



Mayor of Providence

David N. Cicilline

November 1, 2010

Providence City Council
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Re: Veto of Amended Ordinance Sections 4-20

Honorable Members of the City Council:

On October 21, the Council passed amendments to Section 4-20 purporting to create a permit fee allowing dog owners to utilize city parks. Because the City Council has no authority to regulate the use of city parks, I must veto that amended Ordinance.

The Board of Park Commissioners is given very broad authority over parks operations. The powers and duties of the board are delineated both by the Providence Home Rule Charter, Section 1003, and by the Providence Code of Ordinances in Section 18-29. The breadth of the BOPC's mandate is made clear in Charter Section 1003(a)(1): "The board [of park commissioners] shall: (1) Acquire, plan, develop, and maintain the areas and facilities under its charge. **No other city department or agency may undertake any plan, activity, construction or operation in or involving any public park of the city except by permission of the board.**" (Emphasis added.)

The emphasized language above was echoed and expanded in a state law enacted in 1977. R.I.G.L. Section 45-2-18 established the "department of public parks" subject to the authority of the board. In subsection 18(b), the General Assembly stated: "**No other city department, board, bureau, commission, or agency may undertake any plan, activity, construction or operation in or involving any public park of the city except by permission of the board of parks commissioners.**" (Emphasis added.) The statute goes on to provide in subsection 18(g) that, other than the Charter, the provisions of state law *supersede any contrary ordinance, resolution, rule or regulation of the city*:

City of Providence, Rhode Island 02903
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(g) In any case where the provisions of this section or of any regulation issued by the superintendent of parks or the board of park commissioners of the city pursuant to this section is found to be in conflict with the provisions of any ordinance, resolution, rule, or regulation of the city of Providence other than the city charter, the provisions of this section shall apply. Nothing in this section shall be construed to abolish, affect, or in any way reduce or diminish any of the powers previously granted by charter and ordinance to the board of park commissioners.

In deference to this clear line of authority from both State law and City Charter, I veto the attached ordinance.

A handwritten signature in black ink, appearing to be "J. L. L.", with a long horizontal flourish extending to the right.

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER

No. **AN ORDINANCE** IN AMENDMENT OF CHAPTER 4 OF THE
CODE OF ORDINANCES ENTITLED
"ANIMALS AND FOWL"

Approved

Be it ordained by the City of Providence:

SECTION 1. The Code of Ordinances of the City of Providence is amended as follows:

Article I. In General.

Sec. 4-1. Establishment of public pound.

The Dexter Asylum grounds, as enclosed by the existing wall around the same, are hereby designated as the public pound of the city.

Sec. 4-2. Running at large.

(a) No horse, sheep, swine, goats or cattle shall go at large, loose or unfastened in any public street or highway within the limits of the city, or on any land therein thrown open as a way for public travel and used by the public for travel although such way be not legally a public street or highway, or go at large elsewhere in the city.

(b) All swine found running at large within the limits of the city are hereby declared forfeited, and any person may seize, or cause to be seized, any swine found so running at large and convert the same to his own use; or deliver the same to the keeper of the Dexter Asylum for the use of the poor persons in that institution.

Sec. 4-3. Keeping swine.

No swine shall be kept within the limits of the city.

Sec. 4-4. Keeping fowl.

[repealed]

Sec. 4-5. Bins for manure and refuse, removal of manure and refuse.

(a) Every person owning, leasing or occupying any stall, stable, shed, barn or apartment, wherein any horse or any cattle shall be kept, shall maintain a covered bin, vault or cellar, satisfactory to the superintendent of health, in which shall be placed all manure or refuse from such horse or cattle.

(b) No person shall, between the hours of 8:00 a.m. and 7:00 p.m. remove or suffer to be removed any such manure or refuse from said premises, except with the permission of the superintendent of health previously obtained in writing.

Sec. 4-6. Burying dead animals.

No person shall bury or cause to be buried the body of any horse, ass, mule, ox, cow, bull, hog or other large animal, within the limits of the city, unless in such manner that every part and portion of such body shall be at least three (3) feet below the natural surface of the ground where the same is buried, and in conformity with the requirements of the superintendent of health.

Sec. 4-7. Transporting dead animals.

No person shall remove, carry or transport over, upon or through any street or highway of the city the dead body of any horse, ass, mule, ox, cow, bull, hog or any other animal, not slaughtered and in condition for use as food unless specially authorized so to do by the superintendent of health.

Sec. 4-8. Contract for removal of dead animals.

The superintendent of health is hereby authorized and empowered, in his discretion, in the name and behalf of the city, from time to time, to contract for the faithful performance of the work of removing from the city, and through the streets thereof, any dead animal bodies, with such party as he shall authorize to make such removals, and upon such terms and conditions as he shall approve, provided the terms of any such contract shall not exceed five (5) years.

Sec. 4-9. Euthanization by lethal injection only.

Within the city any animal subject to destruction under the laws of the state or the ordinances of the city shall be euthanized by lethal injection only. No animal may be destroyed by use of a gas chamber. This enactment shall supersede the provisions of section 4-41 or any other relevant section of the Code of Ordinances.

Sec. 4-10. Disposition or destruction of animals.

Any animal relinquished to any animal shelter or pound by an individual claiming to be the animal's owner shall be held for not fewer than seventy-two (72) hours, excluding Saturday, Sunday and Holidays. A new or previous owner of said animal shall pay the reasonable and customary fees associated with the adoption process. The provisions of this section relating to the seventy-two-hour holding period shall not apply to any animal which, being impounded hereunder, is in need of immediate medical attention and which same animal has been examined by a licensed veterinarian or shelter staff who shall confirm in writing that the animal should be destroyed for humanitarian reasons.

Sec. 4-11. Minimum care of animals.

(a) An owner or guardian of any animal must provide proper nourishment and access to adequate water at a drinkable temperature, quality and quantity as required by the species, breed, size and age of said animal, which will allow and foster normal growth and maintenance of body weight.

which is dry and free of accumulated feces, and free of debris and garbage that may clutter the environment so as not to inhibit comfortable rest, normal posture and range of movement or pose a danger to or entangle an animal, this as set by the industry standard for the environmental health scale as set forth in the most recently adopted version of the Tufts Animal Care and Conditions Scale (TACC).

(c) An owner or guardian of any animal must maintain said animal's health with minimum veterinary care, and a healthy physical condition as set by the industry standard for the body condition scale, TACC.

Secs. 4-12--4-18. Reserved.

Article II. Dogs.

Sec. 4-19. Licensure and proof of vaccinations.

Every dog living within the municipal boundaries shall be licensed. Upon request, the owner or keeper of any dog shall produce evidence that the animal has received vaccination against rabies and distemper-hepatitis-parvovirus-parainfluenza.

Sec. 4-20. Permit fee for utilization of City parks.

Every owner or keeper of a dog living within the municipal boundaries or using the municipal parks shall obtain a permit for such use. The fee of \$25.00 shall be entrusted to the Providence Police Department, Animal Control Unit, to subsidize Animal Control operations in the city.

Sec. 4-21. Prohibition on access to school property, athletic fields, playgrounds or recreational areas.

(a) No dogs are permitted in school yards or on school property, whether at large or under restraint.

(b) No dogs are permitted on any athletic fields or baseball diamonds, whether at large or under restraint.

(c) No dogs are permitted on any playgrounds or recreational areas, whether at large or under restraint.

(d) These prohibitions shall not apply to so-called "Seeing Eye" dogs.

[No changes to the balance of Chapter 4, Article II]

~~SECTION 2. These amendments shall take effect upon passage.~~

IN CITY COUNCIL
NOV 18 2010
READ AND MAYOR'S VETO
NOT SUSTAINED
Ann M. Stebbins CLERK

IN CITY COUNCIL
OCT - 7 2010
FIRST READING
READ AND PASSED

Ann M. Stebbins CLERK

~~VETO~~
~~AND VETO~~
~~DISAPPROVE~~
[Signature]
MAYOR
DATE: 11/1/10

IN CITY COUNCIL

OCT 21 2010
FINAL READING
READ AND PASSED

[Signature]
PRESIDENT
Ann M. Stebbins
CLERK