



AGENDA OF THE REGULAR MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
February 13, 2018
7:00 P.M.

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

ANNOUNCEMENTS

- A. Spring newsletter deadline is end of February.
- B. Street snow removal feedback should be sent to info@cityofbirchwood.com.
- C. We are social, follow us on Facebook/Twitter and/or register for the email listserv.

ADMINISTRATIVE PRESENTATION

CITY BUSINESS – CONSENT AGENDA

- A. Approval of Regular Meeting Minutes from January 9, 2018* (pp. 3-8)
- B. Approval of Treasurer’s Report* (pp. 9-23)
- C. Reappoint Committee/Commission Members* (p. 24)
- D. Approve Resolution 2018-07 Summary Publication of Ordinance 2017-12-01: 805 Finance/Assessment Ordinance* (pp. 25-26)
- E. Approve Manhole Repair Investigation* (pp. 27-34)
- F. Appoint WBLCD Representative – Barton Winter* (pp. 35-36)

CITY BUSINESS – REGULAR AGENDA

- A. City Project No. 2017-1 Sanitary Sewer Rehabilitation Improvement* (pp. 37-40)
 - a. Assessment Public Hearing
 - b. Council Deliberation and Approval of Resolution 2018-08: Adopting Assessment
Time Budget: 15 Minutes
- B. Second Reading Ordinance 2018-01-01 Exterior Completion* (pp. 41-42)
 - a. Public Hearing
 - b. Council Deliberation and Approval

Time Budget: 15 Minutes

- C. Third Reading Ordinance 2017-10-02 Public Right-of-Way* (pp. 43-91)
(Dec version starts on p. 46; Mitchell version starts on p. 68)
 - a. Council Deliberation and Approval
 - b. Approve Resolution 2017-33 Summary Publication

Time Budget: 20 Minutes

- D. First Reading Ordinance 2018-02-01 Amending Public Lake Tracts* (pp. 135-149)
 - a. Dock Committee Update
 - b. Council Deliberation and Approval
 - c. Order Public Hearing for March 13, 2018

Time Budget: 20 Minutes

- E. Birchwood Dock Assoc.'s (BDA) Annual Dock Permit Application* (pp. 93-123)
 - a. Discuss and Approve the BDA's Annual Dock Permit Application Package
 - b. Authorize the BDA to obtain Dock Permits with the WBLCD

Time Budget: 15 Minutes

- F. First Reading Ordinance 2018-01-02 Section 301 Amendments* (pp. 124-126)
 - a. Council Deliberation and Approval
 - b. Order Public Hearing for March 13, 2018

Time Budget: 10 Minutes

- G. Planning Commission Bylaws* (pp. 127-128)
 - a. Council Deliberation and Approval

Time Budget: 5 Minutes

- H. Liaison Guidelines Feedback* (pp. 129-130)
 - a. Council Discussion

Time Budget: 10 Minutes

- I. Cell Tower/Signal Dead Zones* (p. 131)
 - a. Council Discussion

Time Budget: 10 Minutes

- J. Council Member Reports:

- K. City Administrator's Report

- a. Lift Station Generator Maintenance
- b. Comcast Franchise Extension* (pp. 132-134)

Time Budget: 5 Minutes

ADJOURN

**CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
JANUARY 9, 2018**

MINUTES

Members Present: Mayor Mary Wingfield & Councilmembers Kevin Woolstencroft, Randy LaFoy and Megan Malvey. Councilmember Trilby White was absent.

Staff Present: City Administrator Tobin Lay, City Attorney Alan Kantrud, City Engineer Steve Thatcher and Water Superintendent John Manship.

Others Present: Brian McGinnis, Alan Mitchell and Chris Churchill.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

Mayor Wingfield: Called the regular meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

APPROVE AGENDA

Mayor Wingfield: Proposed to add Tree Replacement and clarification for the Parks Committee on a deer summary to the Regular Agenda.

Mayor Wingfield and Council Members: Added Water Superintendent John Manship to the Regular Agenda to discuss water main breaks and fire hydrant issues.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE AGENDA AS AMENDED. ALL AYES. MOTION PASSED.

OPEN PUBLIC FORUM

- A. **Alan Mitchell:** Warned people to be careful driving in the snow and that flashing lights on the school bus stop sign means that people must stop in both lanes of traffic. He asked that this reminder be included in the upcoming newsletter.

ANNOUNCEMENTS

- A. Street snow removal feedback should be sent to info@cityofbirchwood.com.
- B. We are in need of a representative for the WBLCD. Contact City Hall if interested.
- C. Congratulations to resident Zander Haupt who has become an Eagle Scout this week!
- D. Follow us on Facebook and Twitter and/or register for the email listserv.

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report
- B. BoldPlanning Software Report

CITY BUSINESS – CONSENT AGENDA

- A. Approve Regular Meeting Minutes from December 12th, 2017
- B. Approve Treasurer's Report
- C. Approve Resolution 2018-01, Designating the White Bear Press as the Official Newspaper for Publication
- D. Approve Resolution 2018-02, Naming US Bank and the 4M Fund as Official Depositories of Municipal Funds
- E. Approve Resolution of 2018-03, Accepting a Cash Donation from Artists Group Members
- F. Approve NYFS Agreement and Rate Increase
- G. Approve Resolution 2017-34, Dog Park Committee
- H. Approve Resolution 2018-04 & Employment Contract with Administrator Tobin Lay
- I. Approve Second Reading & Adopt Ordinance 2017-10-02, Public Right-of-Way
- J. Approve Resolution 2017-33, Summary Publication of Ordinance 2017-10-02
- K. Approve Amended Fee Schedule
- L. Re-appoint Committee Members and Commissioners to Committees/Commissions
- M. Approve Council Member Assignments

Councilmember Malvey: Asked to move public right-of-way items I, J & K to the Regular Agenda.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE CONSENT AGENDA AS AMENDED. ALL AYES. MOTION PASSED.

CITY BUSINESS – REGULAR AGENDA

A. City Project No. 2017-01, Sanitary Sewer Rehabilitation Improvement

a. Review and Discuss Proposed Assessment

City Engineer Steve Thatcher: Discussed the proposed assessment rolls as enclosed in the Council Packet, suggested holding the assessment public hearing on February 13th, 2018 and discussed the enclosed sample notice letter to be mailed out to those who will be assessed.

Mayor, Councilmembers and City Engineer Thatcher: Discussed the proposed assessments and added language to the assessment notice letters. Thatcher will work with Attorney Kantrud to fine-tune the language.

b. Approve Resolution 2018-05, Ordering Public Hearing on Proposed Assessment

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSENCROFT TO APPROVE RESOLUTION 2018-05. ALL AYES. MOTION PASSED.

c. Approve Insituform Contract for City Project No. 2017-01, Sanitary Sewer Rehab

Mayor, Council Members, Attorney Kantrud and City Engineer Thatcher: Discussed the proposed contract language by Insituform and related warranty. Attorney Kantrud and City Engineer Thatcher said the contract language was very simple but given the City's past experience with Insituform, the proposed contract is acceptable.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE THE CONTRACT WITH INSITUFORM. ALL AYES. MOTION PASSED.

B. Water Update

Water Superintendent John Manship: Discussed a recent water main break on Birchwood Lane and problems with the flushing hydrant at the ice rink. He answered Council Member questions and recommended replacing the minor part on the hydrant for now and replacing the inadequate hydrant with a standard hydrant this summer.

City Council Members, Administrator Lay and Water Superintendent Manship: Discussed the background of the flushing hydrant and why the existing hydrant is inadequate. Water Superintendent Manship estimated \$3K to replace the hydrant itself without labor or line costs included.

City Council: Authorized Water Superintendent Manship to make the temporary fix to the flushing hydrant and provide Administrator Lay with accurate hydrant replacement costs later; to be added to the consent agenda by Lay.

C. Second Reading of Water Utility Rate Increase

a. Public Hearing

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

b. Council Deliberation and Approval of Resolution 2018-06

Mayor and Council Members: Discussed the proposed water utility rate increase. The water/utility committee recommended an increase in the usage rate to keep up with the cost of water purchased from the city of White Bear Lake. The flat fee for maintenance costs remains the same.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE RESOLUTION 2018-06. ALL AYES. MOTION PASSED.

Attorney Kantrud: Stated that since a resolution is not an ordinance it does not require publication, but it is a good item for the newsletter. Mayor Wingfield agreed.

Councilmember LaFoy: Asked to include cubic foot rates as well for the benefit of the residents.

D. Second Reading Ordinance 2017-12-01, City Code Section 805 Amendments (time stamp 34:00)

a. Public Hearing

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER MALVEY TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

b. Council Deliberation and Approval

MOTION WAS MADE BY COUNCILMEMBER MALVEY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE AMENDMENTS TO CITY CODE SECTION 805. ALL AYES. MOTION PASSED.

Mayor Wingfield, Attorney Kantrud and Council Members: Discussed publishing a summary of the amendments and requested Attorney Kantrud and Administrator Lay to provide a resolution and summary language in February.

E. Second Reading Ordinance 2015-06-02, Deer Feeding Prohibition

a. Council Deliberation and Approval

Administrator Lay: Provided a procedural history of this Ordinance. After conferring with Attorney Kantrud, it is recommended that a second reading be approved to finalize this Ordinance.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE SECOND READING OF ORDINANCE 2015-06-02, DEER FEEDING PROHIBITION. ALL AYES. MOTION PASSED.

Mayor Wingfield: Clarified Council's December request to Parks Committee Chair Houstoun Clinch. Council simply requests a summary from Clinch regarding the Committee's work on Birchwood's deer.

F. First Reading – Building Completion Code 203.035

a. Council Deliberation and Approval

Mayor Wingfield: Summarized the matter and engaged in brief discussion with council members LaFoy and Malvey as well as Attorney Kantrud regarding code language and the nature of noncompliance penalties.

Attorney Kantrud: Stated that the majority of his time spent on behalf of the city is in pursuit of code compliance issues regarding building codes and property maintenance.

b. Order Public Hearing for February 13th, 2018

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE FIRST READING OF BUILDING COMPLETION CODE 203.035 WITH CHANGES AS DISCUSSED AND SET A SECOND READING AND PUBLIC HEARING FOR THE FEBRUARY 13th REGULAR CITY COUNCIL MEETING. ALL AYES. MOTION PASSED.

G. Reschedule August 2018 City Council Meeting

a. Council Deliberation and Date Selection

Administrator Lay: Informed the council that August's city council meeting falls on the 2018 primary election day, August 14th. Lists a set of alternative dates to consider.

Mayor and Council Members: Determined to provisionally set the date for Tuesday, August 7th at 7:00 p.m.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY MAYOR WINGFIELD TO MOVE THE AUGUST 2018 REGULAR CITY COUNCIL MEETING TO TUESDAY, AUGUST 7th, 2018 AT 7:00PM. ALL AYES. MOTION PASSED.

H. Council Member Reports

- a. Mayor Wingfield**
Nothing to Report
- b. Councilmember Woolstencroft**
Nothing to Report
- c. Councilmember Malvey**
Nothing to Report
- d. Councilmember LaFoy**
Nothing to Report

I. City Administrator's Report

a. Lift Station Generator Maintenance

Administrator Lay: The new generator for the Wildwood Park lift station currently has no maintenance program. White Bear Township has offered to have their contractor maintenance the generator during their maintenance program.

Mayor and Council Members: Discussed the issue. John Anderson on the City's Roads Committee offered to do it. The council requested that Administrator Lay pursue the issue with Mr. Anderson and return with more information.

J. Tree Replacement

Mayor Wingfield: 2014 saplings have been weed whipped into oblivion. 70% of what was planted has been lost. Asked the City Council to place a tree order for 30 trees. Also stated it is a good idea to open the order to residents. River birch and maybe white pine should be included in the order. Motion not sought due to the small size of the item.

Mayor Wingfield and Council Members: Discussed location, types of trees, timing, involving the Parks Committee and planting in respect to easements.

K. Right-of-Way (ROW) Ordinance, 2017-10-02

Councilmember Malvey: Combed through the ordinance with Attorney Kantrud. All of the suggestions proposed between Councilmember Malvey and Attorney Kantrud have not been agreed upon.

Attorney Kantrud: Walked the Mayor and Council through the primary substantive changes. Includes Alan Mitchell's points and numerous syntax changes.

Mayor Wingfield, Council Members, Attorney Kantrud and Mr. Alan Mitchell: Discussed defining "City Engineer" and including the City's use of the terms, "Engineer", "City Engineer" and "ROW Engineer" into one title. Further discussion ensued including but not limited to fee schedules, the denial of permits and defining the term "Franchise Agreement" and adding it to the ROW Ordinance language.

MOTION WAS MADE BY COUNCILMEMBER MALVEY AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE 2017-10-02, RIGHT-OF-WAY ORDINANCE WITH AMENDMENTS AS DISCUSSED. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER MALVEY TO ADOPT RESOLUTION 2017-33, SUMMARY PUBLICATION. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE AMENDMENTS TO THE FEE SCHEDULE AS ENCLOSED IN THE COUNCIL PACKET. ALL AYES. MOTION PASSED.

ADJOURN

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 8:14 PM CST.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

For the Period : 1/9/2018 To 2/9/2018

Cash Control Statement

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$659,325.03	\$2,263.16	\$40,318.17	\$621,270.02
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	\$4,460.00	\$0.00	\$0.00	\$4,460.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$3,664.59	\$0.00	\$0.00	\$3,664.59
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
REIMBURSED CONTRACTED SERVICES	(\$7,285.26)	\$0.00	\$0.00	(\$7,285.26)
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab 2008 Debt	\$13,220.20	\$0.00	\$0.00	\$13,220.20
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Improvement Projects	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$66,233.91	\$0.00	\$0.00	\$66,233.91
Water	\$39,321.01	\$0.00	\$13,496.26	\$25,824.75
Sewer	\$59,502.90	\$3,141.50	\$9,972.58	\$52,671.82
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$838,482.38	\$5,404.66	\$63,787.01	\$780,100.03

City of Birchwood Village

Receipts Register

2/9/2018

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
01/11/2018	Wingfield	171734217*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Cummins	171734218*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Ellison	171734219*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Wyland	171734220*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Lund	171734221*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Anderson	171734222*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Simanski	171734223*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Schad	171734224*	Animal License x2	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 20.00 \$ 20.00
01/11/2018	Kapsner	171734225*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Will	171734226*	Animal License x3	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 30.00 \$ 30.00
01/11/2018	Sinclair	171734227*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00
01/11/2018	Cavanor	171734228*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00 \$ 10.00

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
01/11/2018	Feist	171734229*	Animal License	(01/11/2018) -	N Animal Licenses	100-32240-	\$ 10.00
							\$ 10.00
01/12/2018	MN STATE	171734234*	Court Fines	(01/12/2018) -	N State and Misc fees	100-34170-	\$ 441.00
							\$ 441.00
01/16/2018	Fleck	171734230*	Animal License	(01/16/2018) -	N Animal Licenses	100-32240-	\$ 10.00
							\$ 10.00
01/18/2018	Heart	171734231*	Animal License	(01/18/2018) -	N Animal Licenses	100-32240-	\$ 10.00
							\$ 10.00
01/18/2018	Krinkie Heating	171734232*	Permit	(01/18/2018) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 115.50
							\$ 115.50
01/18/2018	Berg	171734233*	Animal License	(01/18/2018) -	N Animal Licenses	100-32240-	\$ 10.00
							\$ 10.00
01/24/2018	Lundberg	171734237*	Animal License	(01/24/2018) -	N Animal Licenses	100-32240-	\$ 10.00
							\$ 10.00
01/24/2018	Stanhope	171734238*	Animal License x2	(01/24/2018) -	N Animal Licenses	100-32240-	\$ 20.00
							\$ 20.00
01/24/2018	Sorenson	171734239*	Animal License	(01/24/2018) -	N Animal Licenses	100-32240-	\$ 10.00
							\$ 10.00
01/24/2018	Lee Homes	171734240*	Building Permit	(01/24/2018) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 256.46
							\$ 256.46
02/08/2018	Hullsieck	171734241*	Sewer Lining Assessment - 2017	(02/08/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							\$ 628.30
02/08/2018	Woolstencroft, Kevin	171734242*	Sewer Lining Assessment - 2017	(02/08/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							\$ 628.30

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
02/08/2018	Hunder, Brian	171734243*	Sewer Lining Assessment - 2017	(02/08/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
02/08/2018	Byerly, Anthony	171734244*	Sewer Lining Assessment - 2017	(02/08/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
02/08/2018	Belknap, Robert	171734245*	Sewer Lining Assessment - 2017	(02/08/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
02/08/2018	Hansen, Lynda	171734246*	Animal License x2	(02/08/2018) -	N Animal Licenses	100-32240-	\$ 20.00
02/08/2018	Egan, Kristen	171734247*	Animal License	(02/08/2018) -	N Animal Licenses	100-32240-	\$ 10.00
02/08/2018	Kline, Brian	171734248*	Building Permit	(02/08/2018) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 99.30
02/08/2018	KMS Associates, LLC	171734249*	Building Permit	(02/08/2018) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 668.75
02/08/2018	WS&D Permit Service	171734250*	Permit	(02/08/2018) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 360.15
02/08/2018	KB Service Company	171734251*	Permit	(02/08/2018) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 62.00
Total for Selected Receipts							\$ 5,404.66

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
01/11/2018	Payroll Period Ending 01/05/2018	29906		N	Parks	100-45207-100-	\$ 170.50
	Total For Check	29906					\$ 170.50
01/11/2018	Payroll Period Ending 01/05/2018	29907		N	Parks	100-45207-100-	\$ 438.95
	Total For Check	29907					\$ 438.95
01/11/2018	Payroll Period Ending 01/05/2018	29908		N	Parks	100-45207-100-	\$ 133.91
	Total For Check	29908					\$ 133.91
01/11/2018	Payroll Period Ending 01/05/2018	29909		N	Parks	100-45207-100-	\$ 249.23
	Total For Check	29909					\$ 249.23
01/11/2018	Payroll Period Ending 01/05/2018	29910		N	Parks	100-45207-100-	\$ 180.00
	Total For Check	29910					\$ 180.00
01/11/2018	Payroll Period Ending 01/05/2018	29911		N	Parks	100-45207-100-	\$ 120.00
	Total For Check	29911					\$ 120.00
01/11/2018	Payroll Period Ending 01/05/2018	29912		N	Parks	100-45207-100-	\$ 162.00
	Total For Check	29912					\$ 162.00
01/11/2018	Payroll Period Ending 01/05/2018	29913		Y	Parks	100-45207-100-	\$ -
	Total For Check	29913					\$ -
01/11/2018	Payroll Period Ending 01/07/2018	29914		N	Clerk - Treasurer	100-41401-100-	\$ 241.77
	Total For Check	29914					\$ 241.77
01/11/2018	Payroll Period Ending 01/05/2018	29969		N	Parks	100-45207-100-	\$ 100.00
	Total For Check	29969					\$ 100.00
01/12/2018	MN Department of Revenue	EFT011218	Quarter 4 Filing 2017	N	Clerk - Treasurer	100-41401-115-	\$ 811.28
	Total For Check	EFT011218					\$ 811.28
01/19/2018	Payroll Period Ending 01/19/2018	29915		N	Clerk - Treasurer	100-41401-100-	\$ 1,951.25
	Total For Check	29915					\$ 1,951.25
01/19/2018	Payroll Period Ending 12/31/2017	29916		N	Clerk - Treasurer	100-41401-100-	\$ 348.55
	Total For Check	29916					\$ 348.55

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
01/19/2018	Water Conservation Service Inc.	29917*	Water Main Leak Located	N	Wtr/Swr Emergency	601-43185-305-	\$ 447.27
		Total For Check 29917					\$ 447.27
01/19/2018	Washington County	29918	Snowplow Materials Dec 2017	N	Ice and Snow Removal	100-43125-210-	\$ 388.30
		Total For Check 29918					\$ 388.30
01/19/2018	AirFresh Industries, Inc.	29919	Rental Monthly Units x1 - Jan 2018	N	Parks	100-45207-314-	\$ 81.25
		Total For Check 29919					\$ 81.25
01/19/2018	TSE, INC	29920*	Janitorial Services x2	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
		Total For Check 29920					\$ 25.00
01/19/2018	Gopher State One Call	29921*	2018 Annual Facility Operator Fee	N	Utility Locates	605-42805-314-	\$ 50.00
		Total For Check 29921					\$ 50.00
01/19/2018	Washington County Sheriff	29922	2018 CoderED Annual Fee	N	Other Protection	100-42801-314-	\$ 68.38
		Total For Check 29922					\$ 68.38
01/19/2018	Menards - Oakdale	29923	Parks Supplies	N	Parks	100-45207-400-	\$ 20.58
		Total For Check 29923					\$ 20.58
01/19/2018	PERA	EFT011918A	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 350.00
		Total For Check EFT011918A					\$ 350.00
01/19/2018	PERA	EFT011918B	Employee Retirement - Paul	N	Clerk - Treasurer	100-41401-121-	\$ 56.84
		Total For Check EFT011918B					\$ 56.84
01/22/2018	Payroll Period Ending 01/05/2018	29924		N	Clerk - Treasurer	100-41401-100-	\$ 231.79
		Total For Check 29924					\$ 231.79
01/22/2018	PERA	EFT012218*	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 37.80
		Total For Check EFT012218*					\$ 37.80
01/24/2018	Payroll Period Ending 01/19/2018	29925		N	Parks	100-45207-100-	\$ 110.00
		Total For Check 29925					\$ 110.00
01/24/2018	Payroll Period Ending 01/19/2018	29926		N	Parks	100-45207-100-	\$ 155.84
		Total For Check 29926					\$ 155.84
01/24/2018	Payroll Period Ending 01/19/2018	29927		N	Parks	100-45207-100-	\$ 162.54

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<u>Date</u>	<u>Vendor</u>	<u>Total For Check</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
01/24/2018	Payroll Period Ending 01/19/2018	29928	29927		N	Parks	100-45207-100-	\$ 162.54
	Total For Check	29928						\$ 110.00
01/24/2018	Payroll Period Ending 01/19/2018	29929	29929		N	Parks	100-45207-100-	\$ 50.00
	Total For Check	29929						\$ 50.00
01/24/2018	Payroll Period Ending 01/19/2018	29930	29930		N	Parks	100-45207-100-	\$ 144.00
	Total For Check	29930						\$ 144.00
01/24/2018	Payroll Period Ending 01/19/2018	29931	29931		N	Parks	100-45207-100-	\$ 30.00
	Total For Check	29931						\$ 30.00
01/24/2018	Payroll Period Ending 01/19/2018	29932	29932		N	Parks	100-45207-100-	\$ 185.00
	Total For Check	29932						\$ 185.00
01/24/2018	MAMA	29933*	29933	MAMA Membership- Monthly Meeting	N	City Training and Development	100-41914-433-	\$ 20.00
	Total For Check	29933						\$ 20.00
01/24/2018	Core & Main, LP	29934*	29934	Ice Rink Hydrant Repair Part	N	Water Utility	601-43180-220-	\$ 176.36
	Total For Check	29934						\$ 176.36
01/24/2018	TA Schifsky & Sons, INC	29935*	29935*	Street Sweeping, Maintenance & Road Repair	N	Streets and Road Mntnc	100-43101-305-	\$ 4,500.00
			29935*				100-43101-305-	\$ 540.00
			29935*				100-43101-305-	\$ 950.00
			29935*			Storm Drainage	100-43150-314-	\$ 1,880.00
			Total For Check					\$ 7,870.00
01/24/2018	Payroll Period Ending 01/19/2018	29936	29936		N	Parks	100-45207-100-	\$ 83.11
	Total For Check	29936						\$ 83.11
01/30/2018	Minnesota Pollution Control Agency	29937	29937	MS4 General Permit Fee	N	Storm Drainage	100-43150-437-	\$ 400.00
	Total For Check	29937						\$ 400.00
02/02/2018	Payroll Period Ending 02/02/2018	29938	29938		N	Clerk - Treasurer	100-41401-100-	\$ 1,951.25
	Total For Check	29938						\$ 1,951.25
02/02/2018	Payroll Period Ending 02/02/2018	29939	29939		N	Clerk - Treasurer	100-41401-100-	\$ 422.04

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<u>Date</u>	<u>Vendor</u>	<u>Total For Check</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
02/02/2018	PAYROLL PERIOD ENDING 02/02/2018	29939						\$ 422.04
02/02/2018	PAYROLL PERIOD ENDING 02/02/2018	29940			N	Clerk - Treasurer	100-41401-100-	\$ 618.12
	Total For Check	29940						\$ 618.12
02/02/2018	PERA		EFT020218A	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 350.00
	Total For Check	EFT020218A						\$ 350.00
02/02/2018	PERA		EFT020218B	Employee Retirement - Paul	N	Clerk - Treasurer	100-41401-121-	\$ 100.80
	Total For Check	EFT020218B						\$ 100.80
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29941			N	Parks	100-45207-100-	\$ 115.00
	Total For Check	29941						\$ 115.00
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29942			N	Parks	100-45207-100-	\$ 30.00
	Total For Check	29942						\$ 30.00
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29943			N	Parks	100-45207-100-	\$ 126.00
	Total For Check	29943						\$ 126.00
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29944			N	Parks	100-45207-100-	\$ 80.00
	Total For Check	29944						\$ 80.00
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29945			N	Parks	100-45207-100-	\$ 25.00
	Total For Check	29945						\$ 25.00
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29946			N	Parks	100-45207-100-	\$ 116.83
	Total For Check	29946						\$ 116.83
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29947			N	Parks	100-45207-100-	\$ 106.20
	Total For Check	29947						\$ 106.20
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29948			N	Parks	100-45207-100-	\$ 309.76
	Total For Check	29948						\$ 309.76
02/06/2018	PAYROLL PERIOD ENDING 02/02/2018	29949			N	Parks	100-45207-100-	\$ 231.00
	Total For Check	29949						\$ 231.00
02/07/2018	AirFresh Industries, Inc.	29950		Rental Monthly Unit (1) - Feb 2018	N	Parks	100-45207-314-	\$ 81.25
	Total For Check	29950						\$ 81.25
02/07/2018	League of MN Cities	29951		LMC Membership Dues	N	City Training and Development	100-41914-433-	\$ 20.00

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<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					20.00
02/07/2018	Safe-Fast	29952*	Screen Printing & Pocket Vests + Reprint	N	Office Operations Supplies	100-41911-230-	59.35
		Total For Check					59.35
02/07/2018	St. Cloud State University	29953	2018 MN Municipal Clerks Institute (MMCI)	N	City Training and Development	100-41914-433-	445.00
		Total For Check					445.00
02/07/2018	Allstream	29954*	Analog Phone Line 01/23/18 to 02/22/18.	N	General Government Buildings and Plant	100-41940-320-	45.91
		Total For Check					45.91
02/07/2018	Press Publications	29955*	Legal Notice Publications x21	N	Ordinances and Proceedings	100-41130-351-	47.04
		29955*				100-41130-351-	297.90
		Total For Check					344.94
02/07/2018	CAPRA'S UTILITIES, INC	29956*	Repair Broken Water Main at 22 Birchwood Ln on 01/03/2018.	N	Wtr/Swr Emergency	601-43185-305-	10,302.63
		Total For Check					10,302.63
02/07/2018	Rydeen, Jim	29957	Reimbursement - Ice Rink Supplies, City Hall	N	General Government Buildings and Plant	100-41940-220-	2.98
		29957			Parks	100-45207-400-	66.51
		Total For Check					69.49
02/07/2018	Lay, Tobin	29958	birchwoodmn.org domain fee - 2018	N	General Government Buildings and Plant	100-41940-320-	18.00
		Total For Check					18.00
02/07/2018	Metropolitan Council Env. Service	29959*	Wastewater Service Mar 2018.	N	Sewer Utility	605-43190-217-	4,411.24
		Total For Check					4,411.24
02/07/2018	Birch	29960*	Snow Plow Services 12/15, 12/16 & 12/18/2017 + 01/10, 01/12 & 01/15/2018 + 01/15/2018.	N	Ice and Snow Removal	100-43125-314-	2,600.00
		29960*				100-43125-314-	2,396.25
		Total For Check					810.00
		Total For Check					5,806.25

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
02/07/2018	TSE, INC	29961	Janitorial Services - Jan 2018	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
Total For Check 29961							\$ 25.00
02/07/2018	Manship Plumbing & Heating Inc	29962*	Monthly Standby/locates/services	N	Water Utility	601-43180-314-	\$ 2,570.00
Total For Check 29962							\$ 2,570.00
02/07/2018	Thatcher Engineering, Inc	29963	Sewer Lining Project (12/04/2017 through 01/18/2018).	N	Engineer Service	605-41650-300-	\$ 4,110.00
Total For Check 29963							\$ 4,110.00
02/07/2018	Croix Valley Inspections Inc	29964*	Inspection Fees (2017-1 through 2017-58).	N	Building Inspections Administration	100-42401-314-	\$ 8,955.99
Total For Check 29964							\$ 8,955.99
02/07/2018	White Bear Township	29965	PW Maintenance Worker/Equipment - 12/19/2017.	N	Sewer Utility	605-43190-314-	\$ 436.25
Total For Check 29965							\$ 436.25
02/07/2018	Leeves, Robert	29966	Council Meeting Recording 01/09/2018	N	Cable Eqpm and Service	100-41950-314-	\$ 45.00
Total For Check 29966							\$ 45.00
02/07/2018	City of White Bear Lake	29967	January 2018 Fire Services	N	Fire	100-42201-314-	\$ 1,694.75
Total For Check 29967							\$ 1,694.75
02/07/2018	Washington County	29968*	Election Equipment Maintenance Fee	N	Elections	100-41410-220-	\$ 830.00
Total For Check 29968							\$ 830.00
02/07/2018	Amazon	EFT020718A*	Permanent Key Lock Box, Weather Cover & Safety Cones.	N	Office Operations Supplies	100-41911-230-	\$ 46.84
Total For Check EFT020718A							\$ 46.84
02/07/2018	Amazon	EFT020718B*	Labeler & Ice gripper shoes.	N	Office Operations Supplies	100-41911-230-	\$ 21.91
		EFT020718B*		N	Parks	100-45207-400-	\$ 25.00
Total For Check EFT020718B							\$ 46.91
02/07/2018	Xcel Energy	EFT020718C*	Gas for generator.	N	Sewer Utility	605-43190-383-	\$ 28.59

Fund Name: All Funds

Date Range: 01/09/2018 To 02/09/2018

<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					\$ 28.59
02/07/2018	Xcel Energy	EFT020718D*	Electric for Street Lights	N	Street Lighting	100-43160-380-	\$ 1,245.60
		Total For Check					\$ 1,245.60
02/07/2018	Xcel Energy	EFT020718E*	Electric for Lift Station/Warming House.	N	General Government Buildings and Plant	100-41940-380-	\$ 321.93
		EFT020718E*			Parks	100-45207-380-	\$ 146.09
		EFT020718E*			Sewer Utility	605-43190-380-	\$ 253.59
		EFT020718E*				605-43190-380-	\$ 159.89
		EFT020718E*				605-43190-380-	\$ 523.02
		Total For Check					\$ 1,404.52
		Total For Selected Checks					\$ 63,787.01

As on 2/9/2018

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		3,664.59	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 02/09/2018		3,664.59	

As on 2/9/2018

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Other Financing Sources:			
Total Other Financing Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Disbursements:			
Total Disbursements	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Other Financing Uses:			
Total Other Financing Uses	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Beginning Cash Balance		66,233.91	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		<u>0.00</u>	
Cash Balance as of 02/09/2018		<u>66,233.91</u>	

As on 2/9/2018

Water	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Other Financing Sources:			
Total Other Financing Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Disbursements:			
Financial Administration			
Contracted Services	0.00	1,876.05	(1,876.05)
Total Acct 415	<u>0.00</u>	<u>1,876.05</u>	<u>(1,876.05)</u>
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	176.36	(176.36)
Contracted Services	0.00	10,347.14	(10,347.14)
Wtr/Swr Emergency			
Professional Services: Medical and Dental Fees	0.00	10,749.90	(10,749.90)
Total Acct 431	<u>0.00</u>	<u>21,273.40</u>	<u>(21,273.40)</u>
Total Disbursements	<u>0.00</u>	<u>23,149.45</u>	<u>(23,149.45)</u>
Other Financing Uses:			
Total Other Financing Uses	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Beginning Cash Balance		48,974.20	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		<u>23,149.45</u>	
Cash Balance as of 02/09/2018		<u>25,824.75</u>	

As on 2/9/2018

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Sewer			
Receipts:			
SPECIAL ASSESSMENTS	0.00	3,141.50	3,141.50
Total Acct 361	0.00	3,141.50	3,141.50
Total Revenues	0.00	3,141.50	3,141.50
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Postage/Postal Permits			
OFFICE SUPPLIES (201 through 209)	0.00	215.60	(215.60)
Total Acct 414	0.00	215.60	(215.60)
Engineer Service			
PROFESSIONAL SERVICES (301 through 319)	0.00	4,110.00	(4,110.00)
Total Acct 416	0.00	4,110.00	(4,110.00)
Utility Locates			
Contracted Services	0.00	55.40	(55.40)
Total Acct 428	0.00	55.40	(55.40)
Sewer Utility			
Sewer - Wastewater Charge	0.00	8,822.48	(8,822.48)
Contracted Services	0.00	436.25	(436.25)
Utility Services (381 through 389)	0.00	1,769.95	(1,769.95)
Utility Services: Gas Utilities	0.00	56.57	(56.57)
Total Acct 431	0.00	11,085.25	(11,085.25)
Total Disbursements	0.00	15,466.25	(15,466.25)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		64,996.57	
Total Receipts and Other Financing Sources		3,141.50	
Total Disbursements and Other Financing Uses		15,466.25	
Cash Balance as of 02/09/2018		52,671.82	

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Re-appoint Committee Members



Dear Mayor and Council Members,

During last month's Council meeting, Council requested that each of the below Committees/ Commissions recommend staggered appointment terms for their members so that the Committees remain well staffed at all times. Below are the recommendations given so far for your consideration and approval:

Planning Commission

Commission appointments expiring December:

- 2019 = John Winters & Randy Felt
- 2020 = John Lund & Doug Danks
- 2021 = Jozsef Hegedus

Parks and Natural Resources Committee

Committee appointments expiring in July:

- 2019 = James Nelson & Scott Howe
- 2020 = Bridget Sperl & Ana Vang
- 2021 = Judy Walker, Houstoun Clinch & Dave Remely

Roads and Streets Committee

The Roads Committee did not meet in January or February. A recommendation from this Committee is planned for the March Council meeting.

Request/Recommendation

Staff requests Council approve the recommended staggered appointment terms as presented above. Thanks!

Regards,
Tobin Lay

Summary Publication Resolution

RESOLUTION 2018-07

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

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE
NO. 2017-12-01, AN ORDINANCE AMENDING THE CITY'S CODE SECTION 805 TO
STREAMLINE AND SIMPLIFY THE CITY'S ASSESSMENT POLICY**

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. 2017-12-01, which amends City Code Section 805 to streamline and simplify the City's assessment policy; 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 2017-12-01 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.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 13th day of February, 2018.

Mary Wingfield, Mayor

Attest:

Tobin Lay, City Administrator-Clerk

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

AN ORDINANCE AMENDING THE CITY'S CODE SECTION 805 TO
STREAMLINE AND SIMPLIFY THE CITY'S ASSESSMENT POLICY.

The following is a SUMMARY of the Ordinance:

On January 9, 2018 the City amended Ordinance 805 to eliminate unused sections and remove sections that needlessly classified city projects and arbitrarily assessed properties for 100% of project costs without regard or mention of benefit conferred.

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, MN or delivered upon request electronically or by U.S. Mail.

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

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Manhole Repair



Birchwood Village

Dear Mayor and Council Members,

During November's Council meeting, City Engineer Steve Thatcher informed the Council of a sealed manhole – No. MH 84EE – that was discovered during the recent televising of the City's sewer lines.

During December's Council meeting, Mr. Thatcher provided two estimates for repairing this manhole. The Council asked Mr. Thatcher to look into the work history at this site.

Enclosed is an email string between Mr. Thatcher and Insituform regarding previous work at this site by Insituform.

Requests/Recommendations

Staff recommends Council:

- 1) Approve Mr. Thatcher to meet with Insituform representative on location to determine what was done to manhole no. MH 84EE and what, if anything, should be done to correct the problem.

Thanks!

Regards,
Tobin Lay

Thatcher Email String

From: [Steven W. Thatcher](#)
To: [Tobin Lay](#)
Subject: FW: Past CIPP Work - Manhole labeled "84EE" in North cul-de-sac of White Pine Lane on 2017 Map received from Elfering and Associates on or about June 2, 2017
Date: Friday, February 02, 2018 9:33:35 AM
Attachments: [image001.png](#)

Tobin,

I have been communicating with Mitchell R Hoeft, P.E., Business Development Manager of Insituform Technologies USA, LLC, (Hoeft) regarding the manhole labeled "84EE" in the north cul-de-sac of White Pine Lane on the 2017 Map received from Elfering and Associates on or about June 2, 2017 (see below for email string). This is the manhole that the TV inspection shows has no access from the pipe to the manhole.

My summary of the situation is in the email dated January 15, 2018 from me to Hoeft.

I propose that the next step is for me to meet with Hoeft on site and determine if we can figure this one out during your work out there. You and anyone else can participate in the meeting. I do not have a time yet.

Is that acceptable to you?

Thanks,

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: Steven W. Thatcher [mailto:sthatcher@thatcher-eng.com]
Sent: Thursday, February 01, 2018 2:27 PM
To: 'Mitchell Hoeft' <MHoeft@aegion.com>; 'Ross Kramer' <RKramer@aegion.com>
Subject: RE: Past CIPP Work

Mitchell,

I agree. Let's meet on site and determine if we can figure this one out during your work out there.

I plan to be there to meet your crew on the first day that they start work. I can be available that day or any other day at your convenience.

Thanks again.

All the Best,

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: Mitchell Hoeft [<mailto:MHoeft@aegion.com>]

Sent: Thursday, February 01, 2018 12:40 PM

To: Steven W. Thatcher <sthatcher@thatcher-eng.com>; Ross Kramer <RKramer@aegion.com>

Subject: FW: Past CIPP Work

Steve,

Thanks for your email and for digging into all of this stuff. I've copied Ross Kramer on the email so he is aware of what is going on also.

I think we should meet on site to set a game-plan for helping the City figure this one out during our work out there. Unfortunately, if the MH was lined through, we are not going to see anything from a video inspection inside the pipe. We may be forced to locate the location of the structure and the village may need to find a contractor to excavate/open up that structure and take a look at how/if it was properly abandoned.

I don't think we have a lot of options here...

Note my new email address below.

Mitchell R Hoeft, P.E. | Business Development Manager | Insituform Technologies USA, LLC

1177 Birch Blvd. N. | White Bear Lake, MN 55110

Mobile: 651.253.0236 | www.Aegion.com

Mhoeft@aegion.com



Aegion is the parent company of Aegion Coating Services, AllSafe Services, The Bayou Companies, Brinderson, Corrpro, Fibrwrap Construction, Fyfe Co., Insituform, MTC, Schultz, Underground Solutions and United Pipeline Systems

From: Steven W. Thatcher [<mailto:sthatcher@thatcher-eng.com>]

Sent: Monday, January 15, 2018 1:27 PM

To: Mitchell Hoeft <MHoeft@aegion.com>

Subject: RE: Past CIPP Work

Mitchell,

I reviewed the available information and have the following observations:

1. On June 30, 2004, the City prepared a plan titled “2004 Sanitary Sewer Rehabilitation” (2004 Plan). The 2004 Plan is attached and the PDF is labeled “2004 Sanitary Sewer CIPP Map – City of Birchwood Village”). I received a copy of this 2004 Plan on December 18, 2017 from you.
2. The 2004 Plan shows the location of the proposed CIPP work for 2004. Page 3 of this 2004 Plan shows the following:
 - a. Two manholes in the north cul-de-sac of White Pine Lane (south of Nording Park).
 - i. The north manhole is labeled “MH 84E.”
 - ii. The south manhole is not labeled.
 - b. One manhole north of “MH 84E” labeled “MH 84H” (north of Nording Park).
 - c. The 2004 Plan proposed CIPP work from “MH 84E” to “MH 84H.”
 - d. There is no manhole between 84E and 84H on the 2004 Plan.
 - e. The 2004 Plan proposed no CIPP work from “MH 84E” to the south manhole that is not labeled.
3. On or about June 2, 2017, Elfering and Associates provided Tobin Lay of the City of Birchwood Village a map titled Sanitary Sewer Map (2017 Map). The 2017 Map is attached as “2017-6-2 Sanitary Sewer Map from Tobin Lay and from Elfering.” The 2017 Map shows the following:
 - a. Two manholes in the north cul-de-sac of White Pine Lane.
 - i. The north manhole is labeled “84EE.” This manhole is the north manhole that is labeled “84E” on the 2004 Plan.
 - ii. The south manhole is labeled “84E.” This manhole is the south manhole that is not labeled on the 2004 Plan.
 - b. In 2005, CIPP was installed from the unlabeled manhole to “MH 84H” in the 2004 Plan, and what is called “MH 84EE” to “MH 84H” in the 2017 Map.
 - c. The pipe between “MH 84E” to “MH 84EE” is referred to as “needs to be rehabilitated” (i.e. no CIPP work was installed in 2005).
 - d. This “MH 84E” is a manhole that was unlabeled in the 2004 Plan and is not the same manhole that was labeled “MH 84E” in the 2004 Plan.
 - e. The change in the labels of the manholes has caused much confusion.
4. On August 30, 2017, based on the 2017 Map, Pipe Services of Shakopee, MN prepared a video of the pipe between “MH 84E” (on the 2017 Map) to “MH 84H.” The video shows the following:
 - a. A pipe jog that is about 4-feet long and about 35.1 feet from “MH 84E” (this jog appears to be the location of manhole 84EE).
 - b. CIPP had been previously installed from “MH 84E” to “MH 84H.”
 - c. The distance from “MH 84E” to “MH 84H” is 353.4 feet.
 - d. Contrary to the 2017 Map, CIPP was installed from “MH 84E” to “MH 84EE”
5. On December 18, 2017, Ross Kramer of Insituform confirmed that Insituform installed 354 feet of CIPP from “84E” to “84H” on December 28, 2004.
6. Based on the above information, it appears that the following occurred:
 - a. On December 28, 2004, Insituform installed 354 feet of CIPP from “84H” to “84E” and did not know they were lining through a manhole because the inaccurate 2004 Plan from the City it did not show the manhole between “84E” (now called “84EE”) and “84H.”
 - b. Insituform should have known that there was a manhole between 84E and 84H

because they televised the sewer pipe before CIPP installation.

- c. The City engineer at the time was also at fault because she also didn't realize there was another manhole.

7. Based on a 2017 site visit and the 2017 Map, only one manhole casting (manhole MH 84E) was observed in the bituminous of the cul-de-sac. Manhole MH 84EE casting was not observed. However, MH 84EE could be in the grass (or under the grass and soil) north of the bituminous part of the cul-de-sac under the snow (snow made it impossible to locate). I have not used a metal locator yet to try to find it. The City has no information about whether this manhole has been abandoned.

Do you want a copy of the video Pipe Services prepared? I can send it to you by Dropbox.

When you come to the City for the CIPP work, would you have time to locate the manhole casting for manhole "84EE" as shown on the 2017 Map ("84E" on the 2004 Plan) and determine the condition inside this manhole? I am not in a hurry for this but would like to find it eventually.

Any further thoughts?

Thanks again,
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: Mitchell Hoeft [<mailto:MHoeft@aegion.com>]
Sent: Monday, December 18, 2017 3:35 PM
To: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Subject: FW: Past CIPP Work

Steve,

See below. This may be all we find out on this one.

How far is the distance from MH 84H to 84E? Where does 354 LF get you?

There are no notes on whether or not this MH was open/closed at that time or whether we went through it. Since we were out there in 2004, it would have made sense that maybe we extended that shot at the City's request. Finding the paperwork to track down exactly what was discussed or completed at that time is proving difficult.

Office staff has also changed since 2004.

Note my new email address below.

Mitchell R Hoeft, P.E. | Business Development Manager | Insituform Technologies USA, LLC
1177 Birch Blvd. N. | White Bear Lake, MN 55110

Mobile: 651.253.0236 | www.Aegion.com
Mhoeft@aegion.com



Aegion is the parent company of Aegion Coating Services, AllSafe Services, The Bayou Companies, Brinderson, Corpro, Fibrwrap Construction, Fyfe Co., Insituform, MTC, Schultz, Underground Solutions and United Pipeline Systems

From: Ross Kramer
Sent: Monday, December 18, 2017 3:28 PM
To: Mitchell Hoeft <MHoeft@aegion.com>
Subject: RE: Past CIPP Work

Did a few more searches using just the town name.....IPROO does show we completed a project in 2004.

We did install a segment – 354’ long from 84H to 84E on Dec. 28th, 2004.

No mention of 84EE.....I am guessing that is why that structure is lined through and does not show up in IPROO. No mention on why the MH was left closed though.

Thanks,

Ross Kramer | Project Manager – MN
Insituform Technologies, LLC
Cell: 612.518.0087 | rkramer@insituform.com



From: Mitchell Hoeft
Sent: Monday, December 18, 2017 3:15 PM
To: Ross Kramer <RKramer@aegion.com>
Subject: FW: Past CIPP Work

Ross,

ACES does not go back to 2004. Any chance we could find this work in a 2004 file? Do we have any paperwork that far back?

Thanks,

Note my new email address below.

Mitchell R Hoeft, P.E. | Business Development Manager | Insituform Technologies USA, LLC
1177 Birch Blvd. N. | White Bear Lake, MN 55110
Mobile: 651.253.0236 | www.Aegion.com
Mhoeft@aegion.com



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From: Steven W. Thatcher [<mailto:sthatcher@thatcher-eng.com>]
Sent: Monday, December 18, 2017 2:02 PM
To: Mitchell Hoeft <MHoeft@aegion.com>
Subject: RE: Past CIPP Work

Mitchell,

Thanks for checking and the information.

The City has been checking their files and found a 2004 sanitary sewer CIPP map (attached). Page 3 of this map shows CIPP from MH 84E to MH 84H. Maybe Insituform bid/completed this work in 2004.

If it would help, I can send you the video of the pipe between MH 84E to MH 84H (by Dropbox). The video was taken on August 30, 2017 by Pipe Services of Shakopee and shows a pipe jog that is about 4-feet long and about 35.1 feet from MH 84E.

Any further thoughts?

Thanks again,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.
6201 Creek Valley Road
Edina, MN 55439

From: Mitchell Hoeft [<mailto:MHoeft@aegion.com>]
Sent: Monday, December 18, 2017 12:55 PM
To: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Subject: Past CIPP Work

Steve,

I can't seem to figure out who would have lined through MH 84EE in Birchwood Village. See attached a map of the work that was bid/completed in 2008. We did this work but did not line through MH84EE. I cannot find any proof that this additional segment might have been change ordered in either.

You may want to discuss with the City to see how they want to move forward. I agree with you, they may want to address this and properly abandon the structure at some point.

Thanks,

Note my new email address below.

Mitchell R Hoeft, P.E. | Business Development Manager | Insituform Technologies USA, LLC
1177 Birch Blvd. N. | White Bear Lake, MN 55110
Mobile: 651.253.0236 | www.Aegion.com
Mhoeft@aegion.com



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[Aegion](http://www.Aegion.com)

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: WBLCD Appointment



Birchwood Village

Dear Mayor and Council Members,

Birchwood resident Barton Winter has expressed his desire to represent the City by filling Paul Steinhauser's vacant seat on the White Bear Lake Conservation District (WBLCD). This seat has been vacant since Mr. Steinhauser resigned in September last year.

Mr. Winter's letter of interest is enclosed.

Request/Recommendation

Staff requests Council:

- 1) Appoint Barton Winter to the WBLCD Board, effective immediately.

Thanks!

Regards,
Tobin Lay

Letter of Interest

Mayor Mary Wingfield
Birchwood Village, MN 55110

February 08, 2018

Barton C. Winter
1 Five Oaks Lane
Birchwood, MN 55110

~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

I am interested in the position as a representative to the White Bear Lake Conservation District. I am a long term resident of Birchwood Village. (since 1976) with one 5 year hiatus. I enjoy this community and its surroundings. I do appreciate White Bear Lake and have spent some time sailing, swimming and fishing in the lake and also skating on its ice.

I know that the lake levels have been an issue in recent years. I have been keeping some tabs on this information and realize that the lake level was at an all time low in 2013. I understand that water use and specifically well use may have an impact on lake levels.

I have education in both science and law and have recently been a citizen water monitor in southeastern Minnesota. I am very interested in ground water issues. I would look forward to becoming as knowledgeable as possible on all of the issues pertaining to White Bear Lake.

I would look forward to hearing more from you concerning the position on the White Bear Lake Water Conservation District Board.

Sincerely,



MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: City Project No. 2017-1 Sanitary Sewer Rehab



Birchwood Village

Dear Mayor and Council Members,

Last month, the City Council reviewed and approved the proposed assessment roll for City Project No. 2017-1 and ordered the assessment public hearing for this meeting.

A public hearing on the proposed assessment has been published for tonight accordingly.

Enclosed are Resolution 2018-08 (Adopting Assessment), assessment roll, and sample mailer notice (actual notices were mailed to each of the property owners listed on the assessment roll prior to this meeting).

City Engineer Steve Thatcher is present at this meeting to answer any questions about the proposed assessment roll.

Request/Recommendation

Staff requests Council:

- 1) Hold the public hearing on the proposed assessment; and
- 2) Approve Resolutions 2018-08 Adopting Assessment

Thanks!

Regards,
Tobin Lay

RESOLUTION 2018-08

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

**RESOLUTION ADOPTING ASSESSMENT
2017 SANITARY SEWER REHABILITATION IMPROVEMENT
CITY PROJECT NO. 2017-1**

WHEREAS, pursuant to proper notice duly given as required by law, the council has met and heard and passed upon all objections to the proposed assessment for 2017 Sanitary Sewer Rehabilitation Improvement (City Project No. 2017-1). The proposed improvement includes the installation of sanitary sewer cured-in-place piping.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BIRCHWOOD VILLAGE, MINNESOTA:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.
2. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the city treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution. November 15, 2018 is the last day owners can pay the city.
3. The clerk shall (in accordance with Washington County requirements) transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists of the county. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

Adopted by the City Council this 13th day of February, 2018.

Mary Wingfield, Mayor

Attest: Tobin Lay, City Administrator-Clerk

Project Areas:

Birchwood Avenue (house no. 219 & 619-701)
 Birchwood Courts (house no. 424-439)
 Jay Street (house no. 286-303)
 Oakridge Drive (house no. 20-32)
 White Pine Lane (house no. 8 & 10-20)

City of Birchwood Village
Sanitary Sewer Rehabilitation Improvement
Cured-In-Place Pipe Lining
City Project No. 2017-1

CREATED: 1/4/2018

UPDATED: N/A

Property Proposed to be Assessed

#	PID	Name	Property Address	Interest Start Date	Repayment Period	Interest Rate	Principle Amount	Total of Annual Payments
1	3003021210075	HARTZEL NICHOLAS J	219 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
2	3003021420034	O'HARA MICHAEL D & JULIE J	619 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
3	3003021420041	HUNTLEY STEPHEN & KATHLEEN B	620 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
4	3003021420040	HAYDEN DENNIS J & DAVID M PRUNTY	624 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
5	3003021420058	EVANS ANDREA	654 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
6	3003021420027	BELKNAP ROBERT H & JOYCE A T	700 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
7	3003021420043	LOOSBROCK JEREMY I & GINA A	701 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
8	3003021240007	ANDERSON TIMOTHY W & SUZANNE L	424 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
9	3003021240017	SEIBERT MAUREEN L	425 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
10	3003021240008	JACKOLA ANDREW & ALICIA	426 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
11	3003021240009	CYRIL E KAPSNER TRS ETAL	428 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
12	3003021240016	MCTAVISH SANDRA L	429 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
13	3003021240010	MANKE ROBERT L & KATHLEEN M	430 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
14	3003021240011	HANSON MIKE	432 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
15	3003021240015	HUNDER BRIAN A	433 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
16	3003021240012	CASTILLO JOSEPH H & ELIZABETH L	434 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
17	3003021240014	PARKER LYDIA L	437 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
18	3003021240013	TREPANIER DAVID A TRS & PATRICIA A TREPANIER TRS	439 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
19	3003021420051	FELT RANDOLPH K & JACQUELINE B	286 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
20	3003021420052	FRENCH CHRISTOPHER J & JULIE A	287 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
21	3003021420050	CLINTON DIXON LIVING TRS	288 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
22	3003021420053	HUNT THOMAS & LINDSAY WYNNE	289 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
23	3003021420049	HULLSIEK WILLIAM & MARY	290 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
24	3003021420054	OAKINS GARY E & JUDITH A	291 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
25	3003021420048	WOOLSTENCROFT KEVIN L	292 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
26	3003021420055	TOFTE SCOTT A & BRENDA L	293 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
27	3003021420047	HEGEDUS NOEL D & JOZSEF Z	294 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
28	3003021420056	SHELDON BRUCE D & PATRICIA L	295 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
29	3003021420046	CUMMINS ROBERT B & MARY C	296 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
30	3003021420057	IRVINE ROGER T & TERI A	297 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
31	3003021420045	WOOLSTENCROFT WILLIAM & EVANGELINE M	298 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
32	3003021420062	WEGNER CARL S & MARY ELLEN	303 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
33	3003021230013	SANDSTROM CHARLES T & SUZANN	20 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
34	3003021230001	MCCOY DANIEL J & ANDREA L	21 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
35	3003021230012	SCHULER CURTIS J & RACHEL L	22 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
36	3003021230002	ALAN R MITCHELL & SHARILYN A MITCHELL TRS	23 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
37	3003021230011	ANDERSON GREGORY L & MAUREEN B	24 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
38	3003021230003	SIKORSKI WILLIAM H JR	25 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
39	3003021230010	OLSON JEFF	26 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
40	3003021230004	LOREN MELISSA & JOSHUA NERLIEN	27 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
41	3003021230009	BARTON KEITH L & KATHLEEN S	28 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
42	3003021230005	BYERLY ANTHONY R & NICOLE T	29 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
43	3003021230008	BRUNNER JAY A & KATHERINE K CAVANOR	30 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
44	3003021230006	DAVID A NIETZ REV TRS ETAL	31 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
45	3003021230007	SIMANSKI MARK A & JULIE A OTTO	32 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
46	3003021240033	ALECKSON CHRISTINE & JEFFREY	8 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
47	3003021240034	JOHNSON TYLER J & GRETCHEN M	10 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
48	3003021240043	BOWAR EUGENE M & SANDRA J	11 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
49	3003021240020	STANGL THOMAS J & BARBARA J	14 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
50	3003021240021	CREAGH BENJAMIN J & CHRISTINE L	16 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
51	3003021240044	STOCKWELL JAMES R & PEGGY K	17 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
52	3003021240022	TELLIER DIDIER Y	18 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
53	3003021240023	MOLITOR JOSEPH M & JULIE A	20 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70

Sample Assessment Notice

P.I.D.# _____ Interest Start Date: _____ Repayment Period: _____ Interest Rate: _____ Legal Description: _____	NAME _____ PROPERTY _____ ADDRESS _____ BIRCHWOOD, MN 55110 March 15, 2018 5 years 4.0% LAKEWOOD PARK 2ND DIVISION Lot 4 Block 3 LOT 4 AND 5 BLOCK 3 LAKEWOOD PARK 2ND DIVISION BIRCHWOOD CITY
--	---

The amount to be specially assessed against your particular lot, piece, or parcel of land is calculated as follows:

Assessments:	Amount:
a. Sanitary Sewer Cured-In-Place Pipe Lining	\$628.30

YEAR	ANNUAL PAYMENT	PRINCIPAL PAYMENT	INTEREST PAYMENT	PRINCIPAL REMAINING
2018				\$628.30
2019	\$161.17	\$116.00	\$45.17	\$512.30
2020	\$141.13	\$120.64	\$20.49	\$391.66
2021	\$141.13	\$125.47	\$15.67	\$266.19
2022	\$141.13	\$130.49	\$10.65	\$135.71
2023	\$141.13	\$135.71	\$5.43	(\$0.00)

\$725.70 = Total of Annual Payments

The special assessment principal amount is **\$628.30** . Assessment may be prepaid in full to the City of Birchwood within 30 days of adoption of assessment roll (by March 15, 2018 assuming assessment roll is adopted on February 13, 2018) with no accrued interest being charged.

The principal is spread over 5 years at 4.0% interest. After March 15, 2018 but prior to November 15, 2018, the payable amount including interest from March 15, 2018 (or when final assessment roll is adopted) to December 31, 2018 will already be on the tax rolls. The prepayment amount to the City is the balance owing for 2018 . (Your tax statement payable 2019 to the County Treasurer will already have the first annual payment amount of **\$161.17** on it.)

Balance owing on assessments may be prepaid at any time (principal remaining column) prior to November 15th of each year. If not prepaid, the annual payment to the right of the year on the payment schedule above will be on your property tax statement. Partial prepayments not have been authorized by City Ordinance. Please call city hall for the amount or for answering your questions - 651-426-3403.

S:\Administrator\Sewer_Water\Sewer\2017 Sewer Lining\[Master Assessment Mailer.xlsx]SA

**THE NOTICE AND ASSESSMENT ROLL IS THE ONLY NOTICE THAT WILL BE MAILED.
NO BILL WILL BE SENT.**

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ordinance 2018-01-01 Exterior Completion



Birchwood Village

Dear Mayor and Council Members,

Last month, the City Council approved a first reading of Ordinance 2018-01-01 Exterior Completion. Only one change was made to the proposed amendment during that meeting.

Enclosed is the redlined version of the proposed Ordinance 2018-01-01, representing the change made during last month's meeting.

Request/Recommendation

Staff requests Council:

- 1) Review, discuss, and adopt enclosed Ordinance 2018-01-01; and
- 2) Authorize staff to publish the adopted amendment in the White Bear Press.

Thanks!

Regards,
Tobin Lay

ORDINANCE 2018-01-01

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

**AN ORDINANCE AMENDING BUILDING REGULATIONS
IN CITY CODE SECTION 203**

The City Council of the City of Birchwood Village hereby ordains that Section 203 (City Building Regulations) of the Municipal Code of the City of Birchwood Village is hereby amended as follows:

SECTION 203: CITY BUILDING REGULATIONS

203.035. EXTERIOR COMPLETION. The exterior finish on all residential dwellings and/or their accessory buildings shall be completed within six months of the date the permit is issued. Refinishing of existing buildings shall be completed within six months of the start of the work. Any owner of a dwelling who does not comply with this section shall have six months from the date of written notification of such to bring the dwelling to compliance. Tarpaper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish. The building official may grant a 90-day extension if there is an unusual hardship, such as bad weather. Further time extensions must be approved by the city council.

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 13th day of February, 2018

Attest:

Mary Wingfield
Mayor

Tobin Lay
City Administrator-Clerk

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ordinance 2017-10-02 Public Right-of-Way



Birchwood Village

Dear Mayor and Council Members,

During last month's Council meeting, the Council approved a second reading of Ordinance 2017-10-02 Public Right-of-Way. This approval was based on a version written and recommended by resident Alan Mitchell and presented by Councilmember Malvey during the meeting. After the meeting ended, staff realized that the Mitchell version did not track all of the changes made from the last approved Ordinance; approved in December.

After consulting with Attorney Alan Kantrud and a League of Minnesota Cities attorney, staff brings this Ordinance back to you for a third reading and adoption.

Because the version of the Ordinance approved last month was not complete, the most accurate version (the version with first reading approval from December) is enclosed for your review and discussion. Also enclosed is the Mitchell version from last month, with amendments and additional staff recommendations redlined.

Resolution 2017-33 (enclosed) ordering a summary publication of this Ordinance was already approved last month but due to the need to hold a third reading tonight, the dates in the resolution need to be updated to correlate with tonight's adoption.

Request/Recommendation

Staff requests Council:

- 1) Review, discuss, and adopt Ordinance 2017-10-02 Public Right-of-Way; and
- 2) Reapprove Resolution 2017-33 Summary Publication, with amended adoption dates.

Thanks!

Regards,
Tobin Lay

Summary Publication Resolution

RESOLUTION 2017-33

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

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE
NO. 2017-10-02, AN ORDINANCE TO ADMINISTER AND REGULATE THE PUBLIC
RIGHT-OF-WAY**

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. 2017-10-02, which administers and regulates the public right-of-way; 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 2017-10-02 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.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 13th day of February, 2018.

Mary Wingfield, Mayor

Attest:

Tobin Lay, City Administrator-Clerk

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

TO ENACT A NEW SECTION OF THE BIRCHWOOD VILLAGE CODE OF ORDINANCES TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS-OF-WAY (GENERALLY HEREINAFTER CALLED ROW) IN THE PUBLIC INTEREST, AND TO PROVIDE FOR THE ISSUANCE AND REGULATION OF ROW PERMITS TO MAINTAIN THE SAFE MAINTENANCE AND PASSAGE THERE-THROUGH.

The following is a SUMMARY of the Ordinance:

On February 13, 2018 the City adopted an Ordinance to provide for the management of its Rights of Way by requiring activities conducted in them to be permitted by the City. The Ordinance provides for the application and permitting of any activity that occurs in the City's ROW and security that the disruption be restored to pre-disruption status. The Ordinance describes the activities that require permitting and the process by which a permit may be obtained.

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, MN or delivered upon request electronically or by U.S. Mail.

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

ORDINANCE 2017-10-02

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

**AN ORDINANCE TO ADOPT SECTION 309 INTO CITY CODE TO ADMINISTER
AND REGULATE THE PUBLIC RIGHT-OF-WAY**

The City Council of the City of Birchwood Village hereby witnesseth that an ordinance to enact a new section of the Birchwood Village Code of Ordinances to administer and regulate the public rights-of-way (Generally hereinafter called ROW) in the public interest, and to provide for the issuance and regulation of ROW permits to maintain the safe maintenance and passage there-through:

THE COUNCIL OF BIRCHWOOD VILLAGE ORDAINS:

In General, **Chapter 309**, City of Birchwood Village, County of Washington, Minnesota, “Public Right-of-Way” is herewith adopted into city code. Any and all previously adopted sections or ordinances which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

309.010 FINDINGS, PURPOSE AND INTENT.

The City of Birchwood Village holds the ROW within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the ROW. It also recognizes that some persons, by placing their equipment in the ROW and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property. Although the installation of such service delivery facilities are in most cases necessary and proper use of the ROW, the City must regulate and manage such uses.

To provide for the health, safety and well-being of its citizens and to ensure the structural integrity of its streets and the appropriate use of ROW, the City strives to keep its ROW in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the ROW, one of the causes for the early and excessive deterioration of its ROW is frequent excavation or other intrusions into its sub-surface area. This Ordinance imposes reasonable fees and regulations on the placement and maintenance of equipment currently within its ROW or to be placed therein at some future time. It is intended to complement the regulatory roles of state, federal and other agencies. Under this Ordinance, persons disturbing and obstructing the ROW will bear a fair share of the financial responsibility for its integrity. This Ordinance also provides for recovery of the City's costs associated with managing its ROW.

309.020

EXEMPTIONS.

The provisions and requirements of this ordinance shall not apply to inter-governmental entities that have Joint Powers Agreements with the City or other ROW users exempted by the statutes of the state of Minnesota or as identified herein.

309.030

DEFINITIONS.

The following words, terms and phrases, as used herein, have the following meanings:

1. **Abandoned Facility** - (1) a facility no longer in service and physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service; or (2) a facility that is deemed abandoned by the ROW user.
2. **Applicant** – Any person or entity requesting permission to excavate or obstruct a ROW.
3. **City** - means the corporate municipality, its elected officials, its manager and/or appointed employees to include the ROW Engineer (309.030.29) Director of Public Works or his/her designee, City of Birchwood Village, Minnesota.
4. **City Management Costs** - the actual costs incurred by the City for public ROW management; including, but not limited to, costs associated with registering applicants seeking permission to excavate or obstruct a ROW; issuing, processing and verifying ROW permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment during public ROW work; determining the adequacy of ROW restoration; restoring work inadequately performed after providing notice and opportunity to correct the work; mapping of "as built" locations of facilities located in ROW; and revoking ROW permits and performing all other functions required by this Ordinance, including other costs the City may incur in managing the provisions of this Ordinance.
5. **Degradation** – means a decrease in the useful life of the ROW caused by excavation in or disturbance of the ROW, resulting in the need to reconstruct such ROW earlier than would be required if the excavation or disturbance did not occur. This condition is only applicable in ROW's that are not included in the current 5-year street replacement plan scheduled for full removal and reconstruction.
6. **Degradation Cost** – subject to Minnesota Rules 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 on Birchwood Village plates 1 to 13,~~ and set forth in Minnesota Rules parts 7819.9900 to 7819.9950.
7. **Degradation Fee** – Means 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 ROW caused by the excavation, and which equals the degradation cost. This fee does not include the cost of patching, which is the

sole responsibility of the ROW user.

8. **Delay Penalty** - In accordance with Minnesota Rule 7819.1000 subd. 3, the director shall impose a delay penalty for unreasonable delays in ROW excavation, obstruction, patching, or restoration by permittee. The delay penalty shall be proposed by the director and established from time to time by city council resolution.
9. **Director** - the City's ADMINISTRATOR or designee.
10. **Emergency** - a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.
11. **Emergency Hole** - excavation of a hole necessitated by a condition creating a clear and immediate threat to life, health, safety or property or requiring immediate repair or replacement in order to restore service to a customer.
12. **Engineer** - the City's Appointed or approved Engineer or Engineering Firm.
13. **Equipment** - any tangible asset used to install, repair or maintain facilities in any ROW.
14. **Excavate** - to dig into remove or physically disturb or penetrate any part of a ROW.
15. **Excavation Permit** - a permit which must be obtained before a person may excavate in a ROW. An excavation permit allows the holder to excavate only in that part of the ROW described in the permit.
16. **Facility or Facilities** - any tangible asset in the ROW required to provide utility service. The term does not include facilities to the extent the location and relocation of such facilities are preempted by Minnesota Statute 161.45, governing utility facility placement in state trunk highways.
17. **Franchise** - any person or entity with tangible assets or equipment in the ROW for the purpose of providing utility service to the general public having been previously approved by the city by written agreement, contract or by franchise ordinance.
18. **Hole** - an excavation having a length on the long side that is less than 2 times the dimension of the width of the excavation and that conforms to O.S.H.A. standards.
19. **Obstruct** - to place any tangible object in a public ROW so as to hinder free and open passage over that or any part of the ROW for an aggregate period of five (5) hours or more in conjunction with the issuance of a ROW permit.
20. **Obstruction Permit** - a permit which must be obtained before a person may obstruct a ROW, allowing the holder to hinder free and open passage over the specified portion of that ROW by placing equipment described therein on the ROW for the duration specified in the permit.
21. **Patch or Patching** - a method of pavement replacement that is considered temporary in nature. A patch consists of (1) the compaction of the sub base and aggregate base, and (2) the replacement in kind, to match the existing pavement ~~per Birchwood Village Plates 1-13~~. A patch shall be considered "full restoration" only if the pavement replacement is certified by the City Engineer as such upon completion is included in the City's five-year project plan.

22. **Pavement Repair Plates** – Drawings and details for the reconstruction and repair of Birchwood Village ROW pavements (all types) that are herewith copied and adopted from the ~~official City Map original thirteen (13) plates as suggested and provided by the Minnesota Public Utilities Commission~~ and any supplemental additions as provided by the City of Birchwood Village.
23. **Permit Holder** - any person to whom a permit to excavate, obstruct, or place equipment or facilities in a ROW has been granted by the City under this Ordinance.
24. **Person** – a private individual or authorized representative or agent of an entity subject to all 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.
25. **Registrant** - any person or entity that digs, excavates, intrudes or has or seeks to have its facilities or equipment located in any ROW for temporary or permanent placement
26. **Restoration or “Full Restoration”** - the process by which the ROW and surrounding area, including pavement, foundation, and turf areas is returned to the same or better condition and life expectancy that existed immediately before excavation.
27. **Restoration Cost** - the amount of money paid to the City by a permit holder to have the city or its designated contractor perform the work to achieve the required level of restoration according to Birchwood Village- ~~Engineer plates 1 to 13, which are attached hereto and incorporated herein.~~
28. **ROW** – (Right-of-Way) - the area on, below, or above a public roadway, highway, street, cart way, bicycle lane, and public sidewalk in which the City has an interest, including other dedicated ROW for travel purposes and/or utility easements of the City.
29. **ROW Engineer** – that person or persons appointed, directed and empowered by the City of ~~Birchwood Landfall~~-Village to administrate the management of the Office of the Right-of-Way Engineer and those necessary responsibilities empowered by the City ROW Ordinance.
30. **ROW Permit** - either an excavation permit or obstruction permit, or both, depending on the context required by this Ordinance.
31. **ROW User** - (1) a telecommunications ROW user as defined by Minnesota Statutes, Section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the public ROW that is used or is intended to be used for providing utility service and who has a right under the law, franchise, or ordinance to use the public ROW.
32. **Trench** - an excavation having a length that is in excess of two (2) times the width of the excavation for the sections of roadway where the work is occurring, including a directional bore.
33. **Utility or Utility Service** – means services provided by: (1) a public utility as defined in Minnesota Statutes, section 216B.02; (2) services of a telecommunications ROW user, including the transporting of voice or data information;; (3) services provided by a cable communications system as defined in Minnesota Statutes, Chapter 238;(4) natural gas or electric energy

or telecommunications services provided by a local government unit; (5) services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and (6) water, sewer, steam, cooling, heating services, community television antenna system, fire and alarm communications, storm sewer, light, or power services including wind generation.

34. **Wireless Telecommunication Facility** - a tangible asset used to provide wireless telecommunication or data services, including all antennas, support devices, equipment including ground equipment, associated cables, and attachments.

309.040

REGISTRATION.

- A. **Registration Required Prior to Work.** No one shall construct, install, repair, remove, relocate or perform any work within any ROW without first being registered pursuant to this Section. Such registration shall be made on an application form provided by the City's ~~Department of Public Works~~ and shall be accompanied by the registration fee set forth by the City from time to time in this Code. Registration and the accompanying fee shall be required each calendar year. A franchised service or utility service operating under this section shall be registered pursuant to this Section but need not annually provide registration information as required by subsection (C) of this Section if such information has been submitted pursuant to a franchise agreement or ordinance. Further, a franchised service or utility service operating pursuant to a franchise agreement or ordinance shall be exempt from payment of an annual registration fee providing said franchise fee has been paid per written agreement or ordinance. Exceptions to the registration requirements, as described in section 309.040, shall be determined at the discretion of the ROW Engineer.
- B. **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.
- C. **Registration Information.** The registrant shall provide the following at the time of registration and shall promptly notify the City of changes in such information:
1. Registrant's name, address, telephone number, facsimile number and Gopher One Call registration certificate number if required by state law.
 2. Name, address, telephone number and facsimile number of the person

responsible for fulfilling the obligations of the registrant.

3. Unless exempted by previous or existing agreements or ordinance, a current Certificate of Insurance from a company licensed to do business in the State of Minnesota providing minimum coverage in the following amounts:

GENERAL LIABILITY:

Public Liability, including premises, products and complete operations

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence

Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) & (2): All Combined - \$3,000,000 single limit

COMPREHENSIVE:

Automobile Liability Insurance, including owned, non-owned and hired vehicles.

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence

Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit. Such certificate shall verify 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 ROW by the registrant, its officers, agents, employees and permit holders, and (ii) placement and use of equipment or facilities in the ROW by the registrant, its officers, agents, employees and permit holders, including but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property. Such certificate shall also name the City as an additional insured as to whom the coverage required herein are in force and applicable and for whom defense will be provided as to all such coverage. Such certificate shall require that the City be notified thirty (30) days prior to cancellation of the policy.

4. A 24 hour emergency number.
5. An acknowledgment by the registrant of the indemnification pursuant to this Code.
6. Such additional information as the City may require.

309.050

FRANCHISE REPORTING OBLIGATIONS.

Each franchise registrant shall, at the time of registration and not later than November 1st of the preceding year, file a proposed 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 construction coordination and reduction in the frequency of excavations and obstructions of ROW.

The plan shall include, but not be limited to, the following information:

- A. To the extent known, the locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year; and
- B. 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.

The City will have available for inspection in ~~its the Engineer's~~ office a composite list of all known or planned projects that have been adopted for the next calendar year. All registrants are responsible for keeping themselves informed of the current status of this improvement list. Each franchise registrant must notify the City immediately of any change in its list of planned projects.

309.060

PERMIT REQUIREMENT.

A. Permit Required.

No person may obstruct or excavate any ROW without first having been issued the appropriate ROW permit pursuant to this Section, except as otherwise provided in this Code. Exceptions to the permitting requirements, other than as described in section 309.060.H, shall be made at the discretion of the ROW Engineer.

1. **Excavation Permit.** An excavation permit is required by the registrant to excavate that part of the ROW described in each permit that may hinder free and open passage over the specified portion of the ROW when placing or repairing facilities therein, to the extent and for the duration specified in the permit.
 2. **Obstruction/Aerial/Interduct Permit.** An obstruction/aerial/interduct permit is required by a registrant if the work proposed may hinder free and open passage over the specified portion of ROW by placing or repairing equipment described therein within the ROW, to the extent and for the duration specified in the permit. An obstruction/aerial/interduct permit is not required if a registrant has been issued a valid excavation permit for the same project.
 3. **Pole Attachment Permit.** A pole attachment permit is required by the registrant in order to attach a wireless telecommunication facility to an existing public utility structure in the public ROW. A pole attachment permit is not required if a registrant has been issued a valid excavation permit for the same project.
- B. **Permit Extension.** No person may excavate or obstruct the ROW beyond the date or dates specified in the permit or do any work outside the area specified in the permit unless such person makes a supplementary application before the expiration of the permit. Payment of all fees for an extension of the permit is required before extension may be granted by the City; If the work could not be completed because of circumstances beyond the control of the permit holder or the work was delayed or prohibited by unseasonable or unreasonable conditions, the City may grant and extend the completion date of the work.
- C. **Delay Penalty.** Notwithstanding Subsection (b) of this Section, the City may impose a delay penalty where excavating or obstruction work in the ROW is

not completed within the time specified if no permit extension application has been made prior to the expiration date of the permit.

A delay penalty will not be imposed if the delay is due to circumstances beyond the control of the applicant, including without limitation inclement weather, acts of God, or civil strife.

- D. **Application and Fee.** An application for a ROW permit shall be made on forms provided by the City and shall be accompanied by a fee as set forth from time by the City which is established to reimburse the City for costs. A person who pays a franchise fee to the City in accordance with a franchise agreement shall be exempt from the payment of permit fees. If the work is to be performed by an agent, contractor, or subcontractor on behalf of the registrant, such application shall be signed by the registrant. The application shall also be accompanied by the following:
1. Scaled drawings showing the location of all known existing facilities and improvements proposed by the applicant. The applicant will be requested to submit in English measurement two (2) paper copies at 1" = 50' scale plans at the smallest and/or one (1) copy in Auto CAD format (Washington County Coordinate system) with X, Y, Z dimensions to foot accuracy electronic plan. All plans must be dimensional and show existing utilities, curb and gutter, sidewalks, bikeways, signal poles, driveways, boxes, relevant structures, property lines and corners and property addresses.
 2. A description of the methods that will be used for installation.
 3. A proposed schedule for all work.
 4. The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic during the work and proposed detour route with appropriate signage.
 5. A description of methods for restoring any public improvements disrupted by the work.
 6. Any other information reasonably required by the City.
- E. **Security.** A performance bond and cash deposit in an amount determined by the City shall be required from each applicant. The applicant, at its option, may post security sufficient to cover all projects contemplated for the current calendar year. The performance bond must be approved by the City Attorney. Security required pursuant to this Subsection shall be conditioned that the holder will perform the work in accordance with this Ordinance and applicable regulations and will pay to the City any costs incurred by the City in performing work pursuant to this Ordinance. Said conditions will indemnify and save the City and its officers, agents and employees harmless against any and all claims, judgment or other costs arising from any excavation and related work covered by the ROW permit. And to include further indemnification by reason of any accident or injury to persons or property through the fault of the permit holder, either for improperly fencing and guarding the excavation or for any other injury resulting from the negligence or willful actions of the permit holder. The bond or any unused

portions of a cash deposit shall be released by the City upon completion of the work and compliance with all conditions imposed by the ROW permit. For permits allowing excavations within public streets, such bond or unused part of a cash deposit shall be held for a period of twenty-four (24) months to guaranty adequacy of all restoration work.

- F. **Permit Issuances; Conditions.** The City shall grant a ROW permit upon finding the work will comply with the requirements of this Ordinance. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the public health, safety and welfare, to insure the structural integrity of the ROW, to insure completion of restoration of the ROW within a specified period, to protect the property and safety of other users of the ROW and to minimize the disruption and inconvenience to the traveling public. If it is determined by the Office of the ROW Engineer that the proposed ROW intrusion or use is not in the best interest of the city and no agreement or alternative compromise solution is feasible, the applicant may appeal the Engineer's decision to ~~the Director of Public Works. Should the issue there remain un-resolved, the applicant may then request to address the case before~~ the Birchwood Village City Council for final disposition. If the applicant's ROW permit application is terminated at any given level, the City may at its discretion elect to grant a partial refund of fees that may have been paid but shall not disburse any part of the basic Registration Fee or more that 50% of the Administrative Fees. No ROW permit shall be issued to any person who has failed to register pursuant to this code.
- G. **Dumpsters/Portable-on-Demand-Storage (POD) Units.** The placement of dumpsters or POD units in the street portion of the ROW is not allowed. Dumpsters or POD units may be placed within the boulevard or driveway portions of the ROW provided that they do not obstruct pedestrian traffic along sidewalks or trails and the boulevard is restored to previous conditions. In extraordinary circumstances, the City ~~Right-of-Way~~ Engineer may make exceptions to this provision and applicant shall be subject to the permitting and fee requirements of this ordinance.
- H. **Exceptions.** No permit shall be required for the following:
1. Approved surface landscaping work.
 2. Approved private sidewalks, street furnishings, posts and pillars.
 3. Snow removal activities.
 4. Irrigation systems provided that the system does not connect directly to water mains in the ROW installed at the property owner risk.
 5. Activities of the City of Birchwood Village.
 6. If granted approval by the city, piercing or drilling a street or sidewalk/trail pavement for the purpose of exploratory examination or utility depth determination.

309.070

TIMELINESS OF WORK.

The work to be done under the ROW permit and the patching and restoration of the ROW as required herein, must be completed within the dates specified in the

permit. It may be increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonable or unreasonable.

309.080

STANDARDS FOR CONSTRUCTION OR INSTALLATION.

- A. **General Standards.** The permit holder shall comply with the following standards, to the extent consistent with applicable Minnesota rules, when performing the work authorized under the permit:
1. Take such precautions as are necessary to avoid creating unsanitary or unsafe conditions. Observe and comply with all laws, rules and regulations of the State and local governments.
 2. Conduct the operations and perform the work in a manner as to insure the least obstruction to and interference with traffic.
 3. Take adequate precautions to insure the safety of the general public and those who require access to abutting property.
 4. Notify adjoining property owners prior to commencement of work which may disrupt the use of and access to such adjoining properties.
 5. Comply with the Minnesota Manual of Uniform Traffic Control Devices at all times during construction or installation.
 6. Exercise precaution at all times for the protection of persons, including employees and property.
 7. Protect and identify excavations and work operations with barricade flags and if required, by flagmen in the daytime and by warning lights at night.
 8. Provide proper trench protection as required by O.S.H.A.
 9. Protect the root growth of trees and shrubbery.
 10. Where possible, provide for space in the installation area for other telecommunication ROW users and companies that install facilities in public ROW.
 11. Maintain maximum access to all properties and cross streets as possible during construction operations and maintain emergency vehicle access at all times.
 12. Maintain planned alignment and grade unless otherwise authorized by the City. Field changes not approved by the City will require removal and reconstruction.
 13. During trenching of facilities, a warning tape must be placed at a depth of twelve (12) inches above all copper cables with over two hundred (200) pairs and above any fiber facilities.
 14. Beneath concrete or bituminous paved road surfaces, directional bore facilities shall be installed in conduit of a type approved by the city.
 15. The placing of all telecommunications facilities must comply with the National Electric Safety Code, as incorporated by reference in Minn. Stat. Sec. 326.243.
 16. Locate all property lines near ROW lines and replace any disturbed property corner markers or judicial monuments. A Minnesota licensed surveyor must be used in the replacement of disturbed property corners markers or judicial monuments.

17. Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing shall be sheathed and braced depending upon location and soil stability and as directed by the City.
18. Excavating, trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.
19. All backfilling materials must be placed in 6 inch lifts (maximum) at optimum moisture and compacted with the objective of attaining ninety-five percent (95%) of Standard Proctor Density. Compaction shall be accomplished with hand, pneumatic or vibrating compactors as appropriate.
20. Backfill material shall be subject to the approval of the City. The City may permit backfilling with the material from the excavation provided such material is granular in nature and acceptable to the City.
21. Compacted backfill shall be brought to bottom of the gravel of the approved street section.
- ~~22. All work performed in the ROW shall be done in conformance with Birchwood Village Plates 1 to 13, unless a less stringent standard is approved by the City.~~
- ~~23.~~22. Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.
- ~~24.~~23. No road surface damaging lugs, cleats or equipment may be used or driven upon paved city street surfaces.
- ~~25.~~24. Dirt, trash or other debris must be periodically removed during construction.
- ~~26.~~25. Other reasonable standards and requirements of the City.

B. Standards for Installation of Underground Utilities. The permit holder shall comply with the following standards when installing facilities underground:

1. Underground facilities must be placed as far off the roadway as possible to provide access from outside of the paved area.
2. Buried fiber facilities shall be at a minimum depth of three (3) feet and a maximum depth of four (4) feet unless an alternate location is approved by the City. Buried copper facilities beneath concrete or bituminous paved road surfaces must be placed at no less than three (3) feet but no more than four (4) feet deep. Other buried copper facilities must be placed at a minimum depth of thirty (30) inches and a maximum depth of four (4) feet.
3. Crossing of streets and hard surfaced driveways shall be directional bored unless otherwise approved by the City.
4. If construction is open cut, the permit holder must install the visual tracers approximately twelve (12) inches above buried facilities. If other construction methods are used, substitute location methods will be considered.
5. The permit holder shall register with Gopher State One Call and comply with the requirements of that system.
6. Compaction in trench backfill material shall be ninety-five percent (95%)

of the standard proctor density and copies of test results shall be submitted to the City. All tests and their locations shall be determined by the City. Tests must be conducted by an independent testing firm approved by the City. Street pavement replacement will not be permitted until sub-base densities are approved by the city. Testing shall be required at the discretion of the ROW engineer. Street Pavement structure and materials shall be as specified by the city and re-paved ~~in accordance with Birchwood Village plates 1-13~~. All pavement replacement shall be done in the presence of a City inspector with certified pavement material to City specifications.

7. The facilities shall be located so as to avoid traffic signals and signs which are generally placed a minimum of five (5) feet behind the curb.
 8. When utilizing trenchless installation methods to cross an area in which a municipal utility is located, and/or when directed by the City, the permit holder shall excavate an observation hole over the utility to ensure that the City utility is not damaged. Observation holes shall not be backfilled until viewed and approved by the city ROW Inspector.
 9. All junction boxes or access points shall be located no closer than ten (10) feet from municipal fire hydrants, valves, manholes, lift stations or catch basins unless an alternate location is approved by the City.
 10. Underground facilities shall not be installed between a hydrant and auxiliary valve.
 11. Underground facilities shall not be installed within five (5) feet of hydrants, valves, lift stations or manholes in areas where utility easements exist beyond the ROW. In those areas in which no utility easement exists, placement of an underground facility shall be between the edge of pavement and no closer than three (3) feet to an existing municipal utility appurtenance unless approved by the City.
 12. In areas where an extensive effort to determine the location of municipal utility lines will be required to accommodate the installation of private facilities, the City's representative for Gopher State One Call must be contacted by the permit holder two (2) weeks prior to the beginning of the work to schedule meetings.
 13. Buried telecommunication facilities must have a locating wire or conductive shield, except for di-electric cables.
 14. Buried fiber facilities must be placed in a conduit of a type determined by the ROW user unless the permit holder obtains a waiver from the City.
- C. **Standards for Installation of Overhead Facilities.** The permit holder shall comply with the following standards when installing facilities overhead:
1. All wires must be in compliance with the National Electric Safety Code and at a location that does not interfere with traffic signals, overhead signs, or street lights.
- D. **Standards for Wireless Telecommunication Facilities.**
1. **Purpose.** The City of Birchwood Village desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative

impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the City also strives to avoid unnecessary encumbrances within the public ROW. The City allows and regulates wireless telecommunication facilities outside of the public ROW through performance standards and height limits. The purpose of this Section is to regulate wireless telecommunication facilities within the public ROW in a manner that balances desire for service with aesthetic, public safety, and ROW flexibility concerns.

Public ROW are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e. small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground mounted equipment). Wireless telecommunication facilities that require greater heights than can be afforded by existing poles in the public ROW and that require ground-mounted equipment are more appropriately sited outside the public ROW in accordance with adopted performance standards of this Code. However, the City recognizes that as wireless technology advances, some residential areas of the City may be hard to serve with wireless technology due to the lack of acceptable siting alternatives in the immediate vicinity. In such areas, where no alternative non-ROW locations are available, wireless telecommunication facilities that require pole extensions and ground equipment will be allowed in the public ROW subject to the requirements of this Section which are meant to protect the public health, safety, and welfare.

2. **Wireless Telecommunication Facilities as Pole Attachments.** Wireless telecommunication facilities that comply with the following requirements may be attached to existing public utility structures within the ROW after issuance of a pole attachment permit.
 - a. The wireless telecommunication facility shall not extend above the top of the existing public utility structure and the height of the existing public utility structure shall not be increased to accommodate the wireless telecommunication facility.
 - b. If the public utility structure must be replaced to structurally accommodate the wireless telecommunication facility, the replacement public utility structure height shall not exceed the existing public utility structure height and the replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.
 - c. The wireless telecommunication facility shall not be larger than three (3) cubic feet and shall have no individual surface larger than four (4) square feet.
 - d. The wireless telecommunication facility shall not extend outward from the existing pole or tower or arm thereof by more than two and one half (2 1/2) feet, except that an antenna one half inch in diameter or less may extend an additional six inches.

- e. The wireless telecommunication facility shall include no ground mounted equipment.
 - f. The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Ordinance.
 - g. Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Ordinance.
 - h. The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.
3. **Wireless Telecommunication Facilities as Pole Extensions or with Ground Mounted Equipment.** Wireless telecommunication facilities that require increased public utility structure height or that have ground mounted equipment may be erected in the public ROW only when in compliance with the following provisions and after issuance of a pole attachment permit or excavation permit:
- a. The applicant shall demonstrate to the satisfaction of the City or his/her designee that the wireless telecommunication facility cannot be placed in a ~~Code~~-complying location outside the ROW within one quarter (1/4) mile of the proposed location.
 - b. The replacement public utility structure, including lightning rods and all other attachments, shall not exceed the height of the existing public utility structure by more than fifteen (15) feet. Once the height of a public utility structure has been increased under the provisions of this Section, the height shall not be further increased.
 - c. The replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than fifty (50) percent.
 - d. The wireless telecommunication facility shall not extend outward from the public utility structure by more than two (2) feet.
 - e. If feasible and desirable, as determined by the City, the replacement public utility structure shall match the original and surrounding public utility structures in materials and color.
 - f. The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Ordinance.
 - g. A pole attachment or excavation permit for a wireless telecommunication facility that has ground mounted equipment will be issued only if the Issuing Authority finds the following:
 - i. the ground mounted equipment will not disrupt traffic or pedestrian circulation;
 - ii. the ground mounted equipment will not create a safety hazard;
 - iii. the location of the ground mounted equipment minimizes impacts on adjacent property; and,
 - iv. the ground mounted equipment will not adversely impact the

health, safety, or welfare of the community.

- h. Ground mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:
 - i. be set back a minimum of ten (10) feet from the edge of street or curb line;
 - ii. be separated from a sidewalk by a minimum of three (3) feet;
 - iii. be set back a minimum of fifty (50) feet from the nearest intersecting ROW line;
 - iv. be separated from the nearest ground mounted wireless telecommunication equipment installation on the same block face by a minimum of 330 feet unless the equipment is placed underground;
 - v. if located adjacent to residential uses, ground mounted equipment shall be limited to three (3) feet in height above grade and twenty seven (27) cubic feet in cumulative size;
 - vi. if located adjacent to non-residential uses, ground mounted equipment shall be limited to five (5) feet in height above grade and eighty-one (81) cubic feet in cumulative size;
 - vii. ground mounted equipment located outside the public ROW shall conform to the requirements of this Ordinance
 - viii. vegetative or other screening compatible with the surrounding area shall be provided around the ground mounted equipment if deemed necessary by the City.
 - i. Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Ordinance.
4. **New Poles.** The construction in the ROW of a new pole to support wireless telecommunication facilities is not allowed, except as a replacement of an existing public utility structure subject to the requirements of this Section.
5. **Charges.** In addition to the permit fees outlined in this Ordinance, the City reserves the right to charge telecommunication providers for their use of the public ROW to the extent that such charges are allowed under state or Federal law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public ROW.

309.090

PATCHING OR FULL RESTORATION OF ROW.

The permit holder shall patch its own work. In lieu of ROW restoration, a ROW user may elect to pay a degradation fee as determined by the City.

- A. **City Restoration.** If the City restores the ROW, the permit holder shall pay the costs thereof within thirty (30) days of billing. If, during the twenty-four (24) months following such surface restoration, the pavement settles due to the permit holder's improper backfilling and compaction, the permit holder shall pay to the City, within thirty (30) days of billing, all costs associated

with having to correct the defective work.

- B. **Permit Holder Restoration.** If the permit holder restores the ROW, it shall at the time of application for a ROW permit post a performance bond or cash deposit in an amount determined by the City to be sufficient to cover the cost of restoration and any associated erosion and sediment control measures. The performance bond or cash deposit must be approved by the City Attorney. If, within twenty-four (24) months after completion of restoration of the ROW, the City determines the ROW has been properly restored, the posted security will be released.
- C. **Standards.** The permit holder shall perform patching and restoration ~~according to the Birchwood Village standards~~ to the satisfaction of the ROW Engineer.
- D. **Guarantees.** If the permit holder performs the restoration work, the permit holder shall guarantee such work and its maintenance for twenty-four (24) months following its completion. During this twenty-four (24) month period it shall, upon notification from the City, promptly and within 7 working days from receipt of notification, correct all faulty restoration work to the extent necessary, using the method required by the City or its Engineer.

If permit holder fails to act within the 7 working day period the City shall at its discretion have the work performed and the security shall be used to reimburse the City for its actual and administrative costs associated with the correction(s).

309.100

JOINT APPLICATIONS.

- A. **Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the ROW at the same place and time.
- B. **Shared Fees.** Registrants who apply for permits for the same obstruction or excavation may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

309.110

OTHER OBLIGATIONS.

- A. **Compliance With Other Laws.** The permit holder must obtain all other necessary permits, licenses and approvals and pay all fees required. The permit holder shall comply with all requirements of local, state and federal laws, including Minn. Stat. Secs. 216D.01-.09 ("One Call Excavation Notice System"). A permit holder shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the ROW pursuant to its permit, regardless of who does the work.
- B. **Prohibited Work.** Except in an emergency, and with the approval of the City, no ROW excavation or obstruction may be done when seasonally prohibited or when conditions are unreasonable for such work.
- C. **Interference with ROW.** A permit holder shall not so obstruct a ROW that the natural free and clear passage of water through the gutters or other

waterways is or would be interfered with. Any physical observation of such obstruction shall be grounds to revoke a permit without further proceedings.

309.120 **DENIAL OF PERMIT.**

The City may deny a permit based on any of the following grounds:

- A. Failure to register pursuant to requirements of this Ordinance.
- B. The applicant is subject to revocation of a prior permit issued pursuant to this Ordinance.
- C. The proposed schedule for work would conflict or interfere with an exhibition, celebration, festival or any other similar event.
- D. The proposed schedule conflicts with scheduled or total or partial reconstruction of the ROW.
- E. The applicant fails to comply with the requirements of this Ordinance.
- F. The City determines that denial is necessary to protect the health, safety and welfare of the public or protect the ROW and its current use.

309.130 **EMERGENCIES AND WORK DONE WITHOUT A PERMIT.**

Each registrant shall immediately notify the City and all other affected parties or property owners of any event regarding its facilities, which it considers to be **an emergency**. The registrant may proceed to take whatever actions are necessary to respond to the emergency. If the registrant has not been issued the required permit, the registrant shall, within two (2) business days after the occurrence of the emergency, apply for the necessary permits, pay the permit fees (where necessary) and fulfill the remaining requirements necessary to bring itself into compliance with this Ordinance 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 shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The City may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a ROW must subsequently obtain a permit and (where appropriate) as a penalty, pay twice the normal fee for the permit and shall deposit with the City the fees determined to correct any damage to the ROW.

309.140 **INSPECTION.**

- A. **Site Inspection.** The permit holder shall make the work site available to the City and to all others authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- B. **Authority of City**
 - 1. 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.

2. The City may issue a stop work order to the permit holder for any work which 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 within a stated deadline will be cause for revocation of the permit. If the violation is not corrected within the stated deadline, the City may revoke the permit.

309.150

REVOCAION OF PERMITS.

- A. **Substantial Breach.** The City may revoke a ROW permit, without a fee refund, if there is a substantial breach of the terms or conditions of any statute, this Code, rule or regulation, or any condition of the permit. A substantial breach of a permit holder shall include, but not limited to, the following:
 1. The violation of any material provision of the permit.
 2. Any material misrepresentation of fact in the application for a permit.
 3. The failure to maintain the required bonds or other security and insurance.
 4. The failure to complete the work in a timely manner.
 5. The failure to correct, in a timely manner, work that does not conform to applicable standards, conditions or codes, upon inspection and notification by the City of the faulty condition.
 6. An evasion or attempt to evade any material provision of the ROW permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.
 7. The failure to comply with the terms and conditions of any applicable federal, state and local laws, rules and regulations, including any provision of this Ordinance.
- B. **Notice of Breach.** If the City determines that a permit holder has committed a substantial breach of a term or condition of any statute, this Ordinance, rule or regulation or any condition of the permit, the City shall make a written demand upon the permit holder to remedy such violation within a reasonable period of time or be subject to potential revocation of the permit. The City may impose additional or revised conditions on the permit to mitigate or remedy the breach.
- C. **Reimbursement of City Costs.** If a permit is revoked, the permit holder shall reimburse the City for its reasonable costs, including restoration costs and the costs of collection and reasonable attorney fees incurred in connection with the revocation.

309.160

APPEAL.

- A. **Filing of Appeal.** Any person aggrieved by, (i) the denial of a permit application; (ii) the denial of a registration; (iii) the revocation of a permit, or (iv) the application of the fee schedule imposed by this Code, may appeal to the City Council by filing a written notice of appeal with the City Clerk or Administrator. Said notice must be filed within twenty (20) days of the action causing the appeal.
- B. **Notice of Hearing.** The City Council shall hear the appeal at its next regularly

scheduled meeting, unless the time is extended by agreement of the parties. Notice of the date, time, place and purpose of the hearing shall be mailed to the appellant.

- C. **Hearing and Decision.** The City Council shall, at the hearing, consider any evidence offered by the appellant, the City and any other person wishing to be heard. The Council shall issue a written decision within thirty (30) days of the completion of the hearing.

309.170

MAPPING DATA.

- A. **Information Required.** Each registrant shall provide mapping as required by the City and which shall include the following information:

1. Location and approximate depth of registrant's mains, cables, conduits, switches and related equipment and facilities, with the location based on:
 - a. offsets from property lines, distances from the centerline of the public ROW and curb lines as determined by the City; or
 - b. Washington County Coordinate System; or
 - c. Any other system agreed upon by the ROW user and the City;
2. The type and size of the utility;
3. A description showing above-ground appurtenances;
4. A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and
5. Any facilities to be abandoned, if applicable, in conformance with Minnesota Statutes, Section 216D.04, subdivision 3.

- B. **Submittal Requirement.**

1. Within two (2) years after the effective date of this ordinance, all telecommunication ROW users shall submit comprehensive detailed maps for review, if available, in accordance with Subsection (a) of this Section, for all facilities and equipment installed, used or abandoned within the public ROW.
2. Subsequent to providing the required comprehensive facility map, interim mapping data shall be submitted by all registrants for all equipment and facilities which are to be installed or constructed after the effective date of this ordinance at such time as permits are sought pursuant to this ordinance.

- C. **Trade Secret Information.** At the request of any registrant, information requested by the City which qualifies as "trade secret" data under Minnesota Statutes, Sec. 13.37(b) shall be treated as trade secret information as detailed therein.

309.180

RELOCATION OF FACILITIES.

A ROW user shall promptly and at its own expense, with due regard for seasonal working conditions, remove and relocate their facilities in the ROW when it is necessary to prevent interference or obstruction, but not merely for the convenience of the City, in connection with: (1) a present or future City use of the ROW for a public project or facility, (2) the public health or safety; or (3) the safety and convenience of travel over the ROW. The registrant shall restore any

ROW to the condition it was in prior to removal and relocation.

309.190 **DAMAGE TO OTHER FACILITIES.**

When the City does work in the ROW and finds it necessary to maintain, support, or move registrant's facilities to protect it, the City shall notify the registrant as soon as possible. The costs associated therewith shall be billed to the 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 ROW 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.

309.200 **ROW VACATION.**

A. **Reservation of Right.** If the City vacates a ROW which contains the equipment or facilities of a registrant or permit holder, and if the vacation does not require the relocation of the registrant's or permit holder's equipment or facilities, the City shall reserve, to and for itself and all registrants or permit holders having equipment and facilities in the vacated ROW, a public easement for the right to install, maintain and operate any equipment and facilities in the vacated ROW and to enter upon such ROW at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.

B. **Relocation of Facilities.** If the vacation requires the relocation of the registrant's or permit holder's equipment or facilities; and (i) if the vacation proceedings are initiated by the registrant or permit holder, the registrant or permit holder must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the registrant or permit holder must pay the relocation costs unless otherwise agreed to by the City and the registrant or permit holder; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permit holder, such person or persons must pay the relocation costs.

309.210 **ABANDONED AND UNUSABLE EQUIPMENT AND FACILITIES.**

A. **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 ROW under this chapter have been lawfully assumed by another registrant.

B. **Removal of Abandoned Facilities.** Any registrant who has abandoned facilities in any ROW shall remove it from that ROW to the extent such facilities interfere with another ROW repair, excavation, or construction, unless this requirement is waived by the City.

309.220 **INDEMNIFICATION AND LIABILITY.**

By registering with the City or by accepting a permit granted under this Ordinance, a registrant or permit holder agrees as follows:

A. **Limitation of Liability.** By reason of the acceptance of a registration or the grant of a ROW permit, the City does not assume any liability (i) for injuries

to persons, damage to property or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permit holders or activities of registrants or permit holders.

B. **Indemnification.** A registrant or permit holder shall indemnify, keep and hold the City, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a ROW, whether or not any act or omission complained of is authorized, allowed or prohibited by a ROW permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permit holder or the City, and the registrant or permit holder, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf.

If the registrant or permit holder is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permit holder may not settle the litigation without the consent of the City. Such consent will not be unreasonably withheld.

309.230 **FRANCHISE HOLDERS.**

If there is a conflict in language between the franchise of a person holding a franchise agreement with the City or the Water Service Agreement (White Bear Lake) with the City and this Ordinance, the terms of the franchise or Water Service ~~agreement~~ Agreement shall prevail.

309.240 **SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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.

APPENDIX I ESSENTIAL MUNICIPAL SERVICES

Special conditions and provisions to regulate and control ROW intrusions by essential service providers for which previous agreements or ordinances have been enacted and approved by the City in concurrence with the respective service providers.

INDEX

Participating Municipal Provider:

City of White Bear Lake
White Bear Township

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 9th day of January, 2018

Mary Wingfield
Mayor

Attest:

Tobin Lay
City Administrator-Clerk

ORDINANCE 2017-10-02

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

**AN ORDINANCE TO ADOPT SECTION 309 INTO CITY CODE TO ADMINISTER
AND REGULATE THE PUBLIC RIGHT-OF-WAY**

The City Council of the City of Birchwood Village hereby witnesseth that an ordinance to enact a new section of the Birchwood Village Code of Ordinances to administer and regulate the public rights-of-way (Generally hereinafter called ROW) in the public interest, and to provide for the issuance and regulation of ROW permits to maintain the safe maintenance and passage there-through:

THE COUNCIL OF BIRCHWOOD VILLAGE ORDAINS:

In General, **Chapter 309**, City of Birchwood Village, County of Washington, Minnesota, "Public Right-of-Way" is herewith adopted into city code. Any and all previously adopted sections or ordinances which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

309.010 **FINDINGS, PURPOSE AND INTENT.**

The City of Birchwood Village holds the ROW within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the ROW. It also recognizes that some persons, by placing their equipment in the ROW and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property. Although the installation of such service delivery facilities are in most cases necessary and proper use of the ROW, the City must regulate and manage such uses.

To provide for the health, safety and well-being of its citizens and to ensure the structural integrity of its streets and the appropriate use of ROW, the City strives to keep its ROW in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the ROW, one of the causes for the early and excessive deterioration of its ROW is frequent excavation or other intrusions into its sub-surface area. This Ordinance ~~allows for the imposition of~~ ~~regulates~~ ~~regulations~~ imposes reasonable fees and regulations on the placement and maintenance of equipment currently within its ROW or to be placed therein at some future time. It is intended to complement the regulatory roles of state, federal and other agencies. Under this Ordinance, persons disturbing and obstructing the ROW will bear a fair share of the financial responsibility for its integrity. This Ordinance also provides for recovery of the City's costs associated with managing its ROW.

Comment [ts1]: AM – CC Jan

309.020

EXEMPTIONS.

The provisions and requirements of this ordinance shall not apply to inter-governmental entities that have Joint Powers Agreements with the City or other ROW users exempted by the statutes of the state of Minnesota or as identified herein.

Comment [tsl2]: CC Dec

309.030

DEFINITIONS.

The following words, terms and phrases, as used herein, have the following meanings:

1. **Abandoned Facility** – (1) a facility no longer in service and physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service; or (2) a facility that is deemed abandoned by the ROW user.
2. **Applicant** – Any person ~~or entity~~ requesting permission to excavate or obstruct a ROW.
3. **City** – ~~means the corporate municipality, its elected officials, its manager and/or appointed employees to include the ROW Engineer (309.030.29) Director of Public Works or his/her designee.~~ The City of Birchwood Village, Minnesota.
4. **City Engineer** – ~~That person or persons appointed, directed and empowered by the City of Birchwood Village to administrate the management of the Office of the Right-of-Way Engineer and those necessary responsibilities empowered by the City ROW Ordinance.~~
- 4.5 **City Management Costs** – ~~the~~ The actual costs incurred by the City for public ROW management; ~~and including~~ includes, ~~but not limited to, such costs, if incurred, as those~~ associated with registering applicants; ~~seeking permission to excavate or obstruct a ROW;~~ issuing, processing and verifying ROW ~~or small wireless facility~~ permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment during public ROW work; determining the adequacy of ROW restoration; restoring work inadequately performed after providing notice and ~~the~~ opportunity to correct the work; ~~mapping of "as-built" locations of facilities located in ROW;~~ and revoking ROW ~~or small wireless facility~~ permits; ~~and performing all other functions required by this Ordinance, including other costs the City may incur in managing the provisions of this Ordinance.~~
- 5-6 **Degradation** – ~~means a~~ decrease in the useful life of the ROW caused by excavation in or disturbance of the ROW, resulting in the need to reconstruct such ROW earlier than would be required if the excavation or disturbance did not occur. ~~This condition is only applicable in ROW's that are not included in the current 5-year street replacement plan scheduled for full removal and reconstruction.~~
- 6-7 **Degradation Fee** – ~~means~~ 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 ROW caused by the excavation, and which equals the

Comment [tsl3]: AM – CC Jan

Comment [tsl4]: AM – CC Jan

Comment [tsl5]: CC Jan

Comment [tsl6]: AM – CC Jan

Comment [tsl7]: AM – CC Jan

degradation cost. This fee does not include the cost of patching, which is the sole responsibility of the ROW user.

7-8. **Delay Penalty** – ~~In accordance with Minnesota Rule 7819.1000 subd. 3, the director shall impose a delay penalty for unreasonable delays in ROW excavation, obstruction, patching, or restoration by permittee. The delay penalty shall be proposed by the director and~~The penalty imposed as a result of unreasonable delays in right of way excavation, obstruction, patching, or restoration as established from time to time by city council resolution.

Comment [ts18]: AM – CC Jan

8-9. **Director** – ~~the City's ADMINISTRATOR or designee;~~

Comment [ts19]: AM – CC Jan

9-10. **Emergency** – A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

10-11. **Emergency Hole** – ~~excavation of a hole necessitated by a condition creating a clear and immediate threat to life, health, safety or property or requiring immediate repair or replacement in order to restore service to a customer;~~

Comment [ts10]: AM – CC Jan

11-12. **Engineer** – ~~the City's Appointed or approved Engineer or Engineering Firm;~~

Comment [ts11]: CC Jan

12-13. **Equipment** – Any tangible asset used to install, repair or maintain facilities in any ROW.

13-14. **Excavate** – To dig into remove or physically disturb or penetrate any part of a ROW.

14-15. **Excavation Permit** – A permit ~~which that~~ must be obtained before a person may excavate in a ROW. An excavation permit allows the holder to excavate only in that part of the ROW described in the permit.

Comment [ts12]: AM – CC Jan

15-16. **Facility or Facilities** – Any tangible asset in the ROW required to provide utility service. The term does not include facilities to the extent the location and relocation of such facilities are preempted by Minnesota Statute ~~section~~ 161.45, governing utility facility placement in state trunk highways.

Comment [ts13]: AM – CC Jan

16-17. **Franchise Agreement** – Any ~~person or entity~~ agreement that contemplates work with tangible assets or equipment in the ROW for the purpose of providing utility service to the general public having been previously approved by the city by written agreement, contract or by franchise ordinance.

Comment [ts14]: CC Jan

17-18. **Hole** – An excavation having a length on the long side that is less than 2 times the dimension of the width of the excavation and that conforms to O.S.H.A. standards.

18-19. **Obstruct** – To place any tangible object in a public ROW so as to hinder free and open passage over that or any part of the ROW for an aggregate period of five (5) hours or more in conjunction with the issuance of a ROW permit.

19-20. **Obstruction Permit** – A permit ~~which that~~ must be obtained before a person may obstruct a ROW, allowing the holder to hinder free and open passage over the specified portion of that ROW by placing equipment described therein on the ROW for the duration specified in the permit.

Comment [ts15]: AM – CC Jan

20-21. **Patch or Patching** – A method of pavement replacement that is considered temporary in nature. A patch consists of (1) the compaction of the

sub base and aggregate base, and (2) the replacement in kind, to match the existing pavement ~~per Birchwood Village Plates 1-13~~. A patch shall be considered “full restoration” only if the pavement replacement is certified by the City Engineer as such upon completion is included in the City's five year project plan.

Comment [tsl16]: CC Dec

~~21.~~22. **Permit Holder** – Any person to whom ~~an Excavation Permit, an Obstruction Permit, or a Small Wireless Facility permit~~ Permit to excavate, obstruct, or place equipment or facilities in a ROW has been granted by the City under this Ordinance.

Comment [tsl17]: AM – CC Jan

~~22.~~23. **Person** – A private individual or ~~authorized representative or agent of an~~ entity subject to all 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.

Comment [tsl18]: AM – CC Jan

~~23.~~24. **Registrant** – Any person ~~or entity that~~ who digs, excavates, or intrudes in a ROW or has or seeks to have its facilities or equipment located in any ROW for temporary or permanent placement.

Comment [tsl19]: AM – CC Jan

~~24.~~25. **Restoration or “Full Restoration”** – The process by which the ROW and surrounding area, including pavement, foundation, and turf areas is returned to the same or better condition and life expectancy that existed immediately before excavation.

~~25.~~26. **Restoration Cost** – The amount of money paid to the City by a permit holder to ~~cover the cost of have~~ having the city ~~or its designated contractor~~ perform the work to achieve the required level of restoration ~~according to Birchwood Village plates 1 to 13, which are attached hereto and incorporated herein.~~

Comment [tsl20]: AM – CC Jan

Comment [tsl21]: CC Dec

~~26.~~27. **ROW** – (Right-of-Way) - The area on, below, or above a public roadway, highway, street, cart way, bicycle lane, and public sidewalk in which the City has an interest, including other dedicated ROW for travel purposes and/or utility easements of the City.

~~27. **ROW Engineer** – that person or persons appointed, directed and empowered by the City of Birchwood Landfall Village to administrate the management of the Office of the Right of Way Engineer and those necessary responsibilities empowered by the City ROW Ordinance.~~

Comment [tsl22]: CC Jan

28. **ROW Permit** – Either an excavation permit or obstruction permit, or both, depending on the context required by this Ordinance.

29. **ROW User** – (1) a telecommunications ROW user as defined by Minnesota Statutes, Section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the public ROW that is used or is intended to be used for providing utility service and who has a right under the law, franchise, or ordinance to use the public ROW.

30. **Small Wireless Facility.** – A wireless facility that meets both of the following qualifications:

i. each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

ii. 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.~~

Comment [tsl23]: AM – CC Jan

~~30.31. **Trench** – An excavation having a length that is in excess of two (2) times the width of the excavation for the sections of roadway where the work is occurring, including a directional bore.~~

~~31.32. **Utility Service or Utility Services** – means ~~s~~Services provided by: (1) a public utility as defined in Minnesota Statutes, section 216B.02; (2) services of a telecommunications ROW user, including the transporting of voice or data information;; (3) services provided by a cable communications system as defined in Minnesota Statutes, Chapter 238;(4) natural gas or electric energy or telecommunications services provided by a local government unit; (5)services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and (6) water, sewer, steam, cooling, heating services, community television antenna system, fire and alarm communications, storm sewer, light, or power services including wind generation.~~

Comment [tsl24]: AM – CC Jan

~~32.33. **Wireless Telecommunication Facility** – A tangible asset used to provide wireless telecommunication or data services, including all antennas, support devices, equipment including ground equipment, associated cables, and attachments.~~

309.035 **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 may delegate any or all of the duties hereunder, with the express written consent of the City Council.~~

Comment [tsl25]: AM – CC Jan

Comment [tsl26]: CC Jan

309.040 **REGISTRATION.**

~~309.041 **Registration Required.** No ~~one person~~ shall construct, install, repair, remove, relocate or perform any work within any ROW without first being registered pursuant to this Section.~~

Comment [tsl27]: Kantrud recommends collapsing "Registration" with "Registration Required" to avoid having a section of nothing.

Comment [tsl28]: CC Jan

Comment [tsl29]: CC Jan

~~309.042 **Registration Prior to Work.** No ~~one person shall may~~ construct, install, repair, remove, relocate, or perform any ~~other work on, or use any facility or any part thereof, within~~ any ~~ROW~~ right of way without first being registered ~~pursuant to this Section by the City.~~~~

Comment [tsl30]: Kantrud recommends including this para. with the para. above as it was originally.

Comment [tsl31]: AM – CC Jan

~~309.042 **Registration Application.** The registrant shall provide the following ~~information~~ at the time of registration ~~on a form provided by the City~~ and shall promptly notify ~~the City of changes in such information.~~~~

Comment [tsl32]: All of the section numbers will be renumbered later to account for deleted section numbers, such as 309.041 above.

Comment [tsl33]: AM – CC Jan

Comment [tsl34]: Deleted by AM – deletion was not tracked.

1. Registrant's name, address, telephone number, facsimile number and Gopher One Call registration certificate number if required by state law.
2. Name, address, telephone number and facsimile number of the person responsible for fulfilling the obligations of the registrant.
3. Unless exempted by previous or existing agreements or ordinance, a current Certificate of Insurance from a company licensed to do business in the State of Minnesota providing minimum coverage in the following amounts:

GENERAL LIABILITY:

Public Liability, including premises, products and complete operations
 Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence
 Property Damage Liability - \$3,000,000 each occurrence
 In lieu of (1) & (2): All Combined - \$3,000,000 single limit

COMPREHENSIVE:

Automobile Liability Insurance, including owned, non-owned and hired vehicles.

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence
 Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit. Such certificate shall verify 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 ROW by the registrant, its officers, agents, employees and permit holders, and (ii) placement and use of equipment or facilities in the ROW by the registrant, its officers, agents, employees and permit holders, including but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property. Such certificate shall also name the City as an additional insured as to whom the coverage required herein are in force and applicable and for whom defense will be provided as to all such coverage. Such certificate shall require that the City be notified thirty (30) days prior to cancellation of the policy.

4. A 24 hour emergency number.
5. An acknowledgment by the registrant of the indemnification pursuant to this Code.
6. Such additional information as the City may require.

309.043 ~~Registration Fee. The application shall be accompanied by the registration fee set forth by the City from time to time.~~

Comment [tsl35]: AM – CC Jan. Was moved from 309.040.C

309.043 ~~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.~~

Comment [tsl36]: AM – Kantrud recommends deleting this section.

309.044 ~~Franchisee Reporting Obligations. Each registrant shall, at the time of~~

Comment [tsl37]: AM – CC Jan

Comment [tsl38]: Kantrud recommends adding Franchisee here

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. The plan shall include, but not be limited to, the following information:

- (a) 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
- (b) 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 City will have available for inspection in its office a composite list of all known or planned projects that have been adopted for the next calendar year. All registrants are responsible for keeping themselves informed of the current status of this improvement list. Each registrant must notify the City immediately of any change in its list of planned projects.

Comment [tsl39]: AM – CC Jan. Was moved from 309.050

309.045

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.

Comment [tsl40]: AM – CC Jan. Was moved from 309.040.B

309.050

MAPPING DATA.

- A. **Information Required.** Each registrant shall provide mapping as required by the City and which shall include the following information:
 - 1. Location and approximate depth of registrant's mains, cables, conduits, switches and related equipment and facilities, with the location based on:
 - a. offsets from property lines, distances from the centerline of the public ROW and curb lines as determined by the City; or
 - b. Washington County Coordinate System; or
 - c. Any other system agreed upon by the ROW user and the City;
 - 2. The type and size of the utility;
 - 3. A description showing above-ground appurtenances;
 - 4. A legend explaining symbols, characters, abbreviations, scale and other

Comment [tsl41]: AM – CC Jan. Was moved from 309.170

- data shown on the map; and
5. Any facilities to be abandoned, if applicable, in conformance with Minnesota Statutes, Section 216D.04, subdivision 3.

B. Submittal Requirement.

1. Within two (2) years after the effective date of this ordinance, all telecommunication ROW users shall submit comprehensive detailed maps for review, if available, in accordance with Subsection (a) of this Section, for all facilities and equipment installed, used or abandoned within the public ROW.
2. Subsequent to providing the required comprehensive facility map, interim mapping data shall be submitted by all registrants for all equipment and facilities which are to be installed or constructed after the effective date of this ordinance at such time as permits are sought pursuant to this ordinance.

Comment [tsl42]: CC Dec

- C. Trade Secret Information.** At the request of any registrant, information requested by the City which qualifies as "trade secret" data under Minnesota Statutes, Sec. 13.37(b) shall be treated as trade secret information as detailed therein.

Comment [tsl43]: AM – CC Jan. Was moved from 309.170

309.060 **PERMIT REQUIREMENT.**

~~309.061~~ **PERMIT REQUIRED.** Except as otherwise provided in this ordinance, 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 permit from the City to do so.

Comment [tsl44]: Kantrud recommends collapsing "PERMIT REQUIRED" heading with 309.060.

- 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. ~~**Pole Attachment Permit.** A pole attachment permit is required by the registrant in order to attach a wireless telecommunication facility to an existing public utility structure in the public ROW. A pole attachment permit is not required if a registrant has been issued~~

Comment [tsl45]: AM – CC Jan

Comment [tsl46]: Deleted by AM – deletion was not tracked.

~~a valid excavation permit for the same project.~~

Comment [tsl47]: Deleted by AM – deletion was not tracked.

309.062

PERMIT APPLICATION. An application for a ROW permit shall be made on forms provided by the City and shall be accompanied by ~~a fee as set forth from time by the City which is established to reimburse the City for costs. A person who pays a franchise fee to the City in accordance with a franchise agreement shall be exempt from the payment of permit fees. If the work is to be performed by an agent, contractor, or subcontractor on behalf of the registrant, such application shall be signed by the registrant. The application shall also be accompanied by~~ the following:

Comment [tsl48]: Deleted by AM – deletion was not tracked.

- A. Scaled drawings showing the location of all known existing facilities and improvements proposed by the applicant. The applicant will be requested to submit in English measurement two (2) paper copies at 1” = 50’ scale plans at the smallest and/or one (1) copy in Auto CAD format (Washington County Coordinate system) with X, Y, Z dimensions to foot accuracy electronic plan. All plans must be dimensional and show existing utilities, curb and gutter, sidewalks, bikeways, signal poles, driveways, boxes, relevant structures, property lines and corners and property addresses.
- B. A description of the methods that will be used for installation of any facilities or equipment.
- C. A proposed schedule for all work.
- D. The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic during the work and proposed detour route with appropriate signage.
- E. A description of methods for restoring any public facilities disrupted by the work.
- F. Any other information reasonably required by the City.

Comment [tsl49]: AM – CC Jan. Was moved from 309.060.D

~~G.
H.~~

~~I.G. 309.063 PERMIT FEE.~~ The application shall be accompanied by the permit fee set forth by the City from time to time.

Comment [tsl50]: CC Jan – moved this to subsection G of 309.062

Comment [tsl51]: AM – CC Jan

309.063

SECURITY. A performance bond and cash deposit in an amount determined by the City shall be required from each applicant. The applicant, at its option, may post security sufficient to cover all projects contemplated for the current calendar year. The performance bond must be approved by the City Attorney. Security required pursuant to this section shall be conditioned that the holder will perform the work in accordance with this Ordinance and applicable regulations and will pay to the City any costs incurred by the City in performing work pursuant to this Ordinance. Said conditions will indemnify and save the City and its officers, agents and employees harmless against any and all claims, judgment or other costs arising from any excavation and related work covered by the ROW permit. And to include further indemnification by reason of any accident or injury to persons or property through the fault of the permit holder, either for improperly fencing and guarding the excavation or for any other injury resulting from the

negligence or willful actions of the permit holder. The bond or any unused portions of a cash deposit shall be released by the City upon completion of the work and compliance with all conditions imposed by the ROW permit. For permits allowing excavations within public streets, such bond or unused part of a cash deposit shall be held for a period of twenty-four (24) months to guarantee adequacy of all restoration work.

Comment [ts152]: Shouldn't this match 12 months in 309.080.B?

Comment [ts153]: AM – CC Jan. Was moved from 309.060.E

Comment [ts154]: "Issuances;" Deleted by AM – deletion was not tracked.

Comment [ts155]: AM – CC Jan

309.064

PERMIT ISSUANCES; CONDITIONS. The City shall grant a ROW permit upon finding the work will comply with the requirements of this Ordinance. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare, to insure the structural integrity of the ROW, to insure completion of restoration of the ROW within a specified period, to protect the property and safety of other users of the ROW and to minimize the disruption and inconvenience to the traveling public. If it is determined by the ~~Office of the ROW~~City Engineer that the proposed ROW intrusion or use is not in the best interest of the city and no agreement or alternative compromise solution is feasible, the applicant may appeal the Engineer's decision to ~~the Director of Public Works. Should the issue there remain un-resolved, the applicant may then request to address the case before~~ the Birchwood Village City Council for final disposition in accordance with section 309.160. If the applicant's ROW permit application is terminated at any given level, the City may at its discretion elect to grant a partial refund of fees that may have been paid but shall not disburse any part of the basic Registration Fee or more than 50% of the ~~Administrative Permit~~ Fee. No ROW permit shall be issued to any person who has failed to register pursuant to this code.

Comment [ts156]: AM – CC Jan

Comment [ts157]: CC Dec

Comment [ts158]: AM – CC Jan

Comment [ts159]: AM – CC Jan. Was moved from 309.060.F

309.065

Small Wireless Facility Conditions. In addition to section 309.064, 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, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

(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.

Comment [tsl60]: AM – CC Jan

309.066

EXCEPTIONS. No permit shall be required for the following:

- A. Approved surface landscaping work.
- B. Approved private sidewalks, street furnishings, posts and pillars.
- C. Snow removal activities.
- D. Irrigation systems provided that the system does not connect directly to water mains in the ROW installed at the property owner's risk.
- E. Activities of the City of Birchwood Village.
- F. If granted approval by the city, piercing or drilling a street or sidewalk/trail pavement for the purpose of exploratory examination or utility depth determination.

Comment [tsl61]: AM – CC Jan. Was moved from 309.060.H

309.070

STANDARDS FOR CONSTRUCTION OR INSTALLATION.

- A. **General Standards.** The permit holder shall comply with the following standards, to the extent consistent with applicable Minnesota rules, when performing the work authorized under the permit:
 - 1. Take such precautions as are necessary to avoid creating unsanitary or unsafe conditions. Observe and comply with all laws, rules and regulations of the State and local governments.
 - 2. Conduct the operations and perform the work in a manner as to insure the least obstruction to and interference with traffic.
 - 3. Take adequate precautions to insure the safety of the general public and those who require access to abutting property.
 - 4. Notify adjoining property owners prior to commencement of work which may disrupt the use of and access to such adjoining properties.
 - 5. Comply with the Minnesota Manual of Uniform Traffic Control Devices at all times during construction or installation.
 - 6. Exercise precaution at all times for the protection of persons, including employees and property.
 - 7. Protect and identify excavations and work operations with barricade flags and if required, by flagmen in the daytime and by warning lights at night.
 - 8. Provide proper trench protection as required by O.S.H.A.
 - 9. Protect the root growth of trees and shrubbery.
 - 10. Where possible, provide for space in the installation area for other telecommunication ROW users and companies that install facilities in public

Comment [tsl62]: AM – CC Jan. Was moved from 309.080

ROW.

11. Maintain maximum access to all properties and cross streets as possible during construction operations and maintain emergency vehicle access at all times.
 12. Maintain planned alignment and grade unless otherwise authorized by the City. Field changes not approved by the City will require removal and reconstruction.
 13. During trenching of facilities, a warning tape must be placed at a depth of twelve (12) inches above all copper cables with over two hundred (200) pairs and above any fiber facilities.
 14. Beneath concrete or bituminous paved road surfaces, directional bore facilities shall be installed in conduit of a type approved by the city.
 15. The placing of all telecommunications facilities must comply with the National Electric Safety Code, as incorporated by reference in Minn. Stat. Sec. 326.243.
 16. Locate all property lines near ROW lines and replace any disturbed property corner markers or judicial monuments. A Minnesota licensed surveyor must be used in the replacement of disturbed property corners markers or judicial monuments.
 17. Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing shall be sheathed and braced depending upon location and soil stability and as directed by the City.
 18. Excavating trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.
 19. All backfilling materials must be placed in 6 inch lifts (maximum) at optimum moisture and compacted with the objective of attaining ninety-five percent (95%) of Standard Proctor Density. Compaction shall be accomplished with hand, pneumatic or vibrating compactors as appropriate.
 20. Backfill material shall be subject to the approval of the City. The City may permit backfilling with the material from the excavation provided such material is granular in nature and acceptable to the City.
 21. Compacted backfill shall be brought to bottom of the gravel of the approved street section.
 - ~~22. All work performed in the ROW shall be done in conformance with Birchwood Village Plates 1 to 13, unless a less stringent standard is approved by the City.~~
 - ~~23.~~22. Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.
 - ~~24.~~23. No road surface damaging lugs, cleats or equipment may be used or driven upon paved city street surfaces.
 - ~~25.~~24. Dirt, trash or other debris must be periodically removed during construction.
 - ~~26.~~25. Other reasonable standards and requirements of the City.
- B. **Standards for Installation of Underground Utilities.** The permit holder shall comply with the following standards when installing facilities

Comment [tsl63]: CC Dec

Comment [tsl64]: AM – CC Jan. Was moved from 309.080

underground:

1. Underground facilities must be placed as far off the roadway as possible to provide access from outside of the paved area.
2. Buried fiber facilities shall be at a minimum depth of three (3) feet and a maximum depth of four (4) feet unless an alternate location is approved by the City. Buried copper facilities beneath concrete or bituminous paved road surfaces must be placed at no less than three (3) feet but no more than four (4) feet deep. Other buried copper facilities must be placed at a minimum depth of thirty (30) inches and a maximum depth of four (4) feet.
3. Crossing of streets and hard surfaced driveways shall be directional bored unless otherwise approved by the City.
4. If construction is open cut, the permit holder must install the visual tracers approximately twelve (12) inches above buried facilities. If other construction methods are used, substitute location methods will be considered.
5. The permit holder shall register with Gopher State One Call and comply with the requirements of that system.
6. Compaction in trench backfill material shall be ninety-five percent (95%) of the standard proctor density and copies of test results shall be submitted to the City. All tests and their locations shall be determined by the City. Tests must be conducted by an independent testing firm approved by the City. Street pavement replacement will not be permitted until sub-base densities are approved by the city. Testing shall be required at the discretion of the ~~ROW-City~~ engineer. Street Pavement structure and materials shall be as specified by the city and re-paved ~~in accordance with Birchwood Village plates 1-13~~. All pavement replacement shall be done in the presence of a City inspector with certified pavement material to City specifications.
7. The facilities shall be located so as to avoid traffic signals and signs which are generally placed a minimum of five (5) feet behind the curb.
8. When utilizing trenchless installation methods to cross an area in which a municipal utility is located, and/or when directed by the City, the permit holder shall excavate an observation hole over the utility to ensure that the City utility is not damaged. Observation holes shall not be backfilled until viewed and approved by the city ROW Inspector.
9. All junction boxes or access points shall be located no closer than ten (10) feet from municipal fire hydrants, valves, manholes, lift stations or catch basins unless an alternate location is approved by the City.
10. Underground facilities shall not be installed between a hydrant and auxiliary valve.
11. Underground facilities shall not be installed within five (5) feet of hydrants, valves, lift stations or manholes in areas where utility easements exist beyond the ROW. In those areas in which no utility easement exists, placement of an underground facility shall be between the edge of pavement and no closer than three (3) feet to an existing municipal utility

Comment [tsl65]: AM – CC Jan

Comment [tsl66]: CC Dec

Comment [tsl67]: AM – CC Jan. Was moved from 309.080

appurtenance unless approved by the City.

12. In areas where an extensive effort to determine the location of municipal utility lines will be required to accommodate the installation of private facilities, the City's representative for Gopher State One Call must be contacted by the permit holder two (2) weeks prior to the beginning of the work to schedule meetings.
13. Buried telecommunication facilities must have a locating wire or conductive shield, except for di-electric cables.
14. Buried fiber facilities must be placed in a conduit of a type determined by the ROW user unless the permit holder obtains a waiver from the City.

C. Standards for Installation of Overhead Facilities. The permit holder shall comply with the following standards when installing facilities overhead:

1. All wires must be in compliance with the National Electric Safety Code and at a location that does not interfere with traffic signals, overhead signs, or street lights.

D. Standards for Wireless Telecommunication Facilities.

1. **Purpose.** The City of Birchwood Village desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the City also strives to avoid unnecessary encumbrances within the public ROW. The City allows and regulates wireless telecommunication facilities outside of the public ROW through performance standards and height limits. The purpose of this Section is to regulate wireless telecommunication facilities within the public ROW in a manner that balances desire for service with aesthetic, public safety, and ROW flexibility concerns.

Public ROW are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e. small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground mounted equipment). Wireless telecommunication facilities that require greater heights than can be afforded by existing poles in the public ROW and that require ground-mounted equipment are more appropriately sited outside the public ROW in accordance with adopted performance standards of this Code. However, the City recognizes that as wireless technology advances, some residential areas of the City may be hard to serve with wireless technology due to the lack of acceptable siting alternatives in the immediate vicinity. In such areas, where no alternative non-ROW locations are available, wireless telecommunication facilities that require pole extensions and ground equipment will be allowed in the public ROW subject to the requirements of this Section which are meant to protect the public health, safety, and welfare.

2. **Wireless Telecommunication Facilities as Pole Attachments.** Wireless telecommunication facilities that comply with the following requirements

Comment [ts168]: AM – CC Jan. Was moved from 309.080

may be attached to existing public utility structures within the ROW after issuance of a ~~small wireless facility~~ ~~pole attachment~~ permit.

Comment [ts169]: AM – CC Jan

- a. The wireless telecommunication facility shall not extend above the top of the existing public utility structure and the height of the existing public utility structure shall not be increased to accommodate the wireless telecommunication facility.
 - b. If the public utility structure must be replaced to structurally accommodate the wireless telecommunication facility, the replacement public utility structure height shall not exceed the existing public utility structure height and the replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.
 - c. The wireless telecommunication facility shall not be larger than three (3) cubic feet and shall have no individual surface larger than four (4) square feet.
 - d. The wireless telecommunication facility shall not extend outward from the existing pole or tower or arm thereof by more than two and one half (2 1/2) feet, except that an antenna one half inch in diameter or less may extend an additional six inches.
 - e. The wireless telecommunication facility shall include no ground mounted equipment.
 - f. The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Ordinance.
 - g. Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Ordinance.
 - h. The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.
3. **Wireless Telecommunication Facilities as Pole Extensions or with Ground Mounted Equipment.** Wireless telecommunication facilities that require increased public utility structure height or that have ground mounted equipment may be erected in the public ROW only when in compliance with the following provisions and after issuance of a ~~small wireless facility~~ ~~pole attachment~~ permit or excavation permit:
- a. The applicant shall demonstrate to the satisfaction of the City or his/her designee that the wireless telecommunication facility cannot be placed in a ~~Code~~ complying location outside the ROW within one quarter (1/4) mile of the proposed location.
 - b. The replacement public utility structure, including lightning rods and all other attachments, shall not exceed the height of the existing public utility structure by more than fifteen (15) feet. Once the height of a public utility structure has been increased under the provisions of this Section, the height shall not be further increased.
 - c. The replacement public utility structure diameter shall not exceed the

Comment [ts170]: AM – CC Jan

Comment [ts171]: CC Dec

Comment [ts172]: AM – CC Jan. Was moved from 309.080

- existing public utility structure diameter by more than fifty (50) percent.
- d. The wireless telecommunication facility shall not extend outward from the public utility structure by more than two (2) feet.
 - e. If feasible and desirable, as determined by the City, the replacement public utility structure shall match the original and surrounding public utility structures in materials and color.
 - f. The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Ordinance.
 - g. A ~~small wireless facility pole attachment~~ or excavation permit for a wireless telecommunication facility that has ground mounted equipment will be issued only if the ~~Issuing Authority~~ City finds the following:
 - i. the ground mounted equipment will not disrupt traffic or pedestrian circulation;
 - ii. the ground mounted equipment will not create a safety hazard;
 - iii. the location of the ground mounted equipment minimizes impacts on adjacent property; and,
 - iv. the ground mounted equipment will not adversely impact the health, safety, or welfare of the community.
 - h. Ground mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:
 - i. be set back a minimum of ten (10) feet from the edge of street or curb line;
 - ii. be separated from a sidewalk by a minimum of three (3) feet;
 - iii. be set back a minimum of fifty (50) feet from the nearest intersecting ROW line;
 - iv. be separated from the nearest ground mounted wireless telecommunication equipment installation on the same block face by a minimum of 330 feet unless the equipment is placed underground;
 - v. if located adjacent to residential uses, ground mounted equipment shall be limited to three (3) feet in height above grade and twenty seven (27) cubic feet in cumulative size;
 - vi. if located adjacent to non-residential uses, ground mounted equipment shall be limited to five (5) feet in height above grade and eighty-one (81) cubic feet in cumulative size;
 - vii. ground mounted equipment located outside the public ROW shall conform to the requirements of this Ordinance
 - viii. vegetative or other screening compatible with the surrounding area shall be provided around the ground mounted equipment if deemed necessary by the City.
 - i. Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this

Comment [ts173]: AM – CC Jan

Comment [ts174]: AM – CC Jan. Was moved from 309.080

Ordinance.

4. **New Poles.** The construction in the ROW of a new pole to support wireless telecommunication facilities is not allowed, except as a replacement of an existing public utility structure subject to the requirements of this Section.
5. **Charges.** In addition to the permit fees ~~required by the City outlined in this Ordinance~~, the City reserves the right to charge telecommunication providers for their use of the public ROW to the extent that such charges are allowed under state or Federal law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public ROW.

Comment [ts175]: AM – CC Jan

Comment [ts176]: AM – CC Jan. Was moved from 309.080

309.071 **TIMELINESS OF WORK.** The work to be done under the permit and the patching and restoration of the ROW as required herein, must be completed within the dates specified in the permit. It may be increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonable or unreasonable.

309.072 **PERMIT EXTENSION.** No person may excavate or obstruct the ROW beyond the date or dates specified in the permit or do any work outside the area specified in the permit unless such person makes a supplementary application before the expiration of the permit. Payment of all fees for an extension of the permit is required before extension may be granted by the City; If the work could not be completed because of circumstances beyond the control of the permit holder or the work was delayed or prohibited by unseasonable or unreasonable conditions, the City may grant and extend the completion date of the work.

309.073 **DELAY PENALTY.** Notwithstanding Subsection (b) of this Section, the City may impose a delay penalty where excavating or obstruction work in the ROW is not completed within the time specified if no permit extension application has been made prior to the expiration date of the permit. A delay penalty will not be imposed if the delay is due to circumstances beyond the control of the applicant, including without limitation inclement weather, acts of God, or civil strife.

Comment [ts177]: AM – CC Jan. Was moved from 309.060.B & C

309.080 **PATCHING OR FULL RESTORATION OF ROW.**
The permit holder shall patch its own work. In lieu of ROW restoration, a ROW user may elect to pay a degradation fee as determined by the City.

A. **City Restoration.** If the City restores the ROW, the permit holder shall pay the costs thereof within thirty (30) days of billing. If, during the twenty-four (24) months following such surface restoration, the pavement settles due to the permit holder's improper backfilling and compaction, the permit holder shall pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work.

B. **Permit Holder Restoration.** ~~If the permit holder restores the ROW, it shall at the time of application for a ROW permit post a performance bond or cash~~

~~deposit in an amount determined by the City to be sufficient to cover the cost of restoration and any associated erosion and sediment control measures. The performance bond or cash deposit must be approved by the City Attorney. If,~~ within twelve (12) months after completion of restoration of the ROW, the City determines the ROW has been properly restored, the security posted by the permit holder as required by section 309.063 will be released.

Comment [tsl78]: CC Dec

Comment [tsl79]: AM changed to 24 months. CC changed back to 12 months in Jan

C. **Standards.** The permit holder shall perform patching and restoration ~~according to the Birchwood Village standard~~ to the satisfaction of the City Engineer.

Comment [tsl80]: CC Dec ("City" replaced "ROW" during Jan CC mtg)

D. **Guarantees.** If the permit holder performs the restoration work, the permit holder shall guarantee such work and its maintenance for ~~twenty-four~~twelve (24)12 months following its completion. During this ~~twenty-four~~twelve (24)12 month period it shall, upon notification from the City, promptly and within 7 working days from receipt of notification, correct all faulty restoration work to the extent necessary, using the method required by the City ~~or its Engineer.~~

Comment [tsl81]: CC Jan

Comment [tsl82]: CC Dec

If a permit holder fails to act within the 7 working day period the City shall at its discretion have the work performed and the security shall be used to reimburse the City for its actual and administrative costs associated with the correction(s).

Comment [tsl83]: AM – CC Jan

309.090 **RESERVED OR RENUMBER THE FOLLOWING SECTIONS.**

Comment [tsl84]: Are we keeping this?

309.100 **JOINT APPLICATIONS.**

- A. **Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the ROW at the same place and time.
- B. **Shared Fees.** Registrants who apply for permits for the same obstruction or excavation may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

309.110 **OTHER OBLIGATIONS.**

- A. **Compliance With Other Laws.** The permit holder must obtain all other necessary permits, licenses and approvals and pay all fees required. The permit holder shall comply with all requirements of local, state and federal laws, including Minn. Stat. Secs. 216D.01-.09 ("One Call Excavation Notice System"). A permit holder shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the ROW pursuant to its permit, regardless of who does the work.
- B. **Prohibited Work.** Except in an emergency, and with the approval of the City, no ROW excavation or obstruction may be done when seasonally prohibited or when conditions are unreasonable for such work.
- C. **Interference with ROW.** A permit holder shall not so obstruct a ROW that the natural free and clear passage of water through the gutters or other

waterways is or would be interfered with. Any physical observation of such obstruction shall be grounds to revoke a permit ~~without further proceedings.~~

Comment [tsl85]: AM – CC Jan

309.120

DENIAL OF PERMIT.

The City may deny a permit based on any of the following grounds:

- A. Failure to register pursuant to requirements of this Ordinance.
- B. The applicant is subject to revocation of a prior permit issued pursuant to this Ordinance.
- C. The proposed schedule for work would conflict or interfere with an exhibition, celebration, festival or any other similar event.
- D. The proposed schedule conflicts with scheduled or total or partial reconstruction of the ROW.
- E. The ~~City determines that the applicant will not be able fails~~ to comply with the requirements of this Ordinance.
- F. The City determines that denial is necessary to protect the health, safety and welfare of the public or protect the ROW and its current use.

Comment [tsl86]: AM – CC Jan

309.121

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.

Comment [tsl87]: Added by AM – addition was not tracked but was caught and highlighted by Councilmember Malvey during the Jan CC mtg

309.130

EMERGENCIES AND WORK DONE WITHOUT A PERMIT.

Each registrant shall immediately notify the City and all other affected parties or property owners of any event regarding its facilities, which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. If the registrant has not been issued the required permit, the registrant shall, within two (2) business days after the occurrence of the emergency, apply for the necessary permits, pay the permit fees (where necessary) and fulfill the remaining requirements necessary to bring itself into compliance with this Ordinance 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 shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The City may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a ROW must subsequently obtain a

permit and (where appropriate) as a penalty, pay twice the normal fee for the permit and shall deposit with the City the fees determined to correct any damage to the ROW.

309.140

INSPECTION.

A. **Site Inspection.** The permit holder shall make the work site available to the City and to all others authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

B. **Authority of City**

1. 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.
2. The City may issue a stop work order to the permit holder for any work which 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 within a stated deadline will be cause for revocation of the permit. If the violation is not corrected within the stated deadline, the City may revoke the permit.

309.150

REVOCAION OF PERMITS.

A. **Substantial Breach.** The City may revoke a ROW permit, without a fee refund, if there is a substantial breach of the terms or conditions of any statute, this Code, rule or regulation, or any condition of the permit. A substantial breach ~~of~~ by a permit holder shall include, but not limited to, the following:

1. The violation of any material provision of the permit.
2. Any material misrepresentation of fact in the application for a permit.
3. The failure to maintain the required bonds or other security and insurance.
4. The failure to complete the work in a timely manner.
5. The failure to correct, in a timely manner, work that does not conform to applicable standards, conditions or codes, upon inspection and notification by the City of the faulty condition.
6. An evasion or attempt to evade any material provision of the ROW permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.
7. The failure to comply with the terms and conditions of any applicable federal, state and local laws, rules and regulations, including any provision of this Ordinance.

B. **Notice of Breach.** If the City determines that a permit holder has committed a substantial breach of a term or condition of any statute, this Ordinance, rule or regulation or any condition of the permit, the City shall make a written demand upon the permit holder to remedy such violation within a reasonable period of time or be subject to potential revocation of the permit. The City may impose additional or revised conditions on the permit to mitigate or remedy the breach.

C. **Reimbursement of City Costs.** If a permit is revoked, the permit holder shall reimburse the City for its reasonable costs, including restoration costs and the

Comment [ts188]: AM – CC Jan

costs of collection and reasonable attorney fees incurred in connection with the revocation.

309.160

APPEAL.

- A. **Filing of Appeal.** Notwithstanding other appellate processes in chapter 303 or 304, any person aggrieved by, (i) the denial of a permit application; (ii) the denial of a registration; (iii) the revocation of a permit, or (iv) the application of the fee schedule imposed by this Code, may appeal to the City Council by filing a written notice of appeal with the City ~~Clerk or~~ Administrator. Said notice must be filed within twenty (20) days of receipt of written notice of the action causing the appeal.
- B. **Notice of Hearing.** The City Council shall hear the appeal at its next regularly scheduled meeting, unless the time is extended by agreement of the parties. Notice of the date, time, place and purpose of the hearing shall be mailed to the appellant.
- C. **Hearing and Decision.** The City Council shall, at the hearing, consider any evidence offered by the appellant, the City and any other person wishing to be heard. The Council shall issue a written decision within thirty (30) days of the completion of the hearing. A decision by the governing body affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.

Comment [tsl89]: AM – CC Jan

Comment [tsl90]: Staff recommended – OR City Administrator-Clerk

Comment [tsl91]: AM – CC Jan

Comment [tsl92]: AM – CC Jan

309.170

DUMPSTERS/PORTABLE-ON-DEMAND STORAGE (POD UNITS).

The placement of dumpsters or POD units in the street portion of the ROW is not allowed. Dumpsters or POD units may be placed within the boulevard or driveway portions of the ROW provided that they do not obstruct pedestrian traffic along sidewalks or trails and the boulevard is restored to previous conditions. In extraordinary circumstances, the City Engineer may make exceptions to this provision and applicant shall be subject to the permitting and fee requirements of this ordinance.

Comment [tsl93]: AM – CC Jan. Was moved from 309.060.G

309.180

RELOCATION OF FACILITIES.

A ROW user shall promptly and at its own expense, with due regard for seasonal working conditions, remove and relocate ~~their-its~~ facilities in the ROW when it is necessary to prevent interference or obstruction, but not merely for the convenience of the City, in connection with: (1) a present or future City use of the ROW for a public project or facility, (2) the public health or safety; or (3) the safety and convenience of travel over the ROW. The ~~ROW user~~~~registrant~~ shall restore any ROW to the condition it was in prior to removal and relocation.

Comment [tsl94]: AM – CC Jan

309.190

DAMAGE TO OTHER FACILITIES.

When the City does work in the ROW and finds it necessary to maintain, support, or move registrant’s facilities to protect ~~those facilities~~, the City shall notify the registrant as soon as possible. The costs associated therewith shall be billed to the 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 ROW

that the registrant~~which it or its facilities~~ damages. 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.

Comment [ts195]: AM – CC Jan

309.200

ROW VACATION.

- A. **Reservation of Right.** If the City vacates a ROW which contains the equipment or facilities of a registrant or permit holder, and if the vacation does not require the relocation of the registrant's or permit holder's equipment or facilities, the City shall reserve, to and for itself and all registrants or permit holders having equipment and facilities in the vacated ROW, a public easement for the right to install, maintain and operate any equipment and facilities in the vacated ROW and to enter upon such ROW at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.
- B. **Relocation of Facilities.** If the vacation requires the relocation of the registrant's or permit holder's equipment or facilities; and (i) if the vacation proceedings are initiated by the registrant or permit holder, the registrant or permit holder must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the registrant or permit holder must pay the relocation costs unless otherwise agreed to by the City and the registrant or permit holder; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permit holder, such person or persons must pay the relocation costs.

309.210

ABANDONED AND UNUSABLE EQUIPMENT AND FACILITIES.

- A. **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 ROW under this chapter have been lawfully assumed by another registrant.
- B. **Removal of Abandoned Facilities.** Any registrant who has abandoned facilities in any ROW shall remove ~~it them~~ from that ROW to the extent such facilities interfere with another ROW repair, excavation, or construction, unless this requirement is waived by the City.

Comment [ts196]: AM – CC Jan

309.220

INDEMNIFICATION AND LIABILITY.

By registering with the City or by accepting a permit granted under this Ordinance, a registrant or permit holder agrees as follows:

- A. **Limitation of Liability.** By reason of the acceptance of a registration or the grant of a ROW permit, the City does not assume any liability (i) for injuries to persons, damage to property or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permit holders or activities of registrants or permit holders.
- B. **Indemnification.** A registrant or permit holder shall indemnify, keep and hold the City, its officials, employees and agents, free and harmless from any and

all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a ROW, whether or not any act or omission ~~complaint of~~ is authorized, allowed or prohibited by a ROW permit. The ~~foregoing registrant or permit holder~~ does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permit holder or the City, and the registrant or permit holder, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf.

Comment [ts197]: AM – CC Jan

If the registrant or permit holder is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permit holder may not settle the litigation without the consent of the City. Such consent will not be unreasonably withheld.

309.230

FRANCHISE HOLDERS.

If there is a conflict in language between the franchise of a person holding a franchise agreement with the City or the Water Service Agreement (~~White Bear Lake~~) with the City and this Ordinance, the terms of the franchise or Water Service ~~agreement Agreement~~ shall prevail.

Comment [ts198]: AM deleted this entire section. CC added it back during the Jan CC mtg

Comment [ts199]: CC Dec

Comment [ts1100]: CC Dec

309.240

SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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.

APPENDIX I ESSENTIAL MUNICIPAL SERVICES

Special conditions and provisions to regulate and control ROW intrusions by essential service providers for which previous agreements or ordinances have been enacted and approved by the City in concurrence with the respective service providers.

INDEX

Participating Municipal Provider:
City of White Bear Lake
White Bear Township

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 13th day of February, 2018

Mary Wingfield
Mayor

Attest:

Tobin Lay
City Administrator-Clerk

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MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Birchwood Dock Association (BDA)



Dear Mayor and Council Members,

According to Section 617 Public Lake Tracts, the Birchwood Dock Association (BDA) is required to present its Dock Permit Application to the City Council for review.

During the November Council meeting, the Council tabled approval of the Dock Permit Application until after amendments to City Code Section 617 had been recommended.

Attorney Kantrud, who is also the attorney for White Bear Lake Conservation District (WBLCD), confirmed that WBLCD reviews these applications throughout the winter months and it should be okay to submit application by the March WBLCD meeting. The deadline for the WBLCD March meeting is March 15th.

Enclosed is a copy of the BDA's Dock Permit Application

Recommendation/Request

Staff requests Council:

- 1) Review and approve the enclosed BDA Dock Permit Application; and
- 2) Authorize the BDA to obtain Dock Permits with the WBLCD.

Thanks!

Regards,
Tobin Lay

BDA Dock Permit Application Package

**APPROVAL FORM FOR ASSOCIATION DOCK PLANS
CITY OF BIRCHWOOD VILLAGE
(TO BE SUBMITTED TO CITY CLERK PRIOR TO OCTOBER 25, 2010)**

Date 10-10-2017

Beach Association Name Birchwood Dock Association

Beach Association Contact Person Lynn Hanson

Phone # 651-426-0848

Beach Association Officers:

President – Mike Evangelist Phone # 651-605-5873

Vice President – Chris Churchill Phone # 651-429-7915

Secretary – Mary Sue Simmons Phone # 651-429-6259

Treasurer – Lynn Hanson Phone # 651-246-0848

Member At Large-- Debra Harrod Phone # 612-246-4612

Amount of Association Dues: \$35 - \$650

Include the following when submitted form:

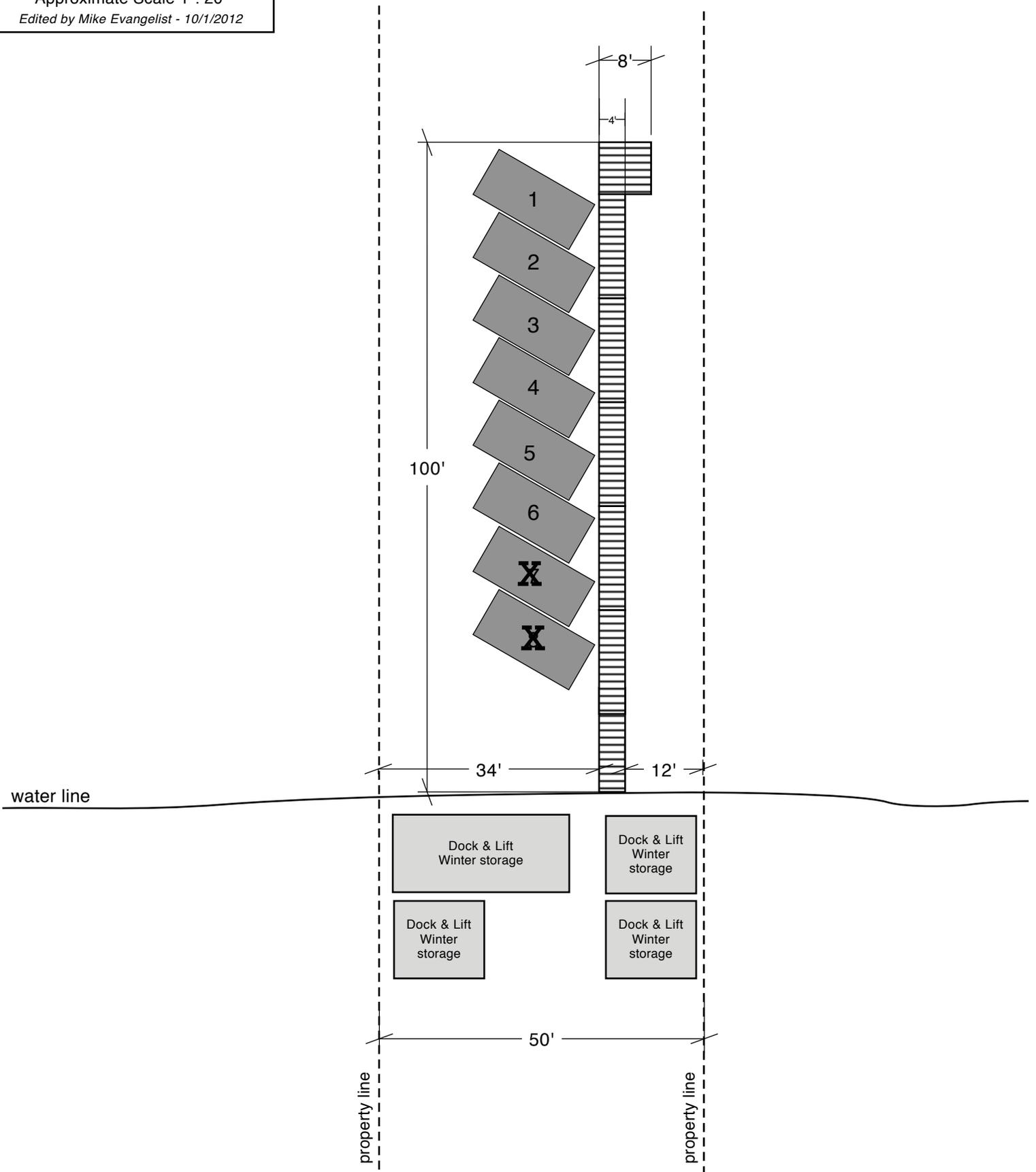
1. Drawing to scale of dock configuration, boat slip placement, length of boats, and property lines of easement.
2. A current membership list including identification of officers.
3. Current bylaws/changes of association.
(NOTE: ONLY NEEDED IF CHANGES HAVE BEEN MADE.)
4. Treasurer's report from the current year.
5. Minutes from the last annual meeting.
6. Placement plan if lifts are stored on easement in the winter.

Beach club members with boats or lifts at any of the easements are reminded that a certificate of liability insurance is required to be turned into City Hall by May 1st of every year.

**IS THERE A CHANGE FROM PREVIOUS YEAR? X YES NO
*7 vs 6 boats at Dellwood***

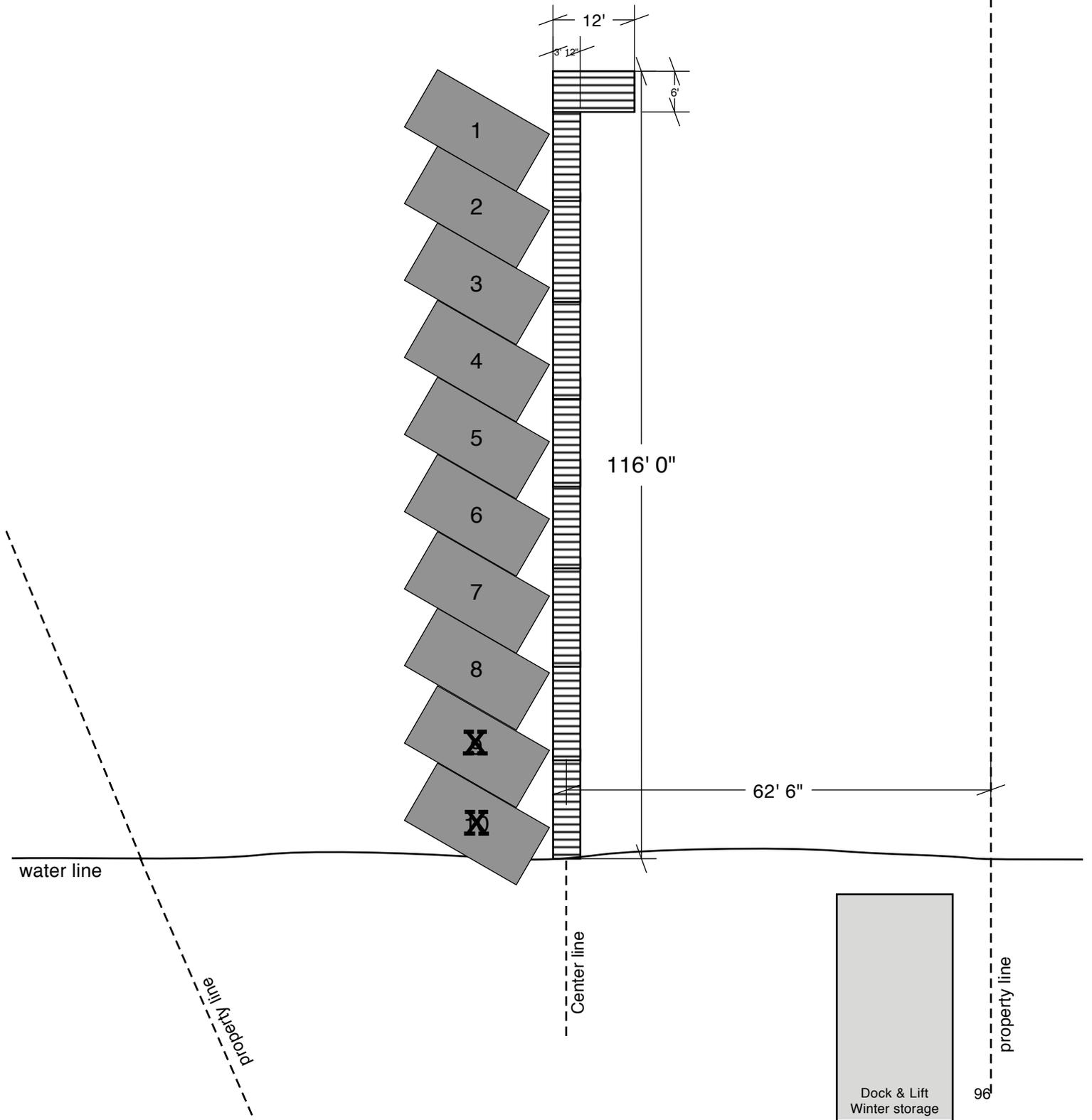
Ash Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 10/1/2012



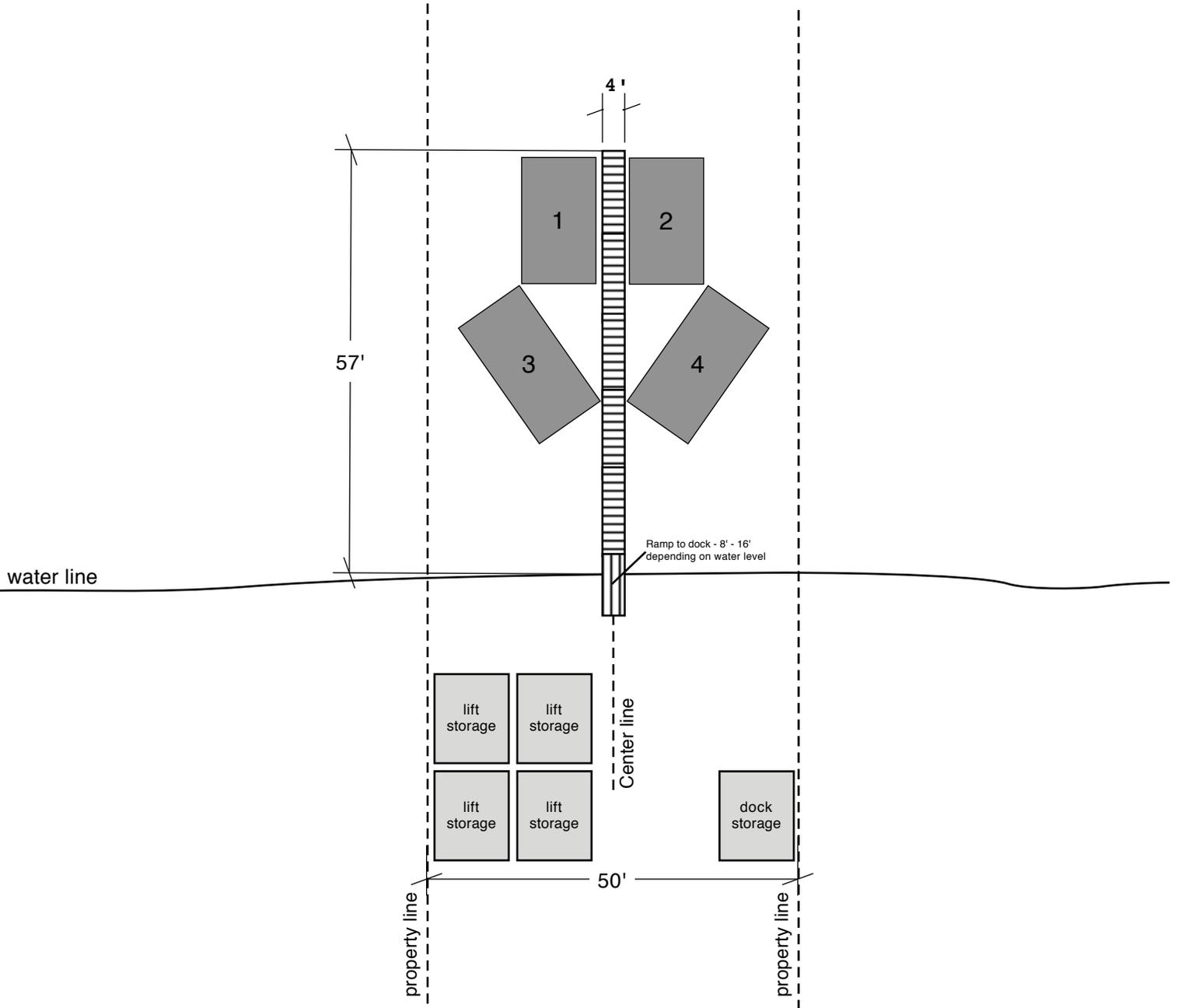
Birch Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 8/25/2012



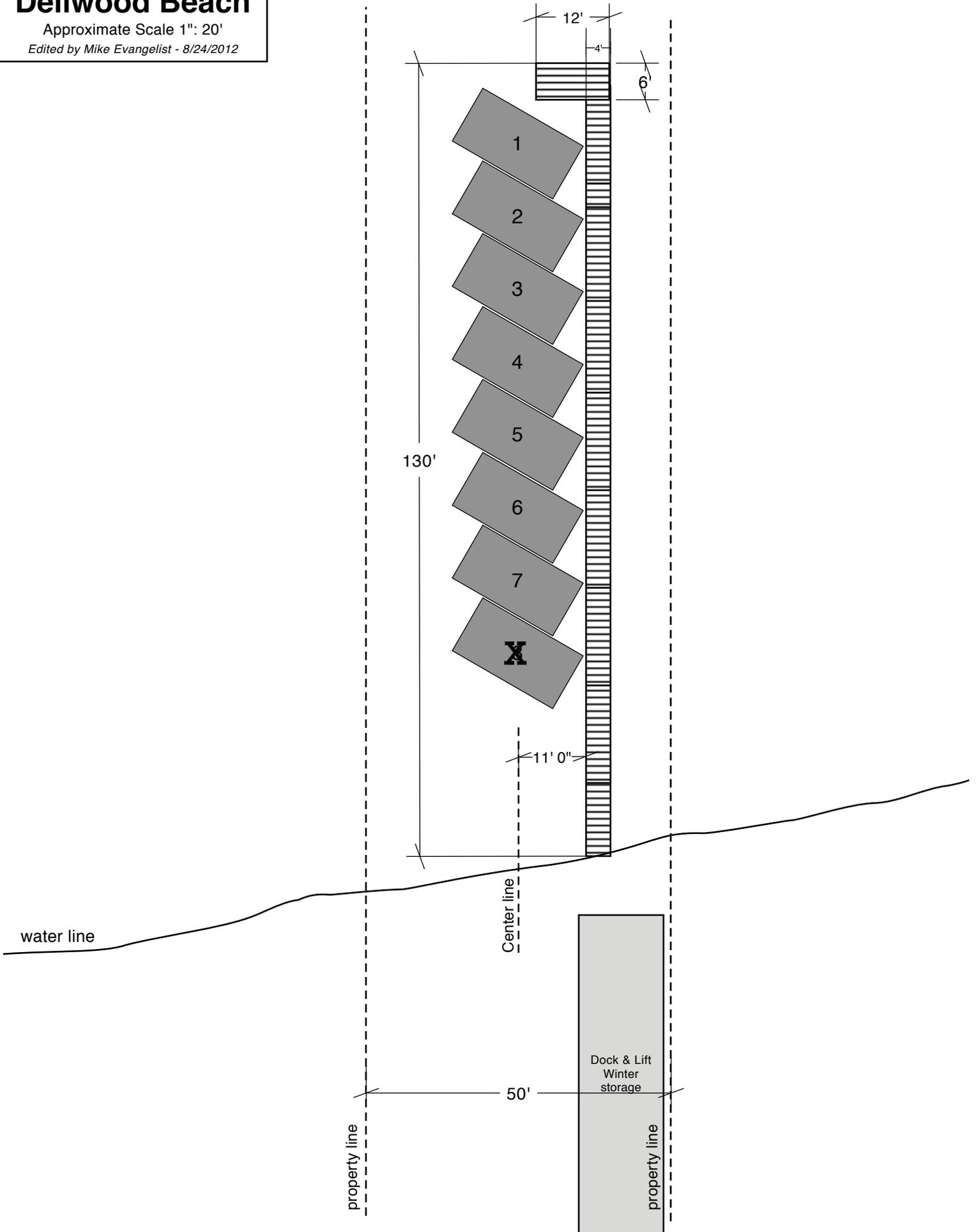
Elm Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 10/1/2012



Dellwood Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 8/24/2012



1	John & Martha	Arlandson	19 Oakridge Dr.
2	Peter & Michelle	Atakpu	201 Birchwood Ave.
3	Keith & Kathleen	Barton	28 Oakridge Drive
4	John	Berg	429 Wildwood Ave.
5	Jim & Judy	Berg	889 Barbara Court
6	Bob & Nancy	Brydges	1 Oak Hill Court
7	Catherine	Carlson	306 Wildwood Ave.
8	Bob & Barb	Carson	704 Hall Ave.
9	Chris & Angie	Churchill	140 Birchwood Ave
10	Houston	Clinch	164 Wildwood Ave.
11	Dan & Lianna	Colestock	265 Cedar St.
12	Robert & Mary	Cummins	296 Jay St.
13	Anthony & Liz	Dabruzzo	415 Birchwood Ave.
14	Sandy & Claudio	Danus	430 Wildwood Ave.
15	Mike & Sandee	Ebbott	160 Birchwood Ave
16	Ralph	Ebbott	409 Birchwood Ave.
17	John	Elias	9 Oakhill Ct.
18	Mike	Evangelist	364 Wildwood Ave.
19	Randy & Jackie	Felt	286 Jay St.
20	Aaron Will & Tara	Fernholz	212 Birch Street
21	Stephen & Nancy	Ferry	191 Wildwood Ave.
22	Mark & Susan	Glander	5 Oakview Ct.
23	Deborah	Gohl	255 Cedar
24	Mark & Jill	Greseth	214 Wildwood Ave.
25	Lynn & Dyanne	Hanson	700 Hall Ave.
26	Mary	Hauser	616 Hall Ave.
27	Jozsepf & Noel	Hegedus	294 Jay St.
28	David & Steph	Heiden	242 Wildwood
29	Karen	Holmen	706 Hall Ave.
30	Greg & Bonnie	Hubbard	6 Oakhill Ct.
31	Bill & Mary	Hullsiek	290 Jay St.
32	Jerry Carlson & Jacqueline	Jarosz	409 Lake Ave.
33	Tyler & Gretchen	Johnson	10 White Pine Ln
34	Dana & Lori	Klimp	414 Birchwood Ct
35	Robert & Diane	Landberg	531 Hall Ave.
36	Mitch	Leammukda	179 Cedar St
37	Harmony	Lewis	236 Cedar St.
38	Karen Hagen & Brian	Lind	401 Wildwood Ave.
39	Layne	Lodmell	12 Oakridge Dr.
40	John	Lund	608 Wildwood Ave
41	Michael	Lundberg	170 Wildwood Ave.
42	Roger & Donna	Madison	158 Wildwood Ave.
43	Ron	Malles	420 Wildwood Ave.
44	Laura	Manske	706 Birchwood Ave
45	Bryan & Karin	McGinnis	194 Wildwood Ave.
46	Joseph & Yoshiko	Miller	709 Hall Ave.
47	Alan	Mitchell	23 Oakridge Dr.
48	Charles & Linda	Moore	421 Birchwood Court
49	Troy & Naomi	Morehead	505 Wildwood Ave
50	Gary & Judith	Oakins	291 Jay St.
51	Richard & Traci	Oni	152 Wildwood Ave.
52	Jordon	Oyloe	533 Wildwood Ave
53	Marc & Kelly	Paradise	180 Birchwood Ave.
54	Devon & Arika	Quick	176 Wildwood
55	Urho & Pam	Rahkola	545 Wildwood Ave.
56	Kraig & Erica	Rasmussen	3 White Pine Ln.
57	Bev	Ringsak	107 Birchwood Ave.
58	Jim	Rupert	710 Hall Ave.
59	Maureen	Seibert	425 Birchwood Court
60	Mary Sue	Simmons	418 Birchwood Ct.
61	Chris	Sorenson	5 Oakridge Dr.
62	Andrew	Sorenson	411 Birchwood Ave.
63	Robert Dean	Stanton	538 Hall Ave.
64	Paul & Meryl	Steinhauser	600 Birchwood Ave.
65	Ron & Mary	Sternal	6 Hall Court
66	James & Peggy	Stockwell	17 White Pine Ln
67	Jennifer & Jason	Tell	697 Hall Ave.
68	Ted & Joanne	Thornquist	205 Wildwood Ave.
69	David & Patricia	Trepanier	439 Birchwood Court
70	John	Velin	146 Wildwood Ave.
71	Daniel & Sarah	Webber	4 Oak Ridge Dr.
72	Dan & Melissa	Werra	369 Wildwood Ave
73	Phillip & Karen	Winter	1 Five Oaks Lane

Birchwood Dock Association Officers - 2018

President

Mike Evangelist
364 Wildwood Ave. 651-605-5873 mike.evangelist@me.com

Vice President

Chris Churchill
140 Birchwood Ave. 651-429-7915 chris.churchill@bestbuy.com

Dana Klimp
414 Birchwood Ct. 651-653-1184 danaklimp@comcast.net

Treasurer

Lynn Hanson
700 Hall Ave. 612-209-3055 lhanson54@comcast.net

Secretary

Mary Sue Simmons
418 Birchwood Cts. 651-429-6259 simmo001@umn.edu

Member at Large

Debbie Harrod
483 Lake Ave. 612-246-4612 debbieharrod@hotmail.com

Complaint Managers

Mary Sue Simmons 651-429-6259
Lynn Hanson 612-209-3055
Chris Churchill 651-429-7915

Fall 2017 Treasure's Report 10-7-2017

12-Sep

Balance Fall Meeting - 10-1-2016

11,447.78 **9/12/2016**

Dock Out	\$	(2,600.00)	8,847.78
City Dock Application	\$	(400.00)	8,447.78
WBLCD Application	\$	(600.00)	7,847.78
Deposits	\$	5,585.00	13,432.78
			13,432.78
			13,432.78

8-Apr

Balance Spring Meeting - 4-8-2017

13,432.78 **1-Apr**

Dock In	\$	(2,600.00)	10,832.78
Maintenance & Supplies	\$	(280.22)	10,552.56
Insurance	\$	(1,488.86)	9,063.70
Deposits	\$	8,214.00	17,277.70
Insurance	\$	(272.03)	17,005.67

7-Oct

Balance Fall Meeting - 10-7-2017

17,005.67 **7-Oct**

Vibo Docks - down payment	\$	(8,000.00)	9,005.67
Dock Out	\$	(2,600.00)	6,405.67
City Dock Application	\$	(400.00)	6,005.67
WBLCD Application	\$	(650.00)	5,355.67
Vibo Docks - down payment	\$	(6,793.36)	(1,437.69)
			(1,437.69)

Birchwood Dock Association

Fall Meeting Minutes: October 7, 2017

Attendance: 16 people present, including Council Members Malvey and LaFoy

Lake Tract Neighbors: no one spoke.

President's Report: Evangelist stepping down as president. Felt resigned as VP.

Council is planning a workshop to talk about improving docks and how to move forward and to discuss possible revisions to Ord 617 needed.

21 slips in use this season, thanks to high water - 17 were in use last year.

City Administrator Lay is responsible for assigning slips to Wait List people; BDA gives him the number of boat spots available.

Dock Task Force results: only residents can be in BDA, boat user fee and non-boat user fee called for in Ordinance 617. Now, Council wants everyone to use docks so BDA raised fees for boat users and then docks and memberships are free to residents. Insurance rates went up but with increased number of boats and slip fees, BDA will not have to raise boat user fees for 2018.

Treasurer's Report:

Current balance - \$17,005. End balance after paying 2018 application fees for 2018: \$13,405.

2018 Slip Fee's - \$650

Council workshop will deal with problems and issues arising from "free" use. Discussion about the possibility that the Dock Association may just become slip holders as members. Further discussion being needed about how to define an association member. This will be fodder for upcoming workshop with the Council.

Two new docks will be purchased soon.

Birch dock bid: \$10,200. Elm: \$4700 \$14,900 for both

Motion by Lynn: purchase both docks new in the fall for \$15,000. Motion passed.

Boat slip availability:

It was noted by Evangelist that little turnover expected in the next few years. If a wait list person has a long boat, little hope, as Birch dock for longer boats is full of newcomers.

Folks can stay on Wait List and pass as long desired.

Goal of BDA is to get maximum use of a wonderful resource.

New Officers: Lynn as Treasurer, Mary Sue as Secretary, Debbie as at-large, Chris Churchill and Dana Klimp as Vice Presidents, passed. Motion: Directors will find a president and membership will be ok with their selection. Passed.

Dock managers will be selected at spring 2018 meeting.

Dock- out date: Saturday, Oct. 21 Rain date Oct. 28

Meeting adjourned at 10:50 a.m.

Respectfully submitted, Mary Sue Simmons, Secretary

**Birchwood Dock Association
2018
Boating Season
WBLCD
Application Fee**

<u>Lake Tract - Boats</u>	<u>Dock</u>	<u>Add. Boats \$50</u>	<u>Shore Ramps \$10</u>	<u>Total</u>
Ash - 6	\$ 50	\$ 100	\$ -	\$ 150
Birch - 8	\$ 50	\$ 200	\$ -	\$ 250
Elm - 4	\$ 50	\$ -	\$ -	\$ 50
Dellwood - 7	\$ 50	\$ 150	\$ -	\$ 200
			WBLCD FEE	\$ 650
		7 @ Dellwood vs 6		

5. MULTIPLE USER TYPE: (Please check one)

- Outlot Association Multiple Municipal Dwelling
 Private Municipal Dwelling Commercial **Private Club**
 Other (please explain) _____ Marina

6. SITE USAGE:

A. Intended use of facility: **Provide boating and swimming access to White Bear Lake for property owners of Birchwood Village. This includes docks and boat slips.** _____

B. Current use of facility: **Same** _____

C. Historical use of facility: **Same** _____

7. ABUTTING PROPERTY OWNERS: (all lakeshore within 200 feet either side)

Name _____ Day Phone _____
Mailing Address **Full List Attached** Evening Phone _____
City State __ Zip _____

Name ~----- Day Phone _____
Mailing Address Evening Phone _____
City State __ Zip _____

South or East Owner(s):

Name ~----- Day Phone _____
Mailing Address Evening Phone _____
City State __ Zip _____

Name _____ Day Phone _____
Mailing Address Evening Phone _____
City State __ Zip _____

Any other affected parties

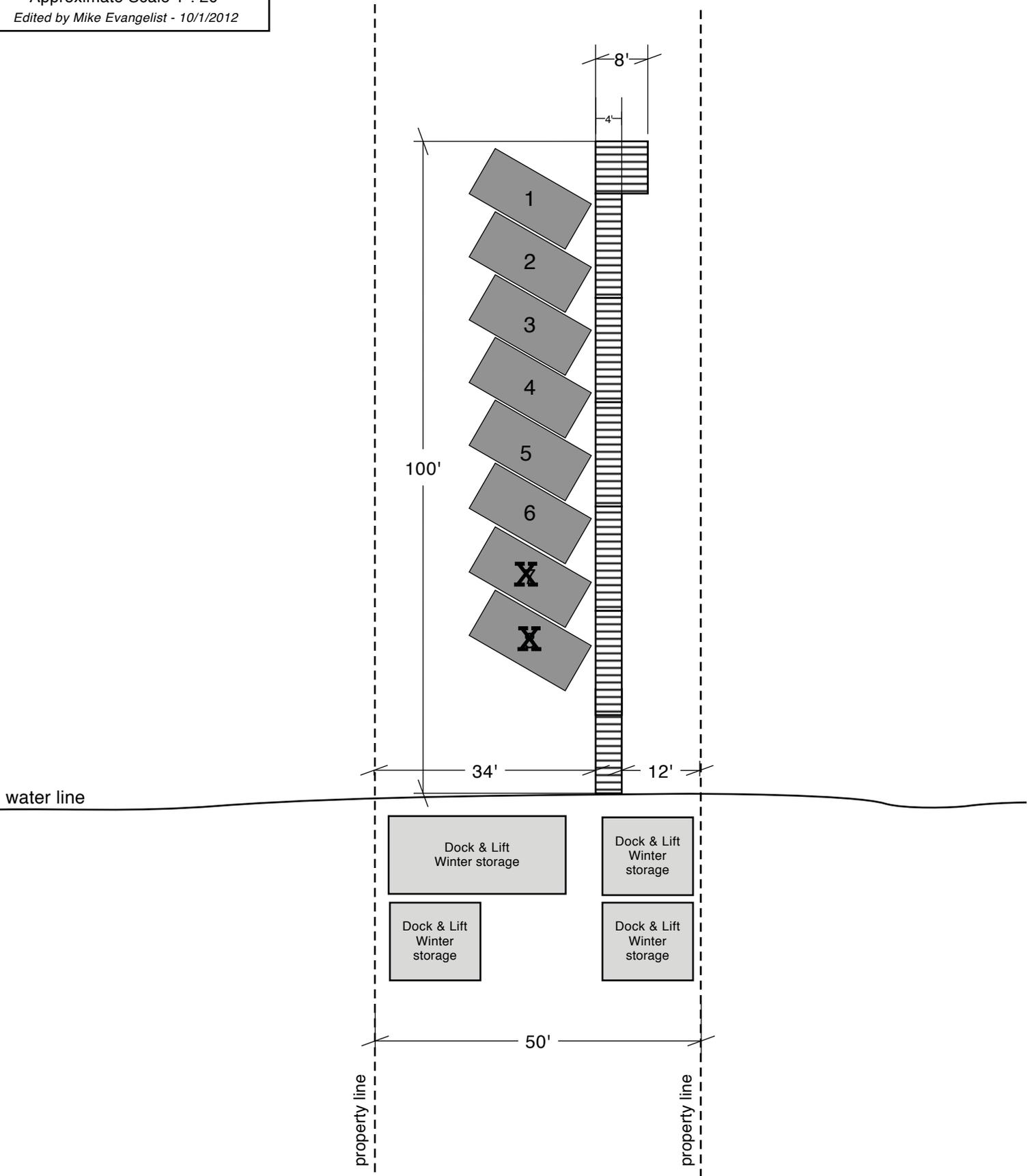
Name _____ Day Phone _____
Mailing Address Evening Phone _____
City State __ Zip _____

Birchwood Lake Tract Neighbors

	<u>First Name</u>	<u>Last Name</u>	<u>Address</u>	<u>City</u>	<u>Zip</u>	<u>Public Lake Tract</u>
1	James & Patsy	Ramberg	131 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
2	Ross & Evanna	Judkins	135 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
3	John	Kruse	139 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
4	Tom	Delmont	143 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
5	Suzanne	Walfort	145 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
6	Joseph	Allaben	153 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
7	Roger & Mary	Kurtz	159 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
8	David	Malger	161 Wildwood Ave.	Birchwood	MN 55110	Ash - Neighbor
1	Steven & Nancy	Ferry	191 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
2	Nancy	Calderon	195 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
3	Keri	Pakonen	199 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
4	Thomas & Susan	Schway	201 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
5	Ted & Joanne	Thornquist	205 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
6	Richard	Galena	217 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
7	David Vail & Ann	Butler Vail	221 Wildwood Ave.	Birchwood	MN 55110	Birch - Neighbor
1	Kenneth	Broen	243 Wildwood Ave.	Birchwood	MN 55110	Elm - Neighbor
2	Trude	Harmon	780 Como Ave.	St. Paul	MN 55103	Elm - Neighbor
3	Craig & Peggy	Witthaus	259 Wildwood Ave.	Birchwood	MN 55110	Elm - Neighbor
4	Brian	Kraft	267 Wildwood Ave.	Birchwood	MN 55110	Elm - Neighbor
5	Ellen Maas & Len	Pratt	301 Wildwood Ave.	Birchwood	MN 55110	Elm - Neighbor
6	David	Pratt	309 Wildwood Ave.	Birchwood	MN 55110	Elm - Neighbor
7	Ralph & Patricia	Liebsch	315 Wildwood Ave.	St. Paul	MN 55101	Elm - Neighbor
8	Paul	Edwards	321 Wildwood Ave.	Birchwood	MN 55110	Elm - Neighbor
1	Terry & Jessica	Granec	363 Lakewood Lane	Birchwood	MN 55110	Dellwood -Neighbor
2	Chris & Natalie	Olson	365 Lakewood Lane	Birchwood	MN 55110	Dellwood -Neighbor
3	Anthony & Christina	Demars	407 Lake Ave.	Birchwood	MN 55110	Dellwood -Neighbor
4	Jerry Carlson & Jackie	Jarosz	409 Lake Ave.	Birchwood	MN 55110	Dellwood -Neighbor
5	Don & Kathleen	Madore	413 Lake Ave.	Birchwood	MN 55110	Dellwood -Neighbor
6	Coyleen	Davidson	425 Lake Ave.	Birchwood	MN 55110	Dellwood -Neighbor

Ash Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 10/1/2012



8. OTHER PERMITS: All required permits, licenses and approvals have been obtained

from the Minnesota Department of Natural Resources and the municipality in which the access to or the dock, ramp or mooring is located. other:

Yes Please list: City of Birchwood Village

No Please explain: _____

9. MAXIMUM NUMBER OF WATERCRAFT:

Ash Beach – Birchwood Village will allow 8 Maximum- Applying for 6

<u>By Location</u>	<u>By Use</u>
At slips	For rent, lease, etc.
At slides	For service work
At lifts 6	For company use
At moorings	For private use 6
At tie-ons	For transient use
At off-lake storage	
Other (describe)	Other (describe)
TOTAL 6	TOTAL 6

10. SITE INFORMATION:

Site lake frontage = **50 Feet**

Water depth 100 feet from shore

Varies due to lake elevation

200 feet from shore =

300 feet from shore =

Water depth above measured on _____ (date)

Ramsey County Lake elevation _____ (date)

(to be filled in by WBLCD)

11. SERVICES PROVIDED: (Check all that apply) **NA**

Boat Storage

Boat Rentals

Boat Sales

Boat Service

Restaurant

Launching Ramp

Other (Explain) _____

Times open to the public: _____

12. DOCK INFORMATION:

Ash Beach

- A. Total dock length (into the lake) **100** ft.
- B. Length from water's edge
(including T's and L's) 100 ft.
- C. Width of Dock 4 ft.
- D. Projections from dock:
 - 1. Number of projections **1**
 - 2. Length and width of T's, L's or fingers
4'
 - 3. Other projection(s)

13. ADJOINING PROPERTY OWNERS' INFORMATION:

- A. Distance from (including ends of T's and L's)
immediate property lines ft.
 - North / West **34Ft.**
 - South / East **8 Ft.**
- B. Distance from (including ends of T's and L's)
adjoining docks. ft.
 - North / West ft.
 - South / East ft.
- C. Lake frontage size" of adjoining property owners ft.
 - North / West
 - South / East '

14. INSURANCE:

X Yes No We have Public liability insurance. Amount \$ **2,000,000** _____
Expires (date) _____ Company **Ekblad, Pardee & Bewall, Inc.** _____

15. PARKING:

Total parking spaces: **None** _____ Parking not required (explain) _____

16. SANITARY FACILITIES:

Facilities are provided Yes **X** No Number of units: _____

17. PUMPING SERVICE:

Boat toilet pumping service is provided Yes No

18. FEES: (See attached License Fee Schedule)		
Application Fee: \$50.00	\$	50 _____
Fee for each approved slip over four: \$50.00	\$	100 _____
Late Fee: \$50.00 (Renewals sent after 12/31/07)	\$	_____
Watercraft storage racks: \$5.00 for each craft stored	\$	_____
License deposit (if applicable)	\$	_____
Ash Beach	TOTAL FEE ENCLOSED	\$ 150

This application is for a commercial dock or mooring area:

Yes No

If yes, an additional \$50.00 per slip or mooring and an additional \$10.00 per ramp/skid is due as follows:

112 of total fee amount in April

DUE IN APRIL \$ _____

and final 112 (or adjusted balance) in August of this license year.

DUE END OF AUGUST \$ _____

I certify that the information provided herein and the attachments hereto are true and correct statements. I understand that any License issued may be revoked by the District for violation of any WBLCD Code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the district. I, also, understand that the District may require a deposit to cover these expenses. I consent to permitting officers and agents of the District to enter the premises at all reasonable times to investigate and to determine whether or not there is compliance with the codes of the District.

Authorized Signature: *Lynn Hanson* _____ Date *Fall 2017* _____

Print name and title: *Lynn Hanson – Treasurer Birchwood Dock Assoc.*

Phone: 651-426-0848

Relationship to riparian owner *Citizen of Birchwood Village* _____

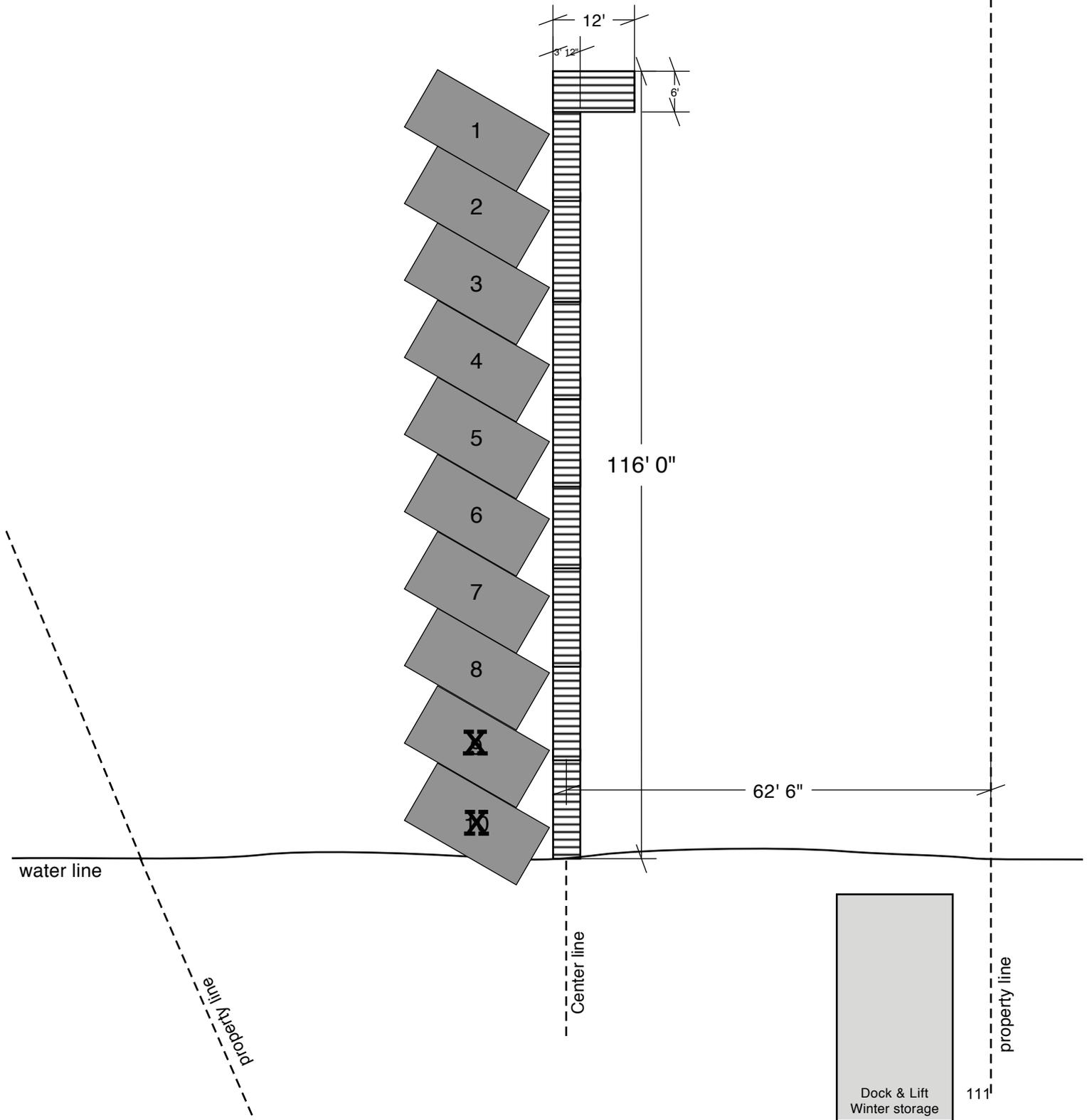
Any questions, call Administrative Secretary at: (651) 429-8520 FAX (651) 429-8500
 Email: wblcd@msn.com website <http://www.wblcd.org>

Return this application and all attachments to: White Bear Lake Conservation District
 4701 Highway 61
 White Bear Lake, MN 55110

(All applications approved at a board meeting; meetings are held 3rd Tuesday of the month at 7:00 p.m. in White Bear Lake City Hall.)

Birch Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 8/25/2012



8. OTHER PERMITS: All required permits, licenses and approvals have been obtained

from the Minnesota Department of Natural Resources and the municipality in which the access to or the dock, ramp or mooring is located, other:

Yes Please list: City of Birchwood Village

No Please explain: _____

9. MAXIMUM NUMBER OF WATERCRAFT:

Birch Beach – Birchwood Village will allow 10 Maximum- Applying for 8

<u>By Location</u>		<u>By Use</u>	
At slips		For rent, lease, etc.	
At slides		For service work	
At lifts	8	For company use	
At moorings		For private use	8
At tie-ons		For transient use	
At off-lake storage			
Other (describe)		Other (describe)	
TOTAL	8	TOTAL	8

10. SITE INFORMATION:

Site lake frontage = **125 Feet**

Water depth 100 feet from shore

Varies due to lake elevation

200 feet from shore =

300 feet from shore =

Water depth above measured on _____ (date)

Ramsey County Lake elevation _____ (date)

(to be filled in by WBLCD)

11. SERVICES PROVIDED: (Check all that apply) **NA**

Boat Storage Boat Rentals

Other (Explain) _____

Boat Sales Boat Service

Restaurant Launching Ramp

Times open to the public: _____

12. DOCK INFORMATION:

Birch Beach

- E. Total dock length (into the lake) **116** ft.
- F. Length from water's edge (including T's and L's) **116** ft.
- G. Width of Dock **4** ft.
- H. Projections from dock:
 - 4. Number of projections **1**
 - 5. Length and width of T's, L's or fingers **8'**
 - 6. Other projection(s)

13. ADJOINING PROPERTY OWNERS' INFORMATION:

- A. Distance from (including ends of T's and L's) immediate property lines
 - North / West **60 Ft.** ----- ft.
 - South / East **60 Ft.** ----- ft.
- B. Distance from (including ends of T's and L's) adjoining docks.
 - North / West _____ ft.
 - South / East _____ ft.
- C. Lake frontage size" of adjoining property owners
 - North / West _____ ft.
 - South / East ' _____ ft.

14. INSURANCE:

Yes No We have Public liability insurance. Amount \$ **2,000,000** _____
Expires (date) _____ Company **Ekblad, Pardee & Bewall, Inc.** _____

16. PARKING:

Total parking spaces: **None** _____ Parking not required (explain) _____

17. SANITARY FACILITIES:

Facilities are provided Yes No _____
Number of units: _____

17. PUMPING SERVICE:

Yes No

Boat toilet pumping service is provided

18. FEES: (See attached License Fee Schedule)

Application Fee: \$50.00	\$ 50 _____
Fee for each approved slip over four: \$50.00	\$ 200 _____
Late Fee: \$50.00 (Renewals sent after 12/31/07)	\$ _____
Watercraft storage racks: \$5.00 for each craft stored	\$ _____
License deposit (if applicable)	\$ _____

Birch Beach TOTAL FEE ENCLOSED \$ **250**

This application is for a commercial dock or mooring area:

Yes No

If yes, an additional \$50.00 per slip or mooring and an additional \$10.00 per ramp/skid is due as follows:

112 of total fee amount in April

DUE IN APRIL \$ _____

and final 112 (or adjusted balance) in August of this license year.

DUE END OF AUGUST \$ _____

I certify that the information provided herein and the attachments hereto are true and correct statements. I understand that any License issued may be revoked by the District for violation of any WBLCD Code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the district. I, also, understand that the District may require a deposit to cover these expenses. I consent to permitting officers and agents of the District to enter the premises at all reasonable times to investigate and to determine whether or not there is compliance with the codes of the District.

Authorized Signature: *Lynn Hanson* Date *Fall 2017*

Print name and title: *Lynn Hanson – Treasurer Birchwood Dock Assoc.*

Phone: 651-426-0848

Relationship to riparian owner *Citizen of Birchwood Village*

Any questions, call Administrative Secretary at: (651) 429-8520 FAX (651) 429-8500

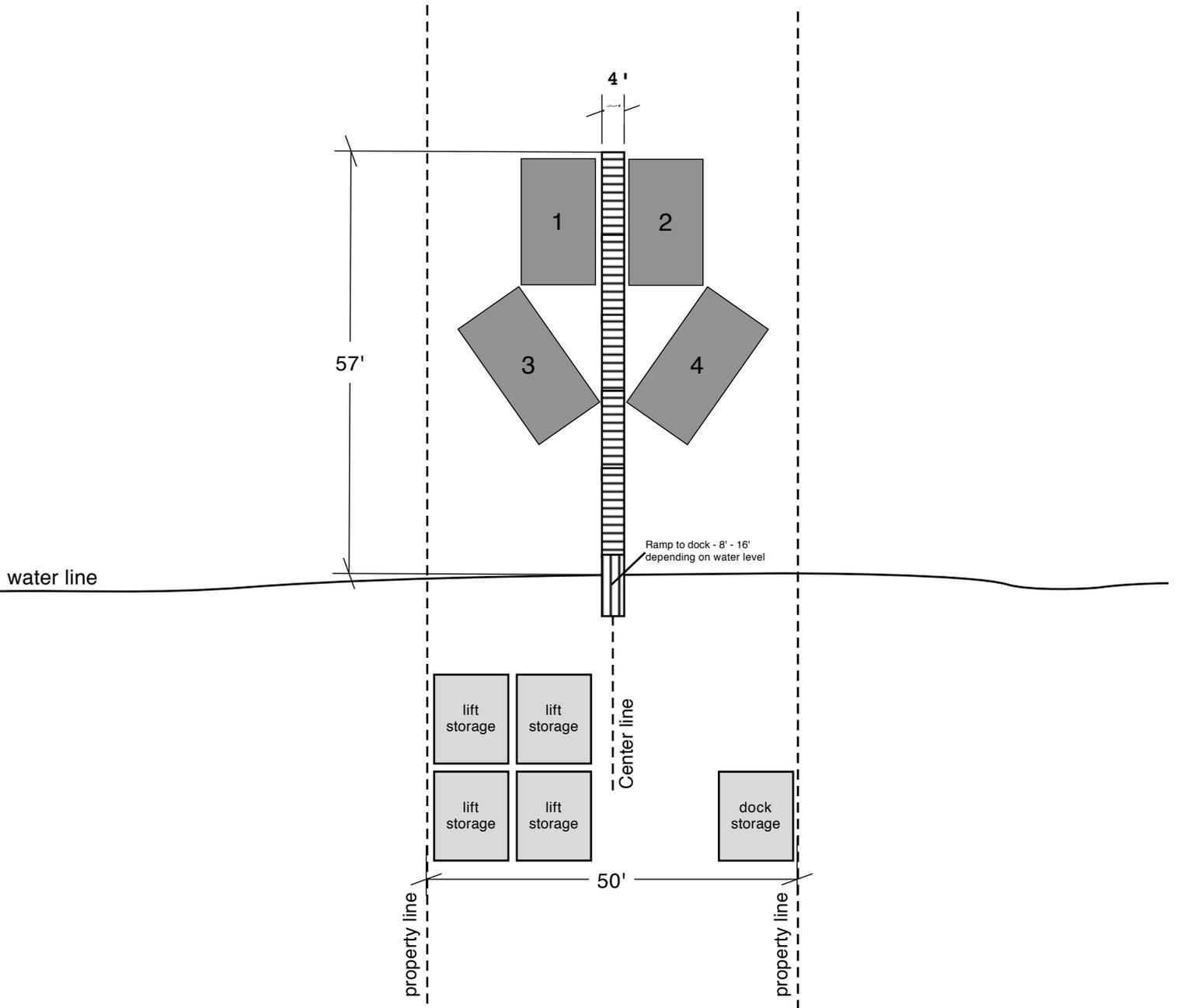
Email: wblcd@msn.com website <http://www.wblcd.org>

Return this application and all attachments to: White Bear Lake Conservation District
4701 Highway 61
White Bear Lake, MN 55110

(All applications approved at a board meeting; meetings are held 3rd Tuesday of the month at 7:00 p.m. in White Bear Lake City Hall.)

Elm Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 10/1/2012



8. OTHER PERMITS: All required permits, licenses and approvals have been obtained

from the Minnesota Department of Natural Resources and the municipality in which the access to or the dock, ramp or mooring is located, other:

X Yes Please list: **City of Birchwood Village**

ONo Please explain: _ _ _ _ _

9. MAXIMUM NUMBER OF WATERCRAFT:

Elm Beach – Birchwood Village will allow 6 Maximum- Applying for 4

<u>By Location</u>	<u>By Use</u>
At slips	For rent, lease, etc.
At slides	For service work
At lifts 4	For company use
At moorings	For private use 4
At tie-ons	For transient use
At off-lake storage	
Other (describe)	Other (describe)
TOTAL 4	TOTAL 4

10. SITE INFORMATION:

Site lake frontage = **50 Feet**

Water depth 100 feet from shore

Varies due to lake elevation

200 feet from shore =

300 feet from shore =

Water depth above measured on _____ (date)

Ramsey County Lake elevation _____ (date)

(to be filled in by WBLCD)

11. SERVICES PROVIDED: (Check all that apply) **NA**

Boat Storage Boat Rentals

Other (Explain) _____

Boat Sales Boat Service

Restaurant Launching Ramp

Times open to the public: _____

12. DOCK INFORMATION:

Elm Beach

- I. Total dock length (into the lake) **57** ft.
- J. Length from water's edge (including T's and L's) **57**
- K. Width of Dock **4** ft.
- L. Projections from dock:
 - 7. Number of projections _____ ft.
 - 8. Length and width of T's, L's or fingers
 - 9. Other projection(s)

13. ADJOINING PROPERTY OWNERS' INFORMATION:

- A. Distance from (including ends of T's and L's) immediate property lines
 - North / West **23 Ft.** _____ ft.
 - South / East **23 Ft.** _____ ft.
- B. Distance from (including ends of T's and L's) adjoining docks.
 - North / West _____ ft.
 - South / East _____ ft.
- C. Lake frontage size" of adjoining property owners
 - North / West _____ ft.
 - South / East ' _____ ft.

14. INSURANCE:

Yes No We have Public liability insurance. Amount \$ **2,000,000** _____
Expires (date) _____ Company **Ekblad, Pardee & Bewall, Inc.** _____

17. PARKING:

Total parking spaces: **None** _____ Parking not required (explain) _____

18. SANITARY FACILITIES:

Facilities are provided Yes No _____
Number of units: _____

17. PUMPING SERVICE:

Yes No

Boat toilet pumping service is provided

18. FEES: (See attached License Fee Schedule)

Application Fee: \$50.00	\$	50 _____
Fee for each approved slip over four: \$50.00	\$	_____
Late Fee: \$50.00 (Renewals sent after 12/31/07)	\$	_____
Watercraft storage racks: \$5.00 for each craft stored	\$	_____
License deposit (if applicable)	\$	_____

Elm Beach TOTAL FEE ENCLOSED \$ **50**

This application is for a commercial dock or mooring area:

Yes No

If yes, an additional \$50.00 per slip or mooring and an additional \$10.00 per ramp/skid is due as follows:

112 of total fee amount in April

DUE IN APRIL \$ _____

and final 112 (or adjusted balance) in August of this license year.

DUE END OF AUGUST \$ _____

I certify that the information provided herein and the attachments hereto are true and correct statements. I understand that any License issued may be revoked by the District for violation of any WBLCD Code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the district. I, also, understand that the District may require a deposit to cover these expenses. I consent to permitting officers and agents of the District to enter the premises at all reasonable times to investigate and to determine whether or not there is compliance with the codes of the District.

Authorized Signature: Lynn Hanson Date Fall 2017

Print name and title: Lynn Hanson – Treasurer Birchwood Dock Assoc.

Phone: 651-426-0848

Relationship to riparian owner Citizen of Birchwood Village

Any questions, call Administrative Secretary at: (651) 429-8520 FAX (651) 429-8500

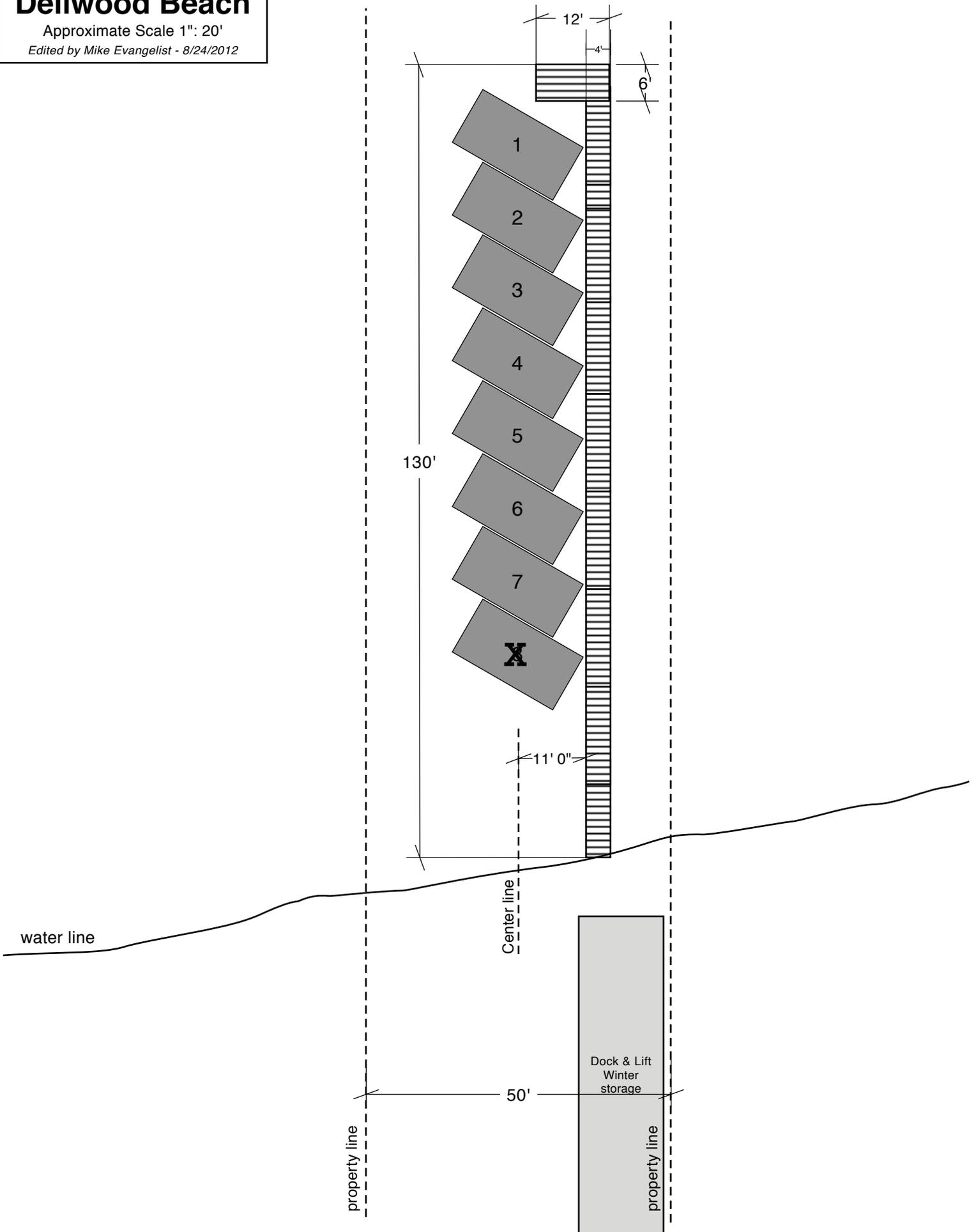
Email: wblcd@msn.com website <http://www.wblcd.org>

Return this application and all attachments to: White Bear Lake Conservation District
4701 Highway 61
White Bear Lake, MN 55110

(All applications approved at a board meeting; meetings are held 3rd Tuesday of the month at 7:00 p.m. in White Bear Lake City Hall.)

Dellwood Beach

Approximate Scale 1": 20'
Edited by Mike Evangelist - 8/24/2012



MULTIPLE USER DOCK, RAMP AND/OR MOORING LICENSE
Applicant, *Birchwood Dock Association* _____

APPLICATION:
Date, *Fall 2017* _____

8. OTHER PERMITS: All required permits, licenses and approvals have been obtained

from the Minnesota Department of Natural Resources and the municipality in which the access to or the dock, ramp or mooring is located, other:

Yes Please list: *City of Birchwood Village*

No Please explain: _____

9. MAXIMUM NUMBER OF WATERCRAFT:

Dellwood Beach – Birchwood Village will allow 8 Maximum- Applying for 7

<u>By Location</u>		<u>By Use</u>	
At slips		For rent, lease, etc.	
At slides		For service work	
At lifts	7	For company use	
At moorings		For private use	7
At tie-ons		For transient use	
At off-lake storage			
Other (describe)		Other (describe)	
TOTAL	7	TOTAL	7

10. SITE INFORMATION:

Site lake frontage = **50 Feet**

Water depth 100 feet from shore

Varies due to lake elevation

200 feet from shore =

300 feet from shore =

Water depth above measured on _____ (date)

Ramsey County Lake elevation _____ (date)

(to be filled in by WBLCD)

11. SERVICES PROVIDED: (Check all that apply) *NA*

Boat Storage

Boat Rentals

Boat Sales

Boat Service

Restaurant

Launching Ramp

Times open to the public: _____

Other (Explain) _____

12. DOCK INFORMATION:
Dellwood Beach

- M. Total dock length (into the lake) **130** ft.
- N. Length from water's edge (including T's and L's) **130** ft.
- O. Width of Dock **4** ft.
- P. Projections from dock:
 - 10. Number of projections **2**
 - 11. Length and width of T's, L's or fingers **8'**
 - 12. Other projection(s)

13. ADJOINING PROPERTY OWNERS' INFORMATION:

- A. Distance from (including ends of T's and L's) immediate property lines
 - North / West **28 Ft.** ----- ft.
 - South / East **10 Ft.** ----- ft.
- B. Distance from (including ends of T's and L's) adjoining docks.
 - North / West **Varies upon placement** _____ ft.
 - South / East **Varies upon placement** _____ ft.
- C. Lake frontage size" of adjoining property owners
 - North / West **+ or - 60 Ft.** _____ ft.
 - South / East ' **+ or - 90 Ft.**

14. INSURANCE:

Yes No We have Public liability insurance. Amount \$ **2,000,000** _____
Expires (date) _____ Company **Ekblad, Pardee & Bewall, Inc.** _____

18. PARKING:

Total parking spaces: **None** _____ Parking not required (explain)_

19. SANITARY FACILITIES:

Facilities are provided Yes No _____
Number of units: _____

17. PUMPING SERVICE:

Yes No

Boat toilet pumping service is provided

18. FEES: (See attached License Fee Schedule)

Application Fee: \$50.00	\$ 50 _____
Fee for each approved slip over four: \$50.00	\$ 100 _____
Late Fee: \$50.00 (Renewals sent after 12/31/07)	\$ _____
Watercraft storage racks: \$5.00 for each craft stored	\$ _____
License deposit (if applicable)	\$ _____

Dellwood Beach TOTAL FEE ENCLOSED \$ **250**

This application is for a commercial dock or mooring area:

Yes No

If yes, an additional \$50.00 per slip or mooring and an additional \$10.00 per ramp/skid is due as follows:

112 of total fee amount in April	DUE IN APRIL	\$ _____
and final 112 (or adjusted balance) in August of this license year.	DUE END OF AUGUST	\$ _____

I certify that the information provided herein and the attachments hereto are true and correct statements. I understand that any License issued may be revoked by the District for violation of any WBLCD Code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the district. I, also, understand that the District may require a deposit to cover these expenses. I consent to permitting officers and agents of the District to enter the premises at all reasonable times to investigate and to determine whether or not there is compliance with the codes of the District.

Authorized Signature: *Lynn Hanson* _____ Date *Fall 2017* _____

Print name and title: *Lynn Hanson – Treasurer Birchwood Dock Assoc.*

Phone: 651-426-0848

Relationship to riparian owner *Citizen of Birchwood Village* _____

Any questions, call Administrative Secretary at: (651) 429-8520 FAX (651) 429-8500
 Email: wblcd@msn.com website <http://www.wblcd.org>

Return this application and all attachments to: White Bear Lake Conservation District
 4701 Highway 61
 White Bear Lake, MN 55110

(All applications approved at a board meeting; meetings are held 3rd Tuesday of the month at 7:00 p.m. in White Bear Lake City Hall.)

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ordinance 2018-01-02 Section 301 Amendments



Birchwood Village

Dear Mayor and Council Members,

During the November 14th Council Workshop, staff informed and Council discussed a problem with conditional use provisions in city code that unintentionally require simple and inexpensive activities to need a Conditional Use Permit; namely that of replacing beach sand on a property.

During the November Council meeting, the Council requested the Planning Commission, via consent agenda, review the relevant city codes related to this problem and recommend a solution for Council's consideration.

Enclosed is a redlined version of City Code Section 301.070 & 301.080 that includes the Planning Commission's recommendation.

Recommendation/Request

Staff and the Planning Commission recommends Council:

- 1) Review and approve the first reading of enclosed Ordinance 2018-01-02; and
- 2) Order a public hearing for Ordinance 2018-01-02 for the March City Council meeting.

Thanks!

Tobin Lay

ORDINANCE 2018-01-02

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

**AN ORDINANCE AMENDING CONDITIONAL USES
AND ZONING PERMIT PROVISIONS IN CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that Chapter 301 (Zoning Code: General Provisions) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

SECTION 301: ZONING CODE: GENERAL PROVISIONS

301.070. CONDITIONAL USES. Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306. **CONDITIONAL USE PERMITS.**

1. A Conditional Use Permit shall be required for the following projects:

a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement. See Note at end of Section 301.070.

Exception 1. Replacement of beach sand lost due to erosion within the area of the existing beach above the OHWL and not to exceed four hundred (400) square feet and/or fifty (50) cubic yards in volume shall require a zoning permit.

b. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.

c. Any swimming pool with a capacity over three thousand (3000) gallons or with a depth of over three and one-half (3 1/2) feet of water.

d. Any tennis court.

e. Any solar energy system for heating, cooling, electrical generation or other purposes.

f. Home occupation.

NOTE: A separate Conditional Use Permit is not required for a land disturbance activity when a building permit has been granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030

and shall follow all provisions of Sections 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.

301.080 ZONING PERMIT. Certain uses and activities not requiring a Building Permit or a Conditional Use Permit have the potential of adverse impact on neighboring property, storm water runoff, and soil erosion. The City is especially concerned that landowners comply with Setback and Impervious Surface coverage requirements. Therefore, the City requires these uses and activities to be covered under Zoning Permits. Applicants for Zoning Permits must comply with all provisions of Section 307 ZONING PERMIT and Section 302 REQUIREMENTS AND PERFORMANCE STANDARDS. If a Building or Conditional Use Permit is applied for and issued, the applicant is not required to apply for a Zoning Permit.

1. A Zoning Permit shall be required for the following projects:
 - a. Retaining Walls. See special requirements in Section 302.070
 - b. Fences. See special requirements in Section 302.070 .
 - c. One-story detached accessory structures, used as tool and storage sheds, playhouses, and similar uses, with a structure of one hundred forty-four (144) or less square feet and greater than twenty five (25) square feet. (Note: Larger structures require Building Permits.)
 - d. Sidewalks, driveways, and patios whose area is greater than one hundred (100) square feet.
 - e. Decks and platforms less than thirty (30) inches above adjacent grade and not attached to a structure with frost footings. (Note: Other decks and platforms require Building Permits.)
 - f. Land Disturbance Activities greater than one hundred (100) square feet or greater than ten (10) cubic yards. (Note: Land Disturbance Activities greater than four hundred (400) square feet or greater than fifty (50) cubic yards require Conditional Use Permits pursuant to Section 306.030 or Building Permits pursuant to Section 301.070.)
 - g. Stairs and lifts to lake or water body. See special requirements in Section 302.080.
 - g-h. Beach sand replacement. See section 301.070.1.a.Exception 1.
2. Landowners constructing structures or conducting activities similar to those in part 1 a. through e. and for Land Disturbance Activities in part f, but which do not require Zoning Permits, are required to comply with all provisions of Section 302 REQUIREMENTS AND PERFORMANCE STANDARDS.

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 February, 2018

Attest:

Mary Wingfield
Mayor

Tobin Lay
City Administrator-Clerk

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Planning Commission Bylaws



Birchwood Village

Dear Mayor and Council Members,

The Planning Commission has drafted the enclosed Planning Commission Bylaws for your approval. Currently the Planning Commission has no bylaws. The provisions included in the enclosed Bylaws are only a beginning and Commissioners expect to add to the Bylaws in time.

Request/Recommendation

The Planning Commission recommends Council review and approve the enclosed Planning Commission Bylaws. Thanks!

Regards,
Tobin Lay

**CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION BYLAWS**

I. NOTICE OF MEETINGS

The Planning Commission shall give at least three (3) days notice of all regular and special meetings. The notice must include a copy of the agenda for the meeting.

II. OPEN MEETINGS

All meetings of the Planning Commission shall be open to the public, unless closure is authorized by the City Council.

III. QUORUM

A quorum is required to hold a meeting and to take any action. A quorum is a majority of the members.

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Liaison Guidelines Feedback



Dear Mayor and Council Members,

During December's Council meeting, Council reviewed liaison guidelines proposed by Mayor Wingfield (enclosed). The Council discussed the guidelines and requested each of the City's committees/commissions review first and offer any feedback/recommendations for Council's consideration at tonight's meeting.

The following feedback/recommendations have been received:

Planning Commission

Commissioners tabled this topic until their February Commission meeting.

Parks and Natural Resources Committee

Committee members offered no feedback regarding the guidelines but discussed whether their Committee needed two Council liaisons and whether the liaisons were needed at the meetings. The Committee decided to recommend leaving their current liaison setup as it is now but to have the option of advising their liaisons to not attend meetings when the Committee felt a representative was not needed.

Roads and Streets Committee

The Roads Committee did not meet in January or February so have not reviewed the guidelines as a body. Committee Chair Tom Stangl, however, has indicated that he foresees no problem with the guidelines as written. He said that if the Committee does have feedback on the guidelines when they do meet in the future, they will forward their comments to the Council accordingly.

Request/Recommendation

Staff requests Council:

- 1) Review and discuss the above feedback; and
- 2) Approve the enclosed liaison guidelines.

Thanks!

Regards,
Tobin Lay

CITY COUNCIL LIAISONS TO CERTAIN ADVISORY COMMITTEES:

Annually, the City Council shall appoint at least one council member to serve as a liaison to the City Advisory Committees. The role of the liaison is to act as a conduit and resource for information by and between the Council and the Planning Commission or Committee. The liaison shall make periodic reports to the Council on the activities of the Planning Commission or committee.

The City Council Liaison is the Chair's primary contact for all governance related issues and supports the Chair with leadership of the appointed group as necessary.

Overall City Council Liaison Responsibilities:

- Facilitates communication between the City Council and the appointed group
- Ensures that the appointed group operates within the parameters of their charge/function statement
 - Ensures that the work of the appointed group stays aligned with the strategic plan, the group's function statement and the annual committee task list (for process committees and advisory City Councils only)
 - Fosters collaborative working relationships between staff, Chair, the City Council and committee members
 - Works with Chairs to ensure long-term productivity of the appointed groups, including facilitating a smooth transition from the out-going chair to the in-coming one

Specific Tasks to Support the work of the committee:

- Attends group meetings, as requested by the Chair
- If the appointed group (or a particular member or chair) is unable to perform its work successfully for any reason, the City Council Liaison notifies concerns to the City Council
 - In the event a Chair or group member is not performing as required, the Liaison notifies the City Council then works to strategize on steps needed in order to improve performance. A call for a resignation is to be used as a last resort. Only the City Council can ask for a Chair or appointed group member's resignation

Facilitates communication between the City Council and the appointed group:

- Acts as an advocate for the group during a City Council meeting, as appropriate
- Reports to their Chairs any relevant action taken by the City Council
 - As needed assist Chairs with governance issues, such as interpreting how the work of the group supports the strategic plan
 - Transmit information, questions and feedback between the appointed group and the City Council in a timely manner
 - When sharing information with the City Council, be clear whether the appointed group is making a formal request or if the group is simply offering observations.

A liaison may always testify or submit comments at a public hearing in their capacity as a private citizen as long as they make clear at the beginning of their testimony or in their written comments that they are speaking on their own behalf and not on behalf of the Council.

Note: City Council Liaisons must be careful not to usurp the authority of the appointed Chair.

MEMORANDUM

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Cell Tower/Signal Dead Zones



Birchwood Village

Dear Mayor and Council Members,

In last week's "What's New In Birchwood" blog, Mayor Wingfield raised a problem of poor cell signal in parts of Birchwood.

In anticipation of tonight's passage of the Right-of-Way Ordinance, Mayor Wingfield has asked that I include this topic on the agenda for Councils deliberation.

Request/Recommendation

Mayor Wingfield requests Council:

- 1) Discuss the poor cell signal problem in Birchwood in an effort to find a solution.

Thanks!

Regards,
Tobin Lay

MEMORANDUM

TO: Tobin Lay, City Administrator

FROM: Tim Finnerty, Cable Commission Executive Director

DATE: January 18, 2018

SUBJECT: Recommendation to approve Franchise Extension Agreement

Attached please find a proposed Agreement for the extension of the Franchise with Comcast. The Cable Commission is recommending that the City Council approve the Extension Agreement. The Agreement will extend the expiration date of the current Franchise from July 1, 2018 to November 1, 2018. The purpose of the proposed extension is to allow for continued informal negotiations between Comcast and the Cable Commission regarding the long-term renewal of the Franchise.

Background

As you know, the Cable Commission has been working on the matter of franchise renewal with Comcast (the existing franchise agreement is set to expire July 1, 2018). The Commission began direct negotiations with Comcast in September 2017, and prior to that, developed and documented a comprehensive needs assessment to serve as the negotiation objective on behalf of member cities. The needs assessment report is available at:

https://drive.google.com/file/d/0B1qh_NnmAEg2SHZtc0tKSnBNVIU/view

Renewal issues can be resolved through “informal” processes (negotiation), or through a “formal” hearing process. Based on the time required to complete the formal process, the Commission adopted two schedules. In both, the parties would start with negotiations, but move the formal process forward so that it would be completed by roughly the date scheduled for franchise expiration if negotiations were not successful. One schedule assumed that the expiration date stayed as is, and effectively required the parties to reach negotiated deal points by January. In the other, the parties would extend the franchise to give themselves more time to engage in negotiations. Both were presented to Comcast in the fall.

Recommendation to Approve Extension

The Cable Commission submitted proposed deal points for negotiation to Comcast in October, 2017, and Comcast was to respond in December. It has not yet responded, and the Commission and Comcast agreed that extending the franchise would allow Comcast to respond and negotiations to proceed informally.

The Cable Commission therefore is recommending that the City approve the extension per the attached Extension Agreement. The Cable Commission believes this simple extension of the current franchise expiration will allow both parties to continue informal negotiations for the next couple of months without being put at a disadvantage. The extension preserves your right to use the I-NET, and preserves existing support and channels (including high definition channels) for local cable programming. It does not harm the communities in any way.

Please feel free to contact me after you have had a chance to review this if you wish to discuss it or have any questions. Thank you!

EXTENSION AGREEMENT BETWEEN AND AMONG THE MEMBERS OF THE RAMSEY WASHINGTON SUBURBAN CABLE COMMISSION AND COMCAST OF MINNESOTA

WHEREAS, Comcast of Minnesota, Inc., (“Franchisee”) operates a cable television system (the “System”) in communities which are members of the Ramsey/Washington Suburban Cable Commission (RWSCC) pursuant to a franchise scheduled to expire on July 1, 2018, to which the City of Birchwood Village, the City of Dellwood, the City of Grant, the City of Lake Elmo, the City of Mahtomedi, the City of North St. Paul, the City of Oakdale, the City of Vadnais Heights, the City of White Bear Lake, White Bear Township and the City of Willernie, Minnesota, are parties (each community is a “Franchisor”); a March 9, 1995 Memorandum of Understanding; and the April 10, 2014 Settlement Agreement, as amended by Section 2 of that certain 2015 Transfer Agreement Between and Among The Members of the Ramsey Washington Suburban Cable Commission, Comcast of Minnesota, Inc. and Midwest Cable, Inc. (collectively, the Franchise and these documents are the “Franchise Documents”); and

WHEREAS, the parties wish to extend certain time period provided under the Franchise Documents to provide time for the parties to work together to attempt to resolve renewal issues

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. The Franchise is extended through and including November 1, 2018.

Section 2. Paragraph 10 of the “Settlement Agreement Regarding PEG Capacity” is amended so that the reference to July 1, 2018 is changed to November 1, 2018.

Section 3. Otherwise, the Franchise Documents shall remain in full force and effect in accordance with their terms.

Section 4. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement

IN WITNESS WHEREOF, the Parties have caused this Extension Agreement to be executed by duly authorized representatives of each Party on the dates written below.

COMCAST OF MINNESOTA, INC.

CITY OF MAHTOMEDI

By:


John D. Keller

By: _____

Title: Regional Vice President

Title: _____

Date:

11/10/18

Date: _____

CITY OF BIRCHWOOD VILLAGE

By: _____

Title:

Date:

CITY OF DELLWOOD

By: _____

Title:

Date:

CITY OF GRANT

By: _____

Title:

Date:

CITY OF LAKE ELMO

By: _____

Title:

Date:

WHITE BEAR TOWNSHIP

By: _____

Title:

Date:

CITY OF NORTH ST. PAUL

By: _____

Title:

Date:

CITY OF OAKDALE

By: _____

Title:

Date:

CITY OF VADNAIS HEIGHTS

By: _____

Title:

Date:

CITY OF WHITE BEAR LAKE

By: _____

Title:

Date:

CITY OF WILLERNIE

By: _____

Title:

Date:

MEMORANDUM - Revised

DATE: February 13, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ordinance 2018-02-01 City Code 617 Amendment



Birchwood Village

Dear Mayor and Council Members,

During the November Council meeting, the Council discussed making amendments to City Code Section 617 and created a new Committee to review and recommend amendments for Council's consideration.

Members of the Dock Committee have met many times and ~~will be presenting recommendations for amendments at tonight's meeting. Materials were not available in time to be included in the packet so materials will be distributed during tonight's meeting~~ now present the enclosed Ordinance 2018-02-01 for your consideration.

Staff has discovered several discrepancies between the enclosed Ordinance and existing Section 617. Due to the late availability of the enclosed Ordinance, however, staff has not had enough time to search for every change. A comprehensive version of this ordinance will be provided for next month's meeting that will also include changes made during tonight's meeting.

Recommendation/Request

Staff requests Council:

- 1) Review and approve the first reading of enclosed Ordinance 2018-02-01; and
- 2) Order a public hearing on this Ordinance at the March Council meeting.

Thanks!

Regards,
Tobin Lay

ORDINANCE 2018-02-01

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

**AN ORDINANCE AMENDING PROVISIONS FOR MAINTAINING AND IMPROVING
PUBLIC LAKE TRACTS IN CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that Chapter 617 (Public Lake Tracts) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

CHAPTER 617: PUBLIC LAKE TRACTS

SECTION 617.100: DEFINITIONS AND PURPOSE

- 617.110** **DEFINITIONS.** As used in this chapter, the terms defined in this section shall have the following meanings.
- 617.111 “Public Lake Tract” is defined as and shall mean each tract of land running to and abutting the shoreline of White Bear Lake, which lands are owned by the City, subject to the right of the City residents to use same for access to White Bear Lake. The Public Lake Tracts are Curt Feistner Beach, Ash Beach, Birch Beach, Elm Beach, Dellwood Beach and Kay Beach. Said properties are sometimes referred to elsewhere in the City’s code as “lake tract easements”, “public easements”, or “lake easements” and such terms shall be considered to be synonymous with “Public Lake Tract”.
- 617.112 “Dock Association” is defined as a private entity incorporated as non-profit organization whose membership is limited to City of Birchwood Village residents or property owners, and that may be issued a Dock Permit by the City to install and maintain a private dock on one or more of the Public Lake Tracts subject to the rights of the City to permit and regulate the use of the dock.
- 617.113 “Boating Season” is defined as April 1 through November 15 of each year.
- 617.114 “Install” is defined as placing within the physical boundaries of a Public Lake Tract or in its associated authorized dock use area.
- 617.115 “Quiet Activities” are defined as activities that do not generate loud noises.
- 617.116 “Dock Permit fees” are fees set by the Dock Association to pay for dock association approved dock maintenance and capital improvement expenditures.
- 617.117 “WBLCD” shall mean the White Bear Lake Conservation District.

617.118 “Boat Slip Permit” shall mean a permit issued by the Dock Association granting the holder the opportunity to install and use a boat on a particular dock at one of the City’s Public Lake Tracts during a Boating Season. Such permit is subject to the payment of the appropriate fee set by the Dock Association and in compliance with all provisions of this ordinance. Such permits shall not be considered a sale or other transfer of the City’s underlying riparian rights, of which the City shall retain ownership.

617.119 “Dock Permit” shall mean a permit issued by the City to a Dock Association to allow the installation of a dock on a Public Lake Tract. Such permit is subject to the payment of the appropriate fee as set forth in Chapter 701 and in compliance with all provisions of this ordinance. Such permits shall not be considered a sale or other transfer of the City’s underlying riparian rights, of which the City shall retain ownership.

617.120 “Applicant” is defined as a resident or property owner of Birchwood who makes application to the City to be placed on the Dock Association Waitlist and has paid the applicable refundable deposit ~~and administration fee~~.

617.150 PURPOSE: The purpose of Chapter 617 is to maintain and improve the Public Lake Tracts in a manner that promotes the following objectives:

- (1) Ensure the availability of proper facilities to serve all residents. In development of its facilities, Birchwood shall strive to maintain a balance of suitable recreational activities for all persons within the municipality.
- (2) Strive to improve the Public Lake Tracts and their use and availability to all residents of Birchwood, and the fair and equitable use of docks installed thereon.
- (3) Upgrade the Public Lake Tracts, as necessary, to ensure the health, safety and general well being of the residents with respect to the use and enjoyment of those facilities.
- (4) Provide for multiple uses in keeping with the character and physical layout of each Public Lake Tract and the residential character of the neighborhood.

617.200 GENERAL PUBLIC REGULATIONS: The Public Lake Tracts shall be subject to the following rules and regulations:

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

617.215 **Small Craft.**

- (1) Storage. Only Birchwood residents may store canoes, kayaks, and other small non-motorized watercraft on racks located at City Easements. Residents may not rent their small craft to non-residents. Small Craft shall 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.
- (2) Permit required. Residents must purchase a permit from the City Clerk to store small craft on racks at City Easements. The cost for each permit is as set forth in Chapter 701. A sticker accompanying the permit must be placed on each small craft registered with the City. When purchasing a permit, the small craft owner must show proof of ownership and residency.
- (3) Penalty for Violation. The owner of a small craft determined to not have a valid permit will be charged a fee as set forth in Chapter 701. 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 Chapter 701.

“AMENDED BY ORDINANCE 2015-02-01; March 10, 2015”

- 617.220 **Structures.** Structures may not be placed on public property without City Council approval.
- 617.225 **Posted Regulations.** All persons using a Public Lake Tract shall comply with the following regulations:
- Docks are private property
 - Public Lake Tract closed at 9:30 PM to 6:00 AM
 - Quiet Activities only from 6:00 AM to 8:00 AM
 - No Alcoholic Beverages
 - No vehicle assisted Boat Launching allowed
 - No all-terrain vehicles or snowmobiles allowed
 - No glass containers allowed
 - VIOLATORS SHALL BE PROSECUTED
- 617.230 **Signs.** The city shall post the regulations set forth in Section 617.225 on a sign at the entrance of each Public Lake Tract
- 617.235 **No Use as Boat Launch.** No person shall launch or land any trailered watercraft on or from any shoreline of a public Lake Tract.
- 617.240 **No Dock Without a Permit.** No docks shall be installed on any Public Lake Tract unless:

- (1) A Dock Permit for the dock has been issued by the City Council; and
- (2) A WBLCD dock license application for the dock is first approved by the City Council and then the same application is submitted to and approved by the WBLCD; and
- (3) All applicable Chapter 701 Dock Association Dock Permit Fees and WBLCD dock license fees have been paid.
- (4) Vehicle and Trailer Parking Prohibited. No person shall park or cause to be parked any house, hauling or boat trailer upon any Public Lake Tract. The City Council may adopt such parking regulations as vehicles thereon as it may deem necessary. Unless such regulations are adopted, parking of vehicles on any Public Lake Tract shall be prohibited.
- (5) 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, or other equipment for any period of time other than when in actual use unless such storage has been authorized by the City.

617.250 Fees. A charge of \$25 per day will be assessed for each day the boat that is not removed from the Public Lake Tract by the end of the Boating Season.

617.255 Obstructions Prohibited. No person shall deposit or construct any object upon any Public Lake Tract which shall obstruct access to the lake, docks, or other facilities.

617.260 Proper Attire. 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.

SECTION 617.300 DOCK ASSOCIATION REGULATIONS: A Dock Association requesting to install its private dock(s) on any Public Lake Tract is subject to the following regulations.

617.310 Dock Association Memberships.

- (1) Dock Association memberships shall be open to all residents or property owners of the City, with a limit of one membership per dwelling.
- (2) Members of the Dock Association shall have equal voting status. Voting status defined in the By-Laws of the Dock Association.
- (3) Dock Association Membership and its privileges are not transferable.

- (4) All residents and property owners shall have access and full use of all Dock Association docks without obligation of membership or payment of fees.

617.320

Dock Association Meetings.

- (1) The Dock Association shall hold a minimum of one meeting per year.
- (2) The Dock Association shall provide written notice of its meetings by providing such notice to the city clerk and to neighboring lakeshore property owners within 200 feet of a Public Lake Tract's side boundaries. Such notice shall be provided at least one week prior to the meeting and shall contain at a minimum the time, date, location, and purpose of the meeting.
- (3) The City shall post a notice at City Hall and on the City's website inviting the general public to the Dock Association's meetings, to be posted at least four (4) days prior to the meeting.
- (4) The meetings shall be open to the public.

At a minimum, the meeting shall address the following:

- (a) The proposed length of each of the Dock Association's docks from the water's edge.
- (b) The proposed configuration of each of the Dock Association's docks, including number and location of boat slips, lifts, and shore ramps.
- (c) The proposed location and orientation of each of the Dock Association's docks and shore ramps on the Public Lake Tract relative to the shore line and property boundaries.
- (d) The Dock Association shall include in its Dock Permit Application Package that is submitted to the City Council the minutes of the BDA annual meeting. The minutes shall include the persons in attendance, issues discussed, areas of agreement, and unresolved issues.

617.330

Dock Association Fees, Dues and Assessments.

- (1) Dock Association fees, dues, and assessments shall not be set or used to limit or exclude membership.
- (2) The Dock Association may only assess, in accordance with its bylaws, dues and fees to its members to generate monies for operating costs, general liability insurance coverage, routine dock maintenance, capital improvements, and other dock association expenses.

617.340 **Single Dock Association.** The City shall allow only one Dock Association to operate all docks on the Public Lake Tracts. If multiple Dock Associations apply for the position, the City Council has discretion as to which association may be granted a Dock Permit.

617.350 **Dock Permit Application Package.** Each year, a Dock Association desiring to install its private dock(s) on any of the Public Lake Tracts shall submit a complete Dock Permit Application Package to the City no later than ten (10) days before the day and time set by the City Council for its annual Dock Permit application review meeting. The Dock Permit Application Package shall include copies of the following:

- (1) Completed Dock Permit Application Package Checklist,
- (2) Dock Association's bylaws, if not previously submitted, and any proposed amendments to the Dock Association bylaws to be considered if the original bylaws are already on file with the City.
- (3) Dock Association's current treasurer's report.
- (4) Minutes of the Dock Association's meeting(s) for the past year.
- (5) The following lists:
 - (a) Dock Association officers including telephone and email contact information.
 - (b) Dock Association membership initiation fees, dues, other charges, and dock maintenance fees.
 - (c) Current Dock Association members indicating total years of association membership.
 - (d) The identification of and the contact information for the Dock Association member designated to receive complaints against the Dock Association.
 - ~~(d)~~(e) _____ Planned repairs or improvements to the Dock Association's dock(s) or any other equipment. The list shall address when and how the repairs and improvements shall be accomplished.
- (6) Scale drawings for each proposed dock showing the dock configuration and placement, boat slip placement, neighboring property lines, shore ramps, and the area of each affected Public Lake Tract available to maintain a balance of suitable recreational activities for all residents.
- (7) Plans for winter storage of Dock Association lifts, docks or other property on the Public Lake Tract if such storage is requested.

- (8) A completed WBLCD dock license application regarding each dock for which the Dock Association requests a Dock Permit.
- (9) The Dock Association Boat Slip permit holders for each dock for the past and following boating season.
- (10) Any other information requested by the City Council.

617.360 **Dock Permits.** The City may issue a Dock Permit to the Dock Association authorizing the Dock Association to install and operate a private dock(s) on the Public Lake Tracts subject to the following:

- (1) Compliance with all requirements set forth in this code and the WBLCD ordinances.
- (2) No Dock Permit issued by the City is valid unless and until the WBLCD approves the associated permit.
- (3) The Dock Association shall pay all dock permit fee(s) set forth in Chapter 701.
- (4) Failure to pay by April 1 shall result in revocation or denial of such permit(s).

617.365 **Dock Permit Review Process.**

- (1) The City shall review and consider the Dock Permit Application(s) at the City's annual Dock Permit Review meeting.
- (2) The City Council shall hold its annual Dock Permit Application Review Meeting on a date and at a time set by the City Council sufficient to timely submit an application to the WBLCD.
- (3) The purpose of the meeting shall be to review submitted Dock Permit Application Packages for compliance with the provisions of this Chapter and determine whether to issue Dock Permits to an applicant Dock Association for the next Boating Season, and all issues related thereto.

617.370 **Boat Slip Permits.** Use of a boat slip on a Public Lake Tract shall require a Dock Association Boat Slip Permit. The Dock Association shall manage the assignment of Boat Slip Permits on docks installed on its Public Lake Tracts as follows:

- (1) On November 15 of each year, the Dock Association shall determine if each boat slip permit holder is eligible for a boat permit slip for the following year, and if so, send written notice to each permit holder to renew their permit for the next

boating season. Failure to reply and pay the Boat Slip permit fee and provide proof of insurance by December 15 of that same year will result in forfeiture of any remaining Boating Seasons for such permit holder.

- (2) The Dock Association shall assign any Boat Slip Permits that are not renewed by December 15, shall be filled according to the provision set out in 617.400 by March 1 for the following boating season.
- (3) Boat Slip permits shall be assigned by Dock Association by March 1 of each boating season and shall be valid for the boating season if the requisite fee has been paid and proof of insurance in compliance with 617.390(2) are provided to the Dock Association.
- (4) Boat Slip Permits are not transferable or assignable by the holder.
- (5) Boat Slip Permits may not be used for any commercial purpose.
- (6) No person or household shall be permitted more than one (1) boat slip on the Public Lake Tracts.
- (7) The maximum number of years an individual or household may use a Boat Slip Permit is six (6) continuous Boating Seasons. A Boat Slip permit holder may begin another six year period if no other applicants on the Boat Slip Wait List desire that assigned boat slip.
- (8) The Dock Association shall maintain an up-to-date list of individuals assigned a Boat Slip Permit that includes their accrued number of years of use and provide that list as part of its yearly Dock permit application.
- (9) Upon a Dock Association member reaching the maximum number of years of Boat Slip Permit, said Dock Association member shall relinquish his or her Boat Slip Permit, and his or her years of accrued use shall be set back to zero years. Thereafter, said Dock Association member may submit an application for the Boat Slip Waiting List pursuant to the provisions of Section 617.400.
- (10) An individual may voluntarily relinquish their Boat Slip Permit at any time but shall be required to reapply to be added to the Boat Slip Waiting List pursuant to Section 617.410 to regain a Boat Slip Permit.
- (11) The Dock Association shall have the discretion to determine the physical boat slip to be used by each individual who has a valid Boat Slip Permit. The Dock Association shall assign slips as to maximize the useable number of boat slips. The City reserves the right to monitor the Dock Association's boat slip assignment process and to recommend changes to the Dock Association's boat slip assignment process.

- (12) The maximum number of boat slips that can be approved by the City for each of its Public Lake Tracts is as follows:
- a. Curt Feistner Beach – 0
 - b. Ash Beach – 8
 - c. Birch Beach – 10
 - d. Elm Beach – 6
 - e. Dellwood Beach – 8
 - f. Kay Beach – 0

617.380

Docks, Boat Slips and Boats.

- (1) Docks, boat slips, shore ramps, and boats shall be installed and configured so as to allow, inasmuch as natural conditions allow, at least 50% of the Public Lake Tract beach area and adjacent water to be available for non-boating activities.
- (2) Docks shall be installed and configured such that:
- a. Boat slips shall not extend beyond the end of the dock.
 - b. A dock's location shall not unreasonably impede the non-boating beach use.
 - c. Boat slip placement shall minimize the need for boats to enter designated swimming areas during ingress or egress.
- (3) Docks shall not exceed the length specified in the WBLCD approved dock license. Dock length shall be consistent with other docks in the vicinity.
- (4) Shore ramps shall not exceed 4 feet in width and 12 feet in length and shall be secured to the shore in a location and manner that does not pose a hazard for persons.
- (5) The City retains the right to inspect all Dock Association docks and shore ramps installed on the Public Lake Tracts to ensure health, safety and well-being. The City shall forward all dock safety concerns or deficiencies to the Dock Association's complaint via the Dock Liaison for action. The Dock Association shall have seven (7) days to reply in writing to the City addressing the identified deficiencies. The City Council shall thereafter review the matter if necessary.
- (6) Boats installed on any Public Lake Tract shall not exceed twenty-two (22) feet in length on Birch Beach and shall not exceed nineteen (19) feet in length on all other Public Lake Tracts. **(As amended via Ord. 2011-01, 04-12-11)**
- (7) Boat length and width shall be determined by one of the following methods.

- a. First, by the manufacturer's specification, which shall be used without regard to motors, swim platforms or other appurtenances that add to the dimensions, or
 - b. Second, by physical measurement of the boat. Length shall be measured at the longest part and width measured at the widest part of the vessel.
- (8) The City Council in its discretion may allow winter storage of boat lifts on a Public Lake Tract. Storage shall require pre-approval by the City Council. The slip fee shall include the cost of winter lift storage.
 - (9) Installation and removal of all docks and lifts at any Public Lake Tract shall be in compliance with all applicable Minn. Department of Natural Resources Rules.
 - (10) Boat canopies shall not be allowed on any boat lift installed or stored on any Public Lake Tract.

617.390

Dock Association and Boat Owner Insurance.

- (1) The Dock Association shall maintain and provide written proof of general liability insurance coverage for the docks of at least \$2,000,000.00, and shall name the City of Birchwood Village as an additional insured. Written proof of insurance shall be submitted by March 1 for the next boating season and shall include: name of insurance company, policy number, policy limits, dates of coverage; and certification by the Dock Association that the policy shall remain in full force and effect for the duration of the Boating Season.
- (2) Prior to receiving a Boat Slip Permit, each boat owner shall provide the Dock Association with a copy of his/her excess personal liability insurance policy covering their boat and lift (if one is used) with a minimum coverage of \$1,000,000.00 per occurrence and \$300,000.00 per individual. The boat owner shall certify the policy will remain in full force and effect for the duration of the Boating Season.
- (3) Any boat slip permit without valid insurance is void and the next eligible boat slip permit applicant shall be offered the boat slip.
- (4) The boat must be registered and insured to the person holding the permit.
- (5) The Dock Association shall keep on file all boat slip users' insurance policies. The city may review all insurance records kept by the Dock Association at any time.

SECTION 617.400 BOAT SLIP WAIT LIST: The City shall maintain the Boat Slip Wait List for all Birchwood residents who desire a Boat Slip Permit for a Public Lake Tract.

617.410

Boat Slip Waitlist. The City and Dock Association shall use the following procedures to maintain and implement the Boat Slip Wait List:

- (1) Any Birchwood resident requesting a boat slip shall submit a complete application to the City for the Boat Slip Wait List and pay a deposit of \$200 along with any processing fee.
- (2) The Dock Association shall hold the \$200 deposit and apply the deposit to the first year's dock permit slip fee, or return the deposit in full if the applicant rescinds their application prior to being awarded a dock slip permit.
- (3) Current boat slip holders cannot apply to be placed on the Waitlist until the last day of their lease.
- (4) Applicants must declare which Public Lake Tract Dock they are requesting. More than one dock location may be selected. Only one slip permit per application will be awarded.
- (5) Only one application per household is allowed.
- (6) Places on the Boat Slip Wait List are not transferable or assignable.
- (7) The City shall add names to the Boat Slip Wait List in the order received.
- (8) If there is a boat slip opening for the upcoming boating season, the Dock Association shall offer a boat Slip Permit in descending order to the applicant(s) on the Boat Slip Wait List until all Boat Slip Permits are assigned or until all applicants on the Boat Slip Wait List have been offered and have declined a boat slip permit.
- (9) An applicant may decline and remain in the same position on the Boat Slip Wait List until the applicant has been offered a Boat Slip permit at each of the Public Lake Tracts selected on the application. Once an applicant has declined an offer at each one of their Public Lake Tracts they will no longer be eligible for a Public Lake Tract boat slip unless they resubmit a Waitlist application for consideration.
- (10) If a boat slip becomes available during the boating season, the Dock Association shall offer the slip to the next applicant on the Wait List in descending order. If accepted, the associated Boat Slip Permit Fee shall be prorated based on the number of months remaining in the current Boating Season.
- (11) Within ten days of issuance of a Boat Slip Permit, the Dock Association shall notify the city of acceptance of a boat slip application, and confirm the applicant has provided valid insurance. The City shall then remove the applicant's name from the Wait List.

- 617.420. **Low-water Boat Slip Privileges.** The Dock Association shall use the following process to maximize the use of temporary boat slips during periods of low water levels:
- (1) The Dock Association shall review the applications of the individuals on the Boat Slip Waiting List in priority order and offer a temporary Boat Slip Permit to individuals who may be able to use the available boat slip. If an applicant accepts and uses the temporary Boat Slip Permit, at the end of the Boating Season, the Boat Slip Permit rights revert back to the individual who relinquished them due to inability to use them based on the low water level. The individual that used the temporary Boat Slip Permit shall retain his/her place on the Boat Slip Waiting List. The temporary boat slip user shall be charged with a pro rata amount of Boat Slip Permit use.
 - (2) An individual who cannot use his/her Boat Slip Permit for an entire Boating Season due to low water level shall be charged with a pro rata amount of accrued Boat Slip Permit use and may resume using his/her Boat Slip Permit the following Boating Season if the individual is still eligible to do so.
- 617.430 **Submission of Application to WBLCD.** If the City Council approves the Dock Permit Application, it shall issue the applicant a Dock Permit for the dock(s) and forward the approved WBLCD dock license application to the WBLCD for further approval. The City Council may designate a City Council member to represent the City approved WBLCD dock license application at the appropriate WBLCD meeting.
- 617.440 **Installation of Dock.** If the WBLCD approves the license application(s), the Dock Association may install its dock(s) on or after the start of the Boating Season, but only as approved in the application and only after providing a copy of its requisite insurance policy, paying the City the total applicable Dock Permit Fees listed in Chapter 701 and certifying all slip users are licensed and insured as required pursuant to 617.390(2).
- 617.450 **Dock Association Liaison.** The City Council shall assign a City Council member to serve as its liaison with the Dock Association.
- (1) The designated Liaison shall facilitate communications between the Dock Association and the City Council and review Dock Association Compliance with this ordinance.
 - (2) The designated Liaison shall assist in resolving or arbitrating complaints filed against the Dock Association or its members.
- 617.460 **Complaint Processing and Resolution.** The City shall use the following procedures for the resolution of complaints made against the Dock Association or any of its members.

- (1) The complainant shall first present his/her complaint in writing to the Dock Association's designated complaint contact person and provide a copy of the written complaint to the City, who shall file it.
- (2) The Dock Association shall respond to the written complaint within 7 days of receipt. The Dock Association response shall be written and shall document actions done or planned to resolve the complaint. The response shall be presented to the complainant with a copy provided to the City, who shall file it with the original complaint.
- (3) If the Dock Association's response does not satisfy the complainant, the complainant may then file a formal written complaint with the City. The formal complaint shall be accompanied by any additional documentation of the complainant's attempt(s) to resolve the complaint with the Dock Association, including the Dock Association's response(s).
- (4) Upon receiving a formal complaint with any supporting documentation, the City shall forward copies of the documents to the City Council Dock Association Liaison.
- (5) The Dock Association Liaison shall review the documentation and arrange for a meeting to be attended by the Dock Association Liaison, the complainant and the Dock Association's president. The objective of the meeting is to facilitate resolution that is acceptable to both the complainant and the Dock Association.
- (6) If the complaint is satisfactorily resolved, the Dock Association Liaison shall document the resolution and provide it to the City to be filed with the original formal complaint.
- (7) If the complaint is not resolved, the Dock Association Liaison shall provide the City with written documentation of the unresolved issues and the City shall place the matter on the agenda for resolution by the City Council.
- (8) If the City Council determines that a violation of City Code has occurred, the City Council, in its discretion, shall determine the appropriate remedy. If the party who is the subject of the complaint is a holder of a Boat Slip Permit, the City Council may, in its discretion, revoke such permit from that party or their household. Upon a finding of noncompliance with the ordinance, if the party who is the subject of a complaint is on the Boat Slip Waiting List, the City Council may, in its discretion, remove that party or their household from the Waiting List.

SECTION 617.500 ENFORCEMENT

- 617.510 **Compliance with Posted Rules.** No person shall disregard or fail to comply with any posted regulations, directional signs and graphics, barriers or other control

devices located at any Public Lake Tract.

- 617.520 **Misdemeanor.** Any person, firm, association, or entity violating any of the provisions of this Chapter 617 by doing any act or failing to do any act which constitutes a breach of any section of this ordinance is guilty of a misdemeanor.
- 617.540 **Revocation of Boat Slip Permit.** Any person violating any provision of this Code Chapter 617 who holds a Boat Slip Permit may have such permit temporarily or permanently revoked by the City based upon such violation, and shall be required to remove his or her boat from such slip.
- 617.550 **Revocation of Dock Permit.** The City may deny or revoke a Dock Association Dock Permit if the City Council determines that the Dock Association:
- (1) Misrepresented information in its Dock Permit Application Package or its WBLCD dock license application; or
 - (2) Violates any provision set forth in this Chapter 617.
- 617.560. **Civil Action.** Separate from and in addition to the foregoing remedies, the City may commence a civil action in District Court to remedy any violation of any provision of this Chapter 617, including seeking any and all available forms of legal, equitable, or injunctive relief.

SECTION 617.600 SEPARABILITY. Should any section, subsection, clause, or other provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such provision shall be severed from the rest and such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

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

Adopted by the City of Birchwood Village City Council this 13th day of March, 2018

Mary Wingfield
Mayor

Attest:

Tobin Lay
City Administrator-Clerk