



AGENDA OF THE REGULAR MEETING OF  
THE PARKS AND NATURAL RESOURCES COMMITTEE  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
JULY 20, 2023  
6:30 P.M.

**CALL TO ORDER**

**APPROVE AGENDA**

**APPROVE MINUTES FROM PREVIOUS MEETING**

- A. June 15, 2023 Meeting Minutes\* (p. 3-4)

**COMMITTEE BUSINESS - REGULAR AGENDA**

- A. Public Forum
- B. New Discussion Items
- a. Ideas or Action Items coming out of Tighe-Schmitz Public Forum
- C. Discussion Items Carried Over from Previous Meeting(s)
- a. Planning for Tighe-Schmitz Park\* (p. 5-10)
  - b. City Code Review\* (p. 11-37)
  - c. Public Signs on City Beaches\* (p. 38-41)
  - d. Sign at Curt Feistner Memorial Preserve
  - e. Swimmer's Itch Treatment
  - f. Playground Maintenance
  - g. Hall's Marsh
- D. Confirm Next Month's Meeting and Identify Agenda Topics

**ADJOURN**

\* denotes an attachment in the agenda packet

## **ATTACHMENTS**

## **Parks and Natural Resources Committee Minutes June 15, 2023**

Members present: Michalk, McCarthy, Arsenault, Simmons

### **Agenda approved with additions:**

- Safety inspection of the playground
- Update on Birch Beach

Minutes of May 18, 2023 were approved.

### **Committee Business**

**Public Forum** - no one present

### **New Discussion Items**

#### **Garlic Mustard Plants**

Bryan McGinnis submitted comments about this invasive plant and its current pervasive status. He is willing to walk through park walkways to show anyone wanting to help identify and remove it. He noted too that a gate at Ash Walkway needs repair.

McCarthy will ask Birchwood maintenance man, Jim, to repair it.

The committee extends its gratitude to McGinnis.

Members agreed that Chairman Michalk develop an avenue of communication between the committee and the community regarding important parks/beaches and environmental information.

#### **Swimmer's Itch**

McCarthy will contact other cities to see what policies may exist and if Birchwood should develop one regarding treatment of our swimming beach.

#### **Bear Update**

It appears the bear has moved out of Birchwood. Members discussed that a warning could go out in early spring to educate residents and prevent potential problems with black bears.

#### **Safety Inspection of Tighe-Schmitz Playground**

Arsenault reported that she found no state inspection regulations relevant to Birchwood. She also checked with Mahtomedi which does monthly inspections and has an extensive maintenance checklist. Birchwood is currently relying on resident calls regarding problems. She volunteered to inspect the City equipment with the maintenance checklist. A semi-annual inspection might be in order.

## **Discussion Items Carried Over from Previous Meeting**

### **Hall's Marsh**

Birchwood City Engineer, Marcus Johnson, is working with the Rice Creek Watershed District on needed management strategies for Priebe Lake and its link to Hall's Marsh. He will submit his notes and a Memo of Agreement with all concerned entities around a plan that would help keep the marsh healthy.

### **Sign at Curt Feistner**

Once the new sign is found, the committee will decide its placement location.

### **Public Signs on City Beaches**

Issues at Kay Beach continue  
to be discussed: dogs, fishing, age of kids needing supervision.  
Simmons will check out the costs for beach/park signs.

### **Planning for Tighe/Schmitz Park**

Update: Simmons and Arsenault will meet on June 22 with representatives from Washington Conservation District regarding the potential improvements of the park.

### **Maintenance of the Birch Beach Raingarden**

McCarthy met with Cameron of the Washington County District who said the drainage system at Birch is generally in good shape. It could use a clean out with hand tools and a regular check for additional clean ups. McCarthy stated that the Council will get bids for cleaning out the main water collection pit.

The Council will seek bids for a hand railing for the Owl Street walkway.

The City may purchase a trailer for Jim to remove wood chips. Note: Jim will paint the picnic table at Kay Beach.

**Next meeting: July 20 -  
Public forum at 5:30.**

**Meeting adjourned at 8:30 pm.**

Respectfully submitted,  
MarySue Simmons  
Acting Secretary

Report to Mary Sue & Jennifer:

It was great to hear about your ideas for Tighe- Schmitz Park. You have so many opportunities – it is really exciting!

Molly and Abel (copied) from the Rice Creek Watershed District joined us. Their grant programs can be found [here](#).

We talked about options for:

- Wetland Restoration along the border of the park
- Wet Meadow or Mesic Prairie restoration in key areas
- Bioswale or Bioretention basin near the hockey rink.
- Additional Trees and trails throughout the site
- A historical trail or plant community walk
- Lots of potential community amenities [like Community Gardens, Disc golf, Dog Play Area]

Other ideas for the surrounding area include reaching out to landowners with a post card about Rain Gardens. Working with the city on shoreline restoration and bioretention at the adjacent city park.

The biggest challenge with the Site appears to be its history as a landfill and its tendency to have saturated soils. The complete soil report is [here](#) if you are interested. It shows the entire area is poorly drained (as expected). I am leaning towards wetland restoration and a native planting in key areas as the best solutions to improve the water quality.

Molly and Abel, let us know if you have thoughts on this.

I can put together a plan showing some potential restoration options. Feel free to reach out with any ideas you would like me to include in the plan.

Thanks!

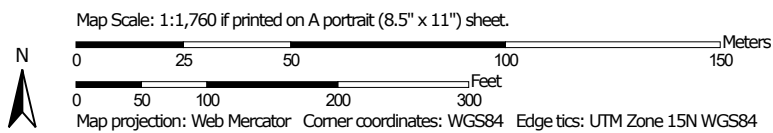
**Lori Tella**

**651.315.8964**

Hydrologic Soil Group—Washington County, Minnesota  
(Tighe-Schmitz Park, Birchwood Village, Minnesota)



Soil Map may not be valid at this scale.



## MAP LEGEND

### Area of Interest (AOI)









 Area of Interest (AOI)

### Soils

#### Soil Rating Polygons





 A  
 A/D  
 B  
 B/D  
 C  
 C/D  
 D  
 Not rated or not available

#### Soil Rating Lines


 A  
 A/D  
 B  
 B/D  
 C  
 C/D  
 D  
 Not rated or not available

#### Soil Rating Points






 A  
 A/D  
 B  
 B/D

 C  
 C/D  
 D  
 Not rated or not available

### Water Features

 Streams and Canals

### Transportation

 Rails  
 Interstate Highways  
 US Routes  
 Major Roads  
 Local Roads

### Background

 Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:15,800.

**Warning:** Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL:  
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Washington County, Minnesota  
 Survey Area Data: Version 18, Sep 6, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 30, 2022—Sep 1, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.



## Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
454C	Mahtomedi loamy sand, 6 to 12 percent slopes	A	0.1	0.6%
861C	Urban land-Kingsley complex, 3 to 15 percent slopes		5.4	32.8%
861D	Urban land-Kingsley complex, 15 to 25 percent slopes		1.3	8.0%
1027	Udorthents, wet substratum		4.4	26.7%
1033	Udifluvents		3.4	20.6%
W	Water		1.8	11.2%
<b>Totals for Area of Interest</b>			<b>16.4</b>	<b>100.0%</b>

## Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

## Rating Options

*Aggregation Method:* Dominant Condition

*Component Percent Cutoff:* None Specified

*Tie-break Rule:* Higher

<b>EXISTING SECTION</b>	<b>TITLE OR SUBJECT</b>	<b>PROPOSED SECTION</b>	<b>COMMENTS</b>
607.100.	General Provision	None	Delete title since there is nothing substantive.
607.110	Purpose	607.100	Language updated.
607.120	Definitions	607.120 A. and B.	Deleted unused definitions and added new ones.
607.130	Hours and Access	607.201	Eliminated Director and authority.
607.200	Permits and Licenses	607.500	Park Use Permit
607.210	Permit	607.501 to 607.504	Clarified Permitting
607.220	Permit Revocation	607.505	
607.230	Limited License	607.520	Still Limited License
607.231	Application	607.521	Application
607.232	Financial Security	607.522	Some edits.
607.233	Conditions	607.533	Some edits.
607.234	Administrator	607.530	
607.235	Fees	607.521.I	Reference Fee Schedule
607.236	Limitation		Deleted
607.300	Lake Easement Tracts	607.400	Public Lake Tracts. Some requirements from chapter 617 were included.

		607.400.C	A specific reference to Swimming.
		607.400.D	A specific reference to Fishing.
		607.401	All new material relating only to Kay Beach
607.320	Dock License	607400.H	References chapter 617
607.325	Adopt Regulations		Deleted
607.330	No Trailer Parking	607.400.I	
607.340	Storage Prohibited	607.400.J	
607.350	Obstructions Prohibited	607.400.F.	Structures prohibited
607.370	No Naked Swimming	607.400.C	Do we need this?
607.380	WBLCD	607.120	Only reference. See chapter 617
607.400 607.410 607.420 607.430	Camping	607.203	Prohibition included. Exceptions will be covered by Park Use Permit
607.500 607.510 607.511 607.512 607.513	Destruction	607.204.A. B. C.	
607.520 thru 607.526	Protection of Vegetation	607.205.A-F.	Rewording. Change to City Park System
607.530	Molesting Wildlife	607.206	Rewording. Change to City Park System

607.540 thru 607.543	Fires	607.207 A, B, C	
607.550 thru 607.553	Waste and Litter	607.208.A, B, C	
607.600	General Conduct		Deleted
607.610 thru 607.615	Disturbing the Peace	607.609 A – E	Rewording.
607.620	Audio Devices	607.210	Rewording.
607.630, 607.631, 607.632	Loitering	607.211. A, B	Rewording.
607.640, 607.641, 607.642	Alcohol	607.212	Reduced to one paragraph. Some provisions deleted because they are covered by state law.
607.650, 607.651, 607.652	Gambling		Deleted
607.660, 607.661	Parades	607.213	
607.670	Unlawful Sales	607.214	
607.680	Lost and Found	607.215	
607.690 thru 607.692	Law Enforcement and Regulations	607.600 A, B, C	Moved to the end of the chapter
607.693	Posted Regulations	607.216	
607.700, 710, 720, 730, 740	Ice Skating Areas	607.300 A - D	Separated from general requirements because section applies to specific area.



## 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 Parks System so as to further the safety, health, enjoyment and welfare of all persons in the use thereof.

**607.120. DEFINITIONS.**

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

- (1) Four dedicated municipal parks known as Tighe-Schmitz Park, Bloomquist Field, Wildwood Avenue Boulevard, and Polly's Park.
- (2) Six public lake tracts owned by the City known as Curt Feistner Beach, Ash Beach, Birch Beach, Elm Beach, Dellwood Beach, and Kay Beach.
- (3) Several undeveloped areas of open space known as Lakewood Rearrangement, Out Lot A, 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 gambli Lake Conservation District, or the City for the purpose of enforcing the laws, codes, ordinances, and regulations of their respective jurisdictions.

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

**607.201 HOURS AND ACCESS.**

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

**B. Access.** Any part of 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.

**607.202. MOTOR VEHICLES PROHIBITED.**

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

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

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

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

**607.204. DEFACEMENT, DESTRUCTION OF PROPERTY AND RESOURCES.**

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

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

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

**607.205. PRESERVATION OF VEGETATION.**

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

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



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

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

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

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

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

**607.207.**     **FIRES.**

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

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

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

**607.208**     **WASTE AND LITTER.**

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

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

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

**607.209      DISTURBING THE PEACE.**

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

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

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

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

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

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

**607.211.      LOITERING.**

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

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

- 607.212. ALCOHOLIC AND INTOXICATING BEVERAGES AND CONTROLLED SUBSTANCES.** No person shall transport, possess, offer for sale, consume or be under the influence of any beer, wine, liquor, other alcoholic or intoxicating beverage in any part of the City Park System except with the approval of the City Council.
- 607.213. PARADES, ENTERTAINMENT, PUBLIC MEETINGS.** No processions, parades, pageants, ceremonies, exhibitions, celebrations, training exercises, speeches, entertainment, tournaments, or other public gatherings shall be allowed to pass through or take place in any part of the City Park System or on any parkway except with written permission of the City Council.
- 607.214 UNLAWFUL SALES.** No person shall sell, offer for sale, hawk, peddle or lease any object, merchandise or service or carry on any manner of business, or commercial enterprise in any part of the City Park System except those concessions authorized by the City Council.
- 607.215 LOST AND FOUND ARTICLES.** Lost or mislaid articles or money or personal property which are found in any part of the City Park System shall be delivered or turned over to the City Administrator. If the lawful owner of any article or money deposited with the City does not claim the same within a period of sixty (60) days, it shall be returned to the finder upon request of the finder.
- 607.216. POSTED REGULATIONS, DIRECTION SIGNS AND GRAPHICS.** No person shall disregard or fail to comply with any posted regulations, directional signs and graphics, barriers or other control devices located within any part of the City Park System.
- 607.300. ICE SKATING AREAS.**
- A. No person shall ice skate on city skating rinks in any part of the City Park System between the hours of 9:30 P.M. and 6:00 A.M.
  - B. No person shall use or carry hockey sticks or pucks while skating, or play hockey, on any skating rink unless such rink is designated for hockey.
  - C. No person shall smoke or use any tobacco or similar substance within any warming house structure.
  - D. Any Law Enforcement Officer and any person so authorized by the City Council may remove any person from a city skating rink who is violating any provision of this Code.
- 607.400. PUBLIC LAKE TRACTS.** The following restrictions and requirements shall apply to all the Public Lake Tracts.

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

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

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

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

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

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

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

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

(1). A permit is obtained from the City.

(2). Only Birchwood residents or owners of property in Birchwood may apply for a permit to store small craft on racks located at a Public Lake Tract. The cost for each permit is set forth in the City Fee Schedule. When purchasing a permit, the small craft owner must show proof of residency. The City Administer is authorized to issue or deny a permit request for storage of a small craft at one of the Public Lake Tracts. A sticker accompanying the permit must be placed on each small craft registered with the City.

(3). Residents may not rent their small craft storage spot to non-residents.

(4). Small craft may be stored on a Public Lake Tract only during the Boating Season and the owner shall remove such during the non-boating season. Owners of small craft must not leave any chains or locks on the racks at the end of each Boating Season. As a matter of courtesy, families who own more than one small craft are encouraged to place both on the same rack.

(5). The owner of a small craft determined to not have a valid permit will be charged an additional fee as set forth in the City Fee Schedule. If, after notice, a small craft without a sticker remains on a rack, the city reserves the right to remove the small craft and charge the owner a removal cost as set forth in the City Fee Schedule.

(6) The owner of a small craft may be assessed for each day any small craft is not removed from the Public Lake Tract by the end of the Boating Season.

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

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

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

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

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

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

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

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

(3). All dogs must be leashed anywhere on Kay Beach at all times.

**607.500. PERMITS AND LIMITED LICENSES**

- 607.501. PARK USE PERMIT.** A Park Use Permit shall be required for the exclusive use of all or portions of any part of the City Park System or to engage in conduct in the City Park System that is otherwise prohibited.
- 607.502. PERMIT APPLICATION.** Any person seeking a Park Use Permit shall submit an application in writing to the City describing the applicant, the part of the City Park System the applicant wants for exclusive use, the length of time, the purpose of the use, the conduct the applicant wishes to engage in, and any other information requested by the City to help determine whether the use is appropriate and safe.
- 607.503. PERMIT FEE.** The applicant shall include with the application any fee set from time to time by the City Council for a Park Use Permit and posted in its Fee Schedule.
- 607.504. PERMIT DECISION.** The City shall make a final decision on a Park Use Permit within sixty days of receipt of a complete application. The City shall issue a Park Use 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 Park Use Permit that is issued.
- 607.505. 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.
- 607.520. LIMITED LICENSE FOR ACCESS TO PUBLIC PROPERTY.** A Limited License from the City shall be required of any person who seeks 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.
- 607.521. APPLICATION.** Any person seeking a Limited License shall submit an application to the City with the following information:
- A. The nature and scope of the project.
  - B. Why access to the public property is requested.
  - C. What type and size of equipment or machinery will be used on or across the public property.
  - D. Is there potential for damage to the public property.
  - E. How will the damage be minimized.
  - F. The dates and times that the public property will be used and restored.

G. The names of all persons who will use the Limited License.

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

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

**607.522. 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 and shall be determined by the building inspector or City Administrator.

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 Limited License expires.

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

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

**607.523. LIMITED LICENSE CONDITIONS.**

A. Any Limited License 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 for the License 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 Limited License period. The license holder shall return the key within three days of the License expiration.

**607.524. LICENSE DECISION.** The City shall make a final decision on a Limited License within thirty days of receipt of a complete application. The City shall issue a Limited License 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 Limited License that is issued.

**607.525 LIMITED LICENSE REVOCATION.** The City may revoke a Limited License at any time if the City determines that any conditions of the permit might be or were violated.

**607.530. CITY ADMINISTRATOR.**

**A. Decision.** The City Administrator shall have the authority to review all applications and issue or deny all Park Use Permits and Limited Licenses under these provisions, provided that the Administrator shall refer all applications to the City Council if any person objects to the issuance of the Permit or License or the Administrator determines for any other reason that the Council should make the final decision. The Administrator shall make a decision on all applications within thirty days of receipt of a completed application. If the Administrator determines that a Park Use Permit or Limited License should be granted to the applicant, the Administrator may include such conditions in the Permit or License that the Administrator determines are reasonable and appropriate.

**B. Appeal.** Any person may appeal to the City Council a decision by the City Administrator to issue a Permit or License or to deny an application or to impose conditions the person finds unacceptable. An appeal must be filed within ten days of receipt of notice of the decision.

**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 **his** 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.

## **BIRCHWOOD CITY CODE CHAPTER 607 EXPLANATION OF PROPOSED CHANGES**

### **Title Birchwood Park System.**

I changed the title to reflect the fact that chapter 607 is intended to regulate conduct in the City's parks and not in other open spaces, although it is uncertain what areas in the city might be considered "open spaces" besides the parks, with the broad definition that is given to the term "City Park System," as explained below in section 607.110A. Perhaps the city streets might be considered "open spaces," but it is not the intention to regulate conduct on city streets in this chapter. There is a definition of "Street" in section 103.090 that includes every public street, way, or throughfare.

**607.100 General Provisions.** There is no need to assign a code number to a provision that is just a title, with no ordinance language following, so it's been deleted.

**607.100 Purpose.** Renumbered from 607.110 since the General Provision paragraph can be deleted and this Purpose paragraph is the first provision in the revised chapter. The only change is to use the term "City Park System," which is the term use throughout this proposed amended version and is defined in section 607.120A. There is no section 607.110 in the proposed amendment.

**607.120. Definitions.** I have deleted three of the present definitions - "Open Space Site," "Lake Easement Tract," and "Director." I replaced Open Space Site and Lake Easement Tract because these are included in the definition of City Park System. The term Director has been eliminated in several provisions of the existing language in chapter 607 because it is an outdated concept; the City has not really identified a person called the "Director" in the recent years and certainly no representative has been subsequently authorized by the Director. In some sections of these proposed amendments, the City Administrator (rather than the Director) has been granted authority over certain matters. In other instances, the full City Council has been specifically identified as the authorizing body.

**A. City Park System.** There are a number of phrases used throughout the entire City Code to describe the parks and open spaces in the community. Presently, section 607.110. uses the term "Open Space Site," which also appears in other provisions, like 607.410. Other terms that can be found in various provisions of the existing code include "Lake Easement Tracts" (607.300), "Public Lake

Tracts” (617.11), “Open Space System” (607.410), or “Established Park” (607.410). Section 607.410 (Camping) use the term Open Space Site, Public Lake Tract or Established Park, and that provision was just amended in December 2022.

It would be good to settle on one definition for the city parks. The one I thought was the most specific, “City Park System,” is found in section 804.020, which was adopted in May 2012 and is part of the ordinance relating to the Parks Special Revenue Fund. I think this is the definition that most clearly and completely identifies what places in the community can be considered parkland. I have used it throughout these proposed amendments to chapter 607. The use of other terms in other code provisions should be changed.

The definition for Lake Easement Tract in 607.120.4. has been deleted because the preferred term is now “Public Lake Easement,” and that is defined separately.

I also think we should use a letter for the subparts rather than just a number. Sometimes in the existing code the number is alone, like 607.120 1., and sometimes the number is in parenthesis, like 607.231(1). I tried to catch all the places where a letter would be better than a number for a subpart of a provision, both for clarity and consistency. Also, I think it is unnecessary to have a number for a provision in the Code that is only a title, like section 607.300, entitled Lake Easement Tracts, but has no substantive language.

**B. Law Enforcement Officer.** This definition is retained, although I proposed a grammatical revision.

**607.200 USE OF CITY PARK SYSTEM.** I have moved the provisions in the existing 607.200 (Permits and Licenses) to a later part of chapter 607 (607.500 series). I thought it would be better to go right into the substantive restrictions on use of the city parks than to start with permits and licenses. The Code provisions in the 607.200 range are now restrictions on the use of all parks, not just the Public Lake Easements. And Hours and Access are as much a regulation of conduct as any of the other requirements so I’ve moved them down to section 607.201, the first restriction to follow 607.200.

**607.201 HOURS AND ACCESS.** This is the present section 607.130. Since the hours a park is open and the access that is allowed relates to the use of the park system, it makes sense to include these restrictions in the new section 200 series.

**A. Hours.** Replaced Open Space Site with City Park System. And I replaced the Director with the City Council to clarify that the authority to change

the hours the parks are open is one only the City Council can make. I eliminated the language relating to “special use permits” since special use permits are no longer recognized in city government. Note: in later provisions granting authority to the City Administrator to issue Park Permits and Limited Licenses, the Administrator could, as a permit or license condition, limit the hours the permittee can have access to the park and engage in the approved conduct. Note also the use of letters A and B rather than 1 and 2 to identify the separate subsections.

It would be appropriate for the Parks Committee to discuss what the hours of operation should be. 6:00 in the morning and 9:30 at night might be a little too short a time in the summer, since it’s daylight earlier than that in the morning and later than that at night. One option could be the parks are open from sunrise to sunset, although that would require the parks to close at 5:00 p.m. in some winter months.

Also, there is nothing in the City Code that requires young children to be supervised or accompanied by adults while in the city parks. The Parks Committee can discuss this, but there shouldn’t be any restrictions placed on the signs to be installed at the parks unless there is a corresponding code restriction.

**B. Access.** Deleted the authority of the Director to close a part of the City Park System and placed that authority with the City Council. The authority to close off access to a city park would rest with the full Council under the proposed language.

**607.202. MOTOR VEHICLES PROHIBITED.** The provisions in the 607.800 series of the existing ordinance relate to Traffic Rules and generally prohibit any kind of use of a motor vehicle in the city parks. Chapter 502 (Parking) also applies to parking of motor vehicles but its provisions relate to public streets. Chapter 504 applies to the operation of all terrain vehicles and snowmobiles on city streets and parks, but it does not specifically define what is a park.

I tried to include in section 607.202 all the restrictions that limit the use of all kinds of motor vehicles in any of the city parks, including all the areas included in the definition of City Park System.

A. **Motor Vehicle.** This definition is intended to be as broad as possible. It is consistent with the definitions of All Terrain Vehicles and Snowmobile in sections 504.010.1 and 504.010.6 and broader than the definition of “Vehicle” in 502.010.4.

B. **Prohibition.** The proposed language here is based on section 607.800 (Traffic Rules). However, a number of the provisions in the 800 series have not been included because it seems unnecessary to repeat restrictions on repairing vehicles in city parks (607.840) or possessing alcohol in a motor vehicle in a city park (607.860) or yielding to pedestrians (607.870) when the ordinance states that there are not supposed to be motor vehicles anywhere in the City Park System. Plus, there is always the possibility of a state law applying to unlawful conduct, such as drinking and driving. The proposed language does recognize that the a person wanting to operate a motor vehicle in the City Park System could apply to the city administrator for a Public Use Permit or a Limited License. As explained below under the section 607.500 provisions, there is a specific procedure established for applying for such a permit or license.

C. **Abandoned.** This provision is taken from section 607.850, which only cites chapter 613. It seems that chapter 614 should be cited as well since that is the chapter that provides for the disposal of abandoned and junk vehicles that come into the City's possession,

**607.203. CAMPING.** There are a number of provisions in the existing chapter 607 relating to camping, sections 607.400 to 607.490, but since camping is prohibited outright, it seems unnecessary to include all of these. Also, there are other restrictions in chapter 607 that would apply if a person started cutting vegetation or cooking or disposing of garbage. Further, if a person were to apply for a Park Use Permit to camp somewhere in the City Park System, the permit could impose conditions restricting certain actions during the camping period.

**607.204. DEFACEMENT, DESTRUCTION OF PROPERTY AND RESOURCES.** The only changes made here are to update the references to City Park System. Otherwise, the language is taken from existing sections 607.510 to 607.513. I did eliminate section 607500 since it is nothing more than a title.

**607.205. PRESERVATION OF VEGATATION.** This section is basically the same provisions presently found in sections 607.520 to 607.526 updated to reflect the proposed definitions.

**607.206 MOLESTING WILDLIFE.** This is the same as section 607.530 updated with the new City Park System definition.

**607.207. FIRES.** This essentially the same as sections 607.540 to 607.543 except with changes in the definitions and eliminating the authority of the old Director to prohibit fires and preserving that authority for the full City Council. I also renumbered the sections so they are subparts rather than individual section numbers.

...sections 607.550 to 607.553 except for updating the definition and compressing the provisions into one section.

**607.209. DISTURBING THE PEACE.** Like other sections, this section is an update and a renumbering of sections 607.600 to 607.615, although it might be worth considering whether these should even be included. Some are arguably vague. Note that I did eliminate sections 607.650, 607.651, and 607.652 on Gambling since it seems unnecessary to address the subject. It is unlikely that the City will encounter gambling in the City Park System, and if that should occur, state criminal law would be a better prohibition to rely on.

**607.210 AUDIO DEVICES.** Update of section 607.620.

**607.211. LOITERING.** This language is taken from sections 607.630, 607.631, and 607.632. Again, it is worth discussing whether these provisions should even be in the City Code.

**607.212. ALCOHOLIC AND INTOXICATING BEVERAGES AND CONTROLLED SUBSTANCES.** I combined sections 607.640, 607.641, and 607.642 and updated it. I didn't include every verb found in the present ordinance language but I think there are enough to address any action that is prohibited. And I shortened the language about the City Council authorizing certain alcohol use. An example would be the Resolution the City Council has passed allowing consumption of alcohol during the Music in the Park concerts.

**607.213. PARADES, ENTERTAINMENT, PUBLIC MEETINGS.** This is updated language from sections 607.660 and 607.661. The new language allows only the City Council to authorize such events; the existing language allows the Director to do that. Incidentally, having just enjoyed the Fourth of July parade, it is interesting to note whether the Director had granted written permission for the parade, as the ordinance specifies. Also, I left in the word "parkway" because such events like

the parade would occur on city streets, and not in the City Park System, but it may be unclear what is included within the word “parkway.”

**607.214 UNLAWFUL SALES.** This is updated language from section 607.670.

**607.215 LOST AND FOUND ARTICLES.** This language is from 607.680 with a few changes. I changed “City Clerk” to “City Administrator,” although it might be better to just say “City.” Also, I changed the last sentence to clarify that it is the finder who can request return of the lost item after 60 days. However, there is no process specified for notifying the public that somebody has turned in to the City an item of some value, so it is of little consequence to require the City to wait 60 days to allow the finder to keep it. It might be better to give the city some discretion about what to do with the item, depending on the value of the item. The city might want to undertake some effort and allow more time to find the owner of a valuable diamond ring, for example. A life jacket, on the other hand, is of little monetary or sentimental value.

**607.216. POSTED REGULATIONS, DIRECTION SIGNS AND GRAPHICS.** Since the Parks Committee is considering the appropriate language to put on signs in certain places with the City Park System, the language from section 607.693 is kept with the update about identifying the City Park System.

**607.300. ICE SKATING AREAS.** I’ve condensed 607.700 through 607.607.740 to one numbered section with four subparts. Everything up to this point in chapter 607 applies to the entire City Park System. I’ve numbered this ordinance 607.300 since this section does not apply to the entire City Parks System, like the 200 series does. Subpart D – the old 607.740 – has been changed to allow the City Council to authorize city people to order skaters or other persons who are violating any provision of the City Code. This could be somebody playing hockey on the open skating rink rather than within the hockey rink or somebody who is smoking in the warming house. The City Council will have to decide if it wants to authorize the teenagers who are employed to supervise the warming house with this authority.

**607.400. PUBLIC LAKE TRACTS.** Similar to section 607.300, which applies only to Ice Rinks, the 400 series applies only to the Public Lake Tracts. The Public Lake Tracts are an important part of the City Park System and they get a large amount of use by the public, particularly in the summer, so it is important to address these facilities directly, even though the 200 series requirements apply to the Public Lake Tracts as well.

Many of the provisions in 607.400 were taken from sections 617.200 to 617.260. It is the only part of chapter 617 that addresses conduct by the general public on the beaches. Most of chapter 617 addresses the administration of the Birchwood Dock Association and the regulation of docks and boats. It might be appropriate to amend chapter 617 to delete provisions that apply to the general public and allow chapter 617 to apply only to the Dock Association.

**A. Definitions.** Since these code provisions apply only to Public Lake Tracts, it is appropriate to include a separate definition section defining certain words and terms.

**(1). Public Lake Tracts.** This definition is identical to the language in section 607.120.A.(2) describing the six Public Lake Tracts within Birchwood. However, I thought it important to specifically define the phrase Public Lake Tracts for the 400 series requirements. There is presently a definition for Public Lake Tract in section 617.111 that, in addition to identifying the six specific beaches that fall within the definition, also has some other descriptive language about the land being owned by the City and available for use by the public. That language has been deleted in this draft since it's really not necessary to describe the ownership or use of the beaches for purpose of establishing certain restrictions.

**(2). Small Craft.** Small craft shall include canoes, kayaks, paddle boards, and other small non-motorized watercraft. This language is taken from the existing language in section 617.215. The definition is necessary because this provision does regulate the storage of small craft at any of the Public Lake Tracts.

**(3). Boating Season.** A definition of "Boating season" is necessary because the term becomes important in applying various requirements established in later sections. The definition proposed here is identical to what is in section 617.113.

**B. Public Property.** The statement that the Public Lake Tracts are public property is copied from section 617.210 and is probably important to emphasize that all the beaches are open to the public.

**C. Swimming.** This is a new provision. There is nothing in the existing City Code stating that swimming is permitted at the city beaches. It is a good idea to recognize in the City Code that swimming is allowed and to provide in the Code that all swimmers swim at their own risk. The same information will likely appear on the signs that are placed at each beach. The sentence about requiring a bathing



suit is presently in the Code at sections 607.370 and 617.260 and is archaic and probably could be omitted.

**D. Fishing.** There is nothing in the City Code that addresses whether fishing is permitted at the city beaches so it is probably appropriate to do so. However, another reason for addressing fishing in the Code is that because fishing would be specifically prohibited at Kay Beach under these proposed amendments. And where fishing is permitted, it makes sense to require that all fishermen hold a proper and valid Minnesota fishing license. If kids are not required to have a fishing license from the state, then, of course, they are not required to have a license to fish at the city beaches.

**E. Small Craft Storage.** All of the requirements that are included in section 607.400.E. are taken from 617.215, with some editing for clarification and updating. One change, for example, is to reference the Fee Schedule rather than chapter 701 since chapter 701 does not indicate what the proper fees are for any permit.

**F. Structures Prohibited.** This language is from sections 617.220 and 617.255 and 607.350.

**G. No Use as Boat Launch.** This language is from section 617.235.

**H. No Private Docks.** This language has been taken from section 617.240 with some editing.

**I. Parking Prohibited.** This language is a shortened version of the language in section 617.45, It isn't necessary to address automobile parking since that is already covered for the entire City Park System in section 607.202.

**J. Storage Prohibited.** This provision is taken from section 607.340.

**607.401. KAY BEACH.** Since Kay Beach is a swimming beach only, and fishing and boats are not permitted on the dock or in the swimming area, provisions prohibiting such conduct are necessary, and that is what these three paragraphs do.

(1) No Fishing. A simple statement saying no fishing is allowed anywhere at Kay Beach.

(2) No Boats. The proposed language recognizes that buoys will be placed in the water to mark off the swimming area and prohibit boats from coming closer to the docks or the swimming area. It may be necessary to post signs out in the water on the buoys advising boaters that they cannot bring their boat any closer to

Kay Beach than the buoys. Perhaps the White Bear Lake Conservation District can advise how to proceed on this matter. And incidentally, there is no need to provide a definition for WBLCD as is done in 617.117 since whenever it is used in the draft 607 chapter, it is spelled out.

(3) Dogs on Leash. Subparagraph (3) provides that all dogs must be leashed anywhere on Kay Beach, which means dogs cannot run free on the beach or in the water. Dogs do run free at the other beaches, and there is nothing in the existing Code or in these draft amendments that regulates dogs on the other beaches or in other parts of the City Park System.

**607.500. PERMITS AND LIMITED LICENSES.** There is presently a provision in chapter 607, specifically 607.200, entitled PERMITS AND LIMITED LICENSES. Sections 607.200, 607.210, and 607.220 require a permit if a person wants exclusive use of certain city facilities or an exemption from certain requirements of the Code. These provisions authorized the Director to be the person with authority to issue a permit for such conduct. These provisions have been in the Code for at least two decades, without amendment, and I am uncertain whether such a permit has ever been issued.

In 2019, over the course of several months, the City Council considered amendments to chapter 617 allowing the City to authorize the use of the public beaches for access to private property. These amendments created the concept of a Limited License to conduct such action. When the Council decided to apply the proposed licensing requirements to any park area owned by the City, not just to the beaches, it put the new licensing requirements in chapter 607 (applying to all public parks) rather than in chapter 617 (applying only to the Public Lake Tracts). Sections 607.230 to 607.236 were ultimately adopted on May 14, 2019. Sections 607.200 to 607.202 requiring a permit for exclusive use of any city area or facility were already in the Code and remained unchanged by the 2019 action.

As an aside, in April 2019, I provided extensive comments and suggestions to the City Council about what the Council should adopt regarding Permits and Limited Licenses. Some of my suggestions were included in the agenda packet for that meeting and the Council did adopt some changes I suggested.

All of these existing provisions – sections 607.200 to 607.202 and 607.230 to 607.236 – should be looked at again to determine exactly what they are intended to do. While authorizing exclusive use of a park might require some kind of a permit, authorizing conduct that is otherwise prohibited by the Code sounds more like a

variance than a permit. The procedures for issuing and revoking these permits need to be expanded and clarified. Also, there is no provision in the Fee Schedule for the cost of applying for one of these permits or licenses, so that should be addressed as well.

The following is a brief explanation of each of the new 500 series provisions. Incidentally, while I said earlier that I don't like code provisions that are only titles, with no substantive language, I did leave in section 607.500 with just the title Permits and Limited Licenses, simply to draw attention to the fact that permits and licenses to engage in certain conduct in the city parks were possible. Also, I moved this section relating to permitting to later in the chapter because I thought it was better to establish the specific conduct that is prohibited in the city parks first.

Here is a brief explanation of each proposed substantive provision.

**607.501. PARK USE PERMIT.** I made up the name Park Use Permit just to give it some identity. It will also be easier to include this specific permit in the Fee Schedule next time the Schedule is amended.

**607.502. PERMIT APPLICATION.** This section makes clear that a permit application must be submitted to engage in some conduct in a city park that is otherwise prohibited under the Code and identifies the information that must be included in the application.

**607.503. PERMIT FEE.** This section simply identifies where the permit fee amount can be found, and that is in the Fee Schedule. Presently, there is no fee established in the Schedule.

**607.504. PERMIT DECISION.** This section establishes a time schedule for acting on a permit application and standards for issuing a permit. It also recognizes that if a permit is issued, the City may impose conditions along with authorizing the conduct. A sixty day time limit is proposed for making a final decision. The reason for this is because a city has only sixty days to act on permit decisions after an application is received. Minnesota Statutes section 15.99. The fact that the time does not begin to run until the application is complete might afford some additional time to reach a final decision.

**607.505. PERMIT REVOCATION.** This provision recognizes that the City can revoke a permit if the permit holder violates any terms or conditions of the permit.

**607.520. LIMITED LICENSE FOR ACCESS TO PUBLIC PROPERTY.** Sections 607.520 to 607.525 pretty much track present sections 607.230 to 607.236, with

updated references to the City Park System and using letters rather than numbers for subsections. Section 607.235 (Fees) has been included with the provision regarding what has to be in the application and references the Fee Schedule as the place to find the amount of the fee.

I'm not sure where the title "Limited License" came from. A license really is no different than a permit for the action that is allowed. Perhaps the term " Park Access Permit," which would eliminate the thought that there was a difference between a permit and a license, would be preferable.

Existing section 607.231(6) provides that a limited license to access private property from any part of the City Park System is limited to no more than three consecutive calendar days and prohibited from April 1 to October 1 each year. It would be better to allow the determination of how long access is required to be made in individual cases when the license is applied for rather than establish an outright limitation. Also, April to September may be the exact time a property owner wants to have access to a part of the City Park System. Again, it is preferable to make these decisions as part of the application process rather than a blanket prohibition. The draft section 607.521.F. does not contain these limitations.

Existing section 607.236 provides that a Limited License for access from the same city park to the same property cannot be issued more than once in a three month period, without the approval of the City Council. A similar provision is not included in the draft amendments because it doesn't seem necessary to provide by ordinance that City Council approval is required – that can simply happen in practice if that situation should arise.

**607.530. CITY ADMINISTRATOR.** This section establishes that the City Administrator has the authority to make final decisions on applications for a Park Use Permit or a Limited License. The existing code provision seems to only grant this authority to the City Administrator for Limited Licenses. And, as explained earlier, there is no "Director" who has been authorized to make these decisions, so the Director has been replaced by the City Administrator.

**A. Decision.** This section is an expansion of what is presently in section 607.236. It recognizes that the City Administrator has full authority to issue and deny applications for a Park Use Permit or Limited License, but provides that the Administrator must refer the matter to the full City Council if somebody objects to

issuance of the permit or license or the Administrator simply decides that the Council should be the body to make the final decision.

The proposed language says that the Administrator should make a decision on all applications within thirty days. This is only half the time the statute allows for cities to make a decision, but giving the Administrator only thirty days, allows the full Council thirty days or more to reach a final decision if the matter should be referred. The City Administrator should be able to decide relatively quickly whether a particular matter should be referred to the Council. If the deadline should become a problem for the Administrator or the Council, the city attorney can advise them how to proceed.

**B. Appeal.** This is a new provision that establishes an appeal process. It applies only in those situations where the City Administrator has made the final decision on an application, and not to one where the City Council made the final decision. The language gives any person the right to appeal but the appeal must be filed within ten days of receipt of notice of the decision. The City should always send some kind of notice to the applicant of a final decision, including a copy of the permit or license if one is issued, which will trigger an appeal period. It is possible that a person (like a neighbor) may not know about the decision until the actual work begins, and may want to object to the issuance of the authorization. The Council will have to take into account the lateness of the appeal in those situations. The section does not establish a standard for granting an appeal, but in all cases, city government must act reasonably and within the law.

**607.600 LAW ENFORCEMENT AND REGULATIONS.** Paragraphs A and B are essentially identical to existing language in sections 607.691 and 607.692. I think they most properly belong at the end of chapter 607, if they are included at all. They instill significant authority in unidentified city employees or contractors so the Council might want to consider this provision before adopting it. I added a new paragraph C to this section to recognize that a law enforcement officer may expel a person from any part of the City Park System if the person is acting unlawfully. The proposed language does not recognize this authority in city employees or other people.

**KAY BEACH  
PARK RULES**

**Per Birchwood City Code**

OPEN TO THE PUBLIC 6:00 a.m. TO 9:30 p.m. EACH DAY.

KAY BEACH IS A SWIMMING BEACH ONLY.

NO MOTORIZED VEHICLES ON THE BEACH.

NO MOTORIZED BOATS INSIDE BUOYED AREA.

NO FISHING.

NO ALCOHOL.

NO LITTERING.

NO FIRES.

NO CAMPING.

DOGS MUST BE LEASHED AT ALL TIMES.

BE CONSIDERATE OF NEIGHBORS AND BEACH USERS.

VIOLATIONS: CALL WASHINGTON COUNTY SHERIFF - 651-439-9381

## EXPLANATION

**Kay Beach.** I think it would be nice to put the name of each beach on the sign. Plus, it helps advise the public that this area is a public beach and not some private parcel.

**Park Rules.** I think it would be better to put the phrase Park Rules at the top of the sign, since all the restrictions below on the sign are part of the Rules.

**Per Birchwood City Code.** This should be enough notice to the public that the restrictions specified on the sign are required by city ordinance and can be enforced. And I like putting it at the top, where it is more likely to be noticed.

**Open Hours.** 6:00 a.m. to 9:30 p.m. are the hours the beaches are open according to section 607.130 of the City Code. It might be good for the Parks Committee to discuss what the appropriate hours for the beaches should be. Perhaps sunrise to sunset might be better. I suggest we include the words “Each Day” so people know the hours are the same every day; there is nothing different on weekends. Also, I think it would be good to include language on the sign indicating that the beach is open to the public; this might be the place to do that. Section 617.210 of the City Code says that all beaches are public property and open for general recreation.

**Swimming Only.** It would be good to include that specific restriction on the sign for Kay Beach. However, there is nothing in the City Code at the moment that restricts Kay Beach to swimming only. Section 617.370 (12)f. says no boats can be docked at Kay Beach, but that hardly means it’s for swimming only. Section 617.260 requires “proper attire” to enter the water at any city beach, so it sounds like swimming is permitted at all city beaches, but nothing limits Kay Beach to swimming only. The Parks Committee might want to propose that the City Council adopt a new ordinance specifying that Kay Beach is a swimming beach only.

**Regulations.** A little further discussion of the concept of city regulations might be helpful. Section 607.693 provides as follows:

*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 Open Space Site or on any parkway.*

This code provision may be enough for the City Council to adopt “regulations” rather than ordinance provisions, but it is unclear what procedures are required to adopt “regulations” and whether the Council has ever done that. Section 607.325 talks about adopting regulations for use of the beaches by dock associations and permittees. That ordinance also specifies that such regulations must be mailed to every household in the city and posted on the bulletin board in city hall and mailed to certain individuals.

Section 617.510 entitled Compliance with Posted Rules, reads, “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. But again, it is unclear whether the Council has adopted any regulations regarding beach usage and just what procedures are required to do so.

Section 617.200 says, “The Public Lake Tracts shall be subject to the following rules and regulations,” and then specifies in the ordinance what rules and regulations apply. So there are no independent rules and regulations outside the ordinance provisions that apply.

All in all, it seems preferable to have the Council simply adopt an actual ordinance if it wants to regulate the beaches in a certain way.

**No Motorized Vehicles on the Beach.** This restriction is designed to keep cars and ATVs and snowmobiles off the beach. I suspect that electric bikes would be okay but, of course, neither electric bikes nor these other types of motorized vehicles are mentioned anywhere in the Code. Section 617.240(4) says that unless the Council adopts regulations allowing parking of vehicles on a public beach, parking is prohibited, and sections 607.840 and 607.850 prohibit working on or abandoning vehicles on the public beaches, but these hardly cover all the possibilities of motorized vehicles running around on the beach. It seems it would be appropriate to adopt a specific ordinance prohibiting, or at least regulating, the various kinds of motorized vehicles that people might want to drive on all the beaches, not just Kay.

**No Motorized Boats Inside the Buoyed Area.** I think this might be a shorter, and perhaps clearer, way of saying that no motorized boats should be anywhere near the dock or the shore at Kay Beach. Again, though, there is no city ordinance that specifically says that, and the Parks Committee might want to recommend that. Also, a sign for Kay Beach posted on Lake Avenue won't do much to advise boaters to stay away from Kay Beach, so perhaps some kind of sign near the buoys needs to be installed. Or maybe a rope connecting a series of buoys would persuade boaters to stay away. At a minimum, a sign with large font should be installed conspicuously on the dock at Kay Beach.

I think the word “motorized” needs to be included in any ordinance restriction and sign restriction because the City does allow canoes and kayaks at Kay Beach. Section 617.215(2) says small craft, like canoes and kayaks, can be kept on all the beaches.

**No Fishing.** While I think it is appropriate to prohibit fishing at Kay Beach, to protect the swimmers, there is nothing in the City Code that prohibits fishing at Kay Beach. The City Council will have to adopt a new ordinance restricting fishing at Kay Beach. And I think fishing at Kay Beach should be prohibited regardless of whether its off the dock, or while standing in the water, or in a canoe or other nonmotorized device. However, I personally think that the City should not prohibit fishing at any of the other beaches. I know a lot of people swim at Birch Beach, but there are a lot of people who fish there, too.



**No Alcohol.** Section 607.641 provides, “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 Open Space Site” except in certain authorized situations.

**No Littering.** Sections 607.551, 607.552, and 607.553 cover this point.

**No Fires.** This prohibition, too, is provided for in the City Code – sections 607.541 and 607.542.

**No Camping.** Camping is prohibited under 607.410 and 607.420.

**Dogs Must Be Leashed At All Times.** The only provision I could find in the Code that seems to apply was section 605.022.1, which reads, “All dogs shall be kept under restraint at all times in the city.” The Parks Committee might want to consider recommending some specific restrictions regarding dogs on city beaches and in city parks. I thought the City Council a few years ago adopted some provisions regarding dogs on the beaches but I am not aware of any specific ordinance amendments, although I didn’t research these deeply.

**Be Considerate of Neighbors and Beach Users.** Sections 607.610 and 607.620 talk about disturbing the peace and playing music too loud, so there are ordinances restricting conduct on the beaches. I think it’s worth including language on the sign that essentially says just be nice.

**Violations.** I’m not sure it’s necessary to include something like this on the sign, but perhaps just referencing the Sheriff’s Office is enough to dissuade some people from engaging in conduct that is prohibited. The verb “supported” by Birchwood Ord and the Sheriff is not strong enough I think, and so I’ve suggested these alternatives.

**No Unsupervised Children Under 12.** I didn’t include this one. I can’t find anything in the existing ordinances that limits the age of children who can be on the beaches without adult supervision. The Parks Committee will have to discuss this issue.