



MEMORANDUM

TO: Sunfish Lake Planning Commission

FROM: Alan Brixius

DATE: March 14, 2012

RE: Sunfish Lake – Parks and Open Space Ordinance

FILE NO: 211.02 – 11.03

4/03/12 CC Mtg.
Agenda Item

6b

Recent concerns have arisen in Sunfish Lake regarding the use and activities within the City's parks and open spaces. Currently, the City has no regulations governing the use and activities within the City parks. The attached draft ordinance has undergone Planning Commission and City Council review, discussion and editing, resulting in an ordinance that will be presented for public hearing.

The ordinance has been drafted to reflect the City's natural parks and to offer regulations that protect their natural environment and enhance the residents' private enjoyment.

The Sunfish Lake Planning Commission met on January 18, 2012 and February 15, 2012 to review and edit the proposed policies. The draft ordinance was amended to include the following changes requested by the Planning Commission:

1. The City has some geocaches occurring within the City street rights-of-way. To avoid non-local traffic in the City's residential neighborhoods, we have expanded Chapter 805 to include street easements or rights-of-way. Section 805.02 was added to prevent unauthorized placement of structures, litter, or personal property within a Sunfish Lake street or utility right-of-way.
2. Section 805.03, Subd. 1(e), Public Property, was amended to remove tree climbing as a prohibited use.
3. Section 805.03, Subd. 5, Behavior, was amended to remove play outside of designated areas as a prohibited use.
4. Section 805.03, Subd. 5(b), Behavior, was amended to reference intoxicating drugs as well as alcoholic beverages as a prohibited use within the park.

5. Section 805.03, Subd. 6(a), Other Regulations, was amended to prohibit park use between the hours of dusk to dawn.
6. Per the Planning Commission recommendation, the City considered regulations for special events to allow large private gatherings within Sunfish Lake parks. However after review of the regulations permitting, administration, insurance, and enforcement, it was determined that neither the parks nor City staff was equipped to accommodate special events.

Upon receipt of comments from the public hearing, the Planning Commission may further edit the policies or recommend them for approval to the City Council.

- c: Sunfish Lake Mayor and City Council
Catherine Iago, City Clerk
Tim Kuntz, City Attorney
Don Sterna, City Engineer
David Neameyer, Building Official
Jim Nayer, City Forester

CHAPTER 805
CITY PUBLIC STREET EASEMENTS OR RIGHTS-OF-WAY, OPEN SPACE,
PARKS AND TRAILS

SECTION 805.01 PURPOSE:

The purpose of this chapter is to regulate the use of the City of Sunfish Lake street easements or rights-of-way, open spaces, parks and public properties to further promote their safe and orderly use to further the health, safety, and welfare of persons within Sunfish Lake.

SECTION 805.02 REGULATIONS FOR PUBLIC STREET EASEMENTS OR RIGHTS-OF-WAY:

The following regulations shall apply to all City street easements or rights-of-way:

Subd. 1. Street Easements or Rights-of-Way:

- (a) Placement or installation of utilities within a City street easement or right-of-way shall be in accordance with Chapters 801, 802, 803 and 804 of Article VIII of the Sunfish Lake City Code.
- (b) No person within a City street easement or right-of-way shall:
 - (1) Dig or remove any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means, except as allowed under Chapter 801, 802, 803, or 804 of the City Code, or a City approved project or street maintenance.
 - (2) Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued by the City hereunder.
 - (3) Bring in or dump, deposit, or leave any broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash.
 - (4) Leave, store or abandon personal property within a public street right-of-way.
 - (5) Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or street or utility rights-of-way, unless approved by the City.
 - (6) Geocache within a public street easement or right-of-way.

SECTION 805.03 REGULATIONS FOR ALL CITY PUBLIC OPEN SPACE, PARKS AND TRAILS:

The parks and open spaces within Sunfish Lake are Harmon Park, Musser Park, and Russ Wahl Wetland. These sites have been acquired by the City and have been and are intended to be kept in their natural state. Therefore, they shall be governed by the following regulations:

Subd. 1 Public Property: No person within City public open space, park, or trails shall:

- (a) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any structures, bridges, tables, benches, railings, paving or, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (b) Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. A person shall not dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area except for City approved projects or park maintenance.
- (c) Dig or remove any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means except for City approved projects or park maintenance.
- (d) Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued by the City hereunder.
- (e) Climb, walk, stand or sit upon monuments, railing, fences or upon any other property not designated or customarily used for such purposes.

Subd. 2 Sanitation, Litter, Beverages, and Fires: No person in City public open space, parks, or trails shall:

- (a) Throw, discharge or otherwise place or cause to be placed in the waters of any pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in, the pollution of said waters.
- (b) Have brought in or shall dump, deposit, or leave any broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such

refuse or trash shall be placed in any waters in or contiguous to any park, or left on the grounds thereof, but shall be placed in the proper trash receptacles where these are provided; where trash receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

- (c) Possess alcoholic beverages or display or use a glass container.
- (d) Start or ignite a fire without City approval.
- (e) Place, leave, store or abandon personal property within a public park or open space.
- (f) Geocache within a public park or open space.

Subd. 3 Motorized Vehicles, Bicycles, or Parking: No person within the City public open space, parks, or trails shall:

- (a) Operate motorized vehicles (all as defined in Minnesota statutes section 169.11); all terrain vehicles (as defined in Minnesota statutes section 84.92, subdivision 8); or snowmobiles (as defined in Minnesota statutes section 84.81, subdivision 3) without the approval of the city, except for city vehicles and public safety vehicles.
- (b) Ride a bicycle in areas other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.
- (c) Park beyond the public street easement or right-of-way or in unidentified parking areas.

Subd. 4 Sales and Advertisement: No person within the City public open space, parks, or trails shall:

- (a) Expose or offer for sale any article or thing. Nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing within a public park or open space.
- (b) Advertise, announce, or call the public attention in any way to any article or service for sale or hire.
- (c) Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park unless approved by the City.

Subd. 5 Behavior: No person within the City public open space, parks, or trails shall:

- (a) Engage in loud, boisterous, threatening, abusive, insulting, or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace.
- (b) Be under the influence or consume intoxicating drugs or alcoholic beverages.
- (c) Throw or cast any stone or other object carelessly or heedlessly in disregard of the rights or the safety of others, or in a manner so as to endanger or be likely to endanger any person or property.

Subd. 6 Other Regulations: No person within the City public open space, parks, or trails shall:

- (a) Use or be in this area between the hours of dusk to dawn.
- (b) Swim, bathe, or wade in any waters or water-ways in or adjacent to any park.
- (c) Set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer, camp-trailer, camp-wagon, or the like.
- (d) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird, nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen alive or dead; nor shall he carry, or possess firearms of any descriptions, or air rifles, spring guns, bow and arrows, slings or any other form of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with a fire blank cartridges, or any kind of trapping device; unless a permit is approved by the state and the city.

SECTION 805.04 MISDEMEANOR VIOLATION PENALTIES:

Every person violates any provision of this chapter when such person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor as provided in Section 104.02 of this Code.

- DRAFT -
SUNFISH LAKE PLANNING COMMISSION MEETING – MARCH 21, 2012
7:00 P.M. - ST. ANNE’S EPISCOPAL CHURCH

Attendants:

Chair: JoAnne Wahlstrom
Commissioners: Andrea McCue, Gordon Peters, and Arnulf Svendsen
City Planner: Alan Brixius
City Clerk: Absent
Commissioner Tom Schlehuber arrived at 7:10 p.m.

1. CALL TO ORDER: Chair JoAnne Wahlstrom opened the meeting at 7:00 p.m.

2. ADOPT AGENDA: Chair Wahlstrom asked if there were any additions or corrections to the agenda. Planner Brixius requested that the Planning Commission amend the agenda to allow for the discussion of the potential expansion of an existing home at 345 Salem Church Road under Item 5, Other Business.

Commissioner Peters moved to adopt the amended agenda, seconded by Commissioner Svendsen and carried. (5-0)

3. APPROVE MINUTES FEBRUARY 15, 2012: Chair Wahlstrom asked if there were any additions or corrections to the February 15, 2012 Planning Commission minutes and there was no response.

Commissioner Peters moved to approve the February 15, 2015 Planning Commission minutes as presented, seconded by Commissioner McCue and carried. (5-0)

4. PUBLIC HEARING: Code Amendment to Sunfish Lake City Code, Section 805, City Public Streets, Easements, or Rights-of-Way, Open Space, Parks and Trails:

Chair Wahlstrom opened the public hearing at 7:10 p.m. Planner Brixius explained that the City Code amendment was to regulate the use and activities within City properties including street easements and rights-of-way, public open spaces, City parks and City trails. The proposed City Code amendment addresses the following activities in City-owned properties:

- Private activities that would deface, degrade, or alter City-owned properties will be prohibited.
- No person may deposit or leave litter, garbage, refuse, or personal property within publicly-owned street rights-of-way, parks, or open spaces.
- No person shall possess alcoholic beverages, start fires, or geocache in City-owned street rights-of-way, parks or open spaces.
- The new regulations regulate the use and parking of motorized vehicles in City-owned public lands.
- The new regulations prohibit the private use of public properties for commercial sales, advertising, or signage.
- The new regulations prohibit loud, rude or disorderly behavior; consumption of drugs or alcohol; or reckless dangerous behavior in City-controlled public lands.
- The new regulations establish park hours of operation and prohibits private camping and hunting within the City parks and open spaces.

The City Code amendment has been previously discussed by the Planning Commission in January and February 2012. The City Council reviewed an initial draft code amendment in February 2012. The City Code amendment has been amended to reflect the previous Planning Commission and City Council edits and directives.

Chair Wahlstrom asked for public comment. No comments were offered.

Commissioner Schlehuber moved to recommend approval of the amendment to Section 805 of the City Code to the City Council, seconded by Commissioner Gordon and carried. (5-0)

5. OTHER BUSINESS – 345 Salem Church Road: Planner Brixius explained that he has had numerous inquiries regarding the home at 345 Salem Church Road. This property has a unique configuration and the house is a legal non-conforming building in that it does not meet the 200 foot shoreland setback. The house is 89 feet from the OHWL. The application of the 200 foot required shoreland setback would place the building pad back in the narrow neck of the lot where the required side yard setbacks would not allow development. Planner Brixius explained that as non-conforming, the building could be razed and rebuilt in the same size and volume through a major site and building plan review.

Planner Brixius explained that he received a recent inquiry if the home could be enlarged and if the home may be changed from its flat roof to a taller hipped roof. He had indicated to the potential applicants that any building expansion will require a variance from the shoreland setback and a major site plan review. Any expansion of the building footprint shall not extend closer to the lake and must meet the other R-1 setbacks. The hipped roof must not exceed the R-1 building height requirements. Planner Brixius inquired if the Planning Commission concurred with the direction he offered the potential applicants. In general, the Planning Commission discussion offered the following comments:

Commissioner Peters noted that the existing home was in poor condition and without the opportunity for renovation it will continue to decline in condition.

Commissioner Svendsen expressed concern for increasing the height of the building and its impact on the view shed of the adjoining neighbors. Any vertical expansion request will have to be sensitive to the neighboring properties.

The Planning Commission directed Planner Brixius to advise the prospective applicants that any variance and major site plan review will be evaluated on its merits and compliance with the City's variance criteria. They do however support reinvestment in the City's housing stock as a means of maintaining City-wide housing values.

6. ADJOURN: Commissioner Svendsen moved to adjourn the meeting at 7:50 p.m., seconded by Commissioner Peters and carried. (5-0)

Respectfully submitted,

Alan Brixius, City Planner