Check	EFT01052023A					\$ 343.54
01/05/2023	PERA	EFT01052023B*	Retirement funds- Becky Kellen \$366.13, Tom Nitti \$115.92	N	Clerk - Treasurer	100-41401-121-	\$ 482.05
	Total For Check	EFT01052023B					\$ 482.05
01/05/2023	IRS - US Treasury	EFT01052023C*	Federal Taxes - Q4 2022 - Dec Payment	N	Clerk - Treasurer	100-41401-100-	\$ 861.40
		EFT01052023C*				100-41401-100-	\$ 2,014.02
		EFT01052023C*				100-41401-100-	\$ 471.02
	Total For Check	EFT01052023C					\$ 3,346.44
01/05/2023	MN Department of Revenue	EFT01052023D*	MN State Tax eFiling - Q4 2022	N	Clerk - Treasurer	100-41401-115-	\$ 1,490.81
	Total For Check	EFT01052023D					\$ 1,490.81
01/05/2023	MN Department of Labor and Industry	EFT01052023E	Building Permit Surcharge - Q4 2022	N	Building Inspections Administration	100-42401-437-	\$ 641.38
	Total For Check	EFT01052023E					\$ 641.38
01/10/2023	Chase Pelouquin	32290*	Assessing Services - 2023	N	Assessing	100-41550-314-	\$ 5,400.00
	Total For Check	32290					\$ 5,400.00

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01/10/2023	Metropolitan Council - Env. Service	32291*	Wastewater Service- Jan	N	Sewer Utility	605-43190-217-	\$ 4,968.70
	Total For Check	32291					\$ 4,968.70
01/10/2023	Minutes Solutions	32292*	Minutes for Dec 13 meeting	N	MISCELLANEOUS	100-49001-300-	\$ 270.00
	Total For Check	32292					\$ 270.00
01/10/2023	BrightView Landscapes, LLC.	32293*	Snow Removal Services - 12/13/22, 12/19/22 snow events	N	Ice and Snow Removal	100-43125-210-	\$ 1,208.00
		32293*				100-43125-210-	\$ 4,300.00
		32293*				100-43125-314-	\$ 2,176.25
		32293*				100-43125-314-	\$ 675.00
	Total For Check	32293					\$ 8,359.25
01/10/2023	City of White Bear Lake	32294	Quarterly Water Billing 09/09-12/21	N	Water Utility	601-43180-314-	\$ 10,220.98
	Total For Check	32294					\$ 10,220.98
01/10/2023	Press Publications	32295*	Amending 607 Regarding Camping	N	Ordinances and Proceedings	100-41130-351-	\$ 66.75
	Total For Check	32295					\$ 66.75
01/10/2023	Northeast Youth & Family Services	32296*	Partnership - 2023 Municipality Participation	N	Grants	100-41905-438-	\$ 1,957.95
	Total For Check	32296					\$ 1,957.95
01/10/2023	Kellen, Rebecca	32297	Zoom	N	Unallocated Expenditures	100-49201-320-	\$ 16.09
	Total For Check	32297					\$ 16.09
01/10/2023	Gopher State One Call	32298*	email tickets - Dec 2022	N	Utility Locates	605-42805-314-	\$ 14.85
	Total For Check	32298					\$ 14.85
01/10/2023	White Bear Locksmith	32299*	Warming House service call	N	Parks	100-45207-400-	\$ 148.50
	Total For Check	32299					\$ 148.50
01/11/2023	MN Department of Revenue	EFT01112023J*	MN State Tax eFiling - Q3 2022 Penalty/Interest due to Q3 withholding filing error	N	Unallocated Expenditures	100-49201-430-	\$ 81.36
	Total For Check	EFT01112023J					\$ 81.36
01/12/2023	Andrew Gonyou	32300*	Squarspace Reimbursement	N	General Government Buildings and Plant	100-41940-320-	\$ 20.00

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<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>
		Total For Check	32300				\$ 20.00
01/17/2023	Hankins, Ryan	32302	New security deadbolt for front door of townhall	N	General Government Buildings and Plant	100-41940-220-	\$ 257.69
		Total For Check	32302				\$ 257.69
01/17/2023	USS Minnesota One MT LLC	32303*	Energy Charges - December	N	General Government Buildings and Plant	100-41940-380-	\$ 20.21
		32303*			Sewer Utility	605-43190-380-	\$ 53.90
		32303*				605-43190-380-	\$ 97.69
		Total For Check	32303				\$ 171.80
01/17/2023	Manship Plumbing & Heating Inc	32304	Standby -January	N	Water Utility	601-43180-314-	\$ 700.00
		Total For Check	32304				\$ 700.00
01/17/2023	Metro - INET	32305*	IT Charges January	N	General Government Buildings and Plant	100-41940-320-	\$ 513.00
		Total For Check	32305				\$ 513.00
01/17/2023	Toshiba America Business Solutions	32306*	Printer Maintenance - 1/09/23 - 2/8/2023	N	Office Operations Supplies	100-41911-314-	\$ 10.62
		Total For Check	32306				\$ 10.62
01/17/2023	Washington County - Property & Tax	32307*	2023 Truth in Taxation	N	Assessing	100-41550-314-	\$ 102.57
		Total For Check	32307				\$ 102.57
01/17/2023	Merrick Inc.	32308*	Q4 mailer	N	Newsletter	601-41960-350-	\$ 180.96
		Total For Check	32308				\$ 180.96
01/18/2023	Xcel Energy	EFT01182023A*	210 Birchwood Ave Tower	N	Water Utility	601-43180-380-	\$ 16.29
		EFT01182023A*			Sewer Utility	605-43190-380-	\$ 49.21
		Total For Check	EFT01182023A				\$ 65.50
01/18/2023	Xcel Energy	EFT01182023B*	202 Wildwood Lift Station, 207 Birchwood, 407 1/2 Lift Station, 423 Lake Ice Rink	N	General Government Buildings and Plant	100-41940-380-	\$ 471.25
		EFT01182023B*				100-41940-380-	\$(412.19)
		EFT01182023B*			Parks	100-45207-380-	\$ 76.17
		EFT01182023B*				100-45207-380-	\$(66.62)
		EFT01182023B*			Sewer Utility	605-43190-380-	\$ 52.49
		EFT01182023B*				605-43190-380-	\$ 193.66
		EFT01182023B*				605-43190-380-	\$(169.39)

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<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>
		EFT01182023B*				605-43190-380-	\$ 407.15
		EFT01182023B*				605-43190-380-	\$(356.13)
	Total For Check	EFT01182023B					\$ 196.39
01/19/2023	Payroll Period Ending 01/19/2023	32309	Becky Kellen, City Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,998.27
	Total For Check	32309					\$ 1,998.27
01/19/2023	Payroll Period Ending 01/19/2023	32310	Tom Nitti, Bookkeeper/Asst Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 555.28
	Total For Check	32310					\$ 555.28
01/20/2023	PERA	EFT01202023A*	Retirement funds- Becky Kellen \$366.13, Tom Nitti \$119.15	N	Clerk - Treasurer	100-41401-121-	\$ 485.28
	Total For Check	EFT01202023A					\$ 485.28
01/26/2023	Washington County - Property & Tax	32311*	2023 Election Maintenance	N	Elections	100-41410-220-	\$ 1,185.00
	Total For Check	32311					\$ 1,185.00
01/26/2023	Washington County Sheriff	32312*	2023 Code Red System	N	Other Protection	100-42801-314-	\$ 68.38
	Total For Check	32312					\$ 68.38
01/26/2023	BrightView Landscapes, LLC.	32313*	Deicing 1/11/23, Snow Removal Services - 12/22/22, 12/28/22, 12/30/22, 1/4/23, snow events	N	Ice and Snow Removal	100-43125-210-	\$ 8,257.40
		32313*				100-43125-314-	\$ 8,183.50
	Total For Check	32313					\$ 16,440.90
01/26/2023	Gopher State One Call	32314*	2023 Annual Facility Operator Fee	N	Utility Locates	605-42805-314-	\$ 50.00
	Total For Check	32314					\$ 50.00
01/26/2023	TSE, Inc. Work Account	32315*	Janitorial Services - 1/5/23	N	General Government Buildings and Plant	100-41940-314-	\$ 31.25
	Total For Check	32315					\$ 31.25
01/26/2023	Nitti, Thomas	32316	Certified mailings of W-3 and 1096 to IRS	N	Unallocated Expenditures	100-49201-430-	\$ 11.33
	Total For Check	32316					\$ 11.33
01/26/2023	Weier, Katherine	32317*	Reimbursement for LMC Training	N	City Training and Development	100-41914-310-	\$ 350.00

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<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>
		Total For Check	32317				\$ 350.00
01/26/2023	A T & T Mobility	EFT01242023A*	Wireless for water tower- Jan 2 - Feb 1, 2023	N	Water Utility	601-43180-382-	\$ 53.50
		Total For Check	EFT01242023A				\$ 53.50
01/26/2023	Deluxe	EFT01262023A*	Check stock order 2023	N	Office Operations Supplies	100-41911-200-	\$ 361.50
		Total For Check	EFT01262023A				\$ 361.50
01/31/2023	Payroll Period Ending 01/31/2023	32318	Becky Kellen, City Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,998.27
		Total For Check	32318				\$ 1,998.27
01/31/2023	Payroll Period Ending 01/31/2023	32319	Tom Nitti, Bookkeeper, Asst Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 731.93
		Total For Check	32319				\$ 731.93
01/31/2023	Xcel Energy	EFT01312023A*	Street Lighting 12/3/22 -1/3/23	N	Street Lighting	100-43160-380-	\$ 1,405.26
		Total For Check	EFT01312023A				\$ 1,405.26
02/01/2023	Payroll Period Ending 02/01/2023	32320	Jim Rydeen, Maintenance & rink Attendant	N	Parks	100-45207-100-	\$ 2,088.64
		Total For Check	32320				\$ 2,088.64
02/01/2023	Payroll Period Ending 02/01/2023	32321	Mary Cahill, Treasurer	N	Clerk - Treasurer	100-41401-100-	\$ 428.80
		Total For Check	32321				\$ 428.80
02/01/2023	PERA	EFT02012023*	Retirement funds- Becky Kellen \$366.13, Tom Nitti \$149.74	N	Clerk - Treasurer	100-41401-121-	\$ 515.87
		Total For Check	EFT02012023				\$ 515.87
02/02/2023	PERA	EFT02022023*	Retirement funds- James Rydeen	N	Parks	100-45207-121-	\$ 373.22
		Total For Check	EFT02022023				\$ 373.22
02/03/2023	Stoltzman, Cris	32322*	Videography - Council Mtgs, 1/10/23 5 hours	N	Cable Eqpmt and Service	100-41950-314-	\$ 125.00
		Total For Check	32322				\$ 125.00
02/03/2023	H.A. Kantrud, P.A.	32323	Attorney Services -Jan 2023	N	Legal Services	100-41601-300-	\$ 1,500.00
		Total For Check	32323				\$ 1,500.00
02/03/2023	City of White Bear Lake Fire	32324*	Fire Srvc - Jan 2023	N	Fire	100-42201-314-	\$ 3,049.17

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<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>
		Total For Check	32324				\$ 3,049.17
02/03/2023	Press Publications	32325*	Notice of variance hearing \$90.09, PN Amend Sec 201 \$70.07, PN Amend Sec 307	N	Ordinances and Proceedings	100-41130-351-	\$ 70.07
		32325*				100-41130-351-	\$ 70.07
		32325*				100-41130-351-	\$ 90.09
		Total For Check	32325				\$ 230.23
02/03/2023	CivicPlus LLC	32326*	Permitting Software, Annual maint/support, config/setup	N	Unallocated Expenditures	100-49201-430-	\$ 2,000.00
		Total For Check	32326				\$ 2,000.00
02/03/2023	Minutes Solutions	32327*	Minutes for Jan 10 meeting	N	MISCELLANEOUS	100-49001-300-	\$ 305.00
		Total For Check	32327				\$ 305.00
02/03/2023	Cahill, Mary	32328*	W-2 envelops, case of paper, 1099 NEC Forms	N	Office Operations Supplies	100-41911-200-	\$ 99.22
		Total For Check	32328				\$ 99.22
02/03/2023	Manship Plumbing & Heating Inc	32329	Standby -February, 2 hours water testing	N	Water Utility	601-43180-314-	\$ 940.00
		Total For Check	32329				\$ 940.00
02/03/2023	AirFresh Industries, Inc.	32330*	Portable Restrooms- Feb Billing	N	Parks	100-45207-314-	\$ 127.60
		Total For Check	32330				\$ 127.60
02/03/2023	Steve Dean	32331	Tree and Brush Removal \$5900, Bobcat hockey rink \$300.00	N	Tree Removal	100-43135-314-	\$ 5,900.00
		32331			Parks	100-45207-314-	\$ 300.00
		Total For Check	32331				\$ 6,200.00
02/03/2023	Companion Animal Control LLC	32332*	Animal Control Services -Jan	N	Animal Control	100-41916-314-	\$ 80.00
		Total For Check	32332				\$ 80.00
02/03/2023	Metropolitan Council - Env. Service	32333*	Wastewater Service- Feb	N	Sewer Utility	605-43190-217-	\$ 4,968.70
		Total For Check	32333				\$ 4,968.70
02/03/2023	Thatcher Engineering, Inc	32334*	City Engineer - engineering services	N	Engineer Service	100-41650-300-	\$ 3,100.00
		32334*				100-41650-300-	\$ 300.00
		32334*				100-41650-300-	\$ 200.00
		32334*				605-41650-300-	\$ 5,200.00

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<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>
		Total For Check	32334				\$ 8,800.00
02/03/2023	BrightView Landscapes, LLC.	32335*	Deicing 1/24/23, snow events 1/17/23, 1/19/23, 1/27/23	N	Ice and Snow Removal	100-43125-210-	\$ 8,702.20
		32335*				100-43125-314-	\$ 4,943.75
		Total For Check	32335				\$ 13,645.95
02/03/2023	Air Chek	EFT01262023B*	Radon Tests 3 Pack (Feb 2023)	N	Office Operations Supplies	100-41911-200-	\$ 38.85
		Total For Check	EFT01262023B				\$ 38.85
02/08/2023	Hugo Equipment Company	32336*	Parts - Spring	N	Parks	100-45207-400-	\$ 8.58
		Total For Check	32336				\$ 8.58
02/08/2023	White Bear Township	32337*	Contracted Services - Jan 2023	N	Sewer Utility	605-43190-314-	\$ 439.16
		Total For Check	32337				\$ 439.16
02/08/2023	Metro - INET	32338*	IT Charges February	N	General Government Buildings and Plant	100-41940-320-	\$ 513.00
		Total For Check	32338				\$ 513.00
02/08/2023	MENARD'S - OAKDALE	32339*	Supplies- Primer, salt, brush, etc	N	General Government Buildings and Plant	100-41940-220-	\$ 31.01
		32339*			Ice and Snow Removal	100-43125-210-	\$ 6.99
		Total For Check	32339				\$ 38.00
02/08/2023	Danks, Aden	32340	reissue of payroll check # 29988, lost never cashed	N	MISCELLANEOUS	100-49001-430-	\$ 60.00
		Total For Check	32340				\$ 60.00
Total For Selected Checks							\$ 208,751.20

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-P</u>	<u>Total</u>
12/21/2022	League of Minnesota Cities	171735692*	Dividends reimbursement	(12/21/2022) - 1	N	Refund-Reimbursemnt-Dividend	100-36240-	\$ 503.00
								\$ 503.00
12/21/2022	K. B. Service Company	171735693*	2022-168, 3868 East County Line	(12/21/2022) - 1	N	Building Permits	100-32211-	\$ 62.00
								\$ 62.00
12/21/2022	Rydeen, Jim	171735707	Deposit made 12/21/18 never recorded	(12/21/2022) -	N	Miscellaneous	100-36140-	\$ 368.22
								\$ 368.22
12/22/2022	Hoffman Ref & Heating	171735694*	2022-169, 109 Wildwood	(12/22/2022) -	N	Building Permits	100-32211-	\$ 67.02
								\$ 67.02
12/22/2022	Krinkie Heating & A/C	171735695*	2022-167, 268 Wildwood	(12/22/2022) -	N	Building Permits	100-32211-	\$ 140.29
								\$ 140.29
12/29/2022	Kellen, Rebecca	171735696*	Reimburse for accidental use of city bank card on 12/19/22	(12/29/2022) - 1	N	Miscellaneous	100-36140-	\$ 42.00
								\$ 42.00
12/29/2022	Xcel	171735697*	ROW Permit fee, 419B Wildwood	(12/29/2022) - 1	N	Building Permits	100-32211-	\$ 250.00
								\$ 250.00
12/31/2022	4 M Fund	171735700	Dec Interest	(12/31/2022) -	N	Interest Earning	100-36210-	\$ 3,804.55
								\$ 3,804.55
12/31/2022	Residents - via St Anthony Village	171735701*	Utility Billing-Dec	(12/31/2022) -	N	Water Consumption	601-37111-	\$ 1,870.96
							601-37112-	\$ 725.96
							601-37112-	\$ 24.18
							601-37113-	\$ 635.40
							601-37116-	\$ 71.32
							601-37118-	\$ 50.00

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-P</u>	<u>Total</u>
						Penalties and Forfeited Discounts	601-37160-	\$ 36.21
						Sewer Consumption	605-37211-	\$ 1,174.65
						Sewer Minimum Charge	605-37212-	\$ 1,100.61
						Penalties and Forfeited Discounts	605-37260-	\$ 41.57
								\$ 5,730.86
01/04/2023	TLT Enterprises	171735698*	BP 2023-1, 191 Wildwood	(01/04/2023) -	N	Building Permits	100-32211-	\$ 61.03
								\$ 61.03
01/05/2023	PM Properties	171735699*	Thatcher Fee Paymant of Inv 569, 176 Cedar Street	(01/05/2023) -	N	Building Permits	100-32211-	\$ 455.00
								\$ 455.00
01/05/2023	Jon Ryan	171735703*	Genz Ryan 2023-2, 173 Birchwood Ave	(01/05/2023) -	N	Building Permits	100-32211-	\$ 91.35
								\$ 91.35
01/10/2023	Wayne Wisner	171735704*	The Fireplace Guys, 2023-3, 401 Birchwood	(01/10/2023) -	N	Building Permits	100-32211-	\$ 151.00
								\$ 151.00
01/11/2023	MN Management & Budget	171735718	Fines	(01/11/2023) -	N	Court Fines	100-35101-	\$ 119.98
								\$ 119.98
01/12/2023	Quick, Arika	171735705*	Permit - Thatcher Fees inv 617	(01/12/2023) - 1	N	Building Permits	100-32211-	\$ 150.00
								\$ 150.00
01/12/2023	Byerly, Nicole	171735706*	Dog License Fee	(01/12/2023) - 1	N	Animal Licenses	100-32240-	\$ 20.00
								\$ 20.00
01/13/2023	Evolv/Merchant Solutions	171735719	Reimbursement for .04 charge incurred in Dec	(01/13/2023) -	N	Miscellaneous	100-36140-	\$ 0.04
								\$ 0.04
01/19/2023	Ramsey/Washington Cable Commission	171735708*	Redistribution Payment - Q4 2022	(01/19/2023) - 1	N	Refund-Reimbursemnt-Dividend	100-36240-	\$ 270.50
								\$ 270.50

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-P</u>	<u>Total</u>
01/19/2023	Kyle Hunt	171735710*	Variance, Barthel, 469 Lake Ave	(01/19/2023) -	N	Building Permits	100-32211-	\$ 600.00
						Escrow Deposits	100-36245-8	\$ 3,000.00
								\$ 3,600.00
01/19/2023	SR Mechanical	171735711*	2023-4, 176 Wildwood	(01/19/2023) -	N	Building Permits	100-32211-	\$ 151.00
								\$ 151.00
01/20/2023	Benchmark Plumbing	171735709*	2023-5, 176 Wildwood	(01/20/2023) -	N	Building Permits	100-32211-	\$ 151.00
								\$ 151.00
01/24/2023	Washington County	171735721	Tax settlement	(01/24/2023) -	N	General Property Taxes (31001 through 31299)	100-31001-	\$ 1,896.86
								\$ 1,896.86
01/25/2023	Residents - via St Anthony Village	171735717	Utility Billing-Jan, includes 3 NSF returns.	(01/25/2023) -	N	Leaf Collection	100-34408-	\$ 2,610.83
						Leaf Collection	100-34408-5	\$ 180.01
						Water Consumption	601-37111-	\$ 19,173.42
						Water Utility User Fee	601-37112-	\$ 6,937.38
						Water Utility User Fee	601-37112-	\$ 198.04
						Water Main-break Surcharge	601-37113-	\$ 6,639.94
						Special Water Charges	601-37115-	\$ 5.00
						State Surcharge	601-37116-	\$ 674.42
						Administrative Fee Move/Out	601-37118-	\$ 75.00
						Penalties and Forfeited Discounts	601-37160-	\$ 87.25
						Sewer Consumption	605-37211-	\$ 13,817.06
						Sewer Minimum Charge	605-37212-	\$ 10,761.92
						Penalties and Forfeited Discounts	605-37260-	\$ 42.23
								\$ 61,202.50
01/26/2023	McKeown, Tom & Lisa	171735712*	Thatcher inv 591	(01/26/2023) - 1	N	Building Permits	100-32211-	\$ 1,000.00
								\$ 1,000.00
01/26/2023	Werra, Danny	171735713*	Thatcher inv 606 \$150, 626 \$150	(01/26/2023) - 1	N	Building Permits	100-32211-	\$ 300.00
								\$ 300.00
01/26/2023	Master Gas Fitters	171735716*	2023-6, 159 Wildwood	(01/26/2023) -	N	Building Permits	100-32211-	\$ 151.00
								\$ 151.00

Fund Name: All Funds

Date Range: 12/21/2022 To 02/08/2023

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-P</u>	<u>Total</u>
01/31/2023	4 M Fund	171735720	Jan Interest	(01/31/2023) -	N	Interest Earning	100-36210-	\$ 3,712.35
								<u>\$ 3,712.35</u>
02/01/2023	Sunderland Plumbing	171735714*	2023-8, 143 Wildwood	(02/01/2023) -	N	Building Permits	100-32211-	\$ 151.00
								<u>\$ 151.00</u>
02/01/2023	Sunderland Plumbing	171735715*	2023-7, 143 Wildwood	(02/01/2023) -	N	Building Permits	100-32211-	\$ 151.00
								<u>\$ 151.00</u>
Total for Selected Receipts								<u><u>\$ 84,753.55</u></u>

As on 2/8/2023

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	0.00	0.00	0.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Total Disbursements	0.00	0.00	0.00
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		3,420.69	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 02/08/2023		3,420.69	

As on 2/8/2023

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	0.00	0.00	0.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Total Disbursements	0.00	0.00	0.00
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		111,711.31	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 02/08/2023		111,711.31	

As on 2/8/2023

Water

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Water Consumption	0.00	19,173.42	19,173.42
Water Utility User Fee	0.00	7,135.42	7,135.42
Water Main-break Surcharge	0.00	6,639.94	6,639.94
Special Water Charges	0.00	5.00	5.00
State Surcharge	0.00	674.42	674.42
Administrative Fee Move/Out	0.00	75.00	75.00
Penalties and Forfeited Discounts	0.00	87.25	87.25
Total Acct 371	0.00	33,790.45	33,790.45
Total Revenues	0.00	33,790.45	33,790.45
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Newsletter			
Printing and Binding (351 through 359)	0.00	180.96	(180.96)
Total Acct 419	0.00	180.96	(180.96)
Water Utility			
Contracted Services	0.00	11,860.98	(11,860.98)
Utility Services (381 through 389)	0.00	16.29	(16.29)
Utility Services: Water	0.00	53.50	(53.50)
Total Acct 431	0.00	11,930.77	(11,930.77)
Total Disbursements	0.00	12,111.73	(12,111.73)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		28,996.24	
Total Receipts and Other Financing Sources		33,790.45	
Total Disbursements and Other Financing Uses		12,111.73	
Cash Balance as of 02/08/2023		50,674.96	

As on 2/8/2023

Sewer

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Sewer Consumption	0.00	13,817.06	13,817.06
Sewer Minimum Charge	0.00	10,761.92	10,761.92
Penalties and Forfeited Discounts	0.00	42.23	42.23
Total Acct 372	0.00	24,621.21	24,621.21
Total Revenues	0.00	24,621.21	24,621.21
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Engineer Service			
PROFESSIONAL SERVICES (301 through 319)	0.00	5,200.00	(5,200.00)
Total Acct 416	0.00	5,200.00	(5,200.00)
Utility Locates			
Contracted Services	0.00	64.85	(64.85)
Total Acct 428	0.00	64.85	(64.85)
Sewer Utility			
Sewer - Wastewater Charge	0.00	9,937.40	(9,937.40)
Contracted Services	0.00	817.94	(817.94)
Utility Services (381 through 389)	0.00	328.58	(328.58)
Total Acct 431	0.00	11,083.92	(11,083.92)
Total Disbursements	0.00	16,348.77	(16,348.77)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		86,010.19	
Total Receipts and Other Financing Sources		24,621.21	
Total Disbursements and Other Financing Uses		16,348.77	
Cash Balance as of 02/08/2023		94,282.63	

Date Range : 1/24/2023 To 1/26/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
01/24/2023	A T & T Mobility	Wireless for water tower- Jan 2 - Feb 1, 2023	6310*	\$53.50			
					601-43180-382-	Water Utility	\$53.50
Total For Selected Claims				\$53.50			\$53.50

Justin R. McCarthy	City Council/Town Board	Date
Katherine A Weier	City Council/Town Board	Date
Margaret Arola Ford	City Council/Town Board, Mayor	Date
Robert Mark Foster	City Council/Town Board	Date
Ryan A Hankins	City Council/Town Board	Date

Date Range : 1/26/2023 To 1/26/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
01/26/2023	Washington County - Property & Tax	2023 Election Maintenance	6311*	\$1,185.00	100-41410-220-	Elections	\$1,185.00
01/26/2023	Washington County Sheriff	2023 Code Red System	6312*	\$68.38	100-42101-314-	Police	\$68.38
01/26/2023	BrightView Landscapes, LLC.	Deicing 1/11/23, Snow Removal Services - 12/22/22, 12/28/22, 12/30/22, 1/4/23, snow events	6313*	\$16,440.90	100-42101-314- change to 42801 <i>mc</i>	Ice and Snow Removal	\$8,257.40
					100-43125-210-	Ice and Snow Removal	\$8,183.50
01/26/2023	Gopher State One Call	2023 Annual Facility Operator Fee	6314*	\$50.00	605-42805-314-	Utility Locates	\$50.00
01/26/2023	TSE, Inc. Work Account	Janitorial Services - 1/5/23	6315*	\$31.25	100-41940-314-	General Government Buildings and Plant	\$31.25
01/26/2023	Nitti, Thomas	Certified mailings of W-3 and 1096 to IRS	6316	\$11.33	100-41430-200-	Postage/Postal Permits	\$11.33
01/26/2023	Weier, Katherine	Reimbursement for LMC Training	6317*	\$350.00	100-41430-200- misc 42201-430 <i>mc</i> levy postage	City Training and Development	\$350.00
Total For Selected Claims				\$18,136.86			\$18,136.86

Date Range : 1/26/2023 To 1/26/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
	Justin R. McCarthy		City Council/Town Board				Date
	Katherine A Weier		City Council/Town Board				Date
	Margaret Arola Ford		City Council/Town Board, Mayor				Date
	Robert Mark Foster		City Council/Town Board				Date
	Ryan A Hankins		City Council/Town Board				Date

Date Range : 12/31/2022 To 2/1/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
02/01/2023	PERA	Retirement funds- Becky Kellen \$366.13, Tom Nitti \$149.74	6318*	\$515.87			
					100-41401-121-	Clerk - Treasurer	\$515.87
Total For Selected Claims				\$515.87			\$515.87

Justin R. McCarthy	City Council/Town Board	Date
Katherine A Weier	City Council/Town Board	Date
Margaret Arola Ford	City Council/Town Board, Mayor	Date
Robert Mark Foster	City Council/Town Board	Date
Ryan A Hankins	City Council/Town Board	Date

Date Range : 1/26/2023 To 1/26/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
01/26/2023	Deluxe	Check stock order 2023	6320*	\$361.50	100-41911-200-	Office Operations Supplies	\$361.50
01/26/2023	Air Chek	Radon Tests 3 Pack (Feb 2023)	6321*	\$38.85	100-41911-200-	Office Operations Supplies	\$38.85
Total For Selected Claims				\$400.35			\$400.35

Justin R. McCarthy	City Council/Town Board	Date
Katherine A Weier	City Council/Town Board	Date
Margaret Arola Ford	City Council/Town Board, Mayor	Date
Robert Mark Foster	City Council/Town Board	Date
Ryan A Hankins	City Council/Town Board	Date

Date Range : 2/3/2023 To 2/3/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
02/03/2023	Stoltzman, Cris	Videography - Council Mtgs, 1/10/23 5 hours	6322*	\$125.00	100-41950-314-	Cable Eqpmt and Service	\$125.00
02/03/2023	H.A. Kantrud, P.A.	Attorney Services -Jan 2023	6323	\$1,500.00	100-41601-300-	Legal Services	\$1,500.00
02/03/2023	City of White Bear Lake Fire	Fire Srvc - Jan 2023	6324*	\$3,049.17	100-42201-314-	Fire	\$3,049.17
02/03/2023	Press Publications	Notice of variance hearing \$90.09, PN Amend Sec 201 \$70.07, PN Amend Sec 307	6325*	\$230.23	100-41130-351- 100-41130-351- 100-41130-351-	Ordinances and Proceedings Ordinances and Proceedings Ordinances and Proceedings	\$70.07 \$70.07 \$90.09
02/03/2023	CivicPlus LLC	Permitting Software, Annual maint/support, config/setup	6326*	\$2,000.00	100-49201-430-	Unallocated Expenditures	\$2,000.00
02/03/2023	Minutes Solutions	Minutes for Jan 10 meeting	6327*	\$305.00	100-49001-300-	MISCELLANEOUS	\$305.00
02/03/2023	Cahill, Mary	W-2 envelops, case of paper, 1099 NEC Forms	6328*	\$99.22	100-41911-200-	Office Operations Supplies	\$99.22
02/03/2023	Manship Plumbing & Heating Inc	Standby -February, 2 hours water testing	6329	\$940.00	601-43180-314-	Water Utility	\$940.00
02/03/2023	AirFresh Industries, Inc.	Portable Restrooms- Feb Billing	6330*	\$127.60	100-45207-314-	Parks	\$127.60

Date Range : 2/3/2023 To 2/3/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
02/03/2023	Steve Dean	Tree and Brush Removal \$5900, Bobcat hockey rink \$300.00	6331	\$6,200.00	100-43135-314- 100-45207-314-	Tree Removal Parks	\$5,900.00 \$300.00
02/03/2023	Companion Animal Control LLC	Animal Control Services -Jan	6332*	\$80.00	100-41916-314-	Animal Control	\$80.00
02/03/2023	Metropolitan Council - Env. Service	Wastewater Service- Feb	6333*	\$4,968.70	605-43190-217-	Sewer Utility	\$4,968.70
02/03/2023	Thatcher Engineering, Inc	City Engineer - engineering services	6334*	\$8,800.00	100-41650-300- 100-41650-300- 100-41650-300- 605-41650-300-	Engineer Service Engineer Service Engineer Service Engineer Service	\$3,100.00 \$300.00 \$200.00 \$5,200.00
02/03/2023	BrightView Landscapes, LLC.	Deicing 1/24/23, snow events 1/17/23, 1/19/23, 1/27/23	6335*	\$13,645.95	100-43125-210- 100-43125-314-	Ice and Snow Removal Ice and Snow Removal	\$8,702.20 \$4,943.75
Total For Selected Claims				\$42,070.87			\$42,070.87

Date Range : 2/3/2023 To 2/3/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
	Justin R. McCarthy	City Council/Town Board					Date
	Katherine A Weier	City Council/Town Board					Date
	Margaret Arola Ford	City Council/Town Board, Mayor					Date
	Robert Mark Foster	City Council/Town Board					Date
	Ryan A Hankins	City Council/Town Board					Date

EAT

Date Range : 2/6/2023 To 2/17/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
02/17/2023	Xcel Energy	Lift Stations and Ice Rink Electricity, Hall Gas and Electric including solar energy creds	6340*	\$1,546.30			
					605-43190-380-	Sewer Utility	(\$108.42)
					605-43190-380-	Sewer Utility	\$690.08
					100-41940-380-	General Government Buildings and Plant	(\$22.43)
					100-41940-380-	General Government Buildings and Plant	\$627.89
					605-43190-380-	Sewer Utility	(\$59.82)
					605-43190-380-	Sewer Utility	\$302.74
					100-45207-380-	Parks	\$116.26
02/17/2023	Xcel Energy	Lift station gas service 12/18/22 - 1/22/23	6341*	\$35.48			
					605-43190-380-	Sewer Utility	\$35.48
02/17/2023	Xcel Energy	Gas Service 200 Wildwood Ave 12/18/22 - 1/22/23	6342*	\$35.48			
					605-43190-380-	Sewer Utility	\$35.48
02/17/2023	Xcel Energy	Electric for Birchwood tower 210 Birchwood Ave	6343*	\$15.97			
					601-43180-380-	Water Utility	\$15.97
02/06/2023	Amazon	Webcam and stand	6344*	\$45.54			
					100-41911-230-	Office Operations Supplies	\$45.54
Total For Selected Claims				\$1,678.77			\$1,678.77

Date Range : 2/6/2023 To 2/17/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
	Justin R. McCarthy		City Council/Town Board				Date
	Katherine A Weier		City Council/Town Board				Date
	Margaret Arola Ford		City Council/Town Board, Mayor				Date
	Robert Mark Foster		City Council/Town Board				Date
	Ryan A Hankins		City Council/Town Board				Date

Date Range : 2/8/2023 To 2/8/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
02/08/2023	Hugo Equipment Company	Parts - Spring	6336*	\$8.58			
					100-45207-400-	Parks	\$8.58
02/08/2023	White Bear Township	Contracted Services - Jan 2023	6337*	\$439.16			
					605-43190-314-	Sewer Utility	\$439.16
02/08/2023	Metro - INET	IT Charges February	6338*	\$513.00			
					100-41940-320-	General Government Buildings and Plant	\$513.00
02/08/2023	MENARD'S - OAKDALE	Supplies- Primer, salt, brush, etc	6339*	\$38.00			
					100-43125-210-	Ice and Snow Removal	\$6.99
					100-41940-220-	General Government Buildings and Plant	\$31.01
Total For Selected Claims				\$998.74			\$998.74

Date Range : 2/8/2023 To 2/8/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
	Justin R. McCarthy		City Council/Town Board				Date
	Katherine A Weier		City Council/Town Board				Date
	Margaret Arola Ford		City Council/Town Board, Mayor				Date
	Robert Mark Foster		City Council/Town Board				Date
	Ryan A Hankins		City Council/Town Board				Date

Date Range : 1/8/2023 To 2/8/2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
02/08/2023	Danks, Aden	reissue of payroll check # 29988, lost never cashed	6345	\$60.00			
					100-49001-430-	MISCELLANEOUS	\$60.00
Total For Selected Claims				\$60.00			\$60.00

Justin R. McCarthy	City Council/Town Board	Date
Katherine A Weier	City Council/Town Board	Date
Margaret Arola Ford	City Council/Town Board, Mayor	Date
Robert Mark Foster	City Council/Town Board	Date
Ryan A Hankins	City Council/Town Board	Date

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

**MINUTES OF THE CITY COUNCIL MEETING
JANUARY 10, 2023, 7:00 P.M.**

MEMBERS:

Margaret Ford	Mayor
Mark Foster	Councilmember
Ryan Hankins	Councilmember
Justin McCarthy	Councilmember
Katherine Weier	Councilmember

STAFF:

Becky Kellen	City Administrator
H. Alan Kantrud	City Attorney

GUESTS:

Lyssa Leitner	Washington County Public Works Planning Director
Stan Karwoski	Washington County Commissioner
Randy LaFoy	Birchwood Resident and Previous Mayor

Minutes prepared by Anh Nguyen of Minutes Solutions Inc. from a video recording.

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. OATH OF OFFICE

Margaret Ford was sworn in as Mayor. Ryan Hankins and Katherine Weier were sworn in as Councilmembers.

4. APPROVAL OF AGENDA

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

Councilmember McCarthy requested the following addition to the agenda:

- Selection of Deputy Mayor

Councilmember Hankins requested the following change to the agenda:

- Move Announcements, Item C, to City Business – New Business, Item G

City Administrator Becky Kellen requested the following changes to the agenda:

- Remove Item G from the Consent Agenda
- Presentations, Item B should state “Gavel Presentation”

5. **OPEN PUBLIC FORUM**

Barton Winter, 1 Five Oaks Lane, expressed concern regarding the flooding of the ice rinks. He reported a lack of response from the Council regarding his concerns and presented a petition for the removal of Jim Rydeen, a city maintenance worker.

Councilmember Foster reiterated that the Council welcomes resident feedback via e-mail, telephone, and during the open public forum; however, the harassment of Councilmembers, and their respective families, at their private residences is prohibited.

Joe Wormwood, 112 Wildwood Avenue, noted that, as a snow removal contractor, he is aware of the challenges of snow removal given the current winter season. He volunteered to help support the city with the flooding of the ice rinks.

Kevin Woolstencroft, 292 Jay Street, expressed concern regarding Barton Winter’s harassment towards Jim Rydeen. He noted that several residents have reported they are satisfied with the condition of the ice rinks.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to close the open public forum. All in favor; motion carried.

6. **ANNOUNCEMENTS**

- Federal Lift Station Funding:** Funding in the amount of \$480,000 has been received from Senator Betty McCollum’s office.
- Rice Creek Watershed District (RCWD) Lift Station Funding:** A grant application for additional lift station funding in the amount of \$100,000 from the RCWD was submitted. The RCWD will be holding a public hearing on February 8, 2023.
- 2023 Fee Schedule:** The fee schedule as approved by Council at the previous Council meeting is in effect and is posted on the city’s website.
- Ice Rink:** The ice rink is open. Jim Rydeen is aware of a particular side of the ice rink that has historically been problematic and could be improved. Signage will be posted to address residents creating divots in the ice rink due to salt from shoes.

7. **PRESENTATIONS (0:15:55)**

- Trunk Highway 120/Century Avenue Coalition Presentation:** *ACTION – Becky Kellen will include the selection of a representative for Birchwood Village to join the Truck Highway 120/Century Avenue Coalition on the agenda of the next Council meeting.*

Lyssa Leitner reported that Century Avenue/Trunk Highway 120 is a large thoroughfare in the East Metro area that connects several communities that feed into Birchwood Village. It is currently the Minnesota Department of Transportation’s (MnDOT) corridor and will eventually be turned back to the counties; however, Washington County and Ramsey

County are not willing to take on the responsibility of the corridor without better understanding the financial liabilities. MnDOT is currently leading a study that will help better understand the financial responsibilities.

Lyssa Leitner reported several ongoing transit projects, including Metro Gold Line and Metro Purple Line. There are also several grant opportunities. Washington County has proposed a state grant and received a federal grant for the reconstruction of north of I-94.

A coalition would join the nine surrounding communities to advocate for the vast improvements along Century Avenue given competing priorities in the state, region, and corridor.

Washington County and Ramsey County would serve as the lead with city partners as the coalition. There would be input into the MnDOT project to ensure it aligns with the best interest of the counties and cities, the metro transit projects, prioritizing different competing projects along the corridor, and promoting funding requests. Currently, there would be no bylaws, agreements, or financial commitments.

Lyssa Leitner is requesting that the Mayor or a Councilmember act as representatives of each of the nine cities, with an alternate Councilmember, and any additional staff as deemed necessary, to join the coalition. A kick-off meeting will be scheduled in early 2023.

Stan Karwoski noted that Century Avenue will likely be planned in phases. Attendance from the Councils' representatives during meetings pertaining to projects around Century Avenue and Century College was encouraged.

The meetings can be held virtually since the coalition is not a legal entity and will not be held more than quarterly unless additional meetings are required for legislative sessions or funding.

- B. Gavel Presentation:** Randy LaFoy presented Mary Wingfield with a plaque to thank her for her service to Birchwood Village. The Council also extended its appreciation to Mary Wingfield for her efforts to receive federal grant funding for the lift station.

8. SELECTION OF DEPUTY MAYOR

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to nominate Councilmember Foster to serve as deputy mayor. All in favor; motion carried.

9. CLOSED MEETING (0:29:39 to 1:20:54)

The closed meeting included an update regarding the status of pending civil litigations for two building permit requests, and a legal opinion on further action to be taken.

The meeting recessed to a closed meeting at 7:29 p.m. and reconvened at 8:20 p.m.

10. CITY BUSINESS – CONSENT AGENDA (1:21:29)

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to approve the consent agenda with the exception of Items A and B. All in favor; motion carried.

A. Approval of the Treasurer’s Report (1:22:58):

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to reject the charge of \$0.04 to Evolv dated January 5, 2023. All in favor; motion carried.

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve the Treasurer’s Report for the period ending January 5, 2023, with the exception of checks No. 32272, No. 32273, No. 32274, No. 32275, and No. 32276 for Kevin Woolstencroft, Justin McCarthy, Mark Foster, Jon Fleck, and Mary Wingfield, respectively, and check #EFT12302022 for Mary Wingfield pending a response from the Attorney General’s office. All in favor; motion carried.

ACTION – Becky Kellen will include the Attorney General’s response regarding the Council pay raise initiated in 2020 on the agenda for the next Council meeting.

The Treasurer’s report for the period ending January 5, 2023, was provided for the Council’s review and approval.

Councilmember Hankins requested the removal of the following items from the Treasurer’s Report as it was an erroneous charge to the city:

- Check #EFT12122022A in the amount of \$0.04 to Evolv.

H. Alan Kantrud reported speaking with Jacob Campion, from the Attorney General’s office, regarding the Council pay raise initiated in 2020, and will be providing the Attorney General’s office with recent meeting minutes that include discussions of the Council pay, the resolution for Council pay that was passed in December 2022, the memo drafted by H. Alan Kantrud in November 2022 regarding the issue of Council pay, and a copy of the Attorney General’s position from a similar case in 1976.

The Council agreed to defer the audit and approval of Council pay pending a response from the Attorney General’s office.

B. Approval of the December Council Meeting Minutes (1:36:35):

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the minutes of the Council meeting held on December 13, 2022, as amended. All in favor; motion carried.

The minutes of the Council meeting held on December 13, 2022, were provided for the Council’s review and approval. The Council requested the following amendment:

- Correct the spelling of “Cathy Weir” to “Kathy Weier”.

- C. **Approval of Resolution 2023-01 – Designating White Bear Press as the Official Newspaper for Publication**
- D. **Approval of Resolution 2023-02 – Naming U.S. Bank and the 4M Fund as Official Depositories for Municipal Funds**
- E. **Approval of Resolution 2023-03 – League of Minnesota Cities Elected Officials Training**
- F. **Approval of Resolution 2023-08 – Mary Cahill Appreciation**

11. CITY BUSINESS – OLD BUSINESS

A. Second Reading Ordinance 2022-10-01, Amending Section 307.010 Zoning Permit Application (1:38:42)

a. Public Hearing:

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to close the public hearing. All in favor; motion carried.

b. Council Deliberation and Approval:

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve Ordinance 2022-10-01, Amending Section 307.010 Zoning Permit Application, as presented. All in favor; motion carried.

c. Resolution 2023-05, Summary Publication of Ordinance 2022-10-01:

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve Resolution 2023-05. All in favor; motion carried.

B. First Reading Ordinance 2022-10-02, Amending Section 605 Animals (1:40:54)

a. Public Hearing: No public hearing was held as the Council agreed to proceed as a first reading of the ordinance due to errors in Ordinance 2022-10-02 as passed at the previous Council meeting.

b. Council Deliberation and Approval:

On a motion made by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to approve a second reading of Ordinance 2022-10-02, Amending Section 605 Animals, as amended. All in favor; motion carried.

The Council requested the following amendments:

- Page 53, Section 2, Term: Dog permit shall be issued for three years *starting* in 2022...
- Page 54, Section 605.021, subsection 2 should state “each licensed dog shall be renewed every third year”.
- Remove “the permit deadline” to read “A permit if not revoked shall be valid until the end of the permit period three calendar years after the permit deadline”.
- Remove “the issued applications” to read “Renewal permits must be obtained

C. Discuss Ordinance 2022-10-04, Amending Section 617 Public Lake Tracts (1:48:54)

The Council reiterated the following amendment as requested at the December 2022 Council meeting:

- Section 617.380: add “designed to be” between “structure” and “placed”.

The Council discussed whether language should be included in the ordinance to permit the city to retain the right to inspect private property on the public lake tracts. The Council expressed concern regarding the use of language beyond the city’s limited right to inspect boats, lifts, or docks, to ensure they are in compliance with city code and permits. Further discussion was deferred to the next Council meeting.

D. First Reading Ordinance 2022-10-05, Amending Section 701 Fees (2:00:31)

- a. **Public Hearing:** No public hearing was held as the Council agreed to proceed as a first reading of the ordinance due to additional changes to Ordinance 2022-10-05 as passed at the previous Council meeting.

b. **Council Deliberation and Approval:**

On a motion made by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to approve the second reading of Ordinance 2022-10-05, Amending Section 701 Fees, as presented. All in favor; motion carried.

The Council noted that the city is not authorized to charge penalties, other than criminal. The removal of “late fees” and replacing the same with “investigative fees” accounts for staff time to recuperate costs in line with state law.

E. First Reading Ordinance 2023-10-07, Amending Section 407 Fees (2:02:30)

- a. **Public Hearing:** No public hearing was held as the Council agreed to proceed as a first reading of the ordinance since it was previously included in Ordinance 2022-10-05; however, it was separated as it reflects a different city code.

b. **Council Deliberation and Approval:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the second reading of Ordinance 2023-10-07, Amending Section 407 Fees, as amended. All in favor; motion carried.

The Council requested the following amendments:

- Remove everything after “vacant building”.

F. Second Reading Ordinance 2022-11-01, Amending Section 201 Meters (2:06:25)

a. Public Hearing:

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to close the public hearing. All in favor; motion carried.

b. Council Deliberation and Approval:

On a motion made by Councilmember Foster, seconded by Councilmember McCarthy, it was resolved to approve Ordinance 2022-11-01, Amending Section 201 Meters, as amended. All in favor; motion carried.

The Council noted there is no fee in the fee schedule for the Kamstrup electronic water meter reading to be referenced for the quarterly or non-submission fee.

The Council requested the following amendments:

- The quarterly fee of \$100 and a non-submission fee of \$100 be incorporated into the ordinance rather than reference the fee schedule.
- Specify that a legible timestamped photo of the resident’s current meter reading must be e-mailed by the resident to the city’s designee.

c. Resolution 2023-07, Summary Publication of Ordinance 2022-11-01:

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to approve a summary publication of Resolution 2023-07. All in favor; motion carried.

G. Review RFP for City Engineer and Planner (2:36:36)

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the posting of the request for proposal (RFP) for City Engineer and Planner, as amended. All in favor; motion carried.

ACTION – Becky Kellen will include Kay Beach in the list of areas in the third paragraph under “General Information” in the RFP for both the City Engineer and the City Planner and will post the RFP on the city’s website and the League of Minnesota Cities marketplace.

The Council agreed that the City Engineer would be paid an hourly rate and the City Planner would be paid a flat rate.

H. Streetlight Removal at the End of Lake Avenue (2:40:35)

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved not to remove the streetlight at the end of Lake Avenue and to maintain the streetlight in its current state. All in favor; motion carried.

Councilmember McCarthy reported that a streetlight at the end of Lake Avenue was slated for removal; however, one resident on Lake Avenue strongly objected to its removal citing safety concerns for residents and vehicles using the dead-end street.

I. Bids for Wildwood Lift Station (2:43:23)

On a motion made by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to approve City Engineer, Steve Thatcher, to begin posting for bids for the Wildwood Lift Station. All in favor; motion carried.

12. CITY BUSINESS – NEW BUSINESS

A. 2023 Local Board and Open Book Meeting (2:45:05)

On a motion made by Councilmember Hankins, seconded by Councilmember Foster, it was resolved to approve holding the 2023 Board of Appeal and Equalization meeting on April 11, 2023, from 6:00 p.m. to 6:30 p.m. at Birchwood Village City Hall. All in favor; motion carried.

The 2023 Board of Appeal and Equalization meeting will take place before the regular Council meeting scheduled for April 11, 2023, at 7:00 p.m. Quorum is required for the Board of Appeal and Equalization meeting.

The meeting provides an opportunity for residents who have concerns regarding the valuation of their taxes from the local assessor to present their concerns to the Council for adjustments to be made.

B. Planning Commissioners (2:13:35)

a. Resolution 2023-04 Planning Commission Terms

i) Council Deliberation:

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to reappoint Andy Sorenson to the Planning Commission for a three-year term expiring December 31, 2025. Motion carried.

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to reappoint Joe Evans to the Planning Commission for a term that expires December 31, 2024. Motion carried.

The Council reported that previous city staff failed to adequately document the terms of each Planning Commissioner.

Becky Kellen reported the appointment of each Planning Commissioner as follows:

- Andy Sorenson was appointed in January 2019 to finish Jon Felt's term. He was re-appointed in January 2020 for a three-year term

expiring December 31, 2022. He was appointed Chairman in January 2022.

- Mike Kraemer was appointed in June 2019 to finish Doug Dank's term which expired December 31, 2020. He was re-appointed in January 2021 for a three-year term expiring December 31, 2023.
- Joe Evans was appointed in July 2021 for a term expiring on December 31, 2023.
- Michelle Maiers-Atakpu was appointed in April 2021 for a term expiring on December 31, 2023.
- The open vacancy for former Commissioner Ryan Hankins' seat would expire on December 31, 2023.

The Council noted that Commissioner Sorenson's term expired on December 31, 2022, and the Commissioner had expressed his desire to be re-elected for another three-year term.

Historically, any sitting member on the Planning Commission with an expiring term who expressed interest in extending their term was re-appointed by default; however, the Council discussed whether the open vacancy should be made public to residents who may be interested in submitting an application.

The Council agreed to re-appoint Andy Sorenson for a three-year term given that he is currently Chairman of the Planning Commission and there is not enough advance notice to inform the public of his open seat on the Planning Commission. Moving forward, any expiring terms with an open vacancy will be made public.

H. Alan Kantrud recommended implementing a policy that, should a sitting member with an expiring term wish to extend their term, therein by acquiescence the member is re-appointed.

The Council also agreed to re-appoint Joe Evans for a term that expires December 31, 2024, which would have been the correct term had his appointment been recorded accurately.

- ii) **Approve Resolution 2023-04:** The approval of Resolution 2023-04 was not required based on the appointments made above.

b. Appoint Planning Commissioners:

- i) **Review Candidates and Appoint Commissioners:**

On a motion made by Mayor Ford, seconded by Councilmember Weier, it was resolved to appoint Mary Wingfield to the vacant position on the Planning Commission.

Opposed: Councilmember Foster, Councilmember Hankins, Councilmember McCarthy.

Motion not carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to appoint Michael McKenzie to the vacant position on the Planning Commission. Motion carried.

Mayor Ford reported one vacancy on the Planning Commission. The following two candidates submitted an application for consideration:

- Mary Wingfield
- Michael McKenzie

The floor was opened to candidate speeches.

C. CivicGov Permitting Software (2:47:12)

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve the purchase of the CivicGov Permitting Software for a one-year term at a total cost of \$4,000. All in favor; motion carried.

ACTION – Becky Kellen will prepare a proposed update to the building permit fee based on CivicGov’s year-two annual recurring cost of \$2,100 as per the proposal.

The permitting software would help to streamline the city’s permitting process, provide timely invoices, better track permits, and allow users access to an online portal to submit and obtain information. The proposal is for a one-year term.

The Council discussed updating the fee schedule in February 2023 to include a fixed fee to the building permit fee to cover the cost of the software.

The Council agreed to consider additional features pending feedback on the software from the City Administrator in November 2023 or December 2023.

D. Village Hall Security and Access (2:56:49)

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to approve the replacement of the front door lock at Village Hall with a Wi-Fi smart lock at a cost not to exceed \$300 plus city staff time for installation. All in favor; motion carried.

ACTION – Becky Kellen will change the key code for the Village Hall office keypad as directed by Council.

The approval of the Village Hall Security and Access Policy was deferred pending further review and revisions to be made.

E. Ordinance 2023-01-01: Structural Height Restrictions (3:03:10)

This item was deferred.

F. Creation of a Parks Committee (3:03:42)

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve the resolution to create a Parks and Natural Resources Committee. All in favor; motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the resolution directing the Parks and Natural Resources Committee to evaluate moving the disabled parking spot at Kay Beach, as amended. All in favor; motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the resolution directing the Parks and Natural Resources Committee to review and make recommendations for revising city code as it relates to parks and open spaces, including public property limited licenses in the city's park ordinances, and to prepare a proposal of rules to be included on signage. All in favor; motion carried.

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve the resolution directing the Parks and Natural Resources Committee to review potential upgrades and usages of Tighe-Schmitz Park, including a review of budgeting for Tighe-Schmitz Park and the hockey rink as it relates to potential grants. All in favor; motion carried.

ACTION – Becky Kellen will advertise the reconstitution of the Parks and Natural Resources Committee to seek three resident volunteers.

The Council noted that having two Councilmembers on the Parks Committee would help to ensure the Committee remains aligned with the goals and intentions of the Council. The Councilmembers would also serve as a liaison between the Parks Committee and the Council to provide guidance and help maintain focus on assigned tasks.

The Council agreed that the Committee would not be tasked with the responsibility of making recommendations to city staff regarding the maintenance of city parks and public spaces.

H. Alan Kantrud confirmed no prohibition against having two Councilmembers serve on the Committee.

The Council reviewed the resolution directing the Parks and Natural Resources Committee to evaluate moving the disabled parking spot at Kay Beach and requested the following amendment:

- Replace “swimming only” with “non-motorized only”.

The Council reviewed the resolution directing the Parks and Natural Resources Committee to review and make recommendations for revising city code as it relates to parks and open spaces and noted the following:

- Include an evaluation of the need and purpose of public property limited licenses in the city's park ordinances.

The Council noted that signs were previously removed as they included outdated rules; however, the sheriff's department will not enforce any rules unless there is signage. Once proposed revisions for city code have been considered, the Parks and Natural Resources Committee would then recommend to Council select rules that should be included on signage.

The Council discussed whether a revision to the city's sign ordinance should be made to allow an exception on public property for city signs. No further action was taken.

The Council reviewed the resolution directing the Parks and Natural Resources Committee to review potential upgrades and usages of Tighe-Schmitz Park and noted the following:

- Include a review of budgeting for Tighe-Schmitz Park and the hockey rink as it relates to potential grants.

Further discussion regarding the bylaws for the Parks and Natural Resources Committee was deferred to the next Council meeting.

G. City Council Meeting Agenda Discussion (3:23:20)

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to adopt a Council meeting schedule of 6:45 p.m. on every second Tuesday of the month, effective February 2023. All in favor; motion carried.

The Council discussed including "unscheduled items" on the agenda to allow the Council to include supporting documentation that may not necessarily require immediate attention or are items that are a work in progress. This would also allow Council to work around the open meeting law if last-minute items are to be included on the agenda and supporting documentation is available on the agenda.

The Council agreed to include a list of non-emergent items on the agenda that will be addressed in a first-in-first-out (FIFO) queue. Items that are not addressed will be rolled over to the next Council meeting. At the time of the approval of the agenda during each meeting, Councilmembers can request that certain items in the queue be pulled out and included in the regular agenda if the item requires immediate attention.

H. Alan Kantrud recommended a Council administrative workshop for one hour every month to address any backlog of items. The workshop would be intended for discussion only, will not require quorum, and would be open to the public; however, no open public forum would be held.

Council members can provide the City Administrator with items to be added to a workshop list and once a sufficient list (generally six items as per the City Attorney) has been generated, a workshop will be scheduled. Council members can request that items from the pending workshop list be included on the regular Council agenda at any time.

H. **Radon Testing at Village Hall (3:47:45)**

On a motion made by Councilmember Hankins, seconded Councilmember McCarthy it was resolved to approve directing city staff to:

- Order up to three Air Chek Radon test kits;
- Run the radon test(s) per the kit conditions, with help from Council members as necessary; and,
- Provide the test results to Council, if city staff believes that further action is warranted, or if the radon level reported is 4 pCi/L or higher.

All in favor; motion carried.

I. **Internal Reconciliation of City Accounting (3:48:40)**

On a motion made by Councilmember Hankins, seconded Councilmember McCarthy, it was resolved to approve directing City Treasurer, Mary Cahill, to attend the next Council Meeting in February 2023 to provide a status update on the reconciliation of the city's accounting.

13. **CITY BUSINESS – PENDING BUSINESS**

A list of pending items was included in the meeting package but not discussed with the exception of the following item:

A. **Birchwood Village Water Management Plan (3:52:55)**

ACTION – Becky Kellen will send the Ricecreek Watershed District a copy of the city's resolution to adopt its 2024 Comprehensive Plan.

H. Alan Kantrud confirmed that a copy of the city's resolution to adopt its 2024 Comprehensive Plan should suffice as a copy of the city's resolution of adoption of the Surface Water Management Plan.

14. **ADJOURNMENT**

On a motion made by Councilmember McCarthy, 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 10:56 p.m. by Mayor Ford.

DISCLAIMER

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

Mayor Margaret Ford

City Administrator Becky Kellen

Date

Date

**CLOSED COUNCIL MEETING
CITY OF BIRCHWOOD VILLAGE
January 10, 2023
7:15pm**

CALL TO ORDER: Mayor Margaret Ford calls the meeting to order at 7:30pm

PRESENT:

MEMBERS: Mayor Margaret Ford, Councilmembers: Mark Foster, Justin McCarthy, Ryan Hankins, Kathy Weier

STAFF: Administrator Rebecca Kellen

OTHERS PRESENT: City Attorney Alan Kantrud, LMC Attorney Paul Merwin

Mayor Margaret Ford opened the meeting between the City of Birchwood Village as the client and its Attorney, Paul Merwin, to have an "attorney-client" privileged conversation concerning the active litigation in the Nicklaus v. City of Birchwood matter and as such was closed to the public pursuant to MN STAT. 13D.05 Subd. 3(b).

MEETING ADJOUNED AT 8:19PM

ATTEST

MAYOR MARGARET FORD

ADMINISTRATOR REBECCA KELLEN



**2023 SCHEDULE OF
REGULAR CITY COUNCIL
MEETINGS**

(Start time 6:45 p.m. at City Hall)

January 10
February 14
March 14
April 11
May 9
June 13
July 11
August 8
September 12
October 10
November 14
December 12

**City Staff Office Hours
Tuesdays and Thursdays**

10:30 am – 1:30 pm
Or By Appointment
Phone: 651-426-3403

**2023 SCHEDULE OF OFFICIAL
CITY HOLIDAYS**

MLK Jr. Day – Mon, Jan 16
Presidents Day – Mon, Feb 20
Memorial Day – Mon, May 29
Independence Day – Tues, July 4
Labor Day – Mon, Sep 4
Veterans Day – Fri, Nov 11
Thanksgiving – Thu-Fri, Nov 23-24
Christmas Day – Mon, Dec 25
New Year's Day – Mon, Jan 1, 2024

**COMMITTEE/COMMISSION
MEETING SCHEDULE:**

Planning Commission meets the 4th
Thursday of every month.

All other committees meet as needed,
with notice.

RESOLUTION 2023-08
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA

**A Resolution Authorizing the Holding of a Summer Concert Series in the City of
Birchwood Village on an Annual Basis**

WHEREAS, in the summer of 2011, the City of Birchwood Village held its first summer concert series called Music in the Park, and

WHEREAS, the City has held a Music in the Park concert series every summer since 2011 (except for 2020 during the Covid pandemic), and

WHEREAS, the City has authorized the use and consumption of beer and wine during the concerts in past years with specified restrictions, and

WHEREAS, funding for the Music in the Park series comes from a designated fund called the Parks Special Revenue Fund, and

WHEREAS, the City has taken a separate action every year to authorize the holding and funding of the concert series, and

WHEREAS, the City desires to hold a Music in the Park concert series every summer indefinitely on a continuing basis.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Birchwood Village hereby authorizes the following:

1. The City shall hold a summer music concert series called Music in the Park on an annual basis.
2. Concerts shall be held between the first Sunday in June and the last Sunday in September. The concerts shall be held between the hours of 6:00 and 8:00 p.m. The concerts shall be held in the hockey rink in Tighe-Schmitz Park or in another city park designated by the city administrator.
3. The city administrator shall be responsible for arranging the musicians who perform during each concert series. The city administrator may rely on volunteer help with arranging the musicians or holding the concerts.
4. The City authorizes a yearly budget of \$3700 for Music in the Park. The money for expenses related to Music in the Park shall come from the Parks Special Revenue Fund.
5. Of the budgeted amount, each performing person or group shall be paid \$300. In the event of a rain-out, the performers shall still be entitled to payment. Performers shall be permitted to sell CDs and to provide a tip jar during the concerts.

6. The remaining \$700 of the budget shall be allocated for administrative and staff time related to scheduling, promoting, and facilitating the concerts. The City shall not be required to provide chairs or other seating arrangements or other amenities for audience members.
7. The city administrator is authorized to make all payments due to performers or others related to the concerts without further approval by the City Council.
8. There shall not be more than ten concerts per season unless additional funding for the event is obtained through donations or further action by the City Council. It shall be permissible for the city administrator to authorize the holding of additional concerts in the event of a rain out or other cancellation of a concert from an earlier date, if the budget shall allow.
9. All concerts shall be conducted in accordance with any applicable state and federal requirements related to the Coronavirus pandemic.
10. The City authorizes persons of legal age to possess and consume beer and wine at the site during all summer evening concerts.
11. The city administrator shall summarize the summer concert series at the end of each year in a report to the City Council by the November City Council meeting.
12. The City may amend or repeal this Resolution at any time by placing the matter on a Council agenda.

Passed by the City Council of The City of Birchwood Village, Minnesota this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator

Fw: Consult on upgrading BV802 and BVM801 [Request ID :##157813##]

Mary Cahill <Mary.Cahill@cityofbirchwood.com>

Mon 2/6/2023 12:38 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Cc: Tom Nitti <Tom.Nitti@cityofbirchwood.com>

Per Metro INET both computers (the desktop and your laptop are due for replacement) Metro INET will order, install and provide support for them. They have listed two options for the laptop. If the laptop would ever be used for zoom or other video conferencing the cost will be paid by the Ramsey/Washington County Cable Commission. We have experienced very slow response times with the desktop and it really could use to be replaced. Could you bring this to the attention of council to vote on the PC replacement? Let me know if you need anything else. Thank you.

Mary Cahill

Treasurer

City of Birchwood Village, MN

email: mary.cahill@cityofbirchwood.comwebsite: <http://www.cityofbirchwood.com>

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From: MI Helpdesk <support@metro-inet.us>**Sent:** Thursday, February 2, 2023 4:25 PM**To:** Mary Cahill <Mary.Cahill@cityofbirchwood.com>**Subject:** RE: Consult on upgrading BV802 and BVM801 [Request ID :##157813##]

Hello Mary,

I have the updated quote for the standard dell laptop.

Dell Latitude 5530 - \$988.36

Standard Specs

i5 processor, 8 GB RAM, 256 GB SSD

Please let me know if you have any questions or receive approval to proceed with any orders.

Thank you,
Jen----- Mary Cahill : Mary.Cahill@cityofbirchwood.com On Feb 1, 2023 15:40:36 -0600 -----

Caution: This email originated outside our organization; please use caution.

RESOLUTION 2023-09
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA

A Resolution Authorizing the procurement of two (2) new laptop-style computers for City Staff.

WHEREAS, the City has budgeted for the orderly upgrades of office technology including the computers that are used daily by staff, and

WHEREAS, the City has authorized the procurement of new computers when they fail or after five (5) year's of use, and

WHEREAS, two (2) lap-top style computers are showing wear and are aged five (5) years and due for replacement, and

WHEREAS, the City Staff desires to purchase two such devices and have identified units that have been recommended by the City's IT provider.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Birchwood Village hereby authorizes the following:

1. Procurement of two (2) Dell Latitude 5330 laptops (or similar) for a not to exceed amount of \$2500.00 for the pair.

Passed by the City Council of The City of Birchwood Village, Minnesota this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator

KYLE HUNT & PARTNERS

INCORPORATED

City of Birchwood Village

207 Birchwood Avenue, Birchwood MN 55110

RE: Variance Application 23-01-VB (469 Lake Ave)

February 6, 2023.

Dear Mayor Margaret Ford, Council Members Kathy Weier, Ryan Hankins, Mark Foster and Justin McCarthy. Additionally, Rebecca Kellen (City Administrator-Clerk) and Steve Thatcher (City Civil Engineer and Zoning Official):

On behalf of Dr. James (Jim) Barthel (Applicant for the Variance) we are submitting the follow memorandum as a clarifying note and response to the discussion that took place before the Birchwood Planning Commission at City Hall on January 26, 2023 at the Regular Meeting that was held at 7:00 PM.

In this meeting the Barthel Team listened carefully and looked for guidance by the Planning Commission. After the meeting and in a couple of conversations with Dr. Barthel the Team, with Mike Sharratt's lead have decided to make modifications to the information included in the Variance Application. (See below)

1. Adjustments to the project since the 01-26-2023 Planning Commission meeting:

Support for the project included two (2) people in attendance and a letter from an immediate neighbor. One letter was not in support. The Planning Commission's vote was 2 to 2.

- Although the impervious coverage had been reduced from the existing amount of 31.84% to 28.2% in our proposal (prior to mitigation), we were informed by the Planning Commission that the Birchwood's ordinance that we must be at or below 25% impervious coverage. We listened, and in an effort to bring this request into compliance we have further reduced our proposed impervious hardcover down to **24.6%**. After mitigation, the effective hardcover has been reduced to 13.4%.
- Concern was expressed that the 8' wide driveway in our previous proposal would not be wide enough to accommodate a firetruck / emergency vehicle. We have since increased the width of the driveway to 10' and included a 1' separation between the edge of the driveway and the existing detached garage, at the same time keeping the driveway more than 1' away from the south property line to comply with that part of the City Code. This was accomplished by removing 3'-6" in width from the existing unattached garage (removing 3'-6" from the south side of the structure), reducing it from 24' to 20'-6" in width. (We have also verified with a local battalion fire chief that in the event of a fire-related emergency, any responding fire apparatus would almost always stage in the street rather than attempt to enter the interior yard on a property such as this).
- We have eliminated the driveway surface, replacing it with pervious grass turf on the street side of the Existing Detached Garage, we have added an overhead door on the lake side of the Existing Detached Garage and pervious pavers in front of that new door to access the garage, all in all, reducing the Impervious Surface Coverage to below the 25% threshold, to **24.6%**.

In summary, the Barthel project now meets or exceeds the requirements of the code as written and complies with the other requests we have received.

2. Dr. James Barthel (Applicant) is requesting a one-year Extension of the Variances that were granted for this property (469 Lake Ave.) on March 8, 2022, at the City of Birchwood Council Meeting, they are referenced in Variance Case No. 22-01-VB in the Council Minutes as noted below in bold font. Thus, he seeks the extension to span from March 8, 2023 to March 8, 2024. This will allow us to incorporate those variances into the Building Permit Application which will be our next step after the architect has the structural engineering completed for the Building Permit Application.

The below is from the March 8, 2022 Council Minutes-

C. Variance Case No. 22-01-VB

a. Council Deliberation:

- **On a motion made by Councilmember Woolstencroft, seconded by Councilmember Fleck, it was resolved to deny the driveway variance request on the basis that it does not meet practical difficulty and the solution presented by the applicant is due to the applicant's own initiative. All in favor; motion carried.**

- **On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to approve the variance request for the south side yard setback of 7.9 feet on the basis of practical difficulties due to a narrow lot. All in favor; motion carried.**

- **On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to approve the variance request for the north side yard setback of 7.5 feet for the cantilever bump out and 8.5 feet for the existing structure as presented on the basis of practical difficulties due to a narrow lot that expands towards the lake, and for the preservation of the existing sightlines for the neighbors, and on the condition that the house not to be expanded closer to the lake and be recorded with Washington County. All in favor; motion carried.**

Please let us know if you have any questions, we have included the revised supporting documents for your review and use.

Best regards,



Kyle H Hunt,

on behalf of the Barthel Team.

RE: 469 Lake Ave Birchwood- Barthel Property

Steven Thatcher <sthatcher@thatcher-eng.com>

Sat 2/11/2023 2:36 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Cc: Tom Nitti <Tom.Nitti@cityofbirchwood.com>

 3 attachments (1 MB)

2023-2-6 Barthel - Site Plan.pdf; 2023-2-7 Signed Barthel 2.6.2023 Letter to Council and Staff- Variance Application No. 23-01-VB.pdf; 2022-3-8 - Minutes of City Council Meeting Dated 3-8-2022.pdf;

Hi Rebecca,

Thatcher Engineering, Inc. (TEI) reviewed the following documents:

1. Proposed Certificate of Survey Sheet 1 of 1 dated February 3, 2023 (titled "Site Plan" on the PDF) (received February 6, 2023).
2. Preliminary Architectural Site Plan Sheet A1 dated February 6, 2023 (received February 6, 2023).
3. Drainage Areas Sheet 1 of 1 dated February 6, 2023 (received February 6, 2023).
4. Letter from Kyle Hunt and Partners (Hunt) dated February 6, 2023 – 2 pages (received February 7, 2023).

Based on my understanding of the documents, it is the opinion of TEI that a variance is not required for impervious surface area because the proposed impervious surface area is less than 25%.

The letter from Hunt requests a one-year time extension for the variances granted at the March 8, 2022 City Council meeting.

I noticed a difference between the documents. The Proposed Certificate of Survey Sheet 1 of 1 dated February 3, 2023 provided by Hunt (attached) shows a south side yard setback of 7.8 feet at one location (near the "Entry Porch"). The letter from Hunt dated February 6, 2023 (attached) and the March 8, 2022 City Council meeting minutes (attached) both show an approved south side yard setback of 7.9 feet. Thus, the proposed south side yard setback of 7.8 feet is 0.1 feet closer to the south lot line than shown in the City Council meeting minutes. The Proposed Certificate of Survey should be changed to match the approved south side yard setback of 7.9 feet.

Then the property owner should submit a building permit application and the City should consider the request for a one-year time extension.

Please let me know if you have any questions.

Steve

Steven Thatcher, PE
Thatcher Engineering Inc.

6201 Creek Valley Road

Edina, MN 55439

Phone: 612-781-2188 Cell: 612-867-7234 Fax: 612-781-2188 Web: www.thatcher-eng.com

From: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>**Sent:** Friday, February 10, 2023 1:07 PM**To:** Steven Thatcher <sthatcher@thatcher-eng.com>**Subject:** Fw: 469 Lake Ave Birchwood- Barthel Property

Hi Steve,

RESOLUTION 2023-10
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA

A Resolution Authorizing the extension of time to procure Building Permit

WHEREAS, the City has granted variances for the property at 469 Lake Avenue in variance case 22-01-VB on March 8, 2022, and

WHEREAS, the Applicant sued the City over the denial of a variance in variance case 22-01-VB, and

WHEREAS, due to the litigation the Applicant did not submit an application for the building permit that would have taken advantage of the variances granted, and

WHEREAS, the City requires that successful applicants pursue their projects by obtaining a building permit within one year of the granting of conditional uses or variances, and

WHEREAS, the Applicant has requested an extension of the time to allow additional permissions to be sought for the project and City Staff is supportive of such an extension.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Birchwood Village hereby authorizes the following:

Extending the time to act (obtain a building permit) pursuant to variance case 82-01-VB by one (1) additional year to March 8, 2024.

Passed by the City Council of The City of Birchwood Village, Minnesota this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator

PARKS COMMITTEE

Hegedus Noel <NHegedus@marcolin.com>

Thu 1/19/2023 5:21 PM

To: **City of Birchwood Village** <info@cityofbirchwood.com>

I would be interested in volunteering for the parks committee. My family has lived here since the 1960s and we have 2 homes here: one on Birchwood Ave and one on Jay St.

I'm still working, so I don't have unlimited time but I would love to help keep/make Birchwood beautiful for our residents.

Sincerely,
Noël Hegedus
651-208-2646

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January 30, 2023

Rebecca Kellen
City Administrator
City of Birchwood Village

Re: Application for Parks Board Appointment

Dear Rebecca,

I am writing to apply for appointment to the newly-created Parks Committee. The City Council created the committee at its January 10 meeting, and the City notified the public shortly thereafter that it would accept applications for appointment to one of five citizen positions on the committee.

Here's a little information about me. I have lived in the White Bear area for forty-seven years. I have been a Birchwood resident since October 1997. I live at 23 Oakridge Drive. I was a member of the City Council for six years from 2000-2006 and the mayor for two years 2011-2012. Since 2011, I have helped schedule and hold the Music in the Park summer concert series in Birchwood.

I am a retired attorney. I spent twenty-eight years as an Assistant Attorney General for the State of Minnesota, primarily representing the Minnesota Pollution Control Agency and the Minnesota Environmental Quality Board. I also served as the Director of the Power Plant Siting Program at the EQB for about five years. I was in private practice for over ten years working on permitting energy facilities like wind turbines before the Minnesota Public Utilities Commission. I was an adjunct professor of Environmental Law at the University of Minnesota Law School, William Mitchell Law School, and Hamline Law School at various times over a ten year period. I retired in July 2019.

I am familiar with the parks in Birchwood. I have skated on the hockey rink, I have played pickleball on the courts, I had a boat for several years at Elm Beach, I have walked the trails. I would like to see Birchwood maintain its parks and open spaces for the benefit of all. I am delighted that the City Council has decided to re-establish a Parks Committee and I would like to be one of the citizen representatives on the committee.

Thank you.

Alan Mitchell

Rebecca Kellen
City Administrator
Birchwood Village

Application for the Parks Committee

Dear Rebecca,

I write to apply for a seat on the Parks Committee. I have been a Village resident for 39 years and have enjoyed all of our parks, organized the dock easements, cleaned the lake tracts and managed plants and buckthorn in Polly's Park.

My experiences with the Rice Creek Watershed District included 6 years on its Citizens Advisory Council and evaluating raingarden applications from landowners.

I put in a demonstration raingarden in my backyard 10 years ago and plan a spring renovation of it this year.

I served on the White Bear Lake Conservation Board for 6 years and am knowledgeable about water runoff, erosion control, and public policy development. With colleagues on the board, I designed a comprehensive management plan for our lake and met regularly with representatives from the 5 communities surrounding the lake.

In addition, I have a PhD in local governance from the U of M. Much of my graduate work centered around environmental issues and working with NGO's, various governmental agencies and individual landowners.

I believe that climate change makes it imperative that water, flora and fauna must be reflooked after. And, trees are essential to the quality of life in Birchwood. I also believe that our parks are essential to our mental health and sense of beauty and wonder.

Serving on the Parks Committee would be an honor. I would like to see the committee engage a vision which embraces the interconnectedness of the lake itself, our parks and our residents. To that end, I would love to lend my efforts!

Sincerely,

Mary Sue Simmons (Retired)
418 Birchwood Cts
Birchwood
651-429-6259

Parks Committee Letter of Interest

To Whom It May Concern,

I am writing to express my interest in joining the Birchwood Village Parks Committee. I am confident I have the qualifications and experience necessary to participate as an active member of the committee, and I am eager to put my knowledge and skills to work for our community.

I have a background and degree in urban and regional planning and over the past ten years, I have built a successful career in environmental planning and project management. With my background in urban planning, I have gained the essential skillsets required to understand city processes and procedures. Additionally, throughout my career, I have prided myself on my ability to collaborate and work well with others. I believe I would be a valuable member of the parks committee due to my background, experience, and ability and desire to work well with my fellow committee members, city staff, and our neighbors throughout Birchwood.

As a regular, year-round user of our community's parks, trails, and beaches, I believe we should actively maintain and enhance the outdoor amenities we have here in Birchwood. We live in a very special and unique community, and one of the best attributes we have is our outdoor spaces. It would be an honor to be a member of the parks committee and I look forward to the chance to work with my neighbors here in Birchwood.

Sincerely,

Zachary Michalk
531 Hall Avenue
Birchwood Village

zmichalk13@gmail.com

(361) 522-4876

Dear Council,

I am writing to express my interest in being on the parks committee.

The residents of Birchwood Village value the community recreation spaces. The parks are a great asset to the community and should be thoughtfully cared for. Each space is unique and offers the residents different experiences. I would be happy to be part of the group that not only cares for what we currently have, but is willing to have conversations with residents about improvements they would like to see.

Thank you,
Jennifer Arsenault
432 Birchwood Court

PARKS AND NATURAL RESOURCES COMMITTEE

BYLAWS

I. NAME OF THE COMMITTEE

The name of the committee shall be the Parks and Natural Resources Committee.

II. PURPOSE OF THE COMMITTEE

The purpose of the Parks and Natural Resources Committee is to advise the City Council on the parks and open spaces within the city limits of Birchwood, including advising on maintenance, upgrades, and repair of these facilities and the funding of all such work.

III. COMMITTEE MEMBERSHIP

- A. Members.** The committee shall consist of up to seven members appointed by the City Council, with two members being City Council members.
- B. Terms.** The terms of each member shall be for two years. A person may be reappointed to the committee by the Council and serve more than one term. Terms shall run from February to February. Any new member appointed in months other than February shall end his/her term two years after her/his appointed month.
- C. Resignation.** Any member of the committee may resign before his or her term expires by providing written notice of such intent to the City Council. The resignation shall be effective upon receipt of the written notification, unless the member identifies a later date.
- D. Removal.** The City Council may remove any member from the committee prior to expiration of the member's term with a majority vote.
- E. Vacancy.** In the event of a vacancy through resignation or vacancy through removal, the City Council shall appoint a person to serve the remainder of the term of the person who resigned or was removed. The person appointed to fill a vacancy may be appointed to a full two year term upon expiration of the filled term.
- F. Council Liaison.** Two members of the City Council shall serve as the liaison to the committee. The Council liaisons shall be voting members of the committee and may participate in committee functions as well as vote on all matters before the Council involving the committee.

G. List of Members. The City Clerk shall maintain a list of the members of the committee and the date of each member's term and shall post the same information on the City webpage.

IV. COMMITTEE OFFICERS

A. Chair. The committee shall elect a Chair of the committee. The Chair shall be elected for a one year term. The term shall run from February to February. The Chair may serve up to three consecutive terms.

B. Secretary. The committee shall also elect a Secretary. The term shall run from February to February. The Secretary may serve up to three consecutive terms.

C. Majority Vote. All officers shall be elected by a simple majority vote.

D. Resignation. Any officer may resign his or her position by providing written notice of the resignation to the City Clerk and the Mayor. The resignation shall be effective upon receipt of the notice or upon such later date, not to exceed three months, that the officer designates. The officer may resign only their officer position, but not their position on the committee, or they may resign both their officer position and their position on the committee.

E. Vacancy. Upon a vacancy in the position of one of the officers, the committee shall elect another member to serve the remainder of the vacated term.

V. COMMITTEE MEETINGS

A. Scheduling. The committee shall meet on a regularly set time monthly. The Chair of the committee may call for a special meeting of the committee. Three committee members may call for a special meeting.

B. Open Meeting and Notice. All meetings of the Parks and Natural Resources Committee shall be open to the public. Notice of all committee meetings shall be given at least three days in advance by posting notice on the City's webpage and by posting a notice on the bulletin board outside city hall, along with a draft agenda.

C. Quorum and Taking of Actions. The committee can meet regardless of how many members are in attendance at the meeting. A quorum is not necessary for the committee to hold a meeting. However, a quorum shall be necessary to take action. The committee cannot take any action unless a majority of all the members vote in favor of the action.

D. Minutes. The committee shall keep Minutes of all its meetings. The Secretary or other person shall be responsible for keeping the Minutes of each meeting. Upon approval of the Minutes by the committee, the Chair shall forward the approved Minutes to the City Administrator and the Council and the approved Minutes shall be posted on the city webpage.

VI. COMMITTEE ACTION

A. Recommendations to the City Council. The committee shall make recommendations to the City Council and the City Administrator on the maintenance, upgrade, repair, and other work on any parks or other open spaces or any facility therein within the city limits of Birchwood. The committee shall also make recommendations regarding the funding of any of the work recommended by the committee. The committee may file both a majority report and a minority report with the Council on any recommendation.

B. Authority. The committee shall have no authority to make final decisions with regard to any work other than providing a report to the City Administrator on maintenance issues of any park or open space that needs to be addressed. The City Administrator will either direct City staff to handle the issues, or will bring the issue to the attention of the Council at her discretion. All final decisions shall be made by the Council.

C. Expenses and Budget. The committee shall not incur any expenses without the approval of the City Council. The committee may request the City Council to budget funds for the work of the committee. The committee shall submit any budget requests to the Council by October 1 of the year previous to the year for which funding is requested.

D. Report to the Council. Upon the request of the City Council, the Chair or another member shall report to the Council on the activities of the committee.

VII. COMMITTEE CONTINUATION

The committee shall continue in existence until terminated by action of the Council.

VIII. COMPENSATION

Members of the Parks and Natural Resources Committee shall receive no compensation for their service on the committee.

IX. AMENDMENT OF BYLAWS

These bylaws may be amended at any time by action of the City Council. The committee may recommend changes to the Council.

Adopted this ____ day of February, 2023

Margaret Ford, Mayor

Attest

Rebecca Kellen
City Administrator

To: Council
From: Justin McCarthy
RE: Kay Beach Disabled Parking

Kay Beach is a beach in Birchwood dedicated to swimming. Previous Council experimented with opening the chain gate at Kay and putting a disabled parking space in the center of the parcel, about half-way down.

In talking with nearby residents and in my own observations, this disabled space is rarely used for disabled parking. Unfortunately, by removing the chain gate, it allows cars to (illegally) drive right down on the beach and to the water's edge. This has been happening with increasing frequency. Cars have frequently been observed backing all the way to the waterfront to launch watercraft such as kayaks and canoes and to dump substances into the lake.

Because this traffic is well past the parking spot, this conduct is in violation of City Ordinance 607.810 which states "No person shall park, drive or operate a motor vehicle within any Open Space Site except upon roadways, parking areas, parkways, or other areas designated for such use ..."

In addition to being a violation of City Ordinances, such conduct is dangerous as Kay Beach has become a very popular destination for beach-goers. Small children often play in the shallow and sandy beaches there and are often less attentive to traffic and their surroundings whilst there. Having traffic mixed with that usage is a recipe for disaster.

In addition to being a violation of Ordinances and dangerous, such usage threatens the health of White Bear Lake. Motor vehicles that are not properly maintained and in good working order may leak fluids such as motor oil and gasoline onto the sand and into the Lake.

This past summer I personally observed a woman who repeatedly and regularly launched her Kayak into the lake by backing her car right up to the shore. I also witnessed a man and his son back up their car to the lake to dump some unknown muddy substances from a large fish-tank into the lake. It was only due to my intervention that the man and his son left without dumping the contents.

Finally, because the gate is open, a large path has been worn on the beach from vehicular traffic where the grass is no longer growing and there is nothing but dirt.

I propose that the City task the Parks and Natural Resources committee to study the issue and consider whether we should close the chain gate and move the disabled parking spot at Kay Beach. We could move the disabled spot be moved to just in front of the gate on the Beach side. (See attached diagram). This would allow disabled individuals to have preferential parking, but at the same time, preserves our safety and natural resources.

RESOLUTION NO. 2023-11

RESOLUTION DIRECTING THE PARKS AND NATURAL RESOURCES COMMITTEE TO
EVALUATE MOVING THE DISABLED PARKING SPOT AT KAY BEACH

WHEREAS, the City of Birchwood Village currently has a disabled parking spot that allows disabled persons to drive their car part-way down Kay Beach.

WHEREAS, the City of Birchwood Village has designated Kay Beach as a “swimming only” beach.

WHEREAS, the City of Birchwood Village finds that there are concerns with motor vehicles on the beach.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village that:

- I. The Parks and Natural Resources Committee is hereby directed to determine whether the parking spot should be moved to prevent vehicles from accessing the pedestrian areas of the beach and if so, to determine where the disabled spot should be moved.

Passed by the City Council of The City of Birchwood Village, Minnesota this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator

To: Council
From: Justin McCarthy
RE: Park Rules and Park Rule Signage

Council,

The previous City Council removed the park rules signs that were present in all our Parks. The argument was that people didn't follow the rules anyway and the signs represented visual clutter. The problem with this argument is that adequate signage is necessary to inform the public of the park rules and ordinances. Without signage, we cannot hope to enforce any of our ordinances with respect to these spaces.

Before we go and order expensive signage, I would propose that we task the Parks Committee with reviewing our ordinances and rules as they relate to the Parks and Open Spaces. I believe that some cleanup is in order. For example, I think section 607 relating to Parks and Open Spaces can be merged with Section 617 related to Lake Tracts. The Lake Tracts are also Parks and Open Spaces, so having two separate code sections is at best confusing and at worst could be problematic if contradictory rules are present in each.

Once the rules are in order, I would also propose tasking the Parks Committee with selecting rules to put on new signs and I would direct that the signs be posted in our Parks.

Thanks
Justin

RESOLUTION NO. 2023-12

RESOLUTION DIRECTING THE PARKS COMMITTEE TO REVIEW AND MAKE
RECOMMENDATIONS FOR REVISING CITY CODE AS IT RELATES TO PARKS AND OPEN
SPACES

WHEREAS, the City of Birchwood Village currently has several provisions in our City Code related to Parks and Open Spaces, including without limitation sections 607 and 617.

WHEREAS, the City of Birchwood Village wishes to ensure that these sections are up-to-date, harmonious with each other, and still reflect the wishes of the citizens with respect to the conduct of persons within the parks.

WHEREAS, the City of Birchwood Village wishes to place signage of selected park rules to ensure that

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village that:

- I. The Parks Committee is hereby charged with reviewing City Ordinances related to Parks and Open Spaces and making recommendations for new and/or revised ordinances to the City Council no later than April of 2022 or at a later date at the request of the Parks Committee.
- II. The Parks Committee is hereby charged with providing the City Council with a list of selected rules to place on signage at parks throughout the City. These signs will be posted at each Park.

Passed by the City Council of The City of Birchwood Village, Minnesota this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator

To: Council
From: Justin McCarthy
RE: Tighe Schmidt Park and Hockey Rink

Council,

Despite being one of the largest open spaces in the City, Tighe Schmidt park is underutilized. This may be due to a number of factors, including the fact that it often is swampy and the fact that the park is mostly empty. In addition, the Hockey Rink on the north end could use some love and care.

I would recommend that the City Council task the Parks Committee with evaluating ways of increasing usage of Tighe Schmidt park. I would encourage the Parks Committee to be creative in their thinking. For example, I would encourage the Committee to consider obstacle courses, bicycle courses, etc in addition to the classic usage as a sports field. One component of this effort should be to survey City residents on how they would use that space. I would recommend that the Parks Committee gather ideas, come up with a few plans, then present those plans to the Council and the public for consideration.

One component to consider is refurbishing or restoring the hockey rink.

Thanks
Justin

RESOLUTION NO. 2023-13

RESOLUTION DIRECTING THE PARKS COMMITTEE TO REVIEW POTENTIAL UPGRADES
AND USAGES OF TIGHE SCHMITZ PARK

WHEREAS, the City of Birchwood Village maintains a large open space park on Lake Avenue called Tighe Schmitz park.

WHEREAS, the City of Birchwood Village finds that Tighe Schmitz park is underutilized

WHEREAS, the City of Birchwood Village desires to increase utilization of Tighe Schmitz park.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village that:

- I. The Parks Committee is hereby charged with reviewing the utilization of Tighe Schmitz park, gather ideas to increase utilization, obtain public feedback, and present ideas to the City Council.
- II. The Parks Committee should also consider, what, if any improvements we should consider for the Hockey Rink.

Passed by the City Council of The City of Birchwood Village, Minnesota this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator

Mary Cahill
Treasurer
City of Birchwood Village, MN
email: mary.cahill@cityofbirchwood.com
website: <http://www.cityofbirchwood.com>



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From: Mary Cahill <Mary.Cahill@cityofbirchwood.com>
Sent: Monday, January 30, 2023 1:14 PM
To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>; Trenton Sax <trenton.sax@savmn.com>; Shelly Rueckert <shelly.rueckert@savmn.com>
Subject: Birchwood reconciliation process

Council members and Mayor Margaret, please review the attached memo regarding our Birchwood Village account reconciliation. Please contact me if you have any questions. I can set up a meeting to include our St. Anthony partners if you'd like. Additionally, I believe we need to update our internal controls document. I am hoping we could have a council member or members volunteer to participate. This would be a discussion outside of the council meeting. I do have a bit of flexibility in my schedule and can work in the evening. I am at a point in the revision of the controls that I would like some input from a council member. Once we collectively have a document, I suggest we have the revisions reviewed by St. Anthony and the League of MN cities to ensure they are compliant with the State Auditors controls. When we get the go ahead from LMC then it can be presented to council for approval. Thank you.

Mary Cahill (612-723-4506)
Treasurer
City of Birchwood Village, MN
email: mary.cahill@cityofbirchwood.com
website: <http://www.cityofbirchwood.com>



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CITY OF BIRCHWOOD VILLAGE
207 Birchwood Avenue
Birchwood Village, MN 55110
651-426-3403
info@cityofbirchwood.com

January 30, 2023

Trenton Sax, Accountant at the City of St. Anthony, and myself have reviewed all transaction activity for the City of Birchwood Village's banking accounts from 2018-2022. We have successfully reconciled every transaction for this time period. Over the course of our investigation we found the cities accounting records dating December 2017 were in balance, consequently we found it unnecessary to continue reconciling.

The City of Birchwood Village uses the CTAS program (Small City and Town Accounting System) for recording financial transactions. During our investigation we discovered an unknown weakness in the CTAS program. We found that Birchwood personnel were recording transactions and entering into CTAS, however, not all transactions were recorded prior to the year-end processing function being run in CTAS. CTAS will allow you to enter data for the prior year, however, if year-end is complete, the beginning balances for funds will not be updated. This inconsistency is caused by the rigid structure of the CTAS accounting cycle. As accountants, we often have to spend our time around the next year accounting for transactions that have occurred over two fiscal years, while CTAS only keeps one year open at any time. Once you close out the year the accounting software immediately closes out the year and any entries or adjustments must be made in the next fiscal year.

The workaround to this feature is to "update beginning balances" which lets you change account balances to adjust for prior years activities, as the software will not update it for you. Now that we are aware of the variety of nuances within the software we have updated our procedures to ensure proper adherence to year end processing guidelines.

Currently we have a difference between the balance on CTAS and the balance in the city's bank account of \$40,299.38 with the higher balance shown in the bank account. Of that difference we know \$33,636.40 in journal entries were made in 2021 that did not carry over to 2022. We also estimate that \$5,610.31 in entries were made in 2018 that did not carry over to 2019, but we don't have the complete records to verify the amounts of these entries.

When we started our reconciliation earlier this year we started at a difference of approximately \$92,000. Since we started our work we have found missing interest, returned items, and a variety of other accounting discrepancies that have brought us down to the total we have today. All of these missing transactions and amount discrepancies have now been entered into

CTAS. We found no evidence of fraud or unusual activity. We also reconciled or re-reconciled every year between now and the last available reconciliation.

It is our recommendation we adjust the beginning balance in 2023 by \$40,299.38 to catch up with receipts from previous years that were not carried over from 2018-2022. The expectation going forward will be to have our Bookkeeper/Assistant Clerk process all transaction history and enter the data into CTAS. The Treasurer will complete monthly reconciliation of the account. Year-end processing will be performed by the Treasurer and completed once all transaction activity has been recorded for the year. The imposed deadline in which to run end of year would be January 15. I am creating an updated internal controls document to better reflect our on-going practices. Once a draft is ready it will be brought to council for review and approval.

Sincerely,

Mary Cahill
Treasurer, City of Birchwood Village

Re: Birchwood reconciliation process

Mary Cahill <Mary.Cahill@cityofbirchwood.com>

Wed 2/8/2023 2:55 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>; Trenton Sax <trenton.sax@savmn.com>; Shelly Rueckert <shelly.rueckert@savmn.com>

Cc: Tom Nitti <Tom.Nitti@cityofbirchwood.com>

 1 attachments (33 KB)

Birchwood Acct Reconcilement.docx;

In addition to the update on the reconciliation process and our recommendation for update, I wanted to give you some information concerning the treasurer reports for the Feb Council meeting:

1. \$81.36 MN state tax EFILE penalty was assessed. We contacted the MN office of revenue and discovered that once our payroll taxes are greater than \$1500 a quarter, the city has to file monthly. 3rd Quarter exceeded \$1500. Our instructions stated file quarterly. We have remedied the situation by filing monthly and updating our procedures.
2. Since January, our Ice and Snow Removal incurred costs are \$38,453.09. Our budget is \$27,500.
3. Disbursement and Receipt registers will include all transactions since Dec 21, 2022. Once we finished reconciling the bank account, we made the outstanding transactions from prior years in CTAS in 2022 so we could start clean going into 2023.
4. This month you will see claims lists for approval. These reports should be reviewed and if anyone has a dispute with a claim, it should be discussed at the meeting and determined if the disbursement check should be voided. We began this process mid cycle so you won't have a one to one with the disbursement register this month, but you will for each proceeding month. This is part of our internal control process and wasn't previously being followed.
5. All disbursement checks have been printed and will be handed off to Becky. Once the council approves the treasurer reports the checks need to be signed by the mayor and returned back to Becky so we can mail them.
6. Mayor Margaret and I met earlier this week to review our existing internal controls. I'm in the process of completing some additional research and hope to have a draft out within the next couple months. We want the League of MN cities to review, and Shelly Rueckert, finance manager for City of St. Anthony as agreed to review. Once we have their approval that the controls will conform to state auditor's guidelines, we will present to the council for your review.
7. I will attend the Feb 14, 2023 meeting to help provide some assistance in understanding the information provided.

ORDINANCE 2022-10-02

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

AN ORDINANCE AMENDING SECTION 605 ANIMALS IN THE CITY CODE

The City Council of the City of Birchwood Village ordains that Sections 021, 028 and 029 of Chapter 605 (Animals) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

605.021. PERMIT.

1. Required; exceptions. No person shall, without first obtaining a permit in writing from the City Clerk or Administrator, own, keep, harbor, or have custody of any dog over six months of age. However, this section shall not apply to the keeping of small caged birds or aquatic and amphibian animals solely as pets or for police canines of any political subdivision.

a. Upon a showing by any applicant for a permit required under this division that he is prepared to comply with the regulations promulgated by the council, a permit shall be issued following payment of the applicable fee, as follows:

(1). For each dog, the fee is as may be imposed, set, established and fixed by the city council, by resolution, from time to time.

(2). No fee or permit shall be required of any Humane Society or veterinary hospital.

b. No permit shall be granted for a dog which has not been vaccinated against rabies as provided in this section on such date, and when not more than two years will have elapsed from the date of such vaccination to the time of the expiration of the permit to be issued, unless stated upon the certificate that the vaccination is effective for at least three years. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated, and the applicant shall present an original certificate from a qualified veterinarian showing that the dog to be permitted has been given a vaccination against rabies and the date on which the vaccination was administered.

2. Term; renewal; late penalty charge. Dog permits shall be issued for three-year terms starting in 2022 and every third year thereafter, and the owner shall pay the fee set in the fee schedule for the year of the term in which the permit is first required. A permit for each licensed dog shall be renewed every third year after 2022 by every owner and a permit fee paid. A permit, if not revoked, shall be valid until the end of the permit period three calendar years after the permit deadline in the first year of the term. Renewal permits must be obtained prior to the expiration date, and there shall be a late penalty charge fee on all renewal permits received after the expiration date for dogs that have been kept in the City for more than fourteen (14) consecutive days.

~~A new permit shall be obtained each even year by every owner and a new fee paid. A permit, if not revoked, shall be valid until the end of the permit period. Renewal permits must be obtained prior to the expiration date, and there shall be a late penalty charge on all renewal permits issued after the expiration date.~~

The City Clerk or Administrator may revoke any permit issued under this division if the person holding the permit refuses or fails to comply with this article, any regulations promulgated by the council pursuant to this article, or any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of all dogs being owned, kept or harbored by such person; and no part of the permit fee shall be refunded.

3. Administrative Fee If the City Administrator receives a complaint or observes a dog and reasonably believes that the dog is kept in violation of 605.021, the owner shall pay a Dog License Administrative Fee in addition to the Permit fee and the Late fee. Late and Administrative Fees may be appealed using the procedures in Chapter 310

4. Tags. Upon issuing a permit to keep any dog under this division, the City Clerk or Administrator shall issue to the owner a metallic or durable plastic tag stamped with an identifying number and with the month/date/year of expiration and so designated that it may be conveniently fastened to a dog collar or harness. Such tag shall be fastened to the dog's collar or harness by the owner and shall be worn at all times. The City Clerk or Administrator shall maintain a record of the identifying numbers and shall make this record available to the public.

5. Exemptions from division. The sections of this division requiring a permit shall not apply to owners of certified seeing eye and other handicapped-aid dogs, owners and handlers of bona fide working dogs (guard dogs, search dogs, etc.) and nonresidents of the city who are keeping only domestic pets, provided that domestic pets of nonresident owners shall not be kept in the city longer than 30 days annually and the animals shall be kept under restraint.

605.028. **CHICKENS.**

1. Chickens may be kept within the City limits on residential properties subject to the following conditions:

a. A maximum of six (6) hen chickens or pullets are permitted.

b. Roosters are prohibited.

c. The butchering of chickens is prohibited.

d. Shelter. Proper shelter in the form of barns, coops or hutches shall be provided in any area where chickens are permitted to roam. Such shelters shall be adequately fenced to ensure the chickens remain on the owner's premises. Shelters must comply with all requirements of the Zoning Code concerning accessory structure and said structures shall not be placed in the front, side yard or side yard abutting a street on residential property. Said shelters shall be setback a minimum of 30-feet from an adjacent principal dwelling.

(1). All chicken coops must have a minimum size of three (3) square feet per chicken, a maximum size of forty (40) square feet, and must not exceed six (6) feet in total height.

(2). Chicken coops must be elevated a minimum of twelve (12) inches and a maximum of twenty-four (24) inches to allow for circulation beneath the coop.

e. Space. Chickens shall be fully contained on the property at all times through use of adequate fencing.

(1). Fencing must not exceed six (6) feet in height and must be built according to the zoning code.

(2). Chickens are restricted to the rear yard.

(3). Chicken runs may be enclosed with wood and/or woven wire materials, or any other material so long as the chickens cannot escape through the fencing.

f. Food Storage. Food materials that are stored outside shall be in closed containers with lids.

g. Manure Removal. All containment areas and shelters shall be maintained in a clean, sanitary, and odor free environment and shall be free from the presence of rodents or vermin at all times. Organic matter shall not be allowed to accumulate for more than one (1) week at a time. However, organic matter shall be removed more often than one (1) time per week if it is necessary to eliminate any odors that constitute a nuisance.

h. Fighting. Chickens shall not be raised or kept for fighting. Cockfighting is prohibited.

i. Consent. The applicant for any permit required under the provisions of this section shall provide with the application the written consent of seventy-five (75) percent of the owners or occupants of real property within the City and within one hundred (100) feet of the outer boundaries of the premises for which the permit is being requested. However, where a street or right of way separates the premises for which the permit is being requested from the other neighboring property, no consent is required from the owners or occupants of property located on the opposite side of the street or right of way.

2. License. No person shall keep, maintain or breed chickens on property located within the City of Birchwood Village unless a license is obtained pursuant to the provisions stated herein. Application shall be made on a form provided by the City Clerk or Administrator. The fee shall be established from time to time by resolution as set forth in Chapter 701.

a. A license shall be issued for a period of ~~two~~ three years.

b. Upon completion of the application form and receipt of the license fee, the City Clerk or Administrator shall cause a license to be issued to the applicant.

3. Inspection. The Animal Control Officer shall, at any reasonable time, be permitted upon the premises where chickens are kept for the purpose of making an inspection to determine compliance with this Chapter.

605.029. **MINIATURE VIETNAMESE POT-BELLIED PIGS.**

1. Restrictions. Miniature Vietnamese Potbellied Pigs may be kept within the City limits if it is kept as a “Domestic-House Pet” as defined in Code 605.010 (1), and shall be subject to the following conditions:

- a. The possession of a Vietnamese Potbellied Pig is limited to two (2) per residence.
 - b. Male Vietnamese Potbellied Pigs must be neutered when they reach the age of four weeks.
 - c. Adult Vietnamese Potbellied Pigs shall not weigh more than 120 pounds or stand more than 22 inches at the shoulders.
 - d. Vietnamese Potbellied Pigs shall undergo a blood test to show that the animal is free from pseudorabies.
2. Consent. The applicant for any permit required under the provisions of this section shall provide with the application the written consent of seventy-five (75) percent of the owners or occupants of real property within the City and within 100 feet of the outer boundaries of the premises for which the permit is being requested. However, where a street or right-of-way separates the premises for which the permit is being requested from the other neighboring property, no consent is required from the owners or occupants or property located on the opposite side of the street or right-of-way.
3. License. No person shall keep, maintain Vietnamese pot-bellied pigs on property located within the City of Birchwood Village unless a license is obtained pursuant to the provisions stated herein. Application shall be made on a form provided by the City Clerk or Administrator. The fee shall be established from time to time by resolution as set forth in Chapter 701.
- a. A license shall be issued for a period of ~~two~~ three years.
 - b. Upon completion of the application form, receipt of the license fee, and proof that the Vietnamese potbellied pig is free from pseudorabies, the City Clerk or Administrator shall cause a license to be issued to the applicant.
4. Inspection. The Animal Control Officer shall, at any reasonable time, be permitted upon the premises where Vietnamese pot-bellied pig(s) are kept for the purpose of making an inspection to determine compliance with this Chapter.

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 14th day of February 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

RESOLUTION 2023-15

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

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF
ORDINANCE NO. 2022-10-02, AN ORDINANCE AMENDING SECTION 605 OF
CITY CODE**

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City has adopted Ordinance No. 2022-10-02, which amends the language of City Code Section 605; and

WHEREAS, the new ordinance is lengthy and would be costly for the City to publish in its entirety as required by law for the adoption of an ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, Minnesota, as follows:

1. Because the terms of Ordinance 2022-10-02 are lengthy, the City may publish the attached summary of the Ordinance as allowed by statute, and need not publish the entire ordinance. The attached summary clearly informs the public of the intent and effect of the Ordinance. Summary publication has been approved by at least a 4/5 vote of the City Council.
2. The effective date of the Ordinance amendments shall be upon their publication by summary as required by law.

Resolution duly seconded and passed this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

Summary Publication

Please be advised that the City of Birchwood has duly-passed the following ORDINANCE:

AN ORDINANCE AMENDING & ADDING TO SECTION 605 regarding animals

The following is a SUMMARY of the Ordinance:

On February 14, 2023 the City adopted an Ordinance (2022-10-02) lengthening the permit duration from two to three years for certain animals and clarifying when a permit is needed for dogs.

PLEASE BE ADVISED, this is not the full text of the Ordinance passed and the published material is only a summary. The full text is available for public inspection at the City of Birchwood, 207 Birchwood Avenue, Birchwood, Minnesota 55110 or delivered upon request electronically or by U.S. Mail.

Summary complies with Minn. Stat. §§ 331A.05 subd. 8. & 412.191 subd 4.

ORDINANCE 2022-10-05

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

AN ORDINANCE AMENDING SECTION 701 FEES IN THE CITY CODE

The City Council of the City of Birchwood Village ordains that Chapter 701 (Fees) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

~~701.061 **Late Fee.** In the event a person shall engage in conduct for which a permit or license is required without first paying the appropriate fee and obtaining the permit or license, the fee established shall be doubled.~~

701.061 **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.

701.062 **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~~ 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.

701.063 ~~Fines~~ **Penalties.** Payment ~~if~~ of any Investigation or Additional Fees shall be in addition to any ~~fin~~ criminal penalties that may be imposed for violation of the City Code.

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 14th day of February 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

RESOLUTION 2023-14

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

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF
ORDINANCE NO. 2022-10-05, AN ORDINANCE AMENDING SECTION 701 OF
CITY CODE**

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City has adopted Ordinance No. 2022-10-05, which amends the language of City Code Section 701; and

WHEREAS, the new ordinance is lengthy and would be costly for the City to publish in its entirety as required by law for the adoption of an ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, Minnesota, as follows:

1. Because the terms of Ordinance 2022-10-05 are lengthy, the City may publish the attached summary of the Ordinance as allowed by statute, and need not publish the entire ordinance. The attached summary clearly informs the public of the intent and effect of the Ordinance. Summary publication has been approved by at least a 4/5 vote of the City Council.
2. The effective date of the Ordinance amendments shall be upon their publication by summary as required by law.

Resolution duly seconded and passed this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

SUMMARY PUBLICATION

Please be advised that the City of Birchwood has duly-passed the following ORDINANCE:

AN ORDINANCE amending Section 701.

The following is a SUMMARY of the Ordinance:

On January 10, 2023 the City adopted an Ordinance (2022- 10-05) amending Section 701 removing late fees and replacing the same with investigative fees.

PLEASE BE ADVISED, this is not the full text of the Ordinance passed and the published material is only a summary. The full text is available for public inspection at the City of Birchwood, 207 Birchwood Avenue, Birchwood, Minnesota 55110 or delivered upon request electronically or by U.S. Mail.

Summary complies with Minn. Stat. §§ 331A.05 subd. 8. & 412.191 subd 4.

ORDINANCE 2022-10-07

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

**AN ORDINANCE AMENDING SECTION 407 VACANT BUILDINGS IN THE CITY
CODE**

The City Council of the City of Birchwood Village ordains that Section 03 of Chapter 407 (Vacant Buildings) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

407.03. Vacant building registration.

(k) Vacant building fees:

(1) The owner of a vacant building shall pay ~~an~~the annual registration fee ~~of one thousand four hundred forty dollars (\$1,440.00)~~ set in the City fee schedule each year the building remains a vacant building. .

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 14th day of February 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

RESOLUTION 2023-06

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

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF
ORDINANCE NO. 2022-10-07, AN ORDINANCE AMENDING SECTION 407 OF
CITY CODE**

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City has adopted Ordinance No. 2022-10-07, which amends the language of City Code Section 407; and

WHEREAS, the new ordinance is lengthy and would be costly for the City to publish in its entirety as required by law for the adoption of an ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, Minnesota, as follows:

1. Because the terms of Ordinance 2022-10-07 are lengthy, the City may publish the attached summary of the Ordinance as allowed by statute, and need not publish the entire ordinance. The attached summary clearly informs the public of the intent and effect of the Ordinance. Summary publication has been approved by at least a 4/5 vote of the City Council.
2. The effective date of the Ordinance amendments shall be upon their publication by summary as required by law.

Resolution duly seconded and passed this 14th day of February, 2023.

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

SUMMARY PUBLICATION

Please be advised that the City of Birchwood has duly-passed the following ORDINANCE:

AN ORDINANCE amending Section 407.

The following is a SUMMARY of the Ordinance:

On January 10, 2023 the City adopted an Ordinance (2022- 10-07) amending Section 407 removing the fee for vacant buildings in order to add it to the fee schedule.

PLEASE BE ADVISED, this is not the full text of the Ordinance passed and the published material is only a summary. The full text is available for public inspection at the City of Birchwood, 207 Birchwood Avenue, Birchwood, Minnesota 55110 or delivered upon request electronically or by U.S. Mail.

Summary complies with Minn. Stat. §§ 331A.05 subd. 8. & 412.191 subd 4.

Birchwood's Emergency preparedness Risk Mitigation Plan

Birchwood Village	Security system for critical infrastructure such as city hall	Partially Completed
Birchwood Village	Communications Tower	Not Completed
Birchwood Village	Ham radios and certification	?
Birchwood Village	Shore wave radios	?
Birchwood Village	AED for warming house and other local gathering locations	?
Birchwood Village	Helipad landing lights and other related equipment and training	?
Birchwood Village	Portable water pumps and ancillary equipment and installation	?

To: Birchwood City Council
From: Ryan Hankins
Re: Righting and Rewriting the right-of-way-code

Our existing right-of-way code is from a previous version of the right-of-way code derived from the League of Minnesota Cities model ordinance. The model ordinance has been updated since that time, or else our current ordinance underwent many changes. Since CenturyLink/Lumen appears to be upgrading facilities, revision is appropriate.

The purpose of Right-of-Way regulation is largely to ensure that the city can regulate utilities and telecommunications as permitted by statute only if the city exercises its powers to do so in an ordinance. LMC indicates that a recital is necessary, which our existing code lacks:

Cities must “opt in” by exercising the authority given to them in state law. A recital in the preamble of the ordinance is necessary, and is included in the model right-of-way ordinances provided.

Because this section of code is large, complex, and the LMC model is constructed with consideration for federal and state laws and regulations and case law, it makes sense for our ordinance to hew as closely as possible to the model; this proposal modifies the model to make it appropriate for Birchwood, while keeping section numbers similar, making reference to the current model and adaptation to a similar future model easier.

Significant portions of the current right-of-way code have sections that go beyond the statutory powers of the city; our current code could be unenforceable, and utility or telecommunications companies might not be as forgiving as we’d hope.

In order to minimize the changes from the model, a previous modification to Birchwood’s ordinance regulating dumpsters and portable storage units is better placed in Chapter 615 relating to Exterior Storage, and a change to that Chapter is proposed here.

This ordinance also fits better in the 2xx section relating to city services and building regulation, with chapters regulating gas and electric utilities.

White Bear Lake has a section similar to §208A.060, without additional exceptions. §208A.060(3) does have a section exempting gardens.

Additionally, the “exceptions” section of our existing ordinance is broad:

309.044 EXCEPTIONS. The following are not subject to the requirements of this Section:

1. Person or Persons planting or maintaining pre-approved boulevard surface plantings or gardens.

2. Person or Persons installing mail boxes or private sidewalk from street or curb to dwelling or commercial structure.
3. Person or Persons engaged in commercial or private snow removal activities.
4. Person or Persons installing street furnishings.
5. Person or Persons installing irrigation systems.
6. City of Birchwood Village.
7. Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this Section.

Because any subsurface work in a right-of-way risks harm to facilities, current exemptions are tantamount to exempting government vehicles from stopping at stop signs.

I asked Kyle Hartnett at the League of Minnesota Cities this question and he responded:

Typically, a driveway would require a right of way permit because the applicant would be excavating the right of way. Annual registration is typically required for “facilities” placed in the ROW. Typically, the ordinance will note that facilities relate to telecommunication assets. Therefore, a mailbox or driveway would not be required to annually report to the city.

I made the following modifications to the model to make clearer that registration applies to work on *facilities* in right-of-way, not *right-of-way* itself.

Registration. Each person authorized to occupy or use, or who seeks to occupy or use, the right-of-way to ~~or~~ place any equipment or facilities ~~in or on the right of way~~, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing application information.

Registration Prior to Work. No person may, in any right-of-way, construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, ~~in any right of way~~ without first being registered with the city.

The existing communications code has several sections relating to traffic management: flaggers, notice of traffic closure, and parking prohibited. These sections are covered in other code or may be unnecessary.

Because this code repeals a section of zoning code, Minnesota Statute §462.357 Subd. 4. requires a referral to the planning commission for its recommendation.

Four documents follow:

1. Amendment to fee schedule.
2. Amendment to Chapter 615.
3. Repeal of Chapter 208 and 309, and enactment of Chapter 208A.
4. LMC Recommendation for Summary Publication of Ordinance 208A.

Today:

I move to place this item on the Planning Commission's agenda for its next meeting, and request that it consider this memo, provide advice to the City Council, and make a recommendation on the repeal of Chapter 309, as required by Minnesota Statute §462.357 Subd. 4.

Future:

Direct staff to generate a permit form for:

1. Excavation.
2. Obstruction.
3. Small Wireless Facility

ORDINANCE ____

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

AN ORDINANCE AMENDING THE FEE SCHEDULE

The City Council of the City of Birchwood Village hereby ordains that the Fee Schedule of the Municipal Code of the City of Birchwood Village is amended to read as specified in EXHIBIT A.

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 13th day of December 2022

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

EXHIBIT A.

PLANNING AND ZONING FEES, ESCROWS AND DEPOSITS *subject to additional fees, in that section of the fee schedule. All planning and zoning permits require an additional	Conditional Use Permit (CUP) Application or Amendment *		306.010	\$460.00	
		Refundable Conditional Use Permit or CUP Amendment Escrow for permitting costs incurred by city		\$3,000.00	
	Interim Use Permit Application *		305.020, 305.040(6)	\$400.00	
		Refundable Interim Use Permit Escrow for permitting costs incurred by city	302.050	\$3,000.00	
	Street Vacation Application *			\$300.00	
		Refundable Street Vacation Escrow for permitting costs incurred by city	302.050	\$3,000.00	

refundable permit escrow when listed.

Variance Application *	304.020	\$600.00	
Refundable Variance Escrow for staff review time incurred by city	302.050	\$3,000.00	
Subdivision: Lot Split Application *	308.121	\$225.00	
Refundable Lot Split Escrow for permitting costs incurred by City	301.055(2)	\$1,000.00	
Subdivision: Preliminary Plat Application *	308.040(3)	\$1,000.00	
Subdivision: Refundable Preliminary Plat Application Escrow for permitting costs incurred by city	301.055(2)	\$10,000.00	
Subdivision: Final Plat Application *	308.050	\$1,000.00	
Subdivision: Refundable Final Plat Application Escrow for permitting costs incurred by city	301.055(2)	\$10,000.00	
Zoning Permit *	307.010	\$50.00	
Refundable Zoning Permit Escrow for permitting costs incurred by city	301.055(2)	\$3,000.00	
Right-of-Way (ROW) Permit Application Fee *	309.061	\$300.00 + \$100.00/hour for plan review after two hours	
Refundable ROW Permit Escrow for permitting costs incurred by city	301.055(2)	\$3,000.00	
Right-of-Way Degradation Fee	309.080	Permit holder responsible for actual costs	
Move a building from its present location in Birchwood to any other site, whether or not the new site is within the City. *		\$500.00	
Refundable building move escrow for permitting costs incurred by city	301.055(2)	\$1,000.00	
Certificate of occupancy		\$25.00	
Public Property Access Limited License	607.235	\$50.00	

<u>RIGHT OF WAY FEES</u>	<u>Refundable ROW Excavation Permit Deposit</u>	<u>301.055(2)</u>	<u>\$3,000.00</u>	
	<u>Obstruction Permit</u>	<u>208 B.06 (2)</u>	<u>\$200</u>	
	<u>Excavation permit</u>	<u>208 B.06 0(1)</u>	<u>\$200</u>	
	<u>Small Wireless Facility Permit</u>	<u>208 B.06 0(3)</u>	<u>\$500.00 up to 5 sites, \$100.00 for each additional</u>	
	<u>Delay Penalty</u>		<u>\$60 plus \$20 / day each day late over 3 days</u>	
	<u>Refundable Street Excavation Damage Deposit</u>		<u>\$3,000.00</u>	

<u>COMMUNICATIONS FEES</u>	<u>Permit to install, repair, remove or relocate communications facilities *, **</u>	<u>208.020</u>	<u>\$50.00</u>	<u>12/2022</u>
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ORDINANCE NO. _____

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

**AN ORDINANCE ADOPTING SECTION 060 OF ORDINANCE NO. 615 ADOPTED ON
JULY 11, 1995, AND TITLED “EXTERIOR STORAGE.”**

Section 1. Findings and Purpose.

The repeal of Chapter 309 removes a prohibition on roll-off or portable, on-demand storage containers in streets. The City has a public interest in allowing the free flow of traffic and preventing obstructions in streets, but this section is better placed in Chapter 615 of the City Code, because that chapter relates more closely to exterior storage than right-of-way issues.

Section 2. Enactment.

Section 615.060, Ordinance No. 615 of the City Code is hereby adopted, to read as follows:

615.060 TEMPORARY OUTDOOR STORAGE CONTAINERS. Temporary outdoor storage containers include, but are not limited to, portable on-demand storage units and roll-off dumpsters. All temporary outdoor storage containers shall be regulated by this section. No person shall allow any temporary outdoor storage container to be placed or to remain in any street, roadway, parkway or alley.

Passed by the City Council of The City of Birchwood Village, Minnesota this _____ day of February, 2023.

EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this XXth day of February, 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

ORDINANCE NO. _____

CITY OF BIRCHWOOD VILLAGE, WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE TO ENACT A NEW CHAPTER OF THE CODE OF ORDINANCES TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS-OF-WAY IN THE PUBLIC INTEREST, TO PROVIDE FOR THE ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS AND TO REPEAL SECTIONS 208 TITLED “COMMUNICATIONS” AND 309 TITLED “PUBLIC RIGHT-OF-WAY” OF THE CITY CODE

THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, WASHINGTON COUNTY, MINNESOTA ORDAINS:

Section 1. Repeal.

Chapters 208 and 309 of the City Code are hereby repealed in their entirety.

Section 2. Enactment.

Chapter 208A of the Code of Ordinances is hereby enacted, to read as follows:

Chapter 208A

Right-of-way Management

208A.010. FINDINGS, PURPOSE, AND INTENT. To provide for the health, safety, and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This chapter shall be interpreted consistently with Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other

applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

208A.020. ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY. Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

208A.030. DEFINITIONS. The following definitions apply in this chapter of this code. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

1. Abandoned Facility. A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.
2. Applicant. Any person requesting permission to excavate, obstruct, or otherwise place facilities in a right-of-way.
3. City. The city of Birchwood Village, Minnesota. For purposes of section 208A.290, city also means the city’s elected officials, officers, employees, and agents.
4. Collocate or Collocation. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.
5. Commission. The State of Minnesota Public Utilities Commission.
6. Construction Performance Bond. Any of the following forms of security provided at permittee’s option:
 - Individual project bond;
 - Cash deposit;
 - Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;
 - Letter of Credit, in a form acceptable to the city;
 - Self-insurance, in a form acceptable to the city;
 - A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

7. Degradation. A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
8. Degradation Cost. Subject to Minn. R. 7819.1100, means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. R., parts 7819.9900 to 7819.9950.
9. Degradation Fee. The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.
10. Delay Penalty. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
11. Emergency. A condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
12. Equipment. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.
13. Excavate. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
14. Excavation Permit. The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
15. Excavation Permit Fee. Money paid to the city by an applicant to cover the costs as provided in Section 208A.130.
16. Facility or Facilities. Any tangible asset in the right-of-way used to provide Utility or Telecommunications Service.
17. Five-Year Project Plan. Shows projects adopted by the city for construction within the next five years.
18. Local Representative. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

19. Management Costs. The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation Minn. Stat. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 208A.310 of this chapter.
20. Obstruct. To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way, or so as to hinder maintenance of any city asset.
21. Obstruction Permit. The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.
22. Obstruction Permit Fee. Money paid to the city by a permittee to cover the costs as provided in Section 208A.130.
23. Patch or Patching. A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.
24. Pavement. Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
25. Permit. Has the meaning given "right-of-way permit" in this ordinance.

26. Permittee. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.
27. Person. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
28. Probation. The status of a person that has not complied with the conditions of this chapter.
29. Probationary Period. One year from the date that a person has been notified in writing that they have been put on probation.
30. Registrant. Any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.
31. Restore or Restoration. The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.
32. Restoration Cost. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.
33. Public Right-of-Way or Right-of-Way. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
34. Right-of-Way Permit. Either the excavation permit, the obstruction permit, the small cell permit or any combination thereof depending on the context, required by this chapter.
35. Right-of-Way User. (1) A telecommunications right-of-way user as defined by Minn. Stat. 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

36. Service or Utility Service. Includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. ch. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., ch. 308A; and (6) water, and sewer, including service laterals, steam, cooling, or heating services.
37. Service Lateral. An underground facility that is used to transmit, distribute or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
38. Small Wireless Facility. A wireless facility that meets both of the following qualifications:
1. each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and
 2. all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.
39. Supplementary Application. An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.
40. Temporary Surface. The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.
41. Trench. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
42. Telecommunications Right-of-Way User. A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-

way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. ch. 453 and 453A, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

43. Two Year Project Plan. Shows projects adopted by the city for construction within the next two years.
 44. Utility Pole. A pole that is used in whole or in part to facilitate telecommunications or electric service.
 45. Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.
 46. Wireless Service. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.
 47. Wireless Support Structure. A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.
- 208A.040. ADMINISTRATION. The City Engineer is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The City Engineer or City Council may delegate any or all of the duties hereunder.
- 208A.060. REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

1. Registration. Each person authorized to occupy or use, or who seeks to occupy or use the right-of-way to place any equipment or facilities, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing application information.
2. Registration Prior to Work. No person may, in any right-of-way, construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, without first being registered with the city.
3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, Gopher One Call Law.

208A.070. REGISTRATION INFORMATION.

1. Information Required. Registration shall be requested on an application form produced by the city. The information provided to the city at the time of registration shall include, but not be limited to:
 - a. Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.
 - b. The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
 - c. A certificate of insurance or self-insurance:
 - i. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the city;
 - ii. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

- iii. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
 - iv. Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
 - v. Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.
 - vi. The city may require a copy of the actual insurance policies.
 - vii. If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to by the secretary of state.
- d. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.
 - e. Any other information deemed necessary by the city to adequately protect the health, safety, and welfare of the city.
2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

208A.080. REPORTING OBLIGATIONS.

1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.
 - a. The plan shall include, but not be limited to, the following information:
 - b. The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and
 - c. To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

2. Additional Next-Year Projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

208A.090. PERMIT REQUIREMENT.

1. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the city to do so.
 - a. Excavation Permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
 - b. Obstruction Permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
 - c. Small Wireless Facility Permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.
2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

3. Delay Penalty. In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding 208A.090(2) of this Section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.
4. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

208A.100. PERMIT APPLICATIONS. Application for a permit is made to the city on forms approved by the city or the city's designee. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

1. Registration with the city pursuant to this chapter.
2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities and all other information deemed relevant by the City Engineer.
3. Payment of money due the city for:
 - a. permit fees, estimated restoration costs, and other management costs;
 - b. prior obstructions or excavations;
 - c. any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and
 - d. franchise fees or other charges, if applicable.
4. Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.
5. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

208A.110. ISSUANCE OF PERMIT; CONDITIONS.

1. Permit Issuance. If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
2. Conditions. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee

shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.

3. Small Wireless Facility Conditions. In addition to 208A.110(2), the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:
 - a. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
 - b. No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
 - c. No wireless facility may extend more than 10 feet above its wireless support structure.
 - d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
 - e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, such equipment shall be consistent with the city's aesthetic standards regarding wireless equipment as adopted by the city. Such standards shall ensure that wireless equipment is installed with a stealth design and that equipment does not detract from the character of the area in which it is installed. In addition, the city shall adopt standards that ensure city assets can continue to effectively perform their intended function. Standards shall be made available with the application required for a small cell permit.
 - f. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.
 - g. A permit will be deemed void if the approved equipment is not installed within one year of issuance of the permit.
4. Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility

collocation agreement with the city. The standard collocation agreement may require payment of the following:

1. Up to \$150 per year for rent to collocate on the city structure; and
2. \$25 per year for maintenance associated with the collocation; and
3. A monthly fee for electrical service as follows:
 - a. \$73 per radio node less than or equal to 100 maximum watts;
 - b. \$182 per radio node over 100 maximum watts; or
 - c. The actual costs of electricity, if the actual costs exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant,

208A.120. ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATIONS.

1. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application or within any timeline established by state law. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:
 - a. are located within a two-mile radius;
 - b. consist of substantially similar equipment; and
 - c. are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

3. Tolling of Deadline. The 90-day deadline for action on a small wireless facility permit application may be tolled if:
 - a. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension; or

- b. the applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information; or
- c. the city and a small wireless facility applicant agree in writing to toll the review period.

208A.130. PERMIT FEES.

- 1. Excavation Permit Fee. The city shall set in the fee schedule and impose an excavation permit fee in an amount sufficient to recover the following costs:
 - a. the city management costs;
 - b. degradation costs, if applicable.
- 2. Obstruction Permit Fee. The city shall set in the fee schedule and impose an obstruction permit fee in an amount sufficient to recover the city management costs.
- 3. Small Wireless Facility Permit Fee. The city shall set in the fee schedule and impose a small wireless facility permit fee in an amount sufficient to recover:
- 4. Payment of Permit Fees. No excavation permit, obstruction permit, or small cell permit shall be issued without payment of all required fees. The city may allow the applicant to pay such fees within thirty (30) days of billing.
- 5. Non Refundable. Permit fees that were paid for a permit that the city has revoked for a breach as stated in Section 208A.230 are not refundable.
- 6. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

208A.140. RIGHT-OF-WAY PATCHING AND RESTORATION.

- 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 208A.170.
- 2. Patch and Restoration. Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- a. City Restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.
 - b. Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000.
 - c. Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.
3. Standards. The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100.
4. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 208A.170.
5. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

208A.150. JOINT APPLICATIONS.

1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.
2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

3. With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

208A.160. SUPPLEMENTARY APPLICATIONS.

1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.
2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

208A.170. OTHER OBLIGATIONS.

1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
2. Prohibited Work. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
3. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking

regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

4. Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city engineer.

208A.180. DENIAL OR REVOCATION OF PERMIT.

1. Reasons for Denial. The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use and any city asset or facility.
2. Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

208A.190. INSTALLATION REQUIREMENTS. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minn. Stat., §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in Section 208A.240(2) of this ordinance.

208A.200. INSPECTION.

1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rule 7819.1300 or other as built documentation as deemed necessary by the city.
2. Site Inspection. Permittee shall make the work site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

3. Authority of the City.

- a. At the time of inspection, the city may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
- b. The city may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit pursuant to Section 208A.230.

208A.210. WORK DONE WITHOUT A PERMIT.

1. Emergency Situations. Each registrant shall immediately notify the city of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

208A.220. SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

208A.230. REVOCAION OF PERMITS.

1. Substantial Breach. The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
 - a. The violation of any material provision of the right-of-way permit.
 - b. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.
 - c. Any material misrepresentation of fact in the application for a right-of-way permit.
 - d. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.
 - e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to 208A.200.
2. Written Notice of Breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
3. Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.
4. Cause for Probation. From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.
5. Automatic Revocation. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

6. Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

208A.240. MAPPING DATA.

1. Information Required. Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the city accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the city. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.
2. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence satisfactory to the city of the installed service lateral locations. Compliance with this 208A.240(2) and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after Dec. 31, 2005, shall be a condition of any city approval necessary for:
 - a. payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429; and
 - b. city approval under development agreements or other subdivision or site plan approval under Minn. Stat. ch. 462. The City Engineer shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

208A.250. LOCATION AND RELOCATION OF FACILITIES.

1. Placement. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, with other applicable standards adopted by the city engineer, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

2. Corridors. The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs, and hardship to the registrant.
3. Nuisance. One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a usable condition.
4. Limitation of Space. To protect the health, safety, and welfare of the public, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

208A.260. PRE-EXCAVATION FACILITIES LOCATION. In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

208A.270. DAMAGE TO OTHER FACILITIES. When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30)

days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

208A.280. RIGHT-OF-WAY VACATION. Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. R. 7819.3200.

208A.290. INDEMNIFICATION AND LIABILITY. By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250.

208A.300. ABANDONED AND UNUSABLE FACILITIES.

1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.
2. Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

208A.310. APPEAL. A right-of-way user that:

1. has been denied registration;
2. has been denied a permit;
3. has had a permit revoked;
4. believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, subd. 6;
or
5. disputes a determination of the city regarding Section 208A.230(2) of this ordinance,

may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

208A.320 RESERVATION OF REGULATORY AND POLICE POWERS. A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

208A.330 SEVERABILITY. If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Passed by the City Council of The City of Birchwood Village this _____ day of Month, Year.

EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this XXth day of February, 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

CITY OF BIRCHWOOD VILLAGE, WASHINGTON COUNTY, MINNESOTA

A summary of an ordinance to enact a new Chapter of the City of Birchwood Village Code of Ordinances to administer and regulate the public rights of way in the public interest, and to provide for the issuance and regulation of right-of-way permits.

1. The City Council has adopted a lengthy ordinance administering and regulating the public rights of way in the public interest and providing for issuance and regulation of right-of-way permits. The purpose of this summary is to inform the public of the intent and effect of the ordinance and to publish only a summary of the ordinance pursuant to Minnesota Statutes, section 412.191, with the full ordinance being on file in the office of the City Clerk during regular office hours.

2. The City of Birchwood Village Code of Ordinances is amended by adding a new chapter, Chapter 208A. The new chapter provides essentially as follows:

Sec. 208A.010. Findings, Purpose, and Intent.

States the reason and the need for the city to more effectively manage the public rights of way.

Sec. 208A.020. Election to Manage the Public Rights of Way.

States the intent of the Council to manage the public right of way pursuant to and in accordance with the authority given to it under state and federal statutory, administrative, and common law.

Sec. 208A.030. Definitions.

Certain words in the ordinance are defined here. This section also incorporates definitions adopted by the Minnesota Public Utilities Commission in state rules.

Sec. 208A.040. Administration.

Names the principal city official responsible for the administration of the city right-of-way ordinance.

Sec. 208A.060. Registration and Right-of-Way Occupancy and Sec. 208A.070. Registration Information.

Requires those using and occupying the public rights of way to register with the city and provide basic essential information.

Sec. 208A.080. Reporting Obligations.

Defines some minimum reporting obligations for utilities planning to do work in the public rights of way, including schedules for anticipated work.

Secs. 208A.090. Permit Requirement; 208A.100, Permit Applications; 208A.110, Issuance of Permit Conditions; and 208A.120, Action on Small Wireless Facility Permit Applications, and 208A.130, Permit Fees.

Describes the requirements for obtaining a permit and paying appropriate permit fees before excavating or in any way obstructing the public rights of way.

Sec. 208A.140. Right-of-Way Patching and Restoration.

Contains the requirements for restoring the public rights of way after excavation, and adopts the restoration standards contained in Minnesota Public Utilities Commission rules.

Sec. 208A.150. Joint Applications.

Sec. 208A.160. Supplementary Applications.

Sec. 208A.170. Other Obligations.

Sec. 208A.180. Denial of Permit.

Specifies the grounds for denying a right-of-way permit.

Sec. 208A.190. Installation Requirements.

Specifies that the installation of utility facilities in the public rights of way shall comply with city requirements and applicable rules of the Minnesota Public Utilities Commission.

Sec. 208A.200. Inspection.

Sec. 208A.210. Work Done Without a Permit.

Sec. 208A.220. Supplementary Notification.

Sec. 208A.230. Revocation of Permits.

Describes the grounds and procedures for revoking right-of-way permits.

Sec. 208A.240. Mapping Data.

Adopts rules of the Minnesota Public Utilities Commission describing the mapping information that must be provided by those placing utility facilities in the public rights of way.

Sec. 208A.250. Location and Relocation of Facilities.

Describes the requirement regarding location of utilities and further adopts Minnesota Public Utilities Commission rules regarding the circumstances when utilities can be forced to relocate their facilities.

Sec. 208A.260. Pre-Excavation Facilities Location.

Sec. 208A.270. Damage to Other Facilities.

Sec. 208A.280. Right-of-Way Vacation.

Sec. 208A.290. Indemnification and Liability.

Specifies the circumstances in which those placing facilities in the public rights of way will be required to defend and indemnify the city for actions brought against the city.

Sec. 208A.300. Abandoned and Unusable Facilities.

Sec. 208A.310. Appeal.

Describes the process for challenging a city's decision involving application of this ordinance.

Section 208A.320 Reservation of Regulatory and Police Powers.

Sec. 208A.330. Severability.

3. The City Council has determined that publication of the title and summary of the rights-of-way management ordinance as set forth in this summary will clearly inform the public of the intention and effect of the ordinance. The Council also directs that only the title and this summary be published. A copy of the entire text of the ordinance shall be posted in the _____ library.

To: Birchwood City Council
From: Ryan Hankins
Re: Firearms, Curfews and Tobacco

Four documents follow:

1. [ACTION] Proposed ordinance for Firearms, which also repeals Trapping Prohibited.
2. [ACTION] Proposed ordinance for Tobacco.
3. [REFERENCE] Existing Trapping Prohibited ordinance.
4. [REFERENCE] Existing Firearms ordinance.
5. [REFERENCE] Existing Curfews ordinance.

Please see the “Findings and Purpose” sections for a discussion of the changes proposed.

A new firearms ordinance is proposed, adhering to what Minnesota Statute §471.633 allows.

Mahtomedi simply uses the Washington county curfew. White Bear Lake has its own curfew. I propose we repeal our own curfew and rely on that of Washington County.

Ramsey County recently passed an ordinance prohibiting smoking on all county-owned areas across the county and garnered some controversy for its limits on tobacco use in vehicles on county-owned land; this proposal does not do so.

Washington County:

(A) It is unlawful for a juvenile under the age of 12 to be present in any public place or establishment within Washington County:

1. any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
2. any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(B) It is unlawful for a juvenile, from age 12 through 14, to be present in any public place or establishment within Washington County:

1. any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
2. any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on any Saturday or Sunday of the following day.

(C) It is unlawful for a juvenile, ages 15 and 16, to be present in any public place or establishment within Washington County:

1. any time between 11.00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
2. any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

White Bear Lake:

Under the age of 16 years is 10:00 p.m. - 5:00 a.m., 7 days a week.

16 and 17 years is 12:00 a.m. - 5:00 a.m., 7 days a week.

ORDINANCE NO. _____

**AN ORDINANCE REPLACING ORDINANCE NO. 609 TITLED “FIREARMS” AND
REPEALING ORDINANCE NO. 608 TITLED “TRAPPING PROHIBITED.”**

Findings and Purpose:

Birchwood is very limited in how it can regulate firearms. Our current code may not be enforceable. The League of Minnesota Cities writes:

Since 1985, the state legislature has explicitly preempted all cities, counties, towns and other governmental subdivision from regulating “firearms, ammunition or their respective components,” with two exceptions. A governmental subdivision such as a city may regulate the discharge of firearms and it may adopt regulations identical to state law.

The term “firearm” is not defined for the purposes of the law. However, in the context of criminal law, Minnesota courts have relied on a statutory definition pertaining to fish and game. Under this definition, a firearm is “a gun that discharges shot or a projectile by means of an explosive, a gas, or compressed air.”

Using this definition, case law has provided that neither BB guns nor paintball guns are considered firearms for purposes of criminal law. Due to the state preemption, Minnesota cities have no authority to ban assault weapons, high capacity magazines or any other firearm, ammunition or component thereof unless already banned by state law. Whether BB guns and paintball guns may be banned because they are not “firearms” within the context of criminal law is less clear.

This change makes the definition of firearm match that which Minnesota courts use, and makes this regulation more likely to be enforceable. It also makes explicit that exceptions to § 609.020 are to the discharge of firearms, not to hunting, and that attempted discharge is also included.

Because the City has sometimes hosted veteran’s groups that have provided gun salutes for Independence Day, an exception for this purpose is provided.

Our trapping code can be consolidated into this section, because it is very brief; the section prohibiting the sale of traps is removed.

Section 1.

Ordinance No. 608, and titled “TRAPPING PROHIBITED” is hereby repealed.

Section 2.

Ordinance No. 609, and titled "FIREARMS" is hereby repealed and replaced with the following:

609. FIREARMS, HUNTING AND TRAPPING

609.010. DEFINITIONS.

1. Firearm. A gun that discharges shot or a projectile by means of an explosive, a gas, or compressed air.
2. Trapping. The setting, laying, using, or having in possession of any mechanical device or snare which seeks to hold, capture or kill an animal.

609.020. FIREARM DISCHARGE PROHIBITED. No person shall discharge or attempt to discharge any firearm in the City, except:

1. in lawful defense of person or property against an unlawful act; or
2. by peace officers or military personnel in the course of their duties and in necessary connection with enforcement of the laws; or
3. for the discharge of a blank cartridge pistol or rifle in connection with an event hosted by the City and by arrangement with the City.

609.030. HUNTING PROHIBITED. No person shall hunt any bird or animal by any means within the City.

609.040. TRAPPING PROHIBITED. No person shall engage in trapping, except:

1. for the use of live traps which are tended to at least every 12 hours and which are employed for the control of nuisance animals; and
2. for the purposes of trapping rats, mice, gophers and moles.

609.100. PENALTIES. Any person violating any of the provisions of this ordinance is guilty of a misdemeanor.

EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this XXth day of February, 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

ORDINANCE NO. _____

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

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 610 AND
TITLED “CURFEW FOR MINORS; FIREARMS; TOBACCO.”**

Findings and Purpose:

Firearms are regulated in Chapter §609, so duplicate code is removed.

Consistency with Mahtomedi, which depends on Washington County for curfews and with state statute prohibiting youth tobacco, e-cigarette possession and use and on enforcement at the county level make the most sense for a small City, so our separate sections of code are repealed.

This change also promotes public health by banning the use of tobacco at public property; the state already forbids tobacco use indoors. It does not forbid smoking on city streets in general, but does so during City events, such as the Fourth of July parade.

Regulation of medical cannabis is not necessary because of the requirements of Minnesota Statute §152.23. The City may adopt regulations for the public welfare and for smoking pursuant to Minnesota Statutes §§ 144.417 subd. 4(a) and 412.22 subd. 32.

The City Council of The City of Birchwood Village, Minnesota ordains:

Section 1.

Ordinance No. 610, and titled “**CURFEW FOR MINORS; FIREARMS; TOBACCO**” is repealed and replaced with the following:

610. TOBACCO

610.045. USE OF TOBACCO. No person shall use any form of tobacco or e-cigarettes at or on any public property, including any open space, restroom, public lake tract, park, warming house, athletic court or field, ice rink, picnic shelter or path, nor shall any person use any form of tobacco or e-cigarettes at or on any dock association dock, nor at or in any boat at a dock, boat lift or boat hoist at a public lake tract, nor at any event on any City street, road or parkway that is open to the public and hosted by the City.

610.060. PENALTIES. Any person who violates this chapter shall be guilty of a misdemeanor.

EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this XXth day of February, 2023

Margaret Ford, Mayor

Attest:

Rebecca Kellen, City Administrator-Clerk

608. TRAPPING PROHIBITED

608.010. TRAPPING PROHIBITED.

1. Trapping anywhere in the City is prohibited.
2. The sale of traps within the City is prohibited.

608.020. DEFINITIONS. For the purpose of this Chapter, certain words are defined as follows:

1. Trap. Any mechanical device or snare which seeks to hold, capture or kill an animal.
2. Trapping. The setting, laying, using, or having in possession, except at their own home or in their own motor vehicle.

608.030. This code shall not apply to traps specifically designed to kill rats, mice, gophers or moles, nor does it apply to cage type live traps employed for the control of nuisance animals as long as such traps are tended to each 12 hours.

609. FIREARMS

609.010. DEFINITIONS.

1. Firearms. Any device from which is propelled any projectile or bullet by means of explosions or gas and shall include but not be limited to B-B guns, air rifles, and air pistols.

609.020. SHOOTING RESTRICTED. No person shall discharge any firearm or engage in hunting of any game birds or animal by any means within the City of Birchwood Village except:

1. Unless discharged in lawful defense of person or property; or
2. By a duly authorized law enforcement officer in the performance of his duty.

610. CURFEW FOR MINORS; FIREARMS; TOBACCO

610.010. DEFINITIONS. For the purpose of this Chapter, the following words shall be defined as follows:

1. Minor. A minor is any unemancipated person under the age of eighteen (18).
2. Adult. An adult is any person over the age of eighteen (18).
3. Tobacco. Tobacco means cigarettes, cigars and tobacco in any other form suitable for chewing or smoking.
4. Tobacco-related devices. Tobacco-related devices means cigarette papers and pipes for smoking.

610.020 CURFEW.

1. It shall be unlawful for any minor to be present on the public streets, highways, roads, alleys, parks, playgrounds, or other public places or on vacant lots within the City of Birchwood Village during the following hours:
 - a. Between 10:00 p.m. and 5:00 a.m. if the minor is under the age of sixteen (16).
 - b. Between 12:00 midnight and 5:00 a.m. if the minor is sixteen (16) or seventeen (17).
2. It shall be unlawful for the parent of a minor to knowingly allow the minor to engage in conduct prohibited by this Chapter.

610.030 EXCEPTIONS TO CURFEW. A minor may engage in the conduct prohibited under part 610.020 if the minor is accompanied by a parent or an adult authorized by the parent to accompany the minor, is on an emergency errand, is traveling directly to or from a place of employment, or has another legitimate reason to be out after curfew.

610.040. DANGEROUS WEAPONS.

1. No minor shall handle, have in his or her possession, or have under his or her control any firearm, ammunition, slingshot, sling, air-gun, or other similar weapon within the City of Birchwood Village, unless accompanied by the minor's parent or guardian.

2. No person other than the parent or guardian shall give, sell, or otherwise furnish any of the objects described in this part to a minor.

610.050. POSSESSION OF TOBACCO. No minor shall use, purchase, or possess tobacco or tobacco-related devices within the City of Birchwood Village.

610.060. PENALTIES. Any person who shall violate Sections 610.020 or 610.040(1) shall be guilty of a misdemeanor. Any person who violates Section 610.050 shall be guilty of a petty misdemeanor. A violation of Section 601.040(2) shall be a felony as provided in Minnesota Statutes Section 609.66, Subd. 1(b).

“AMENDED BY ORDINANCE 2001-1; April 10, 2001”

“AMENDED BY ORDINANCE 2001-2; September 11, 2001”