

607. OPEN SPACE, PARK AREAS AND FACILITIES

607.100. GENERAL PROVISIONS.

607.110. **PURPOSE.** This Code has been enacted to govern the conduct of members of the public during their use and enjoyment of the City of Birchwood Village Parks and Open Space System so as to further the safety, health, enjoyment and welfare of all persons in the use thereof, and to ensure that access to public property for any reason other than recreation should be controlled and regulated and to ensure that such use is responsible and preserves public property.

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

607.120. DEFINITIONS.

1. **Open Space Site.** Shall mean and refer to any park, reserve, beach, open area, special use area, lake easement tract, or any other area owned, improved, maintained, operated or otherwise controlled by the City of Birchwood Village for recreation and natural resource preservation purposes.

2. **System.** Shall mean and refer to the City Parks and Open space System which includes the sites and facilities owned, maintained, and operated by and otherwise under the authority of the City.

3. **Director.** Shall mean and refer to the City Council-member assigned to head the Parks Committee or his duly appointed representative who is authorized by the City Council to administer the City Parks and Open Space System.

4. **Lake Easement Tract.** Shall mean and refer to any tract of land running to and abutting the shoreline of White Bear Lake, which land is owned by the City, subject to the right of City residents to use same for access to White Bear Lake.

5. **Law Enforcement Officer.** Shall mean and refer to 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.

607.130. HOURS AND ACCESS.

1. No person shall remain, stop, use or be present within the confines of any Open Space Site between the hours of 9:30 P.M. and 6:00 A.M. other than on a Lake Easement Tract for the purpose of access to the lake. Exceptions may be made at the discretion of the Director in the case of emergency or when special use permits have been authorized or for other reasons the Director may determine necessary or desirable.

2. Any section or part of any Open Space Site may be declared closed to the public by the Director 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 Director shall find necessary.

607.200. PERMITS AND LIMITED LICENSES.

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

607.210. Permits shall be required for the exclusive use of all or portions of specific areas, buildings or other system facilities and for conducting special events of a cultural, educational, political, religious or recreational nature; and for specific exemption from any provision of this Code. Any person, group or association of persons required to obtain a permit shall file an application for such permit with the Director, and such permit is non-transferable.

607.220. The Director shall have the authority to revoke a permit upon evidence of good cause.

607.230. Limited License Required for Access to Public Property. When a person seeks to gain access to their lot from any public property which would otherwise violate any other provision of this code, a Limited License from the City is required. No person shall utilize any city-owned open space in the City of Birchwood to provide access to private property for purposes of assisting in the construction of any project on private property without a permit authorizing such action from the City.

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

607.231. **Application.** Any person who requests access to public property pursuant to this section shall submit an application for a Limited License to the City with the following:

- (1) The nature and scope of the project.
- (2) Why access to the public property is requested.
- (3) What type and size of equipment or machinery will be used on or across the public property.
- (4) Is there potential for damage to the public property.
- (5) How will the damage be minimized.
- (6) The dates and times that the public property will be used and restored (limited to no more than three consecutive calendar days and prohibited from April 1 to October 1 each year).
- (7) The names of all persons who will use the Limited License.

(8) Financial security, if applicable, in the amount determined in Section 607.232.2.

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

607.232.

Financial Security.

1. The City may require an applicant to provide financial security if there is potential for damage to the public property.
2. 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.
3. 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.
4. The City shall release the financial security minus any restoration costs incurred by the City within 30 days of the License expiration.
5. If there is no opportunity for damage to the public property, no financial security shall be required.

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

607.233.

Limited License Conditions.

1. 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.
2. 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.

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

607.234. **City Administrator.**

1. The City Administrator shall process all applications under this chapter or revoke any Limited License if its conditions are violated. In the alternative,
2. The City Administrator shall be the sole arbiter to issue or deny a Limited License. In the alternative, the City Administrator may refer any Limited License application to the City Council for its consideration.

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

607.235. **Fees.** The application shall include the Limited License fee as set from time to time by the City Council and posted in its fee Schedule.

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

607.236. **Frequency of license applications.** A Limited License shall not issue for the same public property for the same or similar project by the same applicant or property in any three month period unless specifically approved by the City Council.

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

607.300. LAKE EASEMENT TRACTS.

607.310. Provisions of 607.300 apply to all Lake Easement Tracts. No person shall launch or land any trailered water craft on or from any shoreline of a Lake Easement Tract.

607.320. **DOCK LICENSE.** No person shall locate, construct, install, or maintain a dock or other structure for swimming and/or boating upon any Lake Easement Tract or on the shoreline abutting said land unless that person, who shall have been designated by the City Council, has applied for and has received a license and/or permit from the White Bear Lake Conservation District. Applications for licenses and permits and restrictions shall be as required by the ordinances and Board of Directors of the White Bear Lake Conservation District.

607.325. **CITY COUNCIL MAY ADOPT PUBLIC BEACH EASEMENT USE REGULATIONS.** The City Council may from time to time adopt regulations to govern the use of public beach easements by licensees, permittees, and dock associations and their members. A copy of the adopted regulations shall be mailed to every household in the City, kept by the City Clerk, posted on the bulletin board in the City Hall and delivered to each person or association at the time the City Council approves the person's or association's application for lake easement use.

Forty-five (45) days after adoption, mailing and posting the regulations shall be enforced under Sections 607.693, 607.910, and 607.920.

607.330. **TRAILER PARKING PROHIBITED.** No person shall park or cause to be parked any house, hauling or boat trailer upon any Lake Easement Tract. The City

Council may adopt such parking regulations for automobiles thereon as it may deem necessary.

607.340. **STORAGE PROHIBITED.** No person shall store or allow to remain on any Lake Easement Tract any personal property such as boats, oars, motors, boat hoists, or other equipment for any period of time other than when in actual use unless such storage has been authorized by license or permit of the White Bear Lake Conservation District or the City.

607.350. **OBSTRUCTIONS PROHIBITED.** No person shall deposit or construct any object upon any Lake Easement Tract which will obstruct the bathing areas.

“AMENDED SEPTEMBER 13, 2016”

607.370. No person shall voluntarily enter the water of any lake 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.

607.380. **WHITE BEAR CONSERVATION DISTRICT.** No person shall violate any provision of any White Bear Lake Conservation District ordinance, rule, or regulation which provision applies to Lake Easement Tracts.

607.400. CAMPING.

607.410. No person shall establish or maintain any camp or other temporary lodging or sleeping place in any Open Space Site except by permit and then only in areas specifically designated for such use.

607.420. No person shall camp for a period longer than that authorized by the permit.

607.430. All garbage or refuse of any kind shall be placed in receptacles provided for that purpose.

607.440. No person shall install permanent camp facilities or physically alter the camp site.

607.450. No person shall wash cooking and eating utensils, or clean fish except at locations designated for such use.

607.460. No person shall cut or gather wood on any Open Space Site for fuel other than that provided by the Department and stored for such use.

607.470. No person shall desert a camp site until the site is thoroughly cleaned.

607.480. No person or group of persons shall exclusively use a park shelter unless a specific permit has been granted by the Director for such use.

607.490. Permits for shelter use or camping shall be issued to adults only, and said adult shall be on the premises at all times during the duration of the permit.

607.500. DESTRUCTION AND LITTERING.

607.510. DEFACEMENT, DESTRUCTION OF PROPERTY AND RESOURCES.

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

607.512. No person shall deface, disturb or remove in any manner any soil, artifact, fossil, rock or other mineral resource.

607.513. No person shall excavate any ditch, trench, tunnel, or hole in any Open Space Site.

607.520. PRESERVATION OF VEGETATION.

607.521. 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.

607.522. No person shall plant or cause to be planted any wild, cultivated or exotic tree, shrub, or plant except in specifically designated areas with the written permission of the Director.

607.523. No person shall fell any tree; pick any flowers, trample any flowers, tree seedlings, flower beds, or new turf seedlings.

607.524. 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.

607.525. No person shall make any unauthorized use of any Open Space Site which is detrimental to the turf and soil conditions.

607.526. No person shall remove any device, apparatus or material installed for the protection, support, or preservation of any tree, shrub or plant.

607.530. MOLESTING WILDLIFE. No person shall rob, disturb, or molest the nest, eggs, or young of any birds, or other animals within the confines of any Open Space Site.

607.540. FIRES.

607.541. No person shall start or maintain a fire in any Open Space Site 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 be disposed of in containers provided for such disposal.

607.542. Any person who starts or maintains a fire in an authorized area shall exercise continuous supervision from the time the fire is kindled until it is extinguished. No fire shall cause damage or constitute a threat to site vegetation and resources, nor shall it cause discomfort to other Open Space Site users.

607.543. The Director may at his discretion prohibit fires for limited periods at any location for any purpose when it is necessary for the continued protection of System property and resources.

607.550. WASTE AND LITTER.

607.551. No person shall throw, cast, drop, pour, spill or discharge or permit to escape in or upon any land, pond, river, creek, stream, ditch, storm sewer or drain flowing into or through any Open Space Site or 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.

607.552. No person shall deposit, scatter, drop or abandon in any Open Space Site, 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 in any Open Space Site any accumulation of waste or trash generated outside the boundaries of the site.

607.553. No person shall drop, throw or otherwise leave unattended in any Open Space Site lighted matches, burning cigars, cigarettes, tobacco, paper or other combustible material.

607.600. GENERAL CONDUCT.

607.610. DISTURBING THE PEACE.

607.611. No person or group of persons shall disturb the peace and good order in any Open Space Site by either work or act.

607.612. 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 Open Space Site.

607.613. No person or group of persons shall engage in fighting, quarreling, wrangling, riotous clamor, or tumult in any open Space Site.

607.614. No person or group of persons shall disturb, harass or interfere with any user or the user's property in any Open Space Site.

607.615. No person shall solicit or ask anyone to commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior in any Open Space Site.

607.620. 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 Open Space Site 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 Open Space Site by other users or disturbs the residents of the adjacent property.

607.630. LOITERING.

607.631. 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.

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

607.640. ALCOHOLIC AND INTOXICATING BEVERAGES AND CONTROLLED SUBSTANCES.

607.641. 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 with a special permit or in such areas and at such times as may be designated by the Director, and except at such place where beverages are sold by licensees of the City Council.

607.642. No person shall use, possess, consume, administer, dispense, sell, give away or be under the influence of any controlled substance except when such use, possession, influence and administration is authorized by law.

607.650. GAMBLING.

607.651. No person shall play, participate in, wager on or against any game of chance or activity defined by Sections 609.75 and 609.76, Minnesota Statutes.

607.652. No person shall operate any gambling device or conduct any games of chance defined by Section 609.75 and 609.76, Minnesota Statutes.

607.660. PARADES, ENTERTAINMENT, PUBLIC MEETINGS.

607.661. 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 Open Space Site or on any parkway except with written permission of the Director.

607.670. 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 Open Space Site except those concessions authorized by the City Council.

607.680. LOST AND FOUND ARTICLES. Lost or mislaid articles or money or personal property which are found in any Open Space Site shall be delivered or turned over to the City Clerk. 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.

607.690. LAW ENFORCEMENT AND REGULATIONS.

607.691. 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.

607.692. 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 Open Space Site or part thereof, or while in the discharge of duties conferred by this Code.

607.693. **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.

607.700. ICE SKATING AREAS.

607.710. No person shall ice skate on Open Space Site skating rinks between 9:30 P.M. and 6:00 A.M.

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

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

607.740. Any person violating any provision of this Code may be ejected from the Ice Skating Area at the discretion of the Director or a Law Enforcement Officer and shall be guilty of a misdemeanor.

607.800. TRAFFIC RULES.

607.810. No person shall park, drive or operate a motor vehicle within any Open Space Site except upon roadways, parking areas, parkways, or other areas designated for such use, unless authorized by the Director. Disabled vehicles may be moved off a paved area to allow for the continued flow of traffic but the vehicle must be repaired or removed within six hours, unless other arrangements are made with the Director.

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

607.820. No person shall park or operate a motor vehicle within any Open Space Site or on any parkway in violation of posted regulations and directional signs; Chapter 169, Minnesota Statutes; County or City traffic codes; or orders or direction of law enforcement officers or city employees.

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

607.830. No person shall park, stop, or leave a vehicle in any Open Site unless arrangements are made with the City Clerk. No person shall park, stop, or leave a vehicle on any park drive between the hours of 9:30 P.M. to 6:00 A.M., unless arrangements are made with the City Clerk.

“Amended by Ordinance 2005-3; October 11, 2005.”

607.840. No person shall wash, grease, change oil, service or repair any vehicle in any Open Space Site. All disabled vehicles shall quickly be made operational or removed from the Open Space Site.

607.850. The owners of vehicles illegally parked, disabled or abandoned on an Open Space Site shall be subject to the provisions of City Code 613.

607.860. No person shall drink, consume or have in his possession an open bottle or container of an alcoholic or intoxicating beverage in any motor vehicle when such vehicle is in an Open Space Site or on a parkway.

607.870. Vehicles shall yield the right of way at all times to pedestrians.

607.900. PENALTIES FOR VIOLATION.

607.910. Any person violating any of the provisions of this Code shall be judged guilty of a misdemeanor.

607.920. Any person violating any of the provisions of this Code may be expelled, ejected or ousted at such time of violation from an Open Space at the discretion of a law enforcement officer.

“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”