

Offered by Councillor MICHAEL P. ROSS

CITY OF BOSTON



IN THE YEAR TWO THOUSAND FOUR

ORDINANCES 2004 - CHAPTER 13
AN ORDINANCE REGARDING
ESTABLISHING PROCEDURES FOR THE
CREATION, MAINTENANCE, AND USE OF
DOG RECREATION SPACES

WHEREAS, There are more than 8,000 licensed dogs and approximately 30,000 unlicensed dogs in the City of Boston; and

WHEREAS, The City of Boston's leash law prohibits dogs from recreating off-leash in public areas; and

WHEREAS, There is presently no process for legalizing off-leash areas in the City of Boston for dogs to recreate; and

WHEREAS, Brookline, Cambridge, Framingham, and other cities and towns within the Commonwealth of Massachusetts have legalized dog recreation spaces; and

WHEREAS, The City of Boston has two pilot projects for dog recreation spaces -- one in a section of Boston Common and a second in the South End; and

WHEREAS, Through an open, community-based process, dog recreation spaces can be created that can fit the needs of both dog owners and non-dog owners. *NOW THEREFORE*,

Be it ordained by the City Council of Boston, as follows:

Section 1.

CBC Chapter XI is hereby amended by inserting Section 11-10 as follows:

11-10 PARKS AND RECREATION DEPARTMENT.

11-10.1 Overview.

The City of Boston Parks and Recreation Department oversees 2,200 acres of parkland including 215 parks and playgrounds, 65 squares, 16 historic burying grounds, 3 active cemeteries, 2 golf courses, a variety of urban woodlands, and immeasurable street trees. The Department also

programs a wide range of community events and live entertainment in the parks under its jurisdiction and employs Boston Park Rangers to monitor the parks and enhance public safety. Over the last 10 years, the Parks Department has implemented a \$120 million rehabilitation of the City park system targeting every tot lot and most ball fields and hard courts.

11-10.2 Dog Recreation Spaces

11-10.2(a) Introduction and Purpose.

These sections delineate a community-initiated process for the City of Boston to establish dog recreation spaces within the City of Boston through the City's Parks and Recreation Commission and an external Applicant for a Boston Dog Recreation Space. The Applicant may be an individual, a group of individuals, or a formal organization. The process is community-initiated, and it remains community-centered by requiring the Applicant to remain actively involved in the maintenance of the space and the implementation of rules and regulations in and around the space. This ordinance is designed and intended to highlight and require a prominent role of the Applicant for a Boston Dog Recreation Space in the creation, establishment, funding, and maintenance of the dog recreation space.

The Applicant will also assume a primary role in establishing, promulgating, and compelling compliance with standards of conduct in and around the dog recreation spaces.

The establishment of a dog recreation space requires measures of flexibility to allow for variations in space availability and the needs of the neighborhoods enjoying the dog recreation space; such flexibility may include the establishment of multi-use parks/areas. Although the City of Boston has a multitude of pre-existing commitments to other current recreational uses in the City's parks, it is the intention of the City to preserve the space and integrity of the City's tot lots, tennis courts, basketball courts, tracks, and baseball/softball fields, which shall in no way be diminished or compromised by the siting/location of a Dog Recreation Space. The provisions of these sections, however, shall not preclude an Applicant from seeking to use other publicly-owned land, other than parkland, for a Dog Recreation Space.

11-10.2(b) Definitions.

Unless specifically indicated otherwise, these definitions shall apply and control in these sections.

- (a) *Applicant* is defined in CBC 11-10.2(c)
- (b) *CBC* means the City of Boston Code of Ordinances.
- (c) *Commission* means the Parks and Recreation Commission of the City of Boston or its successor.
- (d) *Dog Keeper* means any person that supervises a dog entering a DRS, recreating within a DRS, or exiting a DRS.

(e) *Dog Officer* means the Dog Officer of the City of Boston as identified in CBC 14-5 or his/her designee, agent, or successor.

(f) *Dog Recreation Space* or *DRS* means any area of land, including but not limited to an area within existing public or park space, that, pursuant to CBC 11-10.2, has been specifically designated as a Dog Recreation Space.

(g) *MOA* means a Memorandum of Agreement between the Parks and Recreation Commission and the Applicant which delineates the understanding and/or agreement of the roles and responsibilities for the creation, maintenance, and operation of a DRS.

(h) *Owner* means any person that owns a dog entering a DRS, recreating within a DRS, or exiting a DRS whether or not the Owner is acting as a Dog Keeper.

(i) *Park Ranger* means any Ranger of the Parks and Recreation Department of the City of Boston.

(j) *Parks and Recreation Commission* means the Parks and Recreation Commission of the City of Boston as identified in CBC 7-4.1 or its designee, agent, or successor.

11-10.2(c) Applicant for a Dog Recreation Space.

Applicant means a group of ten (10) individuals that applies for and/or receives approval for the designation of a Dog Recreation Space. Nothing in these sections shall prevent a pre-existing "Friends" group from acting as an Applicant. Each person comprising the Applicant shall be a resident of the City of Boston.

The Applicant shall designate one person to be the sole contact for communication with the City, and the person so designated may be changed by the Applicant only by forwarding written notice to the Commission. No person other than the person so designated on the application, or changed in accordance with the terms of this paragraph, shall have authority or standing to interact with the City regarding a specific DRS. Unless designated on the application, no individual user of a DRS shall have authority or standing to interact with the City regarding a specific DRS.

11-10.2(d) Procedure for Establishing and Designating a Dog Recreation Space.

No Dog Recreation Space may be established without the express written authorization of the Commission.

(1) *Application.* The Applicant may apply to the Commission for the establishment of a Dog Recreation Space, and such application shall be submitted to the Executive Secretary of the Parks and Recreation Commission. The application shall include, but not be limited to, (i) the proposed specific site for the DRS, (ii) the specific dimensions of the proposed area for the DRS, (iii) the specific method, including materials, of separation/segregation of the DRS from

the adjoining/surrounding area, (iv) the proposed methods, materials, and/or procedures for the placement and maintenance of ground cover, trash receptacles, benches, lights, signage, and water fountain/hose, which support the comfortable use of the DRS, (v) a proposed plan for construction of the DRS including a timeline for construction of the DRS and a plan for funding the construction of the DRS including but not limited to the collection of membership fees, the collection of user fees, private-sector fundraisers, private-sector donations, and/or partnerships with businesses, (vi) a proposed plan for the maintenance of the DRS including a plan for funding the maintenance of the DRS including but not limited to the collection of membership fees, the collection of user fees, private-sector fundraisers, private-sector donations, and/or partnerships with businesses, (vii) an estimate of the number of dogs that will use the DRS, (viii) the hours of operation of the DRS but such hours shall not extend beyond the hours noted in CBC 11-10.2(f), (ix) a certification signed by the Applicant that the Applicant notified the abutters of the proposed DRS of the application as prescribed in the attached "Instructions for Notification to Abutters" and "Affidavit of Notice to Abutters and Others," (x) a description of the Applicant's efforts to obtain input from the immediate community/neighborhood regarding the DRS including a list of addresses from which input was obtained and which may include a petition signed by identifiable members of the immediate community/neighborhood and the local and state elected officials representing the area of the DRS, (xi) a letter or memorandum of support or a letter or memorandum of non-opposition, from the neighborhood civic association overseeing the proposed site of the DRS referencing the DRS, (xii) an identification of and description of any organization overseeing the operation and/or management of the DRS, (xiii) a draft proposed MOA in a form substantially similar to the form annexed to this ordinance and in a form that, at a minimum, shall contain all of the sections in the draft proposed form MOA annexed to this ordinance, (xiv) any other information the Commission may require, and (xv) the signatures of each person constituting the Applicant or, if the Applicant is comprised of one or more organizations, the signatures of the officers of such organization(s). No application may be considered unless the application contains materials that completely satisfy the requirements of this sub-section.

(2) Review and Decision. The Applicant shall submit the application to the Commission, through the Executive Secretary of the Parks and Recreation Commission, who shall review the application and shall accept the written comments of the residents of the neighborhood in which the DRS is proposed to be sited and consider such comments before issuing a written decision regarding the application. The Commission shall issue a written decision no later than the sixtieth (60th) calendar day after the Commission's first meeting subsequent to the Commission's receipt of the application. If the Commission disapproves the application then the Commission shall forward a copy of the disapproval, complete with reasons for the disapproval, to the Applicant. If the Commission approves the application then the Commission shall promptly forward written notification of the approval to the Applicant. The approval of the Commission shall contain as a condition for the designation of a proposed area as a DRS a requirement for the Applicant to deposit with the Commission an amount of money determined at the sole discretion of the Commission to be adequate to close and dismantle the DRS as planned in the Application, and such deposit shall be used to close and dismantle the DRS upon the expiration, forfeiture, revocation, or other final termination of the DRS designation if the Applicant fails or refuses to dismantle the DRS within thirty (30) calendar days of the expiration, forfeiture, revocation, or other final termination of the DRS designation.

The size of the DRS shall be at the sole discretion of the Commission, and the Commission shall consider the proportion of the DRS to the gross area of the park in which the proposed DRS is located.

The approval of the Commission may contain other conditions for the designation of the proposed area as a DRS.

(3) Acceptance. The area proposed in an application that has been approved by the Commission shall be designated a Dog Recreation Space if the Applicant, no later than the fourteenth (14th) calendar day after receipt of the Commission's notice of approval, accepts, in writing, the decision of the Commission including any conditions attached thereto and remits the required deposit. If the Commission does not receive an acceptance and deposit within the fourteen- (14-) day period then the offered designation shall lapse.

(4) Probation. Upon acceptance, an area's initial designation as a DRS shall be effective for a one (1) year probationary period wherein the Commission may revoke the designation at the Commission's discretion.

(5) Expiration/Sunset/Renewal. The designation of an area as a DRS shall expire on the fifth (5th) anniversary of its acceptance. The Applicant may submit a renewal application to the Commission no earlier than one hundred twenty (120) calendar days before the date of the fifth (5th) anniversary of acceptance of the designation as a DRS or the most recent renewal thereof and no later than thirty (30) calendar days after the fifth (5th) anniversary of the acceptance or renewal of the designation. The Applicant is not required to apply for renewal, and any DRS that is not successfully renewed shall be closed and dismantled by the Applicant within ninety (90) calendar days after the fifth (5th) anniversary of the acceptance or renewal of the designation as a DRS unless the Commission forwards other instructions in writing to the Applicant. The Applicant may apply for renewal of a designation by submitting a written request therefor to the Commission. The Commission shall consult with the Dog Officer regarding the renewal and shall, in writing, approve or reject the renewal within thirty (30) calendar days of receipt of the request for renewal. Upon receipt of a rejected renewal, the Applicant shall close and dismantle the DRS.

(6) Re-Application. Nothing in these sections prohibits the Applicant from re-applying if it has received notice of disapproval of an application or if it has allowed an offered designation to lapse from re-applying. The Applicant may not submit more than two (2) re-applications for the same DRS, and the Commission may not review more than two (2) re-applications for the same DRS.

(7) Design and Construction Approval. At all times, the Parks and Recreation Commission shall have final approval authority over any and all aspects of design and construction and no DRS designation may begin operations as a DRS without the final approval of the Commission.

11-10.2(e) Managing a Dog Recreation Space.

The Applicant shall promulgate rules and regulations for the use of a DRS. Any rules and regulations shall not be more permissive than the current laws, ordinances, orders, rules, regulations, and/or policies governing the operation and use of public spaces, public parks, and/or Dog Recreation Spaces but may, however, be more restrictive than the current laws, ordinances, orders, rules, regulations, and/or policies governing the operation and use of public spaces, public parks, and/or Dog Recreation Spaces. Rules and regulations shall be posted at the DRS, the name and telephone number of the person designated in CBC 11-10.2(c) shall be posted at the DRS, and any signage must be in compliance with CBC 11-10.2 and with the City of Boston's guidelines.

Complaints regarding a DRS shall be directed to the Commission which shall notify the Applicant of any complaint within five (5) business days. Complaints regarding a DRS may also be directed to the Applicant pursuant to the name and telephone number of the person designated in CBC 11-10.2(c) as posted at the DRS pursuant to the previous subsection.

The Applicant shall be responsible for the management of the DRS. Upon notice to the Applicant of any violation, the Applicant shall have fourteen (14) calendar days to correct any violation. The Applicant shall notify the Dog Officer of any serious incidents, including but not limited to accidents resulting in human or dog injury, any dog bite of a human or another dog, and any verbal or physical altercations between humans, at the DRS and of any troublesome and/or recidivist dogs, Dog Keepers, Owners, and/or other users of the DRS. The Applicant shall notify the Dog Officer of any patterns of objectionable or unsafe behavior or patterns of objectionable or unsafe occurrences for correction or remediation. The Dog Officer and the Applicant shall have the authority to ban any dog and/or any Dog Keeper from a DRS. Uncorrected violations at a DRS, a single serious incident or a pattern of serious incidents at a DRS, or other circumstances compromising public health or public safety may result in temporary closing of the DRS for a defined period of time and/or suspension, forfeiture, or revocation of the DRS designation.

The Maintenance Division of the Parks and Recreation Department shall not be responsible for the maintenance of a DRS. The Commission shall supply and maintain an adequate number of trash receptacles for each DRS. The Applicant shall immediately advise the Commission of any concerns with the adequacy or maintenance of the trash receptacles.

The Applicant shall have the authority to recommend to the Commission that a DRS be temporarily closed for a defined period of time and/or suspension or forfeiture of its status as a DRS.

11-10.2(f) Use of a Dog Recreation Space.

The use of a Dog Recreation Space shall be subject to the following conditions:

(1) No dog may enter a DRS or recreate within a DRS unless it is licensed and vaccinated for rabies. No dog may enter a DRS or recreate within a DRS unless it is wearing a

collar with the license, the vaccination tag, and a tag with the dog's name, Owner's name, and Owner's telephone number secured to the collar at all times.

(2) No dog may enter a DRS unless it is more than four (4) months old.

(3) No person may enter a DRS unless he/she is eighteen (18) years of age or older unless he/she is accompanied by an adult which shall be responsible for the actions of the minor and any dog supervised by such minor.

(4) Except under exigent circumstances, no person in or near a DRS shall run, shout, scream, wave, or engage in any behavior that excites or antagonizes a dog in or near the DRS or in any way violate the cruelty laws, including but not limited to M.G.L. c. 272, s. 77 and all persons shall note the liability restrictions in M.G.L. c. 140, s. 155.

(5) No female dog in heat may enter a DRS.

(6) No dog shall enter or exit the DRS unless restrained by a Dog Keeper on a leash complying with the requirements of the City of Boston Code and each and every Dog Keeper must have a leash for each and every dog so handled on his/her person at all times.

(7) Each and every Dog Keeper must vigilantly supervise his/her dog(s), including but not limited to, (i) remaining within the DRS at all times during which his/her dog(s) is within the DRS, (ii) keeping his/her dog(s) within sight, (iii) maintaining adequate behavioral control over his/her dog(s) within and around a DRS, (iv) immediately filling any hole created by his/her dog(s) within and around a DRS and disciplining his/her dog from digging within and around a DRS, and (v) immediately removing and properly disposing of any and all dog waste from within and around a DRS.

(8) Each and every Dog Keeper must remove his/her dog from a DRS at the first sign of aggression from his/her dog(s) even if the aggression is defensive, retaliatory, or provoked. Dog Keepers and dogs within a DRS remain subject to the requirements, provisions, and penalties of CBC 16-1.9B and M.G.L. c. 140, s. 157.

(9) No Dog Keeper may bring more than three (3) dogs into or around a DRS at one time.

(10) In no event may bicycles, roller blades, roller skates, scooters, skateboards, strollers, or other similar items enter a DRS. Wheelchairs are expressly permitted within a DRS.

(11) In no event may a Dog Keeper or dog enter a DRS after 11:00 pm or before 6:00 am.

(12) Use of a DRS shall constitute (i) the consent of the user, Dog Keeper, and/or Owner to all of the laws, ordinances, orders, rules, regulations, and policies governing the operation and use of a DRS, (ii) a waiver of the user, Dog Keeper, and/or Owner of any liability of the City of Boston for any injury or damage arising as a result of the use of a DRS, and (iii)

the agreement of the user, Dog Keeper, and/or Owner to protect, indemnify, defend, and hold harmless the City of Boston for any injury or damage arising as a result of the use of a DRS.

Nothing in these sections shall prohibit the development and employment of a specific program to regulate the use of Dog Recreation Spaces which may require licenses and/or fees.

11-10.2(g) Education Program.

The Applicant shall create and implement educational programs regarding the laws, ordinances, orders, rules, regulations, and policies regarding dogs, dogs in public spaces, and the use of Dog Recreation Spaces. With the cooperation and funding of the Applicant, the Commission shall install signage at each DRS summarizing the laws, ordinances, orders, rules, regulations, and policies of Dog Recreation Spaces, provided that the size, content, and placement of such signs are approved by the Dog Officer. The signage shall include (i) the name, address, and telephone number of the Applicant, (ii) the name, address, and telephone number of any organization, if such organization is not the Applicant, overseeing the operation and/or management of the DRS, (iii) the title and telephone number of the Dog Officer, and (iv) the name and telephone number of the Department.

The Dog Officer, pursuant to CBC 7-9.2, shall conduct educational programs relating to animal control as it shall deem necessary or desirable.

11-10.2(h) Violations and Penalties.

A first violation of these sections in any calendar year shall be subject to a fine of One Hundred Dollars and No Cents (\$100.00). A second violation of these sections in any calendar year shall be subject to a fine of Two Hundred Dollars and No Cents (\$200.00). A third violation of these sections in any calendar year shall be subject to a fine of Three Hundred Dollars and No Cents (\$300.00). Any single violation may be subject to revocation of the privileges of the Dog Keeper and the Dog Keeper's dog(s) to enter a DRS or recreate within a DRS. In the event that the penalties delineated in this sub-section conflict with other fines authorized by the City of Boston then the penalty imposed pursuant to this sub-section shall supplement any other penalty.

A pattern of violations at any DRS may result in temporary closing of the DRS by the Commission for a defined period of time and/or suspension, forfeiture, or revocation of the DRS designation.

11-10.2(i) Suspension, Forfeiture, and/or Revocation of Designation as Dog Recreation Space and Closure.

The Commission shall have the authority to suspend, revoke, or deem forfeited a DRS designation. At the Commission's sole discretion, the Commission may suspend, revoke, or deem forfeited a DRS designation for reasons including, but not limited to, a violation of these sections, a violation of the MOA, or a failure or refusal to abide by the terms of the MOA.

The Commission shall immediately suspend, revoke, or deem forfeited the DRS designation upon a written recommendation of the Dog Officer citing an incident or incidents at or near a DRS that compromise or jeopardize the public health or public safety.

A suspension shall not be considered punitive but shall be for a limited time not to exceed thirty (30) calendar days and for a limited purpose which shall be specified in a written notice of suspension forwarded to the Applicant, and the Commission shall close the DRS for the duration of the suspension. A suspension shall be deemed to be a warning to the Applicant and the users of the DRS. A summary of the reasons for the suspension, the term of the suspension, and the terms for lifting the suspension shall be posted at the DRS.

The Applicant shall be solely responsible for ensuring that the condition(s) requiring correction pursuant to a notice of suspension are subsequently corrected. If the condition(s) in the notice of suspension are not corrected within the limited time of the suspension, then the Commission may, in the Commission's sole discretion, revoke or deem forfeited the DRS designation upon written notice to the Applicant, and the Commission may order the Applicant to close and dismantle the DRS immediately upon the conclusion of any appeal period or the Commission may close and dismantle the DRS immediately upon the conclusion of any appeal period.

The Applicant may appeal a revocation or forfeiture of a DRS upon written notice of appeal to the Commission which shall be delivered to the Executive Secretary of the Commission within ten (10) calendar days of the notice of revocation/forfeiture. The Commission shall schedule a hearing and inform the Applicant of the date, time, and place of the hearing in writing. The hearing shall commence within thirty (30) calendar days after the date of the notice of revocation/forfeiture. At the hearing, the Applicant shall be given an opportunity to be heard, to present witnesses or documentary evidence, and to show why the notice of revocation/forfeiture should be modified or withdrawn. An official record shall be kept of the hearing proceedings and made available to the Applicant upon request. Failure to hold a hearing within the time period specified herein shall not affect the validity and/or enforceability of any notice of revocation/forfeiture.

If a written notice of appeal is not filed with the Executive Secretary Commission within ten (10) calendar days after the date of the notice of revocation/forfeiture or if after a hearing the notice of revocation/forfeiture has been sustained in any part, then the notice of revocation/forfeiture shall be enforceable pursuant to the provisions of these sections.

11-10.2(j) Limited Exception to CBC 16-1.9.

Although the purpose and intent of CBC 16-1.9 shall be effective at all times, a dog and its Dog Keeper shall benefit from a limited exception to CBC 16-1.9. Specifically, the narrow provision of CBC 16-1.9 prohibiting a dog to run at large in a public place shall be stayed while a Dog Keeper is supervising his/her dog recreating within the confines of a Dog Recreation Space. As noted in a previous section, all dogs must be leashed while entering or exiting the Dog Recreation Space and shall remain leashed at all times outside the Dog Recreation Space.

11-10.2(k) Regulatory Authority.

The Commission, pursuant to CBC 7-4.8 or otherwise, shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

11-10.2(l) Enforcement Authority.

The Commissioner of the Parks and Recreation Department, the Dog Officer, the Commissioner of the Boston Police Department, and the Commissioner of the Boston Municipal Police Department shall have the authority to implement and enforce these sections and any rules and regulations promulgated pursuant thereto.

11-10.2(m) Severability.

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

11-10.2(n) Harmonious Construction.

These sections shall be construed harmoniously with all laws, ordinances, orders, rules, regulations, and policies regarding parks, public spaces, and animal control such that all laws, ordinances, orders, rules, regulations, and policies effectively provide the greatest level of public health, public safety, equity, and fairness.

11-10.2(o) Savings Clause.

Nothing in these sections shall operate to immediately invalidate any dog park existing at the time of passage of these sections except that any pre-existing concerns/problems may be forwarded in writing to the Commission and such concerns/problems shall be immediately addressed. Any dog park existing at the time of passage of these sections shall be closed within one (1) year of passage of these sections unless an Applicant undertakes the application process for any dog park existing at the time of passage of these sections to become a DRS pursuant to these sections subject to all of the rights, responsibilities, obligations, and duties therein, specifically including but not limited to the probationary period in CBC 11-10.2(d)(4).

Nothing in these sections shall operate to invalidate any dog park that has been designed and/or approved by the Parks and Recreation Department or the Parks and Recreation Commission prior to the passage of these sections except that any pre-existing concerns/problems may be forwarded in writing to the Commission and such concerns/problems shall be immediately addressed. Any such dog park existing at the time of passage of these sections shall be closed within one (1) year of passage of these sections unless an Applicant undertakes the application process for any such dog park existing at the time of passage of these sections to become a DRS pursuant to these sections subject to all of the rights, responsibilities, obligations, and duties therein, specifically including but not limited to the probationary period in CBC 11-10.2(d)(4).

11-10.2(p) Sunset Clause.

The provisions of these sections shall be effective only until the fifth (5th) anniversary of the date of passage unless extended by an order of the Boston City Council and approved by the Mayor of the City of Boston no later than the ninetieth (90th) day following the fifth anniversary of the date of passage.

The provisions of these sections may be serially extended by an order of the Boston City Council and approved by the Mayor of the City of Boston no later than the ninetieth (90th) day following the fifth anniversary of the date of extension. No individual extension of these sections may be for a period longer than five (5) years.

11-10.2(q) Implementation.

The provisions of these sections shall be effective sixty (60) calendar days after passage.

Section 2.

CBC Chapter XVI is hereby amended by striking Section 16-1.10A(c) in its entirety and replacing it as follows:

c. Method of Removal and Disposal. For the purposes of this subsection, the means of removal shall be any plastic bag, tool, implement, or other device carried and used for the purpose of picking up and containing such feces, unexposed to said person and unexposed to the public. Disposal shall be accomplished by transporting such feces to a trash receptacle or other place suitable for the disposal of waste, trash, or debris.

Section 3.

CBC Chapter XVIII is hereby amended by amending Section 18-1.4(6) by striking the term "eight (\$8.00) dollars" and replacing it with "fifteen dollars (\$15.00)" and by striking the term "nineteen (\$19.00) dollars" and replacing it with "thirty dollars (\$30.00)".

CBC Chapter XVIII is hereby amended by amending Section 18-1.4(7) by striking the term "five (\$5.00) dollars and replacing it with "eight dollars (\$8.00)".

CBC Chapter XVIII is hereby amended by amending Section 18-1.4(8) by striking the term "five dollars and fifty (\$5.50) cents" and replacing it with "eight dollars (\$8.00)".

CBC Chapter XVIII is hereby amended by amending Section 18-1.4(9) by striking the term "four dollars and fifty (\$4.50) cents" and replacing it with "eight dollars (\$8.00)".

CBC Chapter XVIII is hereby amended by amending Section 18-1.4(10) by striking the term "five (\$5.00) dollars" and replacing it with "eight dollars (\$8.00)".

Section 4.

The provisions of these sections shall be effective immediately, but enforcement of fines shall not be authorized until the sixtieth (60th) calendar day after passage.

In City Council DEC 15 2004

Passed

Kosuni Salerno City Clerk

~~Approved~~ JAN 03 2005

Copier A. Demuro Mayor

MEMORANDUM OF AGREEMENT

BY AND BETWEEN
CITY OF BOSTON'S
PARKS AND RECREATION COMMISSION
AND
APPLICANT FOR A BOSTON DOG RECREATION SPACE

WHEREAS, the City of Boston Code of Ordinances establishes procedures for the creation, maintenance, and use of dog recreation spaces in CBC 11-10.2, *et seq.*; and

WHEREAS, CBC 11-10.2(d)(1) delineates the requirements of an application to establish a dog recreation space, and the application requires the submission of a proposed Memorandum of Agreement ("MOA") and CBC 11-10.2(i) includes provisions for the suspension, forfeiture, and/or revocation of designation as dog recreation space and closure for, among other things, failure or refusal to abide by the terms of this agreement.

NOW THEREFORE, this Agreement for the establishment, design, construction, and maintenance of a dog recreation space located at _____ in the _____ neighborhood of the City of Boston ("Dog Recreation Space") is hereby made between the City of Boston through its Commissioner of the Parks and Recreation Commission with its main office at 1010 Massachusetts Avenue, Third Floor, Boston, MA, 02118, ("Commission") and the Applicant with its main office at _____ ("Applicant") is made as of this _____ day of _____, 200_____.

Section 1. Establishment and Design.

The Applicant shall be solely responsible for establishing and designing the Dog Recreation Space using its own resources. The Commission shall have final approval authority over any and all aspects of design. The Commission and/or other officers, employees, or officials of the City of Boston may provide technical assistance regarding establishment and design to the Applicant but shall not make more than incidental expenditures of resources therefor. The Applicant shall remit to the Commission the amount of _____ Dollars and No Cents (\$ _____ .00) as a deposit for the closing and dismantling of the Dog Recreation Space in accordance with Section 7 of this MOA.

Section 2. Construction.

The Applicant shall be solely responsible for funding the construction and outfitting of the Dog Recreation Space using its own resources. The Commission and/or other officers, employees, or officials of the City of Boston may perform the construction duties and outfit the Dog Recreation Space with fixtures and/or other amenities, but the Applicant shall provide adequate funds to the Commission *prior* to the commencement of construction. The Commission and/or other officers,

employees, or officials of the City of Boston may provide technical assistance regarding construction to the Applicant but shall not make more than incidental expenditures of resources therefor.

Section 3. Maintenance.

The Maintenance Division of the Parks and Recreation Department shall not be responsible for the maintenance of a DRS. The Applicant shall be primarily responsible for maintaining the Dog Recreation Space using its own resources. The Commission and/or other officers, employees, or officials of the City of Boston may perform the construction duties and outfit the Dog Recreation Space with fixtures and/or other amenities, but the Applicant shall provide adequate funds to the Commission *prior* to the commencement of construction and shall reimburse the Commission *immediately* upon receipt of notice of additional disbursement. The Commission and/or other officers, employees, or officials of the City of Boston may provide technical assistance regarding construction to the Applicant but shall not make more than incidental expenditures of resources therefor.

Section 4. Enforcement.

Although the City of Boston through its Parks and Recreation Commission, Police Department, and Dog Officer assume the primary responsibility and authority for enforcement under the law at the Dog Recreation Space, the Applicant shall assume an active role in the enforcement of the community standards upon which the laws, ordinances, orders, rules, regulations, and policies are based. Furthermore, the Applicant shall cooperate with the City of Boston on enforcement programs, and the Applicant shall undertake education programs to ensure that the users of the Dog Recreation Space are informed of the community standards and/or expectations associated with use of the Dog Recreation Space and the legal expectations associated with use of the Dog Recreation Space.

Section 5. Special Provisions.

<<this section shall be used for the conditions, terms, and/or provisions that are specific to the DRS that is the subject of this MOA>>

Section 6. Applicability.

The parties to this MOA acknowledge that CBC 11-10.2(i) includes provisions for the suspension, forfeiture, and/or revocation of designation as dog recreation space and closure for, among other things, failure or refusal to abide by the terms of the applicable MOA.

The parties to this MOA acknowledge that CBC 11-10.2(d)(5) provides that the DRS designation expires on the fifth (5th) anniversary of the Applicant's acceptance of the DRS designation. The DRS designation may be renewed by the Applicant only if the Applicant complies with the terms of renewal in CBC 11-10.2(d)(5).

Section 7. Closure.

Upon revocation, forfeiture, expiration, or other final termination of the DRS designation, the Applicant shall close and dismantle the DRS within the sooner of thirty (30) calendar days or the specific terms of CBC 11-10-2; upon the Applicant's adequate completion of this task then the Commission shall return the deposit monies to the Applicant. If the Applicant fails or refuses to close and dismantle the DRS then the Commission shall use the deposit monies to close and dismantle the DRS.

Section 8. Conflict.

In the event that this MOA conflicts with CBC 11-10 then CBC 11-10 shall control.

CITY OF BOSTON

APPLICANT FOR BOSTON
DOG RECREATION SPACE

By: _____
Name:
Title:

By: _____
Name:
Title:

INSTRUCTIONS FOR NOTIFICATION TO ABUTTERS

APPLICATION FOR A DOG RECREATION SPACE

CBC 11-10.2

1. Identify all parcels of real estate that abut the proposed Dog Recreation Space by visiting the Engineering Office of the Assessing Department of the City of Boston. The Engineering Department is located in Boston City Hall Room 301.
2. For each and every parcel identified in the Step 1, identify the owner and mailing address from the Assessor's most recent data. If the owner is not discernible from the Assessor's most recent data then list the abutter as "Owner" with the parcel address as the mailing address.
3. Legibly list each and every abutter and its mailing addresses in the space provided on the Affidavit of Notice to Abutters and Others (see the reverse side of this form). Attach additional sheets as necessary to include all names and addresses.
4. Forward to each and every abutter a copy of the notice by certified mail/return receipt requested.
5. Forward to the Parks and Recreation Commission (i) the completed Affidavit of Notice to Abutters and Others and (ii) proof of the Applicant's mailing of the notices to abutters and others (i.e. proof of mailing) and/or proof of receipt of the notices by the abutters and others (i.e. the green return receipts).

AFFIDAVIT OF NOTICE TO ABUTTERS AND OTHERS

APPLICATION FOR A DOG RECREATION SPACE

CBC 11-10.2

To the City of Boston Parks and Recreation Commission:

I, _____, hereby certify that the following is a complete and accurate list of the persons identified in the most recent data available from the City of Boston Assessor as the owners of the property/parcels abutting the proposed location for a Dog Recreational Space to be located at _____ in the _____ neighborhood of the City of Boston. The abutters (with addresses) to whom notice has been sent:

Additional/supplemental persons (with addresses) to whom notice has been sent.

I further certify that notice of this application/petition concerning a Dog Recreation Space was provided to the above-listed persons by mailing to each and every one of them by certified mail/return receipt requested a copy of said application/petition. Attached are proof of receipt of the notice for those that are available and/or proof of mailing for those for which proof of receipt has not been received.

Signed and subscribed to under the pains and penalties of perjury this _____ day of _____, 200_____.

Printed Name _____

COMMONWEALTH OF MASSACHUSETTS

On this ____ day of _____, 200____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on this document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

Notary Public
My Commission Expires:

ATTACH NOTICE AND
PROOF OF RECEIPT AND/OR
PROOF OF MAILING