

DEPARTMENT OF PARKS AND RECREATION**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Parks and Recreation, pursuant to the authority set forth in section 9a of the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1808.01 (2006 Supp.)), and Mayor's Order 2007-53, dated February 7, 2007, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication in the D.C. Register, the following rules to amend Chapter 7 of the D.C. Municipal Regulations.

This amendment is necessary to establish rules for the creation and maintenance of off-leash areas for dogs on District parkland by the Department of Parks and Recreation, including prerequisites for site selection, guidelines for the site selection process, the Department of Parks and Recreation responsibilities, and standard rules of operation.

Chapter 7 of Title 19 (Amusements, Parks and Recreation) (June 2001) of the District of Columbia Municipal Regulations is amended as follows:

The table of contents is amended by adding the following section headings:

- 730 Statement of Purpose
- 731 Dog Parks: General Provisions
- 732 Dog Parks: Application Process
- 733 Dog Parks: Site Guidelines and Specifications
- 734 Dog Parks: Complaints and Enforcement
- 735 Dog Parks: Operation Rules
- 799 Definitions

New sections numbered 730 through 735 are added to read as follows:

730 STATEMENT OF PURPOSE

730.1 The District of Columbia's Department of Parks and Recreation herein provides guidelines and rules for the application, development and operation of neighborhood fenced-in, off-leash dog parks

730.2 In October 2005, the Council of the District of Columbia unanimously passed legislation amending the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code 8-1801 et seq.)(2001) which authorized the Mayor to create fenced-in, off-leash dog parks. The Council recognized that a significant and growing portion of residents needed safe places to recreate and exercise together with their dogs. The creation of dog parks in the District of Columbia requires a certain degree of flexibility, due to the density of buildings as well as the scarcity of District-owned parkland.

Successful dog parks require partnerships with the community that enhance and protect the character of the neighborhood and accommodate changing needs.

731 DOG PARKS: GENERAL PROVISIONS

- 731.1 The Director may establish and maintain areas on District-owned parkland designated for use as dog parks.
- 731.2 No person shall establish a dog park or charge a fee for use of a dog park on District-owned property without prior approval from the Department.
- 731.3 No person shall use a dog park for any commercial purpose, however this provision does not apply to dog walkers handling 3 or less registered dogs.
- 731.4 A dog park shall be open seven (7) days per week during the posted hours for any Department park, except as provided by section 731.5.
- 731.5 A dog park with lighting shall not remain open later than 10 p.m.
- 731.6 The Director shall post a notice of a planned dog park closing at each entrance not less than seven (7) days before the period of closure, stating the reasons for the closure. In the case of an emergency, the Director shall post a notice as soon as practicable, and the notice shall state that closure is for emergency reasons.
- 731.7 All dog parks shall be enclosed by appropriate fencing that is at least five (5) feet in height and includes a double-gated entryway area.
- 731.8 All handlers use dog parks at their own risk. Neither the District of Columbia or its agencies nor the sponsoring dog park group shall be liable for any injury or damage caused in the dog park.

732 DOG PARKS: APPLICATION PROCESS

- 732.1 Each dog park shall be sponsored by a dog park group, which shall share responsibilities with the Department for the maintenance, management and enforcement of the site. The dog park group must designate one bona fide District resident to act as primary contact with the Department.
- 732.2 A dog park group shall contact the Department regarding a proposed location for a dog park, and the Department shall conduct a preliminary review to determine ownership of the proposed site.
- 732.3 After the Department determines that the proposed dog park is available District-owned parkland, the sponsoring group must submit a formal proposal to the Department stating the reasons for establishing a dog park in the neighborhood. The application shall include

letters and/or petitions of support from adjoining Advisory Neighborhood Commissions (ANCs) or other individuals and entities.

732.4 All applications for dog parks shall be noticed in the D.C. Register for a 30 day public comment period and reviewed by a standing committee appointed by the Director, the Dog Park Application Review Committee (DPARC), comprised of the following: (1) the Director or his or her designee from the Department; (2) a representative from the Department of the Environment; (3) a representative from the Department of Health/Animal Control Division; (4) a veterinarian active in canine health in the District of Columbia or a recognized canine behaviorist; (5) a representative from a recognized animal shelter or animal welfare organization located within the District of Columbia; and (6) four representatives from the community, two of whom shall be from sponsoring dog park groups of existing or potential dog parks. Non-agency members of DPARC are appointed by the Director with input from sponsoring dog park groups. DPARC members are not paid and shall serve for two years, but may be reappointed.

732.5 The DPARC shall review and evaluate all applications and make recommendations in writing to the Director within thirty (30) days of the submission of the application. The Director shall consider the application, DPARC recommendation and comments received during the 30 day comment period and respond in writing to the applicant and appropriate ANC within thirty (30) days of receiving the recommendation.

732.6 The Department has three courses of action concerning the review and evaluation of applications that may:

(a) Accept the application as submitted;

(b) Accept the application provisionally based on modifications to be made; or

(c) Reject the proposal with a detailed explanation.

732.7 If an application is rejected, the dog park group may re-apply to mitigate any defects in the application. If the application is rejected again, the Department may provide assistance in finding suitable alternatives.

732.8 If an application is accepted, the Department and the dog park group shall enter into a Memorandum of Agreement (MOA) regarding financing, roles and responsibilities with respect to the dog park. The Department shall have primary financial responsibility for constructing and maintaining the park, and the dog park group shall have primary responsibility for daily management of the park.

733 DOG PARKS: SITE GUIDELINES AND SPECIFICATIONS

733.1 A dog park shall be no less than five thousand square feet (5,000 sq. ft.) in area where feasible, unless parkland availability in certain neighborhoods precludes meeting this

guideline. Triangle parks or other areas of less than five thousand square feet (5,000 sq. ft.) may be considered.

733.2 Best management practices shall be implemented wherever feasible to preserve the surrounding environment. A dog park shall be established according to the following environmental guidelines:

- (a) A dog park shall be located on well-drained land to prevent soil erosion with a maximum slope of 20%;
- (b) A dog park shall sit at least 50 feet from surface waters that drain into the Potomac and Anacostia Rivers and Rock Creek;
- (c) A dog park shall be located near a water supply line for drinking-fountain and maintenance purposes; and
- (d) A dog park shall have a surface type that allows for positive drainage away from the site and that helps mitigate waste management issues.

733.3 A dog park shall comply with all codes and regulations as they apply to the Americans with Disabilities Act of 1990, the Clean Water Act (Federal Water Pollution Control Act of 1972), the D.C. Water Pollution Control Act of 1984, and DPR Standards.

733.4 A dog park shall be established on under-utilized land where possible. If such land is not available in a neighborhood where there is a demonstrated need for a dog park, the Director may consider other options about park space, including but not limited to time-sharing arrangements with other park users.

733.5 The Director shall not approve sites deemed unsuitable for dog parks, which shall be determined on a case-by case basis and may include:

- (a) Areas designated specifically as playgrounds or children's play areas;
- (b) Athletic fields and courts;
- (c) Sensitive habitat areas or wildlife areas determined by the District Department of the Environment (DDOE); and
- (d) Areas directly upslope from a community garden.

733.6 Each dog park shall have permanent signs, posted in English and Spanish, stating the hours of operation, rules, and regulations for the dog park, and contact information for the Department.

734 DOG PARKS: COMPLAINTS AND ENFORCEMENT

- 734.1 All complaints or concerns regarding a specific dog park shall be directed to the sponsoring dog park group for resolution. If, after thirty (30) days, the complaint or concern has not been resolved satisfactorily by the sponsor, the complainant and sponsor shall meet with the Director or his or her designee to mediate a solution.
- 734.2 If the Department or the sponsoring dog park group determines that a dog park is not being managed or maintained properly, potential solutions shall be developed and agreed upon by all parties. Failure to implement the solutions may result in revocation of the dog park group's sponsorship and temporary or permanent closure of the dog park by the Director.
- 734.3 Sponsoring dog park groups are primarily responsible for enforcement of the operating rules, but may seek the assistance and authority of the Department or other appropriate agencies of the District of Columbia.

735 DOG PARKS: OPERATING RULES

- 735.1 Each dog park shall have a carrying capacity of one dog per 450 square feet, and the number of dogs allowed in the dog park at any one time shall be posted. Handlers are expected to enforce the carrying capacity to prevent conflicts due to overcrowding and detriment to the environment. When carrying capacity is reached, handlers shall limit their stay to thirty (30) minutes when others are waiting.
- 735.2 Each handler shall comply with all animal control, dangerous dog and communicable disease laws and regulations before entering a dog exercise area with a dog.
- 735.3 A handler shall be sixteen (16) years of age or older.
- 735.4 A child under sixteen (16) years of age may enter a dog park only when accompanied and supervised by an adult.
- 735.5 A handler shall ensure that each dog within his or her control is wearing a current vaccination and registration tag in a dog park, as well as a current dog park registration tag obtained from the Department of Health Animal Control Division.
- 735.6 A handler shall leash each dog within his or her control until entering and upon exiting the dog park. To prevent conflicts, a handler shall keep his or her dog off-leash in the dog park, unless no other dogs are present.
- 735.7 A handler shall collect and bag all solid waste from his or her dog and dispose of it in the designated on-site receptacle in the dog park.
- 735.8 A handler shall accompany, maintain visual contact, and have voice control over his or her dog(s) at all times.

- 735.9 A handler shall not have more than three (3) dogs in a dog park at any one time.
- 735.10 A handler shall not have a dog that is less than four (4) months old in a dog park.
- 735.11 A handler shall not have a female dog that is in heat in the dog park.
- 735.12 A handler shall not use a spike or choke collar on a dog in the dog park.
- 735.13 A handler shall immediately leash and remove from a dog park his or her aggressive dog.
- 735.14 A handler shall not have a dog designated as a dangerous dog or a potentially dangerous dog in the dog park.
- 735.15 A handler shall control excessive barking.
- 735.16 A handler shall report all animal bites to the Department of Health within twenty-four (24) hours in accordance with communicable disease laws.

Section 799 is amended by adding the following definitions:

Aggressive Dog – a dog whose behavior is characterized by unprovoked snarling, growling, or attack posture.

Dangerous Dog – as defined in Section 2 of the Dangerous Dog Amendment Act of 1988 (D.C. Law 7-176), a dog that has bitten or attacked a person or domestic animal without provocation; or, in a menacing manner, approaches without provocation any person or domestic animal as if to attack, or has demonstrated a propensity to attack without provocation or otherwise to endanger the safety of human beings or domestic animals.

Department – the Department of Parks and Recreation.

Director - the Director of the Department of Parks and Recreation.

District - the District of Columbia.

Dog Park – also known as a dog exercise area; area within District-owned property designated for dog exercise where dogs are allowed off-leash without being considered at-large.

Dog Park Group – identifiable non-profit or community group, such as an official dog group, Park Partner or Friends of Group, who applies to sponsor a dog park and shares responsibilities with the Department of Parks and Recreation in park operations and management.

Dog Park Registration Tag – Positive District of Columbia government issued identification that must be worn at all times by each dog using a dog park.

Handler - a person in control of a dog who is personally and legally responsible for the dog at all times while using a dog park.

Maintenance – The activities required to ensure that the dog park is in a state of repair and efficiency at all times as more clearly defined in DPR Dog Park Standards.

Management – The day to day oversight of the dog park to insure that all posted rules and DPR Standards are adhered to.

Enforcement – The activities required to ensure that General Provisions and Operating Rules provided herein, and DPR standards are adhered to.

Potentially Dangerous Dog - a dog that poses a threat to public safety by causing an injury to a person or domestic animal without provocation that is less severe than a serious injury, engaging in encouraged dog fighting, or running at large three (3) or more times within any 12-month period.

Sensitive Habitat Area– an area highly prone to erosion or the natural habitat of locally important, rare, threatened or endangered species of plant or wildlife as determined by the District Department of the Environment (DDOE).

Copies of this proposed rulemaking may be obtained by contacting: Jesse Rounds, Community Planner, Department of Parks and Public Recreation, 3149 16th Street, NW, Washington, DC 20010.

All persons desiring to comment on the proposed rulemaking shall submit their written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the above address.