



AGENDA OF THE REGULAR MEETING OF
THE PARKS AND NATURAL RESOURCES COMMITTEE
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
AUGUST 17, 2023
6:30 P.M.

CALL TO ORDER

APPROVE AGENDA

APPROVE MINUTES FROM PREVIOUS MEETING

A. July 20, 2023 Meeting Minutes* (p. 3-6)

COMMITTEE BUSINESS - REGULAR AGENDA

B. New Discussion Items

- a. Tour of Curt Feistier Memorial Preserve for Sign Placement
- b. Tour of Tighe-Schmitz Park and Inspection of Playground Equipment

C. Discussion Items Carried Over from Previous Meeting(s)

- a. Planning for Tighe-Schmitz Park
- b. City Code Review* (p. 7-18)
- c. Update on Owl Street Handrail
- d. Public Signs on City Beaches
- e. Playground Maintenance
- f. Update on Hall's Marsh MOA* (p. 19-23)

D. Confirm Next Month's Meeting and Identify Agenda Topics

ADJOURN

* denotes an attachment in the agenda packet

ATTACHMENTS

PARKS AND NATURAL RESOURCES COMMITTEE
MEETING July 20, 2023
MINUTES

The July 20, 2023, meeting of the Parks and Natural Resources was called to order at 5:30 p.m. at the Birchwood city hall.

Attendees: Council Member Justin McCarthy, Council Member Kathy Weier, Committee Members Zachary Michalk, Mary Sue Simmons, Jennifer Arsenault, and Alan Mitchell. Committee Member Noel Hegedus was out of town and absent.

Public Forum: The Public Forum lasted about an hour and was televised and recorded by local television Channel 16. The following is a list of the residents who spoke and a brief summary of their comments.

John Winters and Barb Winters.

Lived in Birchwood at the same residence since 1966. Tighe-Schmitz Park was a swamp at the time. Stuff like concrete and stumps were being dumped in the area. It still floods during heavy rains. Love seeing the park getting used and encourage continued use of the park. Keep everything maintained. Enjoy the music. Tighe-Schmitz may not have the substrate to allow concrete to be installed anywhere. Haven't observed much activity in the park at nighttime.

Susie Mahoney.

Moved into their house in 1989. There could be peat underneath the surface. A dog park would limit other uses. The path cost a lot of money and is now a mess due to lack of maintenance. New playground equipment would be nice. Check out Aaron's Park in Mahtomedi for ideas of playground equipment.

Robert Davidson.

Drainage in the park is awful. M.J. LaVine and Cynthia Tomlinson have worked to maintain Tighe-Schmitz. His major points were to keep what we've got but keep it maintained and stay within budget.

Mitchell Florence.

He likes the music in the hockey rink and suggested putting some community gardens in the park.

Debbie Harrod.

She was speaking for herself and several neighbors, who all live adjacent to or close to Tighe-Schmitz Park. Keep some open space for soccer and general play. Deal with the drainage issue. Maintain all the equipment and facilities that we have. New picnic tables would be nice. Strongly opposed to a dog park.

Laura Mum

Liked the comments others had made. A basketball court would be nice. Consider fundraising for improvements. Loves the swing set in the park. Consider additional benches. Haul in sand in a few places. Add wood chips. A park in Hugo has good playground equipment. A garbage can near the playground would be good.

Barton Winter

Has lived in Birchwood since 1976. Keep the ball field. Trees interfere with the hockey rink by dropping leaves and branches. Improve maintenance of the hockey rink. Consider painting the rink surface white. Mahtomedi has concrete on some rinks. Hockey rink might be good place for basketball court. Check on availability of grant funding. Improve drainage.

The consensus of participants was that parking was not a problem around the park and the hours the park is open seemed right.

The public forum ended around 6:25. The regular meeting started at 6:30.

Agenda. The agenda was approved without amendment.

Minutes. Moved by Simmons and seconded by Arsenault to approve the draft Minutes of the June 15 meeting. Motion was approved 3-0, Mitchell abstaining since he missed the June meeting.

Public Forum. The committee discussed what was heard from residents during the Public Forum that had just concluded. Items included: that folks were happy with the usage that Tighe-Schmitz is getting but that it needed to be maintained, that community gardens would likely require raised beds, that perhaps private rain gardens in the area might help the drainage situation, the Parks Special Revenue Fund created under chapter 804 of the city code could be a source of funding, grant funds might be an option and the City has already been exploring grant possibilities. The committee also discussed that other comments had been received outside the public forum, which focused on concerns about the condition of the streets in Birchwood and the costs associated with maintaining the roads.

Planning for Tighe-Schmitz Park. Most of the discussion following the public forum covered this agenda item. McCarthy identified a couple of possible grants from the Department of Natural Resources. The committee discussed that it was concerning to not know what was below the surface at the park, considering that it had been used as a dumping site for years.

City Code Review. Mitchell explained that he had prepared a revision of chapter 607 of the city code, entitled Open Space, Park Areas, and Facilities. The revised version of chapter 607 addresses all the provisions in chapter 607 and those in chapter 617 that regulates the use of the beaches. The committee focused on a few specific sections of the chapter. Mitchell commented that presently there are several different terms used in the code to identify the city parks, and this version uses “City Park System” since it is the definition found in section 804.020. The committee thought that this term was the appropriate one to use. The committee identified what is known as the Out Lot A, Lakewood Rearrangement, under the definition. The committee discussed the fact that the authorization of a Director to have authority over the parks, as the present code provides, was obsolete and should be deleted. The committee thought that only one permit process should be created for authorizing certain conduct in the parks. The committee discussed whether the code should restrict young children from being in the parks without adult supervision, and thought it should, and that probably under the age of twelve was the appropriate age to require supervision. The committee discussed whether dogs should be permitted in the parks and thought dogs should be permitted in all parks except Kay Beach, because Kay is a designated swimming beach, but that dogs should be leashed, and not allowed to run free in the parks, including the water at the beaches. The committee also thought the code should contain language requiring dog owners to clean up after their dogs. McCarthy mentioned that he has witnessed dog fights at Kay Beach. The committee has heard from residents about finding dog poop on the beaches. The committee also discussed the hours the parks are open and thought that the present 6:00 a.m. to 9:30 p.m. hours seemed appropriate. The committee discussed that it would take several more meetings to finalize a revision of chapter 607 and that Mitchell would put together another draft incorporating the changes discussed for further consideration by the committee.

Public Signs at City Beaches. The committee is continuing to consider what new signs at the city beaches should look like and recognizes that the signs will have to wait until the code amendments are finalized by the Council.

Sign at Curt Feistner Memorial Preserve. A new sign is available for posting at the beach but a location has not been decided upon yet. It is an historic sign like other signs in various locations around the community. The committee decided to tour Curt Feistner Memorial Preserve as part of its August meeting and find an appropriate location to recommend to the Council.

Swimmer's Itch Treatment. The committee was advised that there have been no reports of swimmer's itch from swimmers in Birchwood this summer, and that the White Bear Lake Conservation District would pay for treatment if Birchwood requested it, provided Birchwood would comply with certain reporting standards of the WBLCD.

Playground Maintenance. The committee discussed that maintenance of park playground equipment was an important issue mentioned during the public forum. The committee decided to tour Tighe-Schmitz Park in August as part of its regular meeting and look at the condition of the equipment.

Hall's Marsh. The committee was given an update by McCarthy and Weier regarding the Rice Creek Watershed District's plan to empty Priebe Lake in White Bear Township into Hall's Marsh. McCarthy said that Rice Creek has put together a draft Memorandum of Agreement (MOA) setting forth the conditions Rice Creek would comply with if the City authorized the discharge. This is only an advisory matter for the committee.

Next Meeting. August 17, 2023 6:30 p.m. City Hall. Tour of Curt Feistner Memorial Beach and Tighe-Schmitz Park

Adjourn. 8:25 p.m.

Respectfully submitted,

Alan Mitchell
Secretary

607. BIRCHWOOD PARK SYSTEM

Here's the major discussion points that were covered at the July 20, 2023, committee meeting regarding possible amendments to chapter 607 of the city code.

1. **607.120.A. City Park System.** The committee thought that use of the term "City Park System" was appropriate to describe what areas are included under the chapter 607 regulations. The term is taken from section 804.020, which creates the Parks Special Revenue Fund. The committee confirmed that there is an Outlot A Lakewood Rearrangement, but its precise description needs to be confirmed.
2. **607.201.C. Child Supervision.** This latest version has new language under Hours and Access, which reads as follows:

C. Child Supervision. Children under the age of twelve are not permitted in any part of the City Park System unless accompanied by a parent or guardian or other adult with supervision over the child.

It's not clear how this provision would be enforced.

3. **607.217. Dogs.** The committee wants to require that dogs in all parts of the City Park System have to be on a leash, and that dogs are not permitted at all at Kay Beach. This version contains a new provision designed to address this concern.

There are three paragraphs in section 607.217. Section A requires owners of dogs to keep them on a leash at all times. If the committee is of the view that dogs should be on a leash, even when in the water, we probably should make that clear in the language of the ordinance.

The language as drafted only applies to dogs. The Department of Natural Resources has a rule, section 6100.1100 of Minnesota Rules, that applies to state parks and covers all pet animals, not just dogs. Here's a link that should take you directly to the DNR rule. https://www.revisor.mn.gov/rules/6100.1100/?keyword_type=all&keyword=6100.1100

Here is the DNR language, "Pet animals shall be personally attended at all times and shall be effectively restrained by a portable enclosure or by a leash not exceeding six feet in length, and the animals shall not disrupt other

persons or deprive them from using an area.” The committee can discuss whether it wants to include the more descriptive language in the DNR rule and whether it wants to have the restrictions in this section apply to all pets, or only to dogs.

Paragraph B is the provision that requires all dog owners (again, the committee can decide whether it should only apply to dog owners) must clean up their pets’ waste immediately and properly dispose of it. Here’s what it says: *B. Any person handling dog on a leash in any part of the City Park System must clean up all pet waste immediately and properly dispose of the waste in an appropriate container.* This language is also taken from the DNR rule.

Paragraph C specifically says no dogs are allowed at Kay Beach, even if on a leash. It is a repeat of language in proposed section 607.401.C. It doesn’t hurt to say this twice in chapter 607 because it is an important provision of the chapter that has a lot of application.

4. 607.500 to 607.550. **Park Use Permit.** The committee preferred to eliminate the concept of a Limited License that exists in the present language and combine all the permitting provisions into one and call the document that a person can apply for, a Park Use Permit. In accordance with the committee’s direction, this draft also eliminates any role for the City Administrator in issuing these permits; the Council will make all permitting decisions affecting the parks. It will be important to consider how the fees should be established, since it will likely be less cumbersome for the Council to determine whether to allow somebody to have exclusive use of a beach for a birthday party, for example, than to decide whether a resident next to one of the beaches or other parks can run heavy equipment across the land for a construction project.
5. 607.400.C. **Swimming.** This is new language that specifically states that swimming is allowed at all the Public Lake Tracts.
6. 607.400.D. **Fishing.** This is new language stating that fishing is permitted at all the Public Lake Tracts except Kay Beach. The Kay Beach restriction on fishing is repeated in section 607.401.A.

607. BIRCHWOOD PARK SYSTEM

607.100. PURPOSE. This Code has been enacted to govern the conduct of members of the public during their use and enjoyment of the City Park System so as to further the safety, health, enjoyment and welfare of all persons in the use thereof.

607.120. DEFINITIONS.

A. City Park System. The City Park System includes the following:

- (1) Four dedicated municipal parks known as Tighe-Schmitz Park, Bloomquist Field, Wildwood Avenue Boulevard, and Polly's Park.
- (2) Six public lake tracts owned by the City known as Curt Feistner Beach, Ash Beach, Birch Beach, Elm Beach, Dellwood Beach, and Kay Beach.
- (3) Undeveloped areas known as Out Lot A Lakewood Rearrangement and Hall's Marsh.
- (4) Birchwood City Hall.
- (5) Existing trails known as the Ash and Grotto Street walkways.
- (6) Unimproved street rights-of-way known as Birch, Ash, Grotto, and Highwood rights-of-way.

B. Law Enforcement Officer. A Law Enforcement Officer is any person duly deputized or commissioned by the Board of Washington County Commissioners, the State of Minnesota, the White Bear Lake Conservation District, or the City for the purpose of enforcing the laws, codes, ordinances, and regulations of their respective jurisdictions.

607.200. USE OF CITY PARK SYSTEM. Any person utilizing any part of the City Park System shall comply with all the restrictions and limitations specified in chapter 607 or other provisions of the City Code regulating the use of the City Park System.

607.201 HOURS AND ACCESS.

A. Hours. No person shall remain, stop, use or be present within the confines of any part of the City Park System between the hours of 9:30 P.M. and 6:00 A.M. other than on a Public Lake Tract for the purpose of access to the lake. Exceptions may be made at the discretion of the City Council in the case of emergency or for other reasons the Council may determine necessary or desirable.

B. Access. Any part of the City Park System may be declared closed to the public by the City Council at any time or for any interval of time, either temporarily or at regular and stated intervals, either entirely or for certain uses. as the Council shall find necessary.

C. Child Supervision. Children under the age of twelve are not permitted in any part of the City Park System unless accompanied by a parent or guardian or other adult with supervision over the child.

607.202. MOTOR VEHICLES PROHIBITED.

A. Motor Vehicle. A motor vehicle is any car, truck, motorcycle, motorbike, tractor, golf cart, All Terrain Vehicle (ATV) or snowmobile. An electric bicycle is not a motor vehicle under this chapter.

B. Prohibition. No person shall park, drive or operate a motor vehicle within any part of the City Park System except upon roadways, parking areas, or other areas designated for such use, unless a Park Use Permit or Limited License is issued pursuant to part 500 of this chapter to allow such use.

C. Abandoned. The owner of any motor vehicle illegally parked, disabled or abandoned in any part of the City Park System shall be subject to the provisions of City Code chapters 613 (Unclaimed and Abandoned Property) and 614 (Abandoned and Junked Motor Vehicles).

607.203. CAMPING. No person shall establish or maintain any camp or other temporary lodging or sleeping place anywhere in the City Park System.

607.204. DEFACEMENT, DESTRUCTION OF PROPERTY AND RESOURCES.

A. No person shall tamper with, injure, deface, destroy, disturb, damage or remove any part of building, structure, sign, light pole, drinking fountain, hydrant, table, grill, equipment, statue or other property found in the City Park System.

B. No person shall deface, disturb or remove in any manner any soil, artifact, fossil, rock or other mineral resource in any part of the City Park System..

C. No person shall excavate any ditch, trench, tunnel, or hole in any part of the City Park System.

607.205. PRESERVATION OF VEGETATION.

A. No person shall injure, cut, destroy, mutilate, uproot, disturb, or remove any flower, tree, shrub, or any plant whether wild or cultivated, or any part thereof in the City Park System.

B. No person shall plant or cause to be planted in the City Park System any wild, cultivated or exotic tree, shrub, or plant except in specifically designated areas with the written permission of the City Council.

C. No person shall fell any tree; pick any flowers, trample any flowers, tree seedlings, flower beds, or new turf seedlings in the City Park System.

D. No person shall hitch any animal or fasten, anchor or otherwise attach any wire, rope, cable, signs, posters, or other articles to any tree, shrub or plant in the City Park System.

E. No person shall make any unauthorized use of any part of the City Park System that is detrimental to the turf and soil conditions.

F. No person shall remove any device, apparatus or material installed for the protection, support, or preservation of any tree, shrub or plant in the City Park System.

607.206 **MOLESTING WILDLIFE.** No person shall rob, disturb, or molest the nest, eggs, or young of any birds, or other animals within the confines of the City Park System.

607.207. **FIRES.**

A. No person shall start or maintain a fire in any part of the City Park System except small recreational fires in fireplaces, fire rings, and grills provided for that purpose in areas specifically designated for such use. Private grills may be used in designated areas provided that all ashes and residue therefrom are disposed of in containers provided for such disposal.

B. Any person who starts or maintains a fire in an authorized area of the City Park System shall exercise continuous supervision from the time the fire is kindled until it is extinguished. No person shall start or maintain a fire that may cause damage or constitute a threat to site vegetation and resources, or cause discomfort to other users of the area.

C. The City Council may prohibit fires for limited periods at any location for any purpose when it is necessary for the continued protection of the City Park System.

607.208 **WASTE AND LITTER.**

A. No person shall throw, cast, drop, pour, spill or discharge or permit to escape in or upon any part of the City Park System or into Public Waters any substance, matter or thing whether solid, liquid, or gas, which shall result in the pollution of

said waters, interfere with the conservation management of the water resource, or endanger the health of the public.

B. No person shall deposit, scatter, drop or abandon in any part of the City Park System, any paper, bottles, cans, sewage, waste, trash, or other debris except in receptacles provided by the City for such purpose. No person shall deposit in any receptacle provided by the City any accumulation of waste or trash generated outside the boundaries of the site.

C. No person shall drop, throw or otherwise leave unattended in any part of the City Park System any lighted matches, burning cigars, cigarettes, tobacco, paper or other combustible material.

607.209 **DISTURBING THE PEACE.**

A. No person or group of persons shall disturb the peace and good order in any part of the City Park System by either work or act.

B. No person or group of persons shall use threatening, abusive, insulting, obscene or indecent language or commit, perform or engage in any lewd, lascivious, obscene or indecent act in any part of the City Park System.

C. No person or group of persons shall engage in fighting, quarreling, wrangling, riotous clamor, or tumult in any part of the City Park System.

D. No person or group of persons shall disturb, harass or interfere with any user or the user's property in any part of the City Park System.

E. No person shall solicit or ask anyone to commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior in any part of the City Park System.

607.210 **AUDIO DEVICES.** No person shall operate or play any musical instrument, radio, television, record or tape player, loudspeaker, public address system or sound amplifying equipment of any kind in any part of the City Park System in such a manner that the sound emanating therefrom is audible beyond the immediate vicinity of the set or instrument, and subsequently interferes with the use of the area by other users or disturbs the residents of the adjacent property.

607.211. **LOITERING.**

A. No person over the age of six shall enter any comfort station or restroom, washroom, or toilet facility set apart or designated for the opposite sex.

B. No person shall lurk or loiter in or around any toilet or other structure in any part of the City Park System except to use such facility for the purpose for which it is intended.

607.212. ALCOHOLIC AND INTOXICATING BEVERAGES AND CONTROLLED SUBSTANCES. No person shall transport, possess, offer for sale, consume or be under the influence of any beer, wine, liquor, other alcoholic or intoxicating beverage in any part of the City Park System except with the approval of the City Council.

607.213. PARADES, ENTERTAINMENT, PUBLIC MEETINGS. No processions, parades, pageants, ceremonies, exhibitions, celebrations, training exercises, speeches, entertainment, tournaments, or other public gatherings shall be allowed to pass through or take place in any part of the City Park System or on any parkway except with written permission of the City Council.

607.214 UNLAWFUL SALES. No person shall sell, offer for sale, hawk, peddle or lease any object, merchandise or service or carry on any manner of business, or commercial enterprise in any part of the City Park System except those concessions authorized by the City Council.

607.215 LOST AND FOUND ARTICLES. Lost or mislaid articles or money or personal property which are found in any part of the City Park System shall be delivered or turned over to the City Administrator. If the lawful owner of any article or money deposited with the City does not claim the same within a period of sixty (60) days, it shall be returned to the finder upon request of the finder.

607.216. POSTED REGULATIONS, DIRECTION SIGNS AND GRAPHICS. No person shall disregard or fail to comply with any posted regulations, directional signs and graphics, barriers or other control devices located within any part of the City Park System.

607.217. DOGS.

A. No person shall allow a dog to be unrestrained in any part of the City Park System. Dogs in any part of the City Park System must be on a leash and under control of the person handling the animal.

B. Any person handling a dog on a leash in any part of the City Park System must clean up all pet waste immediately and properly dispose of the waste in an appropriate container.

C. Dogs are not permitted on any part of Kay Beach.

607.300. ICE SKATING AREAS.

A. No person shall ice skate on city skating rinks in any part of the City Park System between the hours of 9:30 P.M. and 6:00 A.M.

B. No person shall use or carry hockey sticks or pucks while skating, or play hockey, on any skating rink unless such rink is designated for hockey.

C. No person shall smoke or use any tobacco or similar substance within any warming house structure.

D. Any Law Enforcement Officer and any person so authorized by the City Council may remove any person from a city skating rink who is violating any provision of this Code.

607.400. **PUBLIC LAKE TRACTS.** In addition to all other restrictions and requirements that apply to the City Park System, the following provisions apply to all the Public Lake Tracts.

A. Definitions. The following definitions apply to section 607.400.

(1). Public Lake Tracts. There are six public lake tracts owned by the City, known as Curt Feistner Beach, Ash Beach, Birch Beach, Elm Beach, Dellwood Beach, and Kay Beach.

(2). Small Craft. Small craft shall include canoes, kayaks, paddle boards, and other small non-motorized watercraft.

(3). Boating Season. Boating season is defined in section 617.113.

B. Public Property. All Public Lake Tracts are public property and are open to general recreation.

C. Swimming. Swimming is permitted at all Public Lake Tracts. No person shall voluntarily enter the water of any Public Lake Tract without being garbed in a bathing suit sufficient to cover his or her person and equal to the standards generally adopted and accepted by the public. All swimmers swim at their own risk.

D. Fishing. Fishing is permitted at all Public Lake Tracts except Kay Beach. All fishermen fishing from a Public Lake Tract must hold a proper and valid Minnesota fishing license.

E. Small Craft Storage. No person shall store a small craft on any Public Lake Tract except in compliance with the following requirements.

- (1). A permit is obtained from the City.
- (2). Only Birchwood residents or owners of property in Birchwood may apply for a permit to store small craft on racks located at a Public Lake Tract. The cost for each permit is set forth in the City Fee Schedule. When purchasing a permit, the small craft owner must show proof of residency. The City Administer is authorized to issue or deny a permit request for storage of a small craft at one of the Public Lake Tracts. A sticker accompanying the permit must be placed on each small craft registered with the City.
- (3). Residents may not rent their small craft storage spot to non-residents.
- (4). Small craft may be stored on a Public Lake Tract only during the Boating Season and the owner shall remove such during the non-boating season. Owners of small craft must not leave any chains or locks on the racks at the end of each Boating Season. As a matter of courtesy, families who own more than one small craft are encouraged to place both on the same rack.
- (5). The owner of a small craft determined to not have a valid permit will be charged an additional fee as set forth in the City Fee Schedule. If, after notice, a small craft without a sticker remains on a rack, the city reserves the right to remove the small craft and charge the owner a removal cost as set forth in the City Fee Schedule.
- (6) The owner of a small craft may be assessed for each day any small craft is not removed from the Public Lake Tract by the end of the Boating Season.

F. Structures Prohibited. No person may place any structure on a Public Lake Tract without City Council approval. No person shall place or construct any object upon any Public Lake Tract which shall obstruct access by another to the lake, docks, or other facilities.

G. No Use as Boat Launch. No person shall launch or land any trailered watercraft on or from any shoreline of a Public Lake Tract.

H. No Private Docks. No person shall install a private dock on any Public Lake Tract. A Dock Association may obtain a permit to install a dock on a Public Lake Tract pursuant to the requirements of chapter 617.

I. Parking Prohibited. No person shall park or cause to be parked any house, hauling or boat trailer upon any Public Lake Tract, unless authorized by the City Council.

J. Storage Prohibited. No person shall store or allow to remain on any Public Lake Tract any personal property such as boats, oars, motors, boat hoists, lifts,

docks or other equipment for any period of time unless such storage has been authorized by the City Council.

607.401. **KAY BEACH.** In addition to all other restrictions and requirements established for Public Lake Tracts, the following provisions also apply to Kay Beach.

A. No person shall fish from the shore or from the dock or while in the water at Kay Beach.

B. No motorized boats are permitted inside the buoyed area or where swimmers are swimming nearer the shore.

C. Dogs are not permitted on Kay Beach at any time.

607.500. **PARK USE PERMIT.** The City Council may issue a Park Use Permit to any person seeking authorization for the exclusive use of all or portions of any part of the City Park System, or to gain access to their property from any part of the City Park System in a manner that would otherwise violate any provision of this code, or to engage in other conduct in the City Park System that is otherwise prohibited,.

607.510. **PERMIT APPLICATION.** Any person seeking a Park Use Permit shall submit an application to the City with the following information:

A. The name of the applicant seeking the permit.

B. The nature and scope of the project or use.

C Why access to the public property is requested.

D. What type and size of equipment or machinery will be used on or across the public property.

E. Is there potential for damage to the public property.

F. How will the damage be minimized.

G. The dates and times that the public property will be used and restored.

H. The names of all persons who will use the permit.

I. Financial security, if applicable, in the amount determined in Section 607.522.

J. Permit Fee. The applicant shall include with the application any fee set from time to time by the City Council for a permit and posted in its fee Schedule.

607.520. FINANCIAL SECURITY.

- A. The City may require an applicant to provide financial security if there is potential for damage to the public property.
- B. Such financial security shall be based on the reasonable estimate of any possible damage
- C. The financial security may include insurance, bond, escrow account, or cash and can be used by the City to pay for any damage remaining after the permit expires.
- D. The City shall release the financial security minus any restoration costs incurred by the City within 30 days of the permit expiration.
- E. If there is no opportunity for damage to the public property, no financial security shall be required.

607.530. PERMIT CONDITIONS.

- A. Any Park Use Permit issued by the City shall describe the following:
 - (1) the nature and scope of the project;
 - (2) the public property for which access is granted;
 - (3) the type of equipment or machinery allowed;
 - (4) the potential damage possible and the actions required to minimize such damage;
 - (5) the amount of financial security required;
 - (6) the date(s) and times for which the access is granted;
 - (7) the deadline for any damage restoration; and
 - (8) any other reasonable and necessary conditions required to ensure that public property is protected.
- B. The City may provide the license holder with an access key during the period of the permit. The permittee shall return the key within three days of the permit expiration.

607.540. **PERMIT DECISION.** The City shall make a final decision on a Park Use Permit within sixty days of receipt of a complete application, unless the City lawfully extends the period . The City shall issue a permit if the City determines that the use or conduct is appropriate and can be implemented without causing disruption to use by the general public or damage to the City Park System. The City may impose reasonable conditions in any permit that is issued.

607.550 **PERMIT REVOCATION.** The City may revoke a Park Use Permit at any time if the City determines that any conditions of the permit might be or were violated.

607.600 **LAW ENFORCEMENT AND REGULATIONS.**

A. No person shall willfully resist, refuse or fail to comply with any order, direction or request lawfully given by any law enforcement officer or City employee acting under the authority of the City Council in accordance with this Code.

B. No person shall interfere with, or in any manner hinder any law enforcement officer or City employee during the performance of assigned duties; nor any employee of a contractor or the City engaged in construction repairing or caring for any part of the City Park System, or while in the discharge of duties conferred by this Code.

C Any person violating any of the provisions of this Code may be expelled, at the discretion of a law enforcement officer, from any part of the City Park System where the unlawful conduct has occurred.

General Considerations:

- Costs associated with each activity below are individual responsibility of each respective partner
- Each party to provide 5-day advance notice to other parties before any maintenance activities occur; advance notice for inspection activities or emergency maintenance not required
- Each party provides standard indemnifications to all other parties
- Each party agrees to communicate and cooperate in good faith to allow each partner to carry out its MOA activities, including waiver of any applicable permit fees
- Each party agrees to share the results or reports of inspection activities
- All deadlines referenced are subject to change due to weather and permitting timelines
- RCWD will coordinate the PAH testing, sediment removal, and outlet control structure maintenance activities in partnership with the cities for the initial phase of work, including consultant and contractor management and invoicing of costs to each party
- Future inspection and maintenance of each site will be the responsibility of each party as outlined below
- Sediment removal within Priebe Lake and Pond A require drawdown of the water level within each basin
 - Priebe Lake drawdown will be passive via the outlet structure and requires issuance of a DNR permit
 - Pond A drawdown will rely on pumping and does not require a DNR permit
- Each party is responsible for communicating with its respective constituents regarding the shared goals and actions to be enacted through the MOA
- Map showing entire PLOP system, Priebe Lake, Pond A, Wedgewood Hills dry basin, and Hall's Marsh, including construction details for each, attached to MOA

Birchwood Village Agrees To:

- Provide RCWD with access to Hall's Marsh property under City ownership (map attached to MOA) for inspection and maintenance activities outlined in MOA
- Provide Mahtomedi and RCWD with access via Birchwood property to Mahtomedi property containing Wedgewood Hills dry basin for inspection and maintenance activities outlined in MOA

- Rescind formal objection to DNR approval of Priebe Lake drawdown to allow for sediment removal, OCS maintenance and other water quality improvement activities
- **Accept responsibility for vegetative and/or habitat management activities within Hall's Marsh solely related to its deeded function as a wildlife sanctuary and that are unrelated to Hall's Marsh's function as a filter for runoff from Priebe Lake**

Mahtomedi Agrees To:

- Inspect Wedgewood Hills dry basin every five years
- Jointly with RCWD, analyze Wedgewood Hills dry basin for possible water quality retrofit improvements; if a feasible and cost-effective project is found, cooperate with RCWD to implement the project
- Accept responsibility for all costs associated with PAH testing, removal of accumulated and/or contaminated sediment, and outlet control structure maintenance at Wedgewood Hills dry basin (to be coordinated by RCWD)
- Remove sediment and maintain outlet control structure in Wedgewood Hills dry basin as required by future inspections

White Bear Lake Agrees To:

- Inspect storm sewer outfalls into Priebe Lake at least every five years
- Inspect "Pond A" for sediment buildup and outlet control structure function at least every five years
- Jointly with RCWD, analyze Pond A for possible water quality retrofit improvements; if a feasible and cost-effective project is found, cooperate with RCWD to implement the project
- Accept responsibility for all costs associated with PAH testing, removal of accumulated and/or contaminated sediment, and outlet control structure maintenance at Pond A (to be coordinated by RCWD)
- Serve as co-applicant with RCWD for DNR permit to complete drawdown of Priebe Lake
- Accept responsibility for all costs associated with PAH testing and removal of accumulated and/or contaminated sediment at its storm sewer outfalls to Priebe Lake (to be coordinated by RCWD)
- Remove sediment deltas at Priebe Lake and Pond A as required by future inspections

RCWD Agrees To:

- Coordinate project to undertake PAH testing of sediment within Priebe Lake, Pond A, Wedgewood Hills dry basin and Hall's Marsh (expanded scope from 2021 Birchwood Village testing) within six (6) months of MOA execution by all parties
 - Costs for Priebe Lake and Pond A PAH testing will be responsibility of White Bear Lake
 - Costs for Wedgewood Hills dry basin PAH testing will be responsibility of Mahtomedi
 - Costs associated with Hall's Marsh PAH testing will be responsibility of RCWD
- Coordinate project to remove accumulated and/or contaminated sediment deltas from Priebe Lake, Pond A, Wedgewood Hills dry basin and Hall's Marsh, including any needed outlet control structure maintenance at each site, within twelve (12) months of completion of PAH testing as described above
- Manage DNR permitting process for drawdown of Priebe Lake; White Bear Lake is co-applicant
- Manage DNR permitting process for sediment removal from Hall's Marsh
- Inspect Hall's Marsh for sediment accumulation at PLOP outfall every five years
- Accept responsibility to maintain the health of Hall's Marsh with respect to its role as part of the PLOP system.
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- Restore vegetation when deemed necessary by the City of Birchwood around the Hall's Marsh when performing maintenance activities in the Marsh specific to its role as part of the PLOP system.
- Inspect PLOP outfall into Hall's Marsh and Hall's Marsh outlet structure to White Bear Lake a minimum of three times annually and remove any debris found to be causing a major flow obstruction promptly
- Every 5 years, RCWD shall:
 - Perform a study to ensure that water entering Hall's Marsh from the PLOP properly drains into White Bear Lake. This includes, but may not be limited to:
 - Bathymetric survey of Priebe Lake, Pond A, or Halls Marsh including an assessment of accumulated sediment and reduced water quality capacity
 - Televising, or other visual inspection, of the PLOP to identify any blockages

- Inspect Priebe Lake, Pond A, or Halls Marsh and its outlets (including emergency overflows) for major vegetation intrusions, bank instability and active erosion, or any other large impedance that may restrict its hydraulic capacity
- Development of, or update to, hydraulic modeling as needed. This may include calibration based on recorded extreme rainfall and solutions to anticipated future conveyance capacity issues
- Remediate any conditions preventing such drainage within 12 months of discovery unless, in the determination of the City of Birchwood Village, earlier remediation is required to prevent flooding of City or private property.
- This includes removing sediment deltas at PLOP outfall within 12 months of discovery.
- This may include excavation to ensure proper water drainage.
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- RCWD to include Hall's Marsh into its Water Quality Monitoring Plan and/or add to the Citizen Assisted Monitoring Program (CAMP) to ensure consistent water quality data is collected and tracked. Testing should include basic marsh observations, phosphorus and chlorophyll-a, and water clarity using RCWD standard data collection procedures.
- All water quality data to be summarized and shared at least every 5 years and long term trends summarized.
- Action shall be taken to remediate any abnormal pollutant levels, including but not limited to removing and disposing of polluted water and/or sediments, and the like.
- Sediment samples shall be collected once every 5 years according to the guidance and requirements defined in "Managing dredge materials in the State of Minnesota" (Minnesota Pollution Control Agency, April 2014, <https://www.pca.state.mn.us/sites/default/files/wg-gen2-01.pdf>) or as updated thereafter. Contamination testing shall be provided to Birchwood upon completion.
- RCWD will obtain required easements for the PLOP. Birchwood will provide an easement for property it owns.
- RCWD to perform ALUM treatments in both Hall's Marsh and Priebe every 10 years. Follow up TP and TN testing after 10-years and before subsequent alum treatment may be used to justify a longer alum treatment timeline. RCWD to work with Birchwood to

define acceptable TP and TN concentrations in sediment and water column to meet White Bear Lake water quality goals.

- RCWD may draw down Priebe Lake as needed with permission from the City of Birchwood Village. For all drawdowns, RCWD must structure such drawdown so as not to cause flooding of private or public land in the City of Birchwood Village. RCWD shall be responsible for damages to public or private landowners for flooding attributable to any such drawdown. RCWD shall submit a plan 3 months prior to the drawdown to the City of Birchwood Village indicating the planned drawdown and the rate, as well as rate and flow calculations demonstrating that flooding will not occur that are signed by a certified engineer. If RCWD does not submit such documentation, RCWD shall not drawdown Priebe.
- Cooperate with White Bear Lake if a feasible and cost-effective water quality retrofit improvement project is found for Pond A
- Cooperate with Mahtomedi if a feasible and cost-effective water quality retrofit improvement project is found for the Wedgewood Hills dry basin