

## 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 the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1801 et seq.) (2001), 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 pre-requisites 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 Dog Exercise Area, General Provisions**
- 731 Dog Exercise Area Site Specifications**
- 732 Dog Exercise Area Process**
- 733 Dog Exercise Areas**
- 799 Definitions**

**New sections numbered 730 through 733 are added to read as follows:**

- 730 DOG EXERCISE AREA, GENERAL PROVISIONS**
- 730.1 The Director may establish and maintain areas on District-owned parkland designated for use as dog exercise areas (also known as DEAs or dog parks).
- 730.2 No person shall establish a dog exercise area or charge a fee for use of a dog exercise area on District-owned property
- 730.3 No person shall use a dog exercise area for any commercial purpose, except that a person may conduct a dog obedience class with prior approval from the Department.

- 730.4 Before the Director approves a dog exercise area he or she shall ensure that there are public funds, private funds, or a combination thereof, sufficient to build and maintain the proposed dog exercise area.
- 730.5 The Director may suspend or revoke authorization for a dog exercise area if warranted by abuse of the facilities or excessive numbers of complaints from neighboring residents.
- 730.6 A dog exercise area shall be open seven (7) days per week, during the posted hours for any Department park.
- 730.7 A dog exercise area with lighting shall not remain open later than 10 p.m.
- 730.8 The Director may restrict operating hours of a dog exercise area as needed to comply with restrictions negotiated with members of the community, for maintenance, for landscaping requirements, or for other reasons.
- 730.9 The Director may close any dog exercise area to conduct training classes or other educational activities.
- 730.10 The Director shall post a notice of a planned dog exercise area closing. The notice shall be placed at each entrance not less than seven (7) days before the period of closure. In the case of an emergency closure, the Director shall post a notice as soon as practicable, and the notice shall state that closure is for emergency reasons.
- 730.11 Any dog exercise area that does not adhere to the minimum size requirements, as stated, but has been approved through community and ANC processes prior to the enactment of D.C. Law 16-0040 and enactment of this policy must comply with these rules in order to be considered a valid DEA by the Department.

**731 DOG EXERCISE AREA SITE SPECIFICATIONS**

- 731.1 A dog exercise area shall be sized and sited according to the following specifications:
- (a) A dog exercise area shall be not less than ten thousand square feet (10,000 sq. ft.) in area.
  - (b) A dog exercise area shall not exceed twenty-five percent (25%) of the total area of an individual District-owned park.

- (c) A dog exercise area shall be located on well-drained, open surfaces, and shall not adversely impact the surrounding neighborhood and open space by:
- (1) causing on-going conflicts due to overcrowding;
  - (2) causing detriment to the surrounding environment including, but not limited to, excessive noise, digging/trampling, feces or erosion and soil run-off;
  - (3) causing displacement or disruption of established recreational activities including passive recreation; and
  - (4) compromising the intent of the DEA to allow dogs and owners to exercise and socialize in a safe area.

731.2 Siting of a dog exercise area must take into account environmental issues (natural or man-made). DEAs must be sensitive to their surrounding environment and utilize best management practices for their establishment. All DEAs must comply with the following site criteria:

- (a) Be located on a well-drained area of the selected park with a maximum 5% slope;
- (b) Sit at least 100 feet away from surface waters such as lakes, streams, creeks and any other tributaries that drain into the Potomac and Anacostia Rivers, Rock Creek and their tributaries;
- (c) Sit at least 200 feet away from residences, businesses, school playgrounds and community gardens;
- (d) Be located within 50 feet of a sanitary or combined sewer line as determined by the Department of the Environment (DDOE) and the DC Water and Sewer Authority (DCWASA);
- (e) Be located within 50 feet of a water supply line for maintenance purposes; and
- (f) Have a selected surface type that allows for positive drainage away from the site and helps mitigate waste management issues. Preferred surface types are identified in the DPR Standards for Off-Leash Dog Exercise Areas.

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

Signage Standards, the DPR Sustainable Design Standards, and the DPR Standards for Off-leash Dog Exercise Areas.

- 731.4 The Director shall not approve unsuitable sites for dog exercise areas. Unsuitable sites include:
- (a) Areas designated for children's play or playgrounds;
  - (b) Sports fields or courts and athletic fields or courts;
  - (c) Sensitive habitat areas or wildlife habitats as determined by the Department of the Environment (DDOE);
  - (d) Areas adjacent to other areas that are eroding;
  - (e) Slopes greater than five percent (5%); and
  - (f) Areas that lack a water source.
- 731.5 Each dog exercise area shall have permanent signs, posted in English and Spanish, that state the hours of operation and rules and regulations for the dog exercise area.
- 731.6 The Department will not solicit non-DPR owned land for dog exercise areas.
- 731.7 The Department will comply with D.C. Water and Sewer Authority (DCWASA) recommendations for tapping into the sanitary or combined sewer lines.
- 732 DOG EXERCISE AREA PROCESS**
- 732.1 Each dog exercise area shall be sponsored by an identifiable group, such as an official dog group or Department Park Partners or Friends Groups and share responsibilities with the Department for the maintenance, management and enforcement of the site.
- 732.2 A sponsor group is required to have 501(c)(3) status.
- 732.3 A dog exercise area sponsor shall enter into a Memorandum of Agreement (MOA) with the Department.
- 732.4 A sponsor shall submit the location for the proposed dog exercise area to the Department, and the Department shall conduct a preliminary review to determine ownership of the proposed site.

- 732.5 After the Department determines that the proposed dog exercise area is District-owned parkland the sponsoring group must submit a formal proposal to the Department outlining the rationale for establishing a dog exercise area in their specific neighborhood. The application shall have attached any letters or petitions of support to include, but not limited to:
- (a) Businesses and schools within a five (5) block radius;
  - (b) Adjoining Advisory Neighborhood Commissions (ANC's);
  - (c) Lists of registered/licensed dogs in the neighborhood and the contact information for their owners within a five (5) block radius of the proposed site; and
  - (d) Other organizations that may be impacted by the dog exercise area.
- 732.6 The sponsor group must obtain a letter from the Department of Health's Bureau of Community Hygiene Rodent Control Division certifying that the area around the proposed DEA, for a distance of five (5) blocks, is free of rats.
- 732.7 If, after evaluation by the Department and relevant sponsors, a DEA is determined to be flawed in nature (e.g. a chosen surface is not being managed or maintained to health code standards or the rules/regulations of the DEA are not being upheld) potential solutions will be developed for implementation. However, the Department reserves the right to discontinue the DEA in question should adequate alternatives not be identified or should proposed alternatives be deemed to be ineffective.
- 732.8 The Department will utilize the following disciplinary criteria in reference to those sites that are not managed and/or maintained according to the policies and procedures for the DEA:
- (a) First warning – verbal
  - (b) Second warning – written
  - (c) Third warning – termination or seek another partner to sponsor the DEA.

**733 DOG EXERCISE AREAS**

- 733.1 Each handler shall have each dog within his or her control licensed and vaccinated before entering a dog exercise area with the dog.

- 733.2 A handler shall be sixteen (16) years of age or older.
- 733.3 A child ten (10) years of age or younger shall not enter a dog exercise area. A child between the ages of eleven (11) and fifteen (15) may enter a dog exercise area only when accompanied by an adult.
- 733.4 A handler shall ensure that each dog within his or her control is wearing a current vaccination and registration tag when in a dog exercise area.
- 733.5 A handler shall leash each dog within his or her control until entering a dog exercise area and upon exiting the dog exercise area.
- 733.6 A handler shall collect all feces that a dog within his or her control produces in the dog exercise area. The handler shall bag the feces and dispose of it in the designated on-site sanitary system or trash receptacle in the dog exercise area.
- 733.7 A handler shall accompany, maintain visual contact, and have voice control of a dog within his or her control at all times.
- 733.8 A handler shall not have more than three (3) dogs in a dog exercise area at any one time.
- 733.9 A handler shall not have a dog that is less than four (4) months old in a dog exercise area.
- 733.10 A handler shall not have a female dog that is in heat in the dog exercise area.
- 733.11 A handler shall not use a spike or choke collar on a dog in the dog exercise area.
- 733.12 A handler shall immediately leash and remove from a dog exercise area an aggressive dog within his or her control.
- 733.13 A handler shall not have a dog designated as a dangerous dog or a potentially dangerous dog in the dog exercise area.
- 733.14 A handler shall control excessive barking.
- 733.15 A handler must use biodegradable bags when disposing of dog waste into the sanitary sewer system.

**Section 799 is amended by adding the following definitions:**

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

**“Children’s Play Area”** - an area that is within ten (10) feet of a child’s play structure or apparatus.

**“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 Exercise Area”** – also known as a dog park; an area within District-owned property designated for dog exercise where dogs are allowed off-leash without being considered at-large.

**“Friends Groups”** – a community-based organization who advocates for their local recreational facilities on behalf of the Department of Parks and Recreation and helps tailor programs unique to the children and families in their community.

**“Handler”** - a person in control of a dog who is personally and legally responsible for the dog.

**“Park Partners”** – a group that adopts a park or helps to organize seasonal beautification projects and clean-ups and provides much needed resources to help maintain minor and routine maintenance services to preserve, restore, and improve conditions in our city’s green spaces.

**“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 plants or wildlife.

All persons wishing to comment on the subject matter of this proposed rulemaking shall submit comments, in writing, on or before May 1, 2007. Comments should be submitted to the Department of Parks and Recreation Office of Planning and Design located at 3149 16<sup>th</sup> Street N.W. Washington, D.C. 20010. Copies of the proposed rules may be obtained from the Customer Service Desk at the Department of Parks and Recreation at the address stated above during the hours of 8:30am – 5:00 pm.