

607. BIRCHWOOD PARK SYSTEM

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

607.120. **DEFINITIONS.**

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

(1) Four dedicated municipal parks known as Tighe-Schmitz Park, Bloomquist Field, Wildwood Avenue Boulevard, and Polly's Park.

(2) Six public lake tracts owned by the City known as Curt Feistner Memorial Preserve, Ash Beach, Birch Beach, Elm Beach, Dellwood Beach, and Kay Beach.

(3) Undeveloped areas known as Out Lot A Lakewood Rearrangement and Hall's Marsh.

(4) Birchwood City Hall.

(5) Existing trails known as the Ash and Grotto Street walkways.

(6) Unimproved street rights-of-way known as Birch, Ash, Grotto, and Highwood rights-of-way.

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

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

607.201 **HOURS AND ACCESS.**

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

B. Access. Any part of the City Park System may be declared closed to the public by the City Council at any time or for any interval of time, either temporarily or at

regular and stated intervals, either entirely or for certain uses. as the Council shall find necessary.

C. Any Law Enforcement Officer may remove any person from any city park or open space who is violating any provision of this Code.

607.202. MOTOR VEHICLES PROHIBITED.

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

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

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

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

607.204. PROTECTION OF PROPERTY AND RESOURCES.

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

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

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

607.205. PRESERVATION OF VEGETATION.

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

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

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

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

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

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

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

607.207. **FIRES.**

A. No person shall start or maintain a fire in any part of the City Park System except small recreational fires in fireplaces, fire rings, and grills provided for that purpose.

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

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

607.208 **WASTE AND LITTER.**

A. No person shall throw, cast, drop, pour, spill or discharge or permit to escape in or upon any part of the City Park System or into Public Waters any substance, matter or thing whether solid, liquid, or gas, which shall result in the pollution of said waters, interfere with the conservation management of the water resource, or endanger the health of the public.

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

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

607.209 **DISTURBING THE PEACE.**

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

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

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

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

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

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

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

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

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

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

607.215. **POSTED REGULATIONS, DIRECTION SIGNS AND GRAPHICS.** No person shall disregard or fail to comply with any posted regulations, directional

signs and graphics, barriers or other control devices located within any part of the City Park System.

607.216. DOGS.

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

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

C. Dogs are not permitted on any part of Kay Beach. No person shall bring or allow a dog on Kay Beach.

607.217. STRUCTURES PROHIBITED. No person may place or construct any structure on any part of the City Park System. No person shall place any object upon any part of the City Park System that obstructs access by another to the area or facility.

607.300. ICE SKATING AREAS.

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

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

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

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

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

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

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

C. Swimming. Swimming is permitted at all Public Lake Tracts. All swimmers swim at their own risk. Children under the age of ten must be accompanied by a parent or guardian or other person with supervision over the child when swimming at any Public Lake Tract.

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

- (1). A permit is obtained from the City.
- (2). Only Birchwood residents or owners of property in Birchwood may apply for a permit to store small craft on racks located at a Public Lake Tract. The cost for each permit is set forth in the City Fee Schedule. When purchasing a permit, the small craft owner must show proof of residency. The City Administer is authorized to issue or deny a permit request for storage of a small craft at one of the Public Lake Tracts. A sticker accompanying the permit must be placed on each small craft registered with the City.
- (3). Residents may not rent their small craft storage spot to non-residents.
- (4). Small craft may be stored on a Public Lake Tract only during the Boating Season and the owner shall remove such during the non-boating season. Owners of small craft must not leave any chains or locks on the racks at the end of each Boating Season. As a matter of courtesy, families who own more than one small craft are encouraged to place both on the same rack.
- (5). The owner of a small craft on a Public Lake Tract that does not have valid permit attached will be charged an additional fee as set forth in the City Fee Schedule. The City reserves the right to remove the small craft and charge the owner a removal cost as set forth in the City Fee Schedule. The City shall give such notice of its intent as may be required by law before assessing additional fees or removing the small craft.
- (6) The owner of a small craft may be assessed for each day any small craft is not removed from the Public Lake Tract by the end of the Boating Season.

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

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

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

H. Storage Prohibited. No person shall store or allow to remain on any Public Lake Tract any personal property such as boats, oars, motors, boat hoists, lifts, docks or other equipment for any period of time unless such storage has been authorized by the City Council.

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

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

B. Pursuant to section 607.217.C, dogs are not permitted on Kay Beach at any time.

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

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

A. The name of the applicant seeking the permit.

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

C Why access to the public property is requested.

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

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

F. How will the damage be minimized.

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

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

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

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

607.520. **FINANCIAL SECURITY.**

A. The City may require an applicant to provide financial security if there is potential for damage to the public property.

B. Such financial security shall be based on the reasonable estimate of any possible damage

C. The financial security may include insurance, bond, escrow account, or cash and can be used by the City to pay for any damage remaining after the permit expires.

D. The City shall release the financial security minus any restoration costs incurred by the City within 30 days of the permit expiration.

E. If there is no opportunity for damage to the public property, no financial security shall be required.

607.530. PERMIT CONDITIONS.

A. Any Park Use Permit issued by the City shall describe the following:

- (1) the nature and scope of the project;
- (2) the public property for which access is granted;
- (3) the type of equipment or machinery allowed;
- (4) the potential damage possible and the actions required to minimize such damage;
- (5) the amount of financial security required;
- (6) the date(s) and times for which the access is granted;
- (7) the deadline for any damage restoration; and
- (8) any other reasonable and necessary conditions required to ensure that public property is protected.

B. The City may provide the license holder with an access key during the period of the permit. The permittee shall return the key within three days of the permit expiration.

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

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

607.600 LAW ENFORCEMENT AND REGULATIONS.

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

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

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

“AMENDED BY ORDINANCE 2005-3; OCTOBER 11, 2005”

“AMENDED BY ORDINANCE 2015-07-01; SEPTEMBER 8, 2015”

“AMENDED SEPTEMBER 13, 2016”

“AMENDED BY ORDINANCE 2019-01-01; MAY 14, 2019”

“AMENDED BY ORDINANCE 2022-10-03; DEC 28, 2022”

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