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302 CMR 12.00: PARKS AND RECREATION RULES

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12.01: General Provisions

(1) Authority. The Department of Conservation and Recreation promulgates 302 CMR 12.00 pursuant to the authority granted under M.G.L. c. 21, § 1; M.G.L. c. 132A, § 7; M.G.L. c. 92 §§33, 34B, 35, 35A, 37, 38, 41, 95A, Chapter 41 of the Acts of 2003.

(2) Purpose 302 CMR 12.00 governs the conduct of activities on property of the Commonwealth under the care, custody, and control of the Department of Conservation and Recreation.

(3) The Commissioner may make any regulatory provision in 302 CMR 12.00 more stringent than that set forth in the particular provision.

(4) Construction

a. 302 CMR 12.00 shall be liberally construed to permit the Department of Conservation and Recreation to discharge its statutory functions.

b. The Commissioner of the Department of Conservation and Recreation, may, in the public interest, or in an emergency, suspend the application of any section of 302 CMR 12.00.

c. The Commissioner of the Department of Conservation and Recreation may waive any provision or requirement in these regulations not specifically required by law when in the Commissioner's judgment strict compliance with such provision or requirement would result in an undue hardship and would not serve to further the intent of M.G.L. c.21, §§ 1, *et seq.*; M.G.L. c. 132A, § 7; M.G.L. c. 92 §§33, 34B, 35, 35A, 37, 38, 41, 95A; and Chapter 41 of the Acts of 2003.

d. No provision of 302 CMR 12.00 shall make unlawful any act necessarily performed by any officer or employee of the Department of Conservation and Recreation performed in the line of duty or as part of his or her work duties, or by any person acting as an agent of the Department of Conservation and Recreation or its employees. This shall be true for any person or his or her agents engaged in performing the proper and necessary execution of the terms and conditions of any agreement with the Department of Conservation and Recreation.

e. Severability. If any chapter, section, subsection, division or subdivision of 302 CMR 12.00 shall be determined to be invalid, such determination shall apply to the particular chapter, section, subsection, division or subdivision, and all other provisions of 302 CMR 12.00 shall remain valid and in effect.

f. The Department of Conservation and Recreation may post rules restricting recreational activity as to designated areas and/or times.

g. Lands and Waters of the Watershed System. These regulations shall apply to all DCR property without the Division of Water Supply Protection.

12.02: Definitions

The following words and phrases, when used in 302 CMR 12.00, shall have the meanings respectively ascribed to them therein except in those instances where the context clearly indicates a different meaning or is otherwise stated.

Whenever any words and phrases used in 302 CMR 12.00 are not defined therein, such word or phrase shall be construed according to its generally accepted meaning as noted in a dictionary of general usage.

Adult means any person 18 years or older within DCR property.

Anchor means to hold fast by an anchor (an "anchor" is any of various devices dropped by a chain, cable, or rope to the bottom of a body of water for preventing or restricting the motion of a vessel or other floating object, typically having broad, hooklike arms that bury themselves in the bottom to provide a firm hold).

Appalachian Trail ("AT") means a designated route on DCR property and non-DCR property which is a primitive, four foot wide way for use limited to hikers, cross-country skiers, and snowshoers.

Aquatic Invasive Species means an aquatic plant, animal or other non-native species that threatens the diversity or abundance of native species and that adversely impacts the ecological stability of or uses by native species of infested waters. These species cause economic or environmental harm by developing self-sustaining populations that dominate or disrupt native ecosystems.

Backcountry Camping means camping at remote, hike-in locations in designated areas, with no organized access to water, staff, or emergency services.

Ban means the prohibition, resulting from violations of rules and regulations applicable to conduct on DCR property, of a person from DCR property, for a period of time longer than that associated with an eviction.

Basin means the Charles River Basin as defined by St. 1909, c. 524, as amended by St. 1962, c. 550, and includes the Charles River and its tributaries lying between the Watertown Dam and the Charles River Dam which is located between the Leonard P. Zakim Bunker Hill Memorial and North Washington Street Bridges; and the Mystic River Basin as defined by the Upper Mystic Lake Dam at the upstream end and the Amelia Earhart Dam at the downstream end and includes the Mystic River, the Amelia Earhart Dam and its tributaries.

Bicycle means a two wheel non-motorized vehicle designed to be used both on and off paved surfaces and over unimproved terrain.

Boating means the use of watercraft, personal watercraft, or vessels.

Boulevard means any roadway, parkway, way or any portion thereof, under the jurisdictional care, custody or control of DCR, between regularly established curb lines or that part, exclusive of shoulders, improved and intended to be open and used for vehicular traffic by the public on a public way, including vehicular and/or pedestrian, bicycle, or other DCR approved traffic.

Bridge means a structural passage over water or land for pedestrian and/or vehicular traffic.

Camping means the utilization of any piece of equipment for sleeping in or upon, for the purpose of occupying a portion of DCR property, land or water for transient and temporary outdoor living.

Camping structure means a yurt, cabin, lean-to or other structure intended as shelter while camping.

Campsite means an area designated and managed by DCR or a duly permitted licensee, for public camping in Massachusetts.

Car Top Boats means those non-motorized vessels which can be carried on top of a motor vehicle's roof, and also by hand, including, but not limited to, canoes, kayaks, sailboats and row boats.

Citation means notice of any violation of 302 CMR 12.00 duly issued by a law enforcement official, DCR ranger, District Forest Fire Warden, Forest Fire Patrolman, or other DCR personnel which may result in a fine.

Coastal Infrastructure means wharves, piers, jetties, revetments, groins, breakwaters, boardwalks, or other structures of stones, wood, piles, or the like, projecting into the sea to protect a harbor, deflect the current, maintain beaches and dunes, provide flood and erosion control, or a structure built out over water and used for berthing vessels or for recreation.

Commercial Dog Walker means any person who receives compensation for walking one or more dogs.

Commercial use is any use of property under the custody and control of DCR for which consideration is exchanged. Commercial use includes any person, group or organization that makes or attempts to make a profit, offers for sale a service or product, receives money, amortizes equipment or obtains goods or services as compensation from participants in activities occurring on DCR property. This includes nonprofit organizations and educational groups that receive money from participants in activities occurring on DCR property.

Commissioner means the Commissioner of the Massachusetts Department of Conservation and Recreation ("DCR") or his or her designee.

Cultural Resource means a district, site, building, structure, landscape, object, or ethnographic resource that is at least 50 years old and has important historical, cultural, scientific or technological associations. Cultural resources also include pre-

historic or historic archeological sites containing physical remains or indications of past human activity and/or any artifacts that have been constructed or manipulated by human influence and which hold potential significance for understanding past, present or future human behavior.

DCR or the Department means the Massachusetts Department of Conservation and Recreation.

DCR Personnel means a person designated by the Commissioner to be responsible for the supervision, operation, protection and maintenance of a specifically designated DCR property.

DCR Property means property, real or personal, in which the DCR has a legal interest including property under the care, custody, or control of the DCR. Such property may include, but is not limited to grassland, reservations, parks, forests, beaches, tidelands, pools, skating rinks, golf courses, campgrounds, rail trails, bike trails, forest roads, forest ways, ponds, lakes, parking areas, trailheads, parkways, boulevards, roadways, facilities, and structures.

DCR Ranger or Ranger means any person duly appointed by the Department to perform the duties of a DCR ranger pursuant to M.G.L. c. 92 § 34B and M.G.L. c.132A § 7A.

Designated Campsite means an area designated and managed by DCR or a duly permitted licensee, for public camping in Massachusetts.

Designated Swimming Area means that area within a body of water and/or the portion of shoreline which is managed by DCR for the purposes of providing access to recreation, swimming or similar aquatic activities. Such an area may include beaches with or without lifeguard coverage.

District Forest Fire Warden means any person duly appointed by the Department to perform the duties of a DCR District Forest Fire Warden pursuant to M.G.L. c. 48 §§15, 19, 22, 24, 27, 28, 28B, 28C.

District Forest Fire Patrolman means any person duly appointed by the Department to perform the duties of a DCR District Forest Fire Warden pursuant to M.G.L. c. 48 §§15, 19, 22, 24, 27, 28, 28B, 28C.

Division Director means the director of a statutorily-created division of the department.

Domicile means a permanent legal residence.

EPO or Massachusetts Environmental Police Officer means a police officer of the Office of Law Enforcement, within the Executive Office of Energy and Environmental Affairs, with the authority to enforce all DCR regulations and Massachusetts laws, on DCR property and DCR roadways.

Eviction means a type of enforcement whereby a person in violation of a DCR regulation or other Massachusetts or U.S. law or regulation is ordered to leave DCR property for a period of time.

Excavation means any digging or opening into the surface of DCR property.

Firearm means a loaded or unloaded pistol, rifle, shotgun or other weapon which is designed to, or may be readily converted to, expel a projectile by the ignition of a propellant.

Fishing means capturing, killing, or trapping fish by any means, including angling with the use of a hook.

Float means something for buoying up, an inflated bag to sustain a person in water, a floating platform or something that floats on the surface of water.

Forest Road means any paved or unpaved way constructed and maintained for use by wheeled vehicles registered under M.G.L c. 90, whether such a corridor is normally open for such use or not. (See also "boulevard," "parkway" or "roadway" as defined herein.)

Forest Trail means any path or way with a trail tread width 50 inches wide or less constructed or maintained for use by one or more of the following: pedestrians, wheelchairs, horses, bicycles, snow vehicles or recreation vehicles.

Forest Way means any gravel or dirt road, fire lane, fire road, abandoned railroad bed, skid road or any non-paved way of sufficient trail tread width that may accommodate the operation of a four-wheeled vehicle greater than 50 inches in width.

Headway Speed means the slowest speed at which a motor boat may be operated and maintain steerageway, but in no case to exceed ten miles per hour.

Hunting means the shooting, killing, taking or capturing of mammals or birds and all lesser acts such as disturbing or harassing of mammals, birds, amphibians or reptiles.

Intertidal zone means that area exposed to the air at low tide and submerged at high tide.

Kite-powered apparatus means a wheeled vehicle, board or other equipment which is powered or towed by a kite.

Law Enforcement Officer/Official means any government law enforcement official or officer, including, but not limited to, the following: DCR ranger, district forest fire warden, district forest fire patrolman, environmental police officer, Massachusetts state police officer, municipal police officer, other municipal law enforcement official, U.S. government law enforcement officer or official, Massachusetts county law enforcement officer or official, or any other qualified individual to whom the Department may designate authority and duties that are the same or similar to those positions listed above.

Litter means any bottles, glass, wood, trash, tires, crockery, cans, scrap metal, junk, paper, plastic, garbage, rubbish or other refuse.

Moor means to secure a watercraft to a floating or fixed structure or to secure to a pier, float, buoy or watercraft secured thereto.

Non-Motorized Vehicle means a vehicle powered by anything other than a motor or engine.

Off Highway Vehicle (see "Recreation Vehicle").

Operator means an individual who operates, drives, controls or otherwise has charge of or is in actual physical control of a mechanical mode of transportation, or any other mechanical equipment or vehicle.

Parking means the stopping or standing of a vehicle, whether occupied or not, except a vehicle is not parked if it has stopped temporarily because its movement is obstructed, or the operator is lawfully engaged in loading or unloading passengers or materials, or the operator is following the direction of an law enforcement officer, DCR ranger, DCR personnel, traffic signs, traffic signals, is making emergency repairs, or it is a disabled vehicle and arrangements are being made to remove such vehicle.

Parking Area or Parking Lot means any DCR property or part thereof, designated, and/or posted, marked, or directed by DCR personnel, DCR ranger or other law enforcement official, to be used for the stopping, standing or stationing of parked vehicles, in accordance with all applicable Massachusetts laws and regulations.

Parkway means any boulevard, roadway, way or any portion thereof, under the jurisdictional care, custody or control of DCR, between regularly established curb lines or that part, exclusive of shoulders, improved and intended to be open and used

for vehicular traffic by the public on a public way, including vehicular and/or pedestrian, bicycle, or other DCR approved traffic.

Pedestrian means any person afoot or riding on a human-powered conveyance other than a bicycle or tricycle.

Permit means a duly issued, written, fully revocable license from DCR authorizing a permittee to engage in uses or activities on DCR property that are otherwise prohibited, restricted, or regulated.

Person means any individual, corporation, firm, partnership, company, association, trust, or other business or non-profit organization; any agency, department, board, commission, quasi-public agency or authority of the Commonwealth; and any Federal, municipal, or regional governmental or intergovernmental agency, department, board, commission, authority, or other entity, or any combination of individuals or entities including but not limited to those listed above, their agent, trustee, executor, receiver, assignee, or other representative thereof.

Personal Flotation Device means TYPE I: a coast guard approved device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy; acceptable for all size boats. TYPE II: a coast guard approved device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position and to have at least 15 5/10 pounds of buoyancy; acceptable for all size boats. TYPE III: a coast guard approved device designed to keep a conscious person in a vertical or slightly backward position and to have at least 15 5/10 pounds of buoyancy. While having the same buoyancy as TYPE II, the TYPE III has a lesser turning ability to allow for a comfortable design for water activities such as water skiing; acceptable for all size boats. TYPE IV: a coast guard approved device designed to be thrown to a person in the water and not worn; it is designed to have at least 16 5/10 pounds of buoyancy; acceptable for all boats as a throwable device only.

Personal Watercraft means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by persons sitting, standing or kneeling on the vessel. (See also "Watercraft" as defined herein.)

Pet means a dog, cat, or a caged pet. A caged pet is an animal that typically is confined to a cage at all times.

Post or Posting means to display in a place of public view in electronic or printed form.

Primary Occupant means the camping customer who is responsible for payment, registration, condition of the campsite, and all persons occupying the site.

Rail Trail means any former or inactive railroad right-of-way that is under the care, custody or control of DCR and is managed or maintained for authorized uses.

Recreation Utility Vehicle means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control.

Recreation Vehicle means any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in M.G.L. c.90, including but not limited to, off-highway vehicles, off-road vehicles, all- terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles, and all legally registered motor vehicles when used off a way, as defined in M.G.L. c.90, including motorcycles.

Recreational Camping Vehicle means a bus, travel trailer, motor home, auto home, van conversion, pick-up camper, collapsible tent trailer or other private passenger motor vehicle that provides living accommodations for persons.

Recreational Use Permit means a written agreement that authorizes a person to engage in uses of or activities on DCR property on a specific date and time, which uses and activities are those intended for the DCR property.

Refuse means trash, garbage, rubbish, waste papers, bottles, cans, debris, plastic, litter, oil, solvents, liquid waste, or other discarded materials**.**

Residence means the place, usually a house, in which a person dwells or resides.

Roadway means any boulevard, parkway, way or any portion thereof, under the jurisdictional care, custody or control of DCR, between regularly established curb lines or that part, exclusive of shoulders, improved and intended to be open and used for vehicular traffic by the public on a public way, including vehicular and/or pedestrian, bicycle, or other DCR approved traffic.

Safari Camping means a campsite intended for family camping and RV clubs, consisting of self-contained units with on-board fresh water and sewage holding tanks.

Service Animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory,

psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The works or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

Sewage means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places or receptacles intended to receive or retain body waste, together with such ground water infiltration and surface water as may be present.

Sidewalk means that portion of a DCR property or DCR roadway typically for pedestrian use.

Snow Vehicle means a motor vehicle designed to travel over ice or snow, having a curb weight of not more than 453 kilograms or 1,000 pounds, driven by track or tracks in contact with the snow or ice and steered by a ski or skis in contact with the snow or ice.

Special Use Permit means a written agreement that authorizes a person to engage in uses of or activities on DCR property on a specific date and time, which uses exceed in any way the common use of DCR property, or that are otherwise prohibited, regulated or restricted.

Spray Deck means any structure or area designed, constructed or designated for the purpose of aquatic recreation which, when in operation, has little standing water and contains interactive features which spray water from various locations.

Swimming Pool or Pool Compound means any DCR operated structure designed for the purposes of aquatic recreation which contains an average volume of water greater than two feet in depth.

Traffic means pedestrians, bicycles, ridden or herded animals, vehicles, buses, street cars, trolleys and other conveyances, either singly or together, while using any DCR property, roadway, boulevard or parkway, for the purpose of travel or recreating.

Trail means an established and designated linear path or route designed and maintained for recreational activities.

Trapping means the staking out, setting, using, tending, placing, maintaining or picking up of any device designed or intended for use in taking of any mammal, bird, amphibian, reptile or fish, dead or alive, as well as every attempt, assistance or act of a person towards a taking of any mammal, bird, amphibian, reptile or fish.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon DCR roadways, boulevards, parkways or other DCR property.

Vessel means every description of personal watercraft, watercraft, or other artificial contrivance used, or capable of being used, as a means of transportation on the water.

Wading Pool means any DCR operated structure designed, constructed or designated on DCR property for the purpose of aquatic recreation containing a volume of water two feet or less in depth.

Watercraft means any boat, ship, vessel, or craft that operates on water, whether moved by oars, paddles, sails or power mechanisms, inboard or outboard, or any other vessel floating upon DCR property, whether capable of self-locomotion or not, and may include but not be limited to house boats, barges, and similar floating objects. Watercraft does not include "personal watercraft" which is defined herein.

Water Skiing means the use of any type of device designed to propel one or more persons across the surface of the water by means of towline attached to a watercraft.

Way means any public highway, private way laid out under authority of statute, dedicated to public use, or a way under the control of DCR and defined herein as "roadway," "boulevard" or "parkway."

Wheelchair means a device that is propelled by human power (manual wheelchair), or self-propelled (motorized wheelchair), designed solely for and used by a mobility-impaired person for locomotion, that is both capable of and suitable for use in indoor and outdoor pedestrian areas.

12.03: Hours of Operation

(1) Unless otherwise posted, permitted or provided, DCR property shall be open to the public from one-half hour before sunrise to one-half hour after sunset as published by the National Weather Service.

(2) The use of DCR roadways and bridges is not limited to the hours in 302 CMR 12.03(1).

(3) The hours of operation provided in 302 CMR 12.03(1) do not apply to DCR programs or other authorized nighttime activities.

(4) Temporary Closing of DCR Property

a. The Commissioner may limit or restrict access to or use of DCR property due to potential or immediate hazard, emergency, hazardous weather, water, fire, construction, maintenance or other public health, safety or welfare concerns, or detrimental impacts on the property, nature, wildlife, or the environment of the DCR property in compliance with Massachusetts or Federal laws or regulations.

b. No person may enter, use or occupy any closed area of a DCR property.

12.04: Rules of Conduct on DCR Properties -- Generally

(1) Each person utilizing any DCR property shall maintain and leave it in a clean and sanitary manner or condition.

(2) All persons must adhere to any and all reasonable requests or directions of DCR personnel or law enforcement officials.

(3) Each person on DCR property shall abide by all applicable local, Commonwealth of Massachusetts and United States laws and regulations.

(4) No person may engage in disorderly conduct including, without limitation, drunkenness, rough play, pushing, shoving, breach of the peace or unnecessary noise offensive to the general public, use of profanity, vulgar or obscene language, or other language that may incite fighting or harm to DCR Personnel or to the public.

(5) No person may sell, distribute, advertise or display cigarettes or other tobacco related products.

(6) No person may possess marijuana, unless for duly authorized medical use, in accordance with state law and regulation.

(7) No person may engage in games or activities which, due to the location or nature of the activity, may cause discomfort, fear or injury to a reasonable person or to property.

(8) No person may deposit household trash, sewage, appliances, electronics, computer equipment, hazardous materials, construction debris, yard waste, other personal property, or any other trash not generated during a stay at a DCR property in, on or near trash or recycling receptacles or in any other location on DCR property.

(9) No person may enter upon the frozen water of the DCR for the purpose of ice skating, ice fishing, or for motorized or non-motorized purposes, when a prohibition against such use has been posted. A person utilizing said DCR bodies of frozen water engages in such activity at his or her own risk, and DCR assumes no responsibility either implied or express as to the safety of any persons who voluntarily engage in such a known, obvious and inherent risk associated with such frozen water activities.

(10) No person may be naked or otherwise expose genitals, buttocks, or breasts, or change or allow the changing of clothing or diapers except in an appropriate location such as a bathhouse, locker room, bathroom stall, or other similar facility. This provision does not apply to breastfeeding.

(11) No person may smoke in or on any DCR buildings, structures, camping structures, or in designated swimming, wading, or spray pool areas, or where posted as prohibited.

(12) No person may use or operate a kite-powered apparatus on or over any DCR property, except at times and in areas designated for such use.

(13) No person may dive, jump, swim from, throw or launch themselves, or anyone or anything, from any DCR property such as a bridge or overpass, unless such activity has been authorized by DCR and appropriate posting or signage indicates such.

(14) No person shall distribute, erect or affix any handbill, circular, pamphlet, placard, sign, notice, billboard, poster, advertisement, memorial or any printed material on or in any DCR property, except in designated areas, in accordance with posted guidelines, or unless as otherwise duly authorized.

(15) Technical climbing, or mountaineering, of sufficient difficulty to require the use of ropes or other forms of specialized mountain climbing equipment to aid in ascent or descent, shall be allowed only in areas designated for such activity by DCR.

(16) No person may damage, disturb or remove any DCR property or resource, real, natural, personal, cultural or historic, except that in or on designated DCR properties

where hunting, fishing, or trapping is permitted if carried out in accordance with regulations issued by the Department of Fish and Game, or other written authorization by the Department.

(17) No person may conduct archaeological investigation unless permitted by the State Archaeologist in accordance with M.G.L. c. 9 sections 27C and 29A and approved by a Division Director.

(18) The unanticipated discovery of historic artifacts or human remains shall be reported immediately to DCR.

(19) No tree or other vegetation shall be planted or removed from DCR property unless authorized by a Division Director.

(20) No person shall operate or use a chain saw on DCR property without a recreational use permit issued in accordance with 302 CMR 12.17(4).

(21) No memorial, plaque, obstruction or structure shall be placed on, changed or removed from DCR property unless authorized by the Department.

(22) No person shall solicit, sell, rent, advertise or offer to sell or rent, hawk, peddle, display or distribute any goods, wares, tangible or intangible property, merchandise, liquids, edibles, services for hire, render any services for hire, or engage in or conduct any business, commercial or special activity or event on DCR property without an approved permit from the Department prior to engaging in such activities.

(23) Special Use Permit Required. Unless authorized by a special use permit issued in accordance with 302 CMR 12.17(2), no person may:

a. Consume, possess, distribute, sell or drink alcoholic beverages.

b. Engage in any lotteries, raffles, gambling and games of chance.

c. Conduct any commercial use activity or event.

d. Possess machinery, instruments or equipment of any kind for the use of conducting lotteries, raffles, gambling and games of chance.

e. Operate or use any audio device, including radio, television, musical instruments, or other noise producing devices, such as electrical generators, or equipment driven by motor or engine, in a manner or at such times that may disturb others.

f. Operate or use any public address system, whether fixed, portable or vehicle mounted.

g. Except in an emergency, bring, take off, land or cause to descend on DCR property any airplane, helicopter, sea plane, so-called ultra-light aircraft, or any other apparatus.

h. Use or offer for use metal detectors, except with permission from DCR personnel, for the purposes of locating lost personal property.

i. Conduct research which may damage, disturb or remove any DCR property or resource, real, natural, personal, cultural or historic.

j. Promote, sponsor or engage in any race, rally or organized trial events on DCR property.

k. Conduct parades, games, fairs, carnivals, circuses, bazaars or the like.

l. Conduct activities for the purpose of fundraising or otherwise soliciting funds.

m. Use or operate any air propelled power craft or hovercraft on or over any of the lands or waters of the DCR.

n. Operate a watercraft for livery or carrying passengers for hire.

(24) Recreational Use Permit Required.

a. A recreational use permit is required for the use of certain DCR property including, but not limited to, athletic fields and courts, picnic pavilions, designated group day use areas, pools, meeting rooms.

b. Groups planning organized group activities for 25 or more persons are required to apply for a recreational use permit issued in accordance with 302 CMR 12.17(4). (Certain group activities may require a special use permit issued in accordance with 302 CMR 12.17(2). Such activities are set out at 302 CMR 12.04(23).)

c. Unless within commonwealth tidelands during daylight hours, a recreational use permit is required for scuba diving and snorkeling in areas not designated as swimming areas.

(25) No person may erect or maintain any structure on DCR property, other than camping equipment erected in designated campsite areas, unless authorized by a special use permit, construction and access permit, or boating and waterfront permit

issued in accordance with 302 CMR 12.17(2) or (3), or by a construction and access permit issued in accordance with 302 CMR 11.06.

(26) Youth organizations, agencies, and groups that wish to utilize DCR beaches for any group activity must obtain a recreational use permit or special use permit in accordance with 302 CMR 12.17(4) or 12.17(2).

12.05: Rules of Conduct on DCR Properties – Appalachian Trail

(1) The Appalachian Trail is intended primarily as a primitive footpath and is managed and maintained for that purpose.

(2) No person shall operate any snow vehicle or recreation vehicle, or ride a bicycle, horse or other vehicle or animal upon any portion of the Appalachian Trail except at designated crossings.

(3) No person shall camp along the Appalachian Trail except in designated campsites, camping structures or shelter areas.

12.06: Rules of Conduct on DCR Properties – Beaches

(1) All persons recreating within the boundaries of that portion of a beach designated for swimming shall adhere to any and all requests or direction from DCR personnel, including, but not limited to, lifeguards or law enforcement officials.

(2) Youth organizations, agencies, and groups that wish to utilize DCR beaches and designated swimming areas for any group activity must obtain a recreational use permit or special use permit in accordance with 302 CMR 12.17(4) or 12.17(2).

(3) No person may swim, bathe, dive or wade from any watercraft, personal watercraft, dock, raft, or pier; nor may any person swim, bathe, dive, or wade from the shoreline of DCR property unless such shoreline is officially designated as a swimming area and such activity occurs during designated swimming hours.

(4) No person may possess any glass or other breakable container within any DCR designated swimming area, including, but not limited to, beverage containers, food containers or personal care items which may pose a safety risk to other users.

(5) No person may utilize any form of smoking materials within designated DCR swimming areas.

(6) No person may use a snorkel within a DCR designated swimming area. DCR personnel may allow such equipment to be used by designated individuals and

personnel only during designated structured training programs, during DCR property maintenance, for searches, or for safety and rescue purposes.

(7) Unless within public tidelands during daylight hours, no person may scuba dive or snorkel in DCR designated swimming areas.

(8) No person may utilize any flotation devices within DCR swimming or wading pools, or other waterfront DCR property, unless approved by DCR personnel. When such approval is given, only approved devices will be allowed. (Flotation devices under this rule include, but are not limited to, inner tubes, ring buoys, air mattresses, beach balls, swimmies, inflatable novelty toys, noodles, or any other similar devices designed and utilized for the purposes of keeping person(s) afloat.) U.S. Coast Guard approved personal flotation devices ("PFDs" or "life jackets") designed for the size and weight of the wearer shall be allowed when a parent or adult is assisting the wearer.

(9) No person may use or offer for use any equipment, tools, toys, novelty items, snorkels or other such items within a DCR designated swimming area when the use of said items may pose a significant health or safety risk to the user, to bystanders or to any other user within the designated swimming area.

(10) No person or pet under a person's custody may enter a sensitive beach habitat posted as restricted.

(11) Pets are not allowed on coastal beaches or in designated swimming areas of inland beaches from April 1 through September 30 each year, unless otherwise posted.

(12) No person may change or allow the changing of any clothing or diapers in or around a DCR designated swimming area except in designated changing locations. All diapers or other similar waste materials shall be disposed of properly in designated receptacles.

(13) No person may utilize a surf board, skim board or boogie board for any purpose within the boundaries of a designated swimming area of a beach without first obtaining permission from DCR personnel.

<u>12.07: Rules of Conduct on DCR Properties – Boating</u>

(1) All boating activities must comply with the provisions of M.G.L. c.90B.

(2) No person may launch or use any internal combustion powered watercraft of any nature or type, including personal watercraft, where it is posted as prohibited or limited to certain types of internal combustion engines. Emergency launching is allowed at all times.

(3) No person may operate any watercraft or personal watercraft in excess of the posted speed limit. If no speed limit is posted, the speed limit shall be 12 miles per hour, except that when lawfully towing water skiers, maximum speed shall not exceed 45 miles per hour.

(4) No person, other than DCR personnel or law enforcement officials, may operate or cause to operate or pilot any watercraft, personal or otherwise, within the boundaries of any DCR designated swimming area.

(5) No person may operate any watercraft or personal watercraft in excess of headway speed when said watercraft or personal watercraft is within 150 feet of any channel, tunnel, pier, mooring, wharf or floating structure or designated swimming area.

(6) Inflatable boats are allowed in those areas where boating is allowed if the inflatable is crafted with a minimum of two separate air cells in the gunwales and two or more separate air cells in the floor; or if the inflatable boat is crafted with a non-inflatable hull of material normally associated with traditional boat construction.

(7) No person may water ski on DCR property, including but not limited to any lake, pond or beach area unless the area has been designated and posted for such use**.**

(8) In areas designated as allowing water skiing, no person may:

a. Tow any water skier at any time unless there are at least two persons present in the towing watercraft, one person is acting as a safety observer for the skier(s), and said observer is 12 years of age or over.
b. While being towed by a watercraft, have any airfoil or balloon device, parasail, kite or other such device, in hand or affixed to his person for the purpose of becoming airborne.

(9) The launching or use of any watercraft of any nature or type, whether motor-powered or not, unless such watercraft is operated by DCR personnel or by other properly authorized person, is prohibited on the following DCR waters or launching ramps at all times:
a. Houghton's Pond - Blue Hills Reservation, Milton
b. Blue Hills Reservoir – Blue Hills Reservation, Quincy
c. Lost Pond Reservation, Brookline
d. Chestnut Hill Reservoir - Chestnut Hill Reservation
e. All ponds in Bristol Blake State Reservation
f. Chicopee Reservoir – Chicopee Memorial State Park
g. Dean Pond – Brimfield State Forest
h. Robinson Pond – Robinson State Park
i. All launching ramps at Fort Phoenix State Reservation

j. All launching ramps at Fall River Heritage State Park
k. Spot Pond, Stoneham
l. Middlesex Fells Ponds: Doleful Pond, Quarter-Mile Pond, Bellevue Pond, Long Pond, Dark Hollow Pond
m. High Service Reservoir – Middlesex Fells Reservation
n. Silver Lake – Breakheart Reservation
o. Pearce Lake – Breakheart Reservation

(10) No person, except DCR personnel or other properly authorized person, may operate a personal watercraft from the Wallum Lake public launching facility in Douglas State Forest on weekends or holidays from Memorial Day to Labor Day.

(11) At the following locations, only car top watercraft may be launched or used, unless the watercraft is operated by DCR personnel or by another properly authorized person:
a. Hillside Pond – Blue Hills Reservation, Milton
b. St. Moritz Pond – Blue Hills Reservation, Quincy
c. Greenlodge - Neponset River Reservation, Canton
d. Paul's Bridge – Neponset River Reservation, Hyde Park
e. Kendrick Pond – Cutler Park Reservation, Needham
f. Kingsbury Road – Mother Brook Reservation, Hyde Park
g. Ames Street/Pleasant Street – Upper Charles River, Dedham
h. Charles River Road – Upper Charles River Reservation, Newton
i. Elm Bank Reservation – Upper Charles River, Dover
j. Hemlock Gorge Reservation – Upper Charles River, Newton
k. Riverdale Park – Upper Charles River Reservation, Dedham
l. Quinobequin Road – Upper Charles River Reservation
m. Redwing Bay – Village Falls Park, Upper Charles River, Needham
n. Borderland State Park ponds, Easton and Sharon
o. Nickerson State Park: Flax, Little Cliff, and Higgins Ponds, Brewster
p. Turtle Pond – Stony Brook Reservation, West Roxbury
q. Paradise Pond – Leominster State Forest, Leominster

(12) At the following locations, only motorized watercraft with electric motors (not to exceed ten mph) and car top boats may be launched or used, unless the watercraft is operated by DCR personnel or by another properly authorized person:
a. Ponkapoag Pond – Blue Hills Reservation, Randolph
b. Hammond Pond Reservation, Newton
c. Cliff Pond – Nickerson State Park, Brewster
d. Hopkinton Reservoir, Hopkinton State Park, Hopkinton

(13) Sailboats and sailboards are prohibited on Walden Pond at Walden State Reservation.

(14) At the following locations, only car top rowboats, canoes, and kayaks may be launched or used, unless the watercraft is operated by DCR personnel or by another properly authorized person:

a. Aaron Reservoir, Wompatuck State Park, Scituate

(15) No person may launch a watercraft in any duly posted prohibited area.

(16) No operator of a watercraft may anchor, dock or tie-up any such watercraft to any dock or ramp designated by the DCR to be a general public use dock or ramp in such a manner as to hinder or obstruct the launching or landing of other watercraft or the navigation of adjacent waterways or for a period of time in excess of one hour, except at locations designated for longer periods of time by the DCR.

(17) From sunset to sunrise, all watercraft shall display proper lights.

(18) A person may not transport any aquatic species, including, but not limited to, fragments, roots, rhizomes, stems, leaves, seeds, larvae, or animal or plant fibers, on a boat, personal watercraft, boat trailer, anchor, gear (including diving, recreational and fishing equipment) or any other equipment that may come in contact with the water.

(19) A person may not transport any aquatic species (with the exception of bait fish) in live-wells, bait buckets or engine cooling water.

(20) A person may not release any aquatic species, plant or animal, into a water body unless that species came out of that water body.

(21) A person may not transport or distribute any aquatic invasive species (or parts of any aquatic invasive species, including roots, rhizomes, stems, leaves, seeds, larvae, or animal or plant fibers) in a manner that could cause the species to get into or out of any waters under the care and custody of DCR.

(22) No person may land, beach, anchor, moor or otherwise park any watercraft, personal or otherwise, at any designated swimming area, channel, tunnel, pier, mooring, wharf, or other coastal infrastructure such as a jetty or groin, unless:

a. Such areas are designated for such purposes, or
b. Such person has obtained a boating and waterfront permit issued in accordance with 302 CMR 12.17(3), or
c. There is an emergency situation.

(23) No watercraft or personal watercraft powered by an internal combustion engine, where the engine is uncovered or exposed to the atmosphere, shall be launched, maintained or operated upon any DCR waters except by a boating and waterfront permit issued in accordance with 302 CMR 12.17(3).

(24) No person may launch a windsurfing or kite apparatus from a designated swimming beach between Memorial Day and Labor Day unless such swimming beach has been specifically designated for such purpose.

(25) For all activities in the Charles River Basin, no person may:

a. Operate a watercraft at a speed exceeding ten miles per hour, or in such a manner as to endanger or annoy bathers or the occupants of other boats, or to create a wake within 50 yards of floats.

b. Create a wake within 50 yards of a canoe, shell, rowboat, kayak, sail boat or similar non-motorized vessel.

c. Pass a canoe, shell, rowboat, kayak or sailboat by a powerboat unless:

1. A powerboat approaching a canoe, shell, rowboat, kayak or sailboat from the opposite direction shall reduce speed to headway only within 50 yards of the non-motorized vessel or within a sufficient distance to avoid endangering the non-motorized vessel, whichever is greater.

2. A powerboat approaching a canoe, shell, rowboat, kayak, or similar non-motorized vessel going in the same direction shall indicate intent to pass and shall wait for a reply. The canoe, shell, rowboat, kayak, or similar non-motorized vessel shall acknowledge at the earliest opportunity and shall stop to allow the powerboat to pass at controlled wake.

d. Operate motorized watercraft at speeds greater than five miles per hour in the area between the North Beacon Street Bridge and the Boston University Bridge, which is designated as a controlled wake area.

e. Unless otherwise designated or specified by the Department during permitted events, or except in an emergency, anchor or moor any watercraft outside of locations designated for the purpose by buoys or markers set by direction of the Department. Moorings in stream must be of a type and at a location approved in advance by DCR personnel.

f. Moor houseboats, barges or similar vessels that cannot be moved under their own power, unless authorized by DCR in writing.

g. In accordance with Massachusetts Department of Environmental Protection regulations, moor in the Charles River Basin and discharge sewage into the Charles River Basin.

h. Moor a watercraft in excess of 30 feet in the Charles River Basin or upstream of the Boston University Bridge without written authorization from the Department.

i. Except in an emergency, moor a watercraft to a public landing for a period of time in excess of 20 minutes, except that at the Hatch Shell Landing, a watercraft can remain only as long as it takes to drop off or pick up passengers.

12.08: Rules of Conduct on DCR Properties – Camping and Campsites

(1) No person may camp on DCR property, except in a designated campsite, camping structure, or camping area.

(2) DCR camping facilities shall be deemed to be a temporary recreational use. No designated campsite or camping structure shall be used as a residence or domicile.

(3) The Department may, in the interest of public health, safety or the proper operation of a DCR property, designate the maximum number of persons allowed to occupy or visit each campsite at a DCR campground. Campsite occupancy shall be limited to a maximum of four adults with no children or two adults and the children under their care.

(4) Group sites in established campgrounds are intended for groups of ten or more. Groups of fewer than ten people may be required to transfer to non-group DCR campsites.

(5) Groups using backcountry campsites or shelters may not exceed ten people.

(6) No person may register for more than one campsite or camping structure for the same period of time.

(7) No person may register for a campsite or camping structure under a false name.

(8) No person may register for a campsite or camping structure unless his camping equipment is present at the time of registration.

(9) At the time of registration, DCR requires the name and address of a campsite's primary occupant, as well as the names of all other occupants. Proof of acceptable government issued identification is required at the time of registration for the primary occupant and may be required for all other campers over the age of 14.

(10) The primary occupant is responsible for the actions of all occupants on that site and all visitors to that site. Any violation of Massachusetts General Laws or regulations, including DCR's rules and regulations, by any occupant or visitor

shall be cause for immediate eviction of all concerned parties. Campers who are evicted are not entitled to any reimbursement or refund of camping, reservation, parking, or any other related fees paid in advance.

(11) All personal property and equipment must be removed from a designated campsite or camping structure at the end of a camper's occupancy period.

(12) No rented camping site, camping structure or camping area shall be left unoccupied by persons on the first night of registration, nor shall the campsite or camping structure be left unoccupied by persons for a period in excess of 12 contiguous hours thereafter.

(13) All unnecessary noise shall be avoided in any designated campsite or camping structure of the DCR.

(14) No person shall operate or use any audio device, including radio, television, musical instrument or other noise producing device in such a manner or at such times so as to disturb other persons.

(15) Quiet hours at DCR camping facilities shall be between 10:00 P.M. and 7:00 A.M. The use of generators is not permitted during quiet hours, except for the purpose of operating a medical device.

(16) Check-out time for campers vacating campsites and camping structures shall be no later than 11:00 A.M. A camper who fails to vacate a campsite or camping structure on time may be subject to additional camping fees.

(17) Except on designated group camping sites, no person may pitch, erect or place on any DCR campsite more than two tents or one recreational camping vehicle and one small tent. Tents shall be limited to 300 square feet of combined floor space. With the exception of rain tarps, tent flies or screen houses, no other structures shall be erected on a DCR campsite.

(18) No structures, including, but not limited to, personal swimming or wading pools, trampolines, horseshoe pits, household furniture, unnecessary lighting or any other objects that may create a public safety hazard may be placed on DCR campsites.

(19) On sites containing DCR camping structures, such as yurts or cabins, no person may pitch more than one small tent unless approved by the Department.

(20) No person, except a law enforcement official or other duly authorized official, shall bring a horse or horses into a campground or camping area unless such area is designated as allowing horse camping.

(21) Where pets are allowed, no more than three pets may be kept at a designated campsite.

(22) No person may allow a DCR campsite or camping structure to become or remain in an unclean, unsanitary or unsightly condition during the period of occupancy.

(23) Day visitors or persons occupying DCR campsites or camping structures shall be required to park their vehicles in such places and in a manner as directed by DCR personnel.

(24) No more than five persons shall be permitted to visit a DCR campsite or camping structure at any given time.

(25) Visiting hours to DCR campsites or camping structures are between 8:00 A.M. and 8:00 P.M.

(26) All safari camping units must be self-contained, (i.e., on-board fresh water and sewage holding tank(s)) unless approved by the Department.

(27) Youth groups utilizing group campsites on DCR property shall consist of at least two adult counselors and an adult counselor to youth ratio of not less than one to ten, unless otherwise determined by the Department. The adult counselors shall take responsibility for the group and shall remain with the group during the entire period of occupancy.

(28) No person may leave a child under the age of 15 unattended at any campsite, camping structure or camping area, absent permission from DCR personnel.

(29) No person who is under the age of 18 may camp in, or stay at, a DCR campsite or camping structure except:

a. When accompanied by a parent or legal guardian; or

b. When accompanied by an adult who has written permission from the minor camper's parent or legal guardian; or

c. When a child is part of an organized youth group occupying a DCR campsite or camping structure under the direct supervision of two or more authorized adult counselors, and such adult counselors have written permission from each child's parent or legal guardian.

(30) Between Memorial Day and Labor Day, no person or recreational camping vehicle may occupy any single camping facility for a period of time exceeding 14 cumulative calendar days unless approved by the Department. Such approval shall be granted from one to three days at a time, only if:

a. Newly arrived campers can be accommodated in the camping area;
b. The registered camper has complied with all DCR regulations, rules and policies while camping.

(31) DCR may approve registration of a recreational camping vehicle for more than 14 cumulative days between Memorial and Labor Day only if:

a. An extension is approved under 302 CMR 12.08(29); or
b. The campsite or camping structure is registered in the name of a camper who has not previously registered in the campground between Memorial Day and Labor Day and the camping equipment or recreational camping vehicle has not occupied a site within the campground within the previous 14 days.

(32) No person or group shall stay in a designated backcountry campsite or shelter more than two consecutive nights except in case of emergency or illness.

(33) Backcountry campers must remove all litter and waste from the campsite.

(34) No person may operate, maintain or use any trailer waste station unless that person is in a recreational camping vehicle and has paid all fees associated with such service.

(35) No sewage or gray water from tents or recreational camping vehicles shall be disposed of on the premises of a designated campground, campsite, or camping structure except at a designated sewage disposal site.

<u>12.09: Rules of Conduct on DCR Properties – Fires, Burning</u>

(1) Any fire, ember, or burning briquettes shall be continuously under the care and direction of a competent adult from the time of kindling until it is extinguished. DCR properties may be designated where fires shall be limited to gaseous or flammable liquid fuels only.

(2) No person within the confines of any DCR property shall throw away or discard, unless in a designated receptacle, any match, cigarette, cigar, embers or briquettes, whether burning or not, or any other burning object which has not been entirely extinguished.

(3) No person may kindle, build, maintain, or use a fire of any type other than in designated picnic and camping areas. Portable stoves using gaseous or flammable

liquid fuels and charcoal grills, hibachis, and other apparatus for cooking may be used in other locations at a designated camping site if permission to do so is granted by DCR personnel.

(4) DCR personnel may limit the size of all campfires and may prescribe safety precautions.

(5) When DCR determines there is an extreme fire hazard, no person shall use smoking materials or build fires in areas posted as to the existence of extreme fire hazard.

(6) A person must extinguish all smoking materials and fires, and refrain from building fires, when DCR has made a determination of extreme fire hazard and DCR personnel have communicated the same.

(7) Between the hours of midnight and 5:00 A.M., open air fires are not permitted in any DCR campsite, camping structure or camping area.

(8) A person who builds a fire in a designated day use area must fully extinguish such fire not less than 30 minutes before departing the area.

(9) On islands in the Boston Harbor Islands State Park where camping is permitted, open fires are allowed only in the intertidal zone.

(10) No person shall move, carry, transport or ship (or authorize or allow any other person to do the same) firewood, green lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, roots, branches, and debris; manufactured pallet(s), manufactured pallet(s) scrap material, and scrap wood construction materials into or out of DCR campgrounds or camping areas, unless specifically authorized in writing by the Commissioner.

<u>12.10: Rules of Conduct on DCR Properties – Golf Courses</u>

(1) United States Golf Association rules govern all play on DCR golf courses.

(2) Players must rake bunkers, repair ball marks, and replace divots.

(3) Each player must have a golf bag and clubs.

(4) No player may wear a tank top, cut-off shorts, work boots or other inappropriate attire on the golf course.

(5) A player must retain his or her receipt while playing.

(6) Private coolers are not allowed.

(7) All drive and pull carts must be kept 30 feet from greens and tees.

12.11: Rules of Conduct on DCR Properties – Hunting, Fishing, Trapping

(1) Any person who hunts, fishes and traps on DCR property shall comply with M.G.L. chapter 131, and 321 CMR.

(2) Hunting, fishing, trapping and the possession of firearms, bow and arrow, trap or other lawful device for the taking, killing or capturing of mammals or birds, is permitted within the boundaries of any DCR property unless DCR posts a prohibition against such activity, or otherwise closes off a DCR property or portion thereof to such activity.

(3) No person may, hunt, trap, possess or use firearms, or possess or use bow and arrow on the following DCR properties, or specific sections of the properties herein listed:

a. Ames Nowell State Park: Abington
b. Arthur Warton Swann State Forest: Monterey
c. Ashland State Park: Ashland, Hopkinton
d. Bates Memorial State Park: Hancock
e. Borderland State Park: Sharon, Easton
f. Bradley W. Palmer State Park: Hamilton, Ipswich, Topsfield
g. Bristol-Blake State Reservation: Norfolk
h. Callahan State Park: Framingham
i. Cape Cod Rail Trail: Dennis, Harwich, Brewster, Orleans, Eastham, Wellfleet
j. Captain William K. Webb Memorial State Park: Weymouth (above the high tide line)
k. Chicopee State Park: Chicopee
l. Cochituate State Park: Natick, Framingham, Wayland
m. Cushing Memorial State Park: Scituate
n. Daughters of American Revolution State Forest: Goshen
o. Demarest Lloyd Memorial State Park: Dartmouth
p. Dighton Rock State Park: Berkley
q. Dunn Pond State Park: Gardner
r. Great Brook Farm State Park: All lands within the Town of Carlisle
s. Halibut Point State Park: Rockport
t. Hampton Ponds State Park: Westfield
u. Hopkinton State Park: Hopkinton
v. Lake Wyola State Park: Shutesbury
w. Maudslay State Park: Newburyport
x. Mount Everett Reservation: Mount Washington
y. Mount Tom State Reservation: Holyoke and Easthampton

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z. Nickerson State Park: Brewster
aa. Nobscot Hill Property: Framingham
bb. Purgatory Chasm: Sutton
cc. Quinsigamond State Park: Worcester & Shrewsbury
dd. Robinson State Park: Agawam, Westfield, W. Springfield
ee. Skinner State Park: Hadley, South Hadley
ff. Standish Monument State Reservation: Duxbury
gg. Heritage State Parks: Lynn, Lowell, Lawrence, Roxbury, Holyoke, Fall River, Gardner, Holyoke.
hh. Wahconah Falls State Park: Dalton, Hinsdale, Windsor
ii. Whitehall State Park: Hopkinton, Upton, Westborough
jj. Walden Pond State Reservation: Lincoln, Concord
kk. All properties in the following municipalities: Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull, Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester, Winthrop, except that from November 15 to April 30, a person may engage in hunting, or hunt, trap, possess, or use firearms within the intertidal zone of DCR's Boston Harbor Islands.

ll. Charles River State Reservation/Medfield State Hospital, Medfield (hunting is prohibited north and east of Route 27, except for bow and primitive arms, which are allowed on the parcel bounded on the northwest by the Charles River, on the northeast by the Conrail tracks, and on the south by Route 27/Hospital Road (excluding the cemetery))

mm. Mt. Washington State Forest, Mt. Washington (only the area known as the former "Intemann Property")

nn. No hunting within 500 feet of campsites at Federated Women's Clubs State Forest, Petersham (Description of closed area: Beginning at a stake on the northerly side of the Dana-Petersham Road, said stake being the most westerly point of the area to be described, thence following said Dana-Petersham Road in an easterly and southeasterly direction for a distance of 3,500 feet more or less, to a stone bound; thence S 81 21' E 831.77' to a stone bound; thence N 4 13' E 757.73' along a fence to an angle in said fence; thence N 60 13' E 702.33' along said fence to a junction of fences; thence N 83 50' W 436' to a corner of fences; thence N 4 20' E 1772' along a fence and stone wall to an iron pin; thence N 86 10' W 1420' to a stake; thence S 50 50' W to the point of beginning. Containing 140 acres)

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oo. Harold Parker State Forest, Andover (Description of closed area: All portions of Harold Parker State Forest in the town of Andover, West of Jenkins Road)

pp. Greylock State Reservation (Description of closed area: Hunting is prohibited within a radius of ¾ miles from the Mount Greylock summit, the area designated by statute as the War Memorial Park. In addition, no hunting shall be allowed from May 20th to the day observed by the Commonwealth as Columbus Day)

qq. Willowdale State Forest, Ipswich and Topsfield (Description of closed area: east of U.S. Highway Route 1)

rr. Lowell Dracut State Forest, Lowell (Description of closed area: 150 acres included in the Native American Permit area)

ss. Wompatuck State Park (Description of closed area: all areas of the park with the exception of the southwesternmost portion of the park known as the "South Group" and including the area known as "Prospect Hill.") Special restrictions at Wompatuck State Park: (1) No hunting of deer is permitted. (2) Raccoon hunting may be allowed by special written permit issued by the Regional Forest and Park Supervisor. (3) No person may use any weapon other than a shotgun or bow and arrow for the purpose of taking game, with the exception that for the purpose of raccoon hunting, the firearms regulations of the Division of Fisheries and Wildlife shall apply. (4) All hunters are required to register upon entering the park. (5) No person shall engage in hunting or trapping activities beyond the normal operating hours of the park, except those persons in possession of valid and current raccoon hunting permits.

(4) No person may hunt on the following DCR property, except with bow and arrow only:
   a. Prospect Hill, Rowley.

(5) , No person may fish on the following DCR properties, or specific sections of the properties herein listed:

   a. Chicopee Reservoir (prohibition extends only to ice fishing);
   b. Fall River Heritage State Park (areas south of the boathouse);
   c. Holyoke Heritage State Park;
   d. Lowell Heritage State Park, with the following exceptions:
      (i) Merrimack Canal adjacent to Lucy Larcom Park;
      (ii) Area along Eastern Canal adjacent to Prescott and Kerouac Parks;

(iii) Western Canal along Suffolk Street between Fletcher Street, Merrimack Street, and Moody Street;
(iv) Pawtucket Canal along walkway, not including stairway between Market Street parking lot and Central Street; and
(v) Merrimack Riverfront Park except at boathouse;

e. Lynn Heritage State Park, except at the area designated for fishing on the pier.

f. Charles River boat locks

(6) No person may hunt, trap or discharge a firearm within 500 feet of the border of a DCR designated campsite or camping structure, including those along the Appalachian Trail.

(7) No person may hunt or shoot at any wildlife within 500 feet of any designated DCR picnic area, camping area, residence, service building, parking lot, camping structure, or designated swimming area.

(8) No person may fish in any inland designated swimming areas or where boundaries are posted with "no fishing" signs.

(9) No person may fish in a designated coastal swimming area during the hours between 8:00 A.M. and 8:00 P.M., from Memorial Day to Labor Day.

(10) No person may, unless authorized by a special use or recreational use permit issued in accordance with 302 CMR 12.17(2) or 12.17(4) or otherwise engaged in legal hunting activities, have possession of, or discharge, for target shooting or target practice or any other reason, any weapon, including, but not limited to, a firearm, bow and arrow, crossbow, slingshot, fireworks or any other explosive, or explosive device, paintball, pellet gun, sling shot, or use anything as a projectile.

(11) A person lawfully engaged in the act of hunting may have in his possession, care or custody no more than three hunting dogs.

(12) No person may install a permanent tree stand on DCR property. A permanent tree stand is defined as that type of hunting platform or structure (emplaced for any period of time) which is fastened to a tree by nails, bolts, wire, or other fasteners which intrude through the bark into the wood of the tree, or, which is fastened or erected in any manner and is emplaced for a period exceeding 30 days.

12.12: Rules of Conduct on DCR Properties – Non-Motorized Vehicles; Trails

(1) All non-motorized trail uses shall be permitted on any forest trail, forest way, trail or rail trail unless posted closed with appropriate signage, or prohibited by regulation or law.

(2) The use of bicycles and other means of transportation, including in-line skates, scooters, skateboards and similar equipment, may be prohibited in specific areas and at specific times at particular DCR properties, and may be communicated through postings, signs, or markings.

(3) When passing others on a trail, trail users shall alert others with audible signals such as by voice, bell or horn.

(4) Trail users shall stop at all intersections and obey all regulatory signs and pavement markings on DCR property.

(5) A cyclist lawfully using DCR property after dark must equip his or her bicycle or other wheeled vehicle with a white light on the front of the vehicle and a red light to the rear of the vehicle that project illumination visible from 500 feet or more from the vehicle.

(6) Children younger than 17 years old must wear a helmet when riding a bicycle or other wheeled vehicle on DCR property as prescribed by M.G.L. c.90.

(7) No person shall operate any bicycle, in-line skates, scooters, skateboards or similar equipment in a reckless manner, or at a speed which may be considered unreasonable or improper for existing conditions.

(8) Trail users shall keep to the right. When stopping, no trail user may block the trail to other users.

(9) DCR may temporarily close or prohibit the use of any forest road, forest way, trail or area to any or all trail uses when the Department determines that such continued use would be detrimental to the environment due to extremely wet or dry conditions or for any other appropriate reason.

(10) No person may enter on abutting property from DCR property, or enter DCR property from abutting property, unless such access point is duly authorized or designated.

(11) No person may construct or clear any new trail or maintain, mark or change the use or treadway of an existing trail on DCR property, without written authorization by a Division Director.

(12) No person may operate any motor vehicle upon or over any designated non-motorized trail, unless allowed by duly authorized DCR permit.

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12.13: Rules of Conduct on DCR Properties – Pets, Horses, and Other Domesticated Animals

(1) No person may leave any pet, horse, or other domesticated animal unattended.

(2) Unless in an area of DCR property designated and posted otherwise, no person may cause or permit any pet, horse, or other domesticated animal owned by him or her or in his or her custody or under his or her control, to roam or be at large in, on, or through DCR property, unless such animal is restrained within a cage, or is bridled, or is restrained on a tether or leash no greater in length than ten feet. This section shall not apply to authorized hunting, the authorized training of hunting dogs, the authorized act of dog sledding, or the authorized training of sled dogs.

(3) In designated areas where dogs are allowed off-leash, they must be handled in a way that allows them to be controlled by voice command or in a manner directed by a law enforcement officer, DCR ranger or other DCR personnel.

(4) Pets, horses, and other domesticated animals are not allowed on coastal beaches or in designated swimming areas of inland beaches from April 1 through September 30 each year, unless otherwise posted.

(5) A person may not allow any pet, horse, or other domesticated animal under his or her control to interfere with any other person's enjoyment of DCR property, but a person's enjoyment of DCR property is not interfered with merely by another person's interacting with an animal under his or her control in a customary manner for such animal.

(6) DCR personnel may direct that a pet, horse, or other domesticated animal be removed from DCR property by the animal's owner or handler. Failure to abide by such direction may subject the owner or animal to eviction or banning from the DCR property, and may subject the owner or handler to a fine.

(7) Any pet or other domesticated animal required by law to have a rabies vaccination must have documentary proof of the vaccination.

(8) A pet, horse, or other domesticated animal may not be hitched or tied to a fence, tree, bush, shrub, or any other DCR property, object or structure unless designated otherwise.

(9) When accompanying persons with medical or service needs, and when acting within their service capacity, service and medical support animals are allowed access to DCR property where pets, horses or other domesticated animals are otherwise prohibited.

(10) Pets, horses, and other domesticated animals are not allowed in DCR camping structures, or on sites where those structures are located.

(11) All persons who bring pets onto DCR property shall properly remove and dispose of the pets' feces.

(12) No person may feed wild animals, birds or fish, including, but not limited to, geese, waterfowl, bears, raccoons, or other wild animals.

(13) No person may release any animal on any DCR property without prior authorization from a Division Director.

(14) Except when engaged in the authorized act of dog sledding or sled dog training or while hunting or training hunting dogs where these activities are allowed, and with proper authorization, if required, no person may have in his possession, care or custody more than three pets, horses, or other domesticated animals on any DCR property at any one time without a special use permit issued in accordance with 302 CMR 12.17(2), or a commercial dog walking permit issued in accordance with 302 CMR 12.17(5), including any pets, horses, or other domesticated animals under the custody and control of a party at a designated campsite.

(15) No person or organization may use any DCR property for organized animal shows, events, field trials or training without obtaining a special use permit issued in accordance with 302 CMR 12.17(2).

(16) A commercial dog walker must obtain an annual permit to use DCR property, in accordance with 302 CMR 12.17(5).

(17) When engaged in commercial dog walking, a commercial dog walker must display his or her commercial dog walking permit on his or her person and, if applicable, on his or her vehicle dashboard.

<u>12.14: Rules of Conduct on DCR Properties – Recreational Vehicles</u>

(1) No person shall operate a snow vehicle or recreation vehicle on DCR property except on forest ways and forest trails specifically designated and marked by the Department for snow vehicle or recreation vehicle use.

(2) No person shall operate a snow vehicle upon DCR property unless the DCR property is completely covered with a minimum of four inches of hard packed snow or five inches of ice. In such areas which are open to use by snow vehicles, driving of such vehicles on unmaintained DCR roads will be allowed, unless:
   a. DCR posts specific areas as restricted access areas, or

b. Such access to unplowed areas is prohibited by other law or regulation.

(3) No person shall operate a snow vehicle or recreation vehicle in or upon the unfrozen waters or wetlands of DCR property except if crossing a stream over a bridge, a culvert or a similar structure, or by operating the vehicle at the minimum speed required to maintain controlled forward movement to cross in the most direct manner in order to minimize the potential for erosion of the stream bed or banks while on DCR property.

(4) No person may operate a snow vehicle upon the frozen waters of a DCR property when such waters are posted as prohibiting such access. Anyone who operates a vehicle in violation of such posting shall assume all responsibility in undertaking such prohibited activity on DCR property.

(5) An operator of a snow vehicle entering onto DCR frozen waters shall assume all responsibility in undertaking such activity on DCR property.

(6) No person shall operate a recreation vehicle on designated recreation vehicle forest trails or ways except during times and seasons determined by the Department for such use. Licensed hunters possessing a valid handicap plate or placard issued by the Massachusetts Registry of Motor Vehicles may use a snow vehicle or recreation vehicle on DCR trails designated for such motorized uses for the purpose of hunting access during established hunting seasons.

(7) No person may operate a recreation vehicle on designated recreation vehicle trails or ways:
   a. When such trails have been posted or noticed as closed due to unsafe or detrimental conditions
   b. Except during daylight hours.

(8) No person may operate any snow vehicle or recreation vehicle upon or over any DCR property unless that vehicle is registered in accordance with the laws and regulations of M.G.L. c. 90A or M.G.L. c. 90B.

(9) No person may operate any recreation vehicle with a manufacturer's listed dry weight in excess of 900 pounds or width greater than 50 inches on any forest way or forest trail except where the way or trail is specifically posted for such use. 302 CMR 12.14(11) shall not prohibit the use of any vehicle legally registered under the provisions of M.G.L. c. 90 on a forest road or forest way when the road or way is open to the use of the general public for motor vehicle travel.

(10) No person under 12 years of age shall operate any snow vehicle or recreation vehicle on DCR property.

(11) No person may operate a snow vehicle or recreation vehicle upon any DCR property except in accordance with these regulations, M.G.L. c. 90B, §§ 21 through 35, and regulations promulgated thereunder.

(12) No person shall operate any snow vehicle or recreation vehicle upon any DCR property in a reckless manner or in such a manner as may cause or tend to cause fear, discomfort or injury to any person, wildlife, pet, horse, property or vegetation of the DCR or neighboring private property, or at a speed which may be considered unreasonable or improper for existing conditions.

(13) When approaching a non-motorized user including a pedestrian, skier, snowshoer, horseback rider or bicyclist, the operator of a snow vehicle or recreation vehicle shall immediately slow his or her vehicle to a minimum safe operating speed, shall give the right of way to the non-motorized user, shall not pass until passing can be accomplished with complete safety, and shall not accelerate the vehicle until there is a reasonable distance, no less than 50 feet, from such non-motorized user.

(14) When approaching a horse being led, ridden or driven, the operator of a snow vehicle or recreation vehicle shall bring the vehicle and the motor propelling it immediately to a stop if such animal appears to be frightened and if the person in charge of the animal so signals.

(15) No person shall operate any moped, scooter or any power-assisted bicycle or other motorized wheeled vehicle, other than a wheelchair, on DCR property unless the operator holds a valid motor vehicle license and the vehicle is equipped for legal operation on Massachusetts public ways.

12.15: Rules of Conduct on DCR Properties – Skating Rinks

(1) No loitering is allowed at DCR skating rinks during public skating.

12.16: Rules of Conduct on DCR Properties – Swimming Pools

(1) The consumption of food or beverages at DCR swimming pools, wading pools and spray decks is allowed only in designated eating areas.

(2) All persons recreating within the boundaries of any DCR designated swimming area or pool compound shall adhere to any and all requests or direction from DCR personnel, including, but not limited to, DCR rangers, lifeguards, staff or law enforcement officials.

(3) A person using a DCR swimming pool, wading pool or spray deck shall wear appropriate swimwear. No person may enter the water of any DCR swimming pool while wearing street clothes, including but not limited to long pants, sweatshirts or other such attire which may cause mechanical problems relating to pool filters or which may impair the ability of an individual to swim safely.

(4) No person under the age of 12 years old may be admitted to any DCR swimming pool or wading pool without a parent or adult.

(5) No person may utilize any DCR swimming pool or wading pool without taking a cleansing shower prior to entering the water.

(6) No person may place or cause to be placed any items in the swimming pool, wading pool, spray deck or along the pool apron or deck which could create a tripping hazard or which may obstruct the free and reasonable access to or egress from a DCR swimming pool, wading pool or spray deck area.

(7) No person may possess any glass or other breakable container within any DCR swimming pool, wading pool or spray deck. This includes, but is not limited to, items such as beverage containers, food containers or personal care items which may pose a safety risk to other users.

(8) No person may utilize any form of smoking materials within any DCR swimming pool, wading pool or spray deck.

(9) No person may use a diving mask or similar device designed to cover a user's eyes and nostrils at the same time, or a snorkel, within a DCR swimming or wading pool. DCR personnel may allow such equipment to be used by designated individuals and staff only during designated structured training programs, during DCR property maintenance, or for safety and rescue purposes.

(10) No person may enter or permit another to enter a DCR swimming pool, wading pool, splash-pad or spray deck for the purposes of swimming, bathing or loitering after normal hours of operation, as posted, nor any time that a DCR lifeguard is not present.

(11) No person may utilize any flotation devices within DCR swimming or wading pools, or other waterfront DCR property. (Flotation devices under this rule include, but are not limited to inner tubes, ring buoys, air mattresses, beach balls, swimmies, inflatable novelty toys, noodles, or any other similar devices designed and utilized for the purposes of keeping person(s) afloat.) Under certain circumstances, approved devices may be allowed. U.S. Coast Guard approved personal flotation devices ("PFDs" or "life jackets") designed for the size and weight of the wearer may be allowed when a responsible, experienced swimmer is assisting the wearer.

(12) No person may use or offer for use any equipment, tools, toys, novelty items, snorkels or other such items within a pool compound or designated swimming area when the use of said items may pose a significant health or safety risk to the user, to bystanders or to any other user within the pool compound or designated swimming area.

(13) No person may change or allow the changing of any clothing or diapers in or around a DCR designated swimming area except in designated changing locations. All diapers or other similar waste materials shall be disposed of properly in designated receptacles.

(14) Youth organizations, agencies, and groups that wish to utilize DCR swimming pools, wading pools or spray decks for any group activity must obtain a recreational use permit or special use permit in accordance with 302 CMR 12.17(4) or 12.17(2).

12.17: Permits

(1) General Provisions

a. In a duly issued permit, and subsequent to issuance, the DCR may place stipulations on the permitted use, including, but not limited to, the type of use, timing, location, duration and volume.

b. No permit will have a duration greater than five years.

c. An applicant must comply with any and all terms and conditions contained within a permit. Any act authorized pursuant to a permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

d. Unless otherwise stated in the permit, a permittee is solely responsible for all utility costs including, but not limited to, gas, electricity, heat, telephone, water and sewer.

e. A permittee must comply, at the permittee's exclusive expense, with all applicable federal, state and local statutes, laws, ordinances, rules, regulations and policies.

f. A permit does not confer on the permittee any rights in real property.

g. A permittee may not assign, delegate, sublease, transfer or otherwise dispose of its management responsibilities or of any right, duty, interest or use of the

DCR property which is the subject of the permit, except as provided by such permit.

h. All person(s) receiving a permit must agree, in writing, to indemnify, defend and hold the Commonwealth, the DCR, its employees and agents harmless against all claims relating to or arising out of the use of DCR property and from any claims for personal injury or death or damage to personal property, of whatever kind or nature, arising from the permittee's activities in the permitted area, including, but not limited to, claims arising from the recklessness, negligence or carelessness of the permittee, its contractors, agents, representatives, employees, permittees, licensees, guests and invitees, as authorized therein and claims arising from the permittee's failure to provide adequate security in the permitted area. The DCR may also require the permittee to obtain liability insurance with limits of coverage sufficient to support the permittee's obligation to indemnify and hold the Commonwealth and DCR harmless.

i. The permittee shall agree in writing not to make any claims against the Commonwealth or the DCR for any injury, loss or damage to persons, including, but not limited to, bodily injury or death, or damage to property arising out of or in connection with the actions or omissions of the permittee, its contractors, agents, representatives, employees, permittee, licensees, guests and invitees, as authorized therein.

j. The permittee shall, in writing, assume all risk in connection with any and all activities engaged in within the permitted area and shall be solely responsible and answerable in damages, and any other equitable remedies, for all accidents or injuries to all persons or property caused by the permittee's activities.

k. Should it become necessary to enforce the terms of a permit in an administrative proceeding or in a court of competent jurisdiction, the permittee shall pay all reasonable attorney's fees.

l. No person shall use or occupy DCR property for which a fee or other charge has been established unless the person has first paid such fee or charge, unless otherwise authorized.

m. In addition to the payment of the prescribed fee, DCR may reasonably require the Permittee to pay the costs for DCR personnel, or to hire appropriate law enforcement personnel.

n. DCR may limit public access to DCR property when a permit has been duly issued for use of DCR property.

(2) Special Use Permits

a. A special use permit application may be downloaded from the DCR website. The application must be made in writing and must include applicable additional information including, but not limited to, route maps, site set-up diagrams, vendor listings, and vehicles to be used.

b. A special use permit application must be submitted to the Department at least 45 days prior to the event or activity for which a permit is sought.

c. A permittee must submit a certificate of liability insurance to the DCR prior to the event. Such certificate must name DCR as an additional insured for the date and location of the event, with a minimum liability of $1,000,000. Failure to provide the certificate of liability insurance may result in revocation of the special use permit.

d. A special use permit shall be issued only after payment of the application fee and any other duly requested costs associated with the permitted event or activity.

e. Special use permits are issued at the sole discretion of the Department.

f. An applicant for a special use permit must comply with any terms and conditions contained within the special use permit, as well as those provisions contained within 302 CMR 12.17(1). Any act authorized pursuant to a special use permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

(3) Boating and Waterfront Permits

a. No person may construct or maintain a waterfront structure such as a dock, pier, or mooring unless authorized by a duly issued boating and waterfront permit.

b. DCR personnel may issue boating and waterfront permits subject to DCR property management, environmental, and other considerations.

c. An applicant for a boating and waterfront permit must comply with any terms and conditions contained within the boating and waterfront permit. Any act authorized pursuant to a boating and waterfront permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

(4) Recreational Use Permits

a. A recreational use permit is required for the group use of DCR property including, but not limited to, athletic fields and courts, picnic pavilions, designated group day use areas, pools, meeting rooms.

b. DCR supervisors and district managers, and other DCR personnel, may issue recreational use permits subject to DCR property capacity limits and other management and scheduling considerations.

c. An applicant for a recreational use permit must comply with any terms and conditions contained within the recreational use permit. Any act authorized pursuant to a recreational use permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

(5) Commercial Dog Walking Permits

a. A commercial dog walker may not conduct any commercial activity or event upon the lands or waters of the DCR without first obtaining a commercial dog walking permit.

b. All requests for commercial dog walking permits must be made in writing to the DCR.

c. An applicant for a commercial dog walking permit must comply with any terms and conditions contained within the commercial dog walking permit. Any act authorized pursuant to a commercial dog walking permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

d. Commercial dog walking permits will expire on December 31 each year, regardless of when the permit is acquired during the year.

12.18: Variance

(1) General. DCR recognizes that the literal application of 302 CMR 12.00 to all persons and activities may impose significant hardships in individual situations, frustrate the underlying legislative and regulatory purposes, or adversely affect the public interest. Therefore, in the exercise of the Department's discretion and upon a proper and timely demonstration, a variance from the application of specific provisions of 302 CMR 12.00, other than those that embody statutory requirements,

may be available in an individual case to a person whose activities are governed by them.

(2) Required Demonstration. A variance request shall include, at a minimum, the following information demonstrating, to the Department's satisfaction, that:

a. compliance with the provision would, on the basis of conditions unique to the applicant's particular situation, impose unreasonable economic, technological or safety burdens on the applicant or the public;

b. substitute measures will provide the same or greater degree of protection to public health, safety and the environment as the application of the regulation(s) from which a variance is requested; and

c. the desired relief may be granted without substantial detriment to the public interest and without nullifying or substantially derogating from the intent of 302 CMR 12.00.

(3) Reasonable or Necessary. Where circumstances are appropriate, DCR may request the applicant to establish, in addition to the criteria listed in 302 CMR 12.18(2), either or both of the following:

a. that no reasonable conditions or alternatives exist that would allow the project to proceed without the requested variance;

b. the variance is necessary to accommodate an overriding community, regional, state, or national public interest.

(4) Request for Variance. A request for a variance may be made only by or on behalf of a person whose activities are governed by 302 CMR 12.00 and who seeks relief from its application prior to taking any action subject to and in conflict with its provisions and does so in a timely manner. The request shall be made in writing and must contain, at a minimum, the information necessary to establish the showing required by 302 CMR 12.18(2) and, where required by 302 CMR 12.18(3), in the form prescribed in 302 CMR 12.18 (4)(a) through (d):

a. specific reference, by citation to Code of Massachusetts Regulations, to each regulatory provision from which relief is sought;

b. an analysis and evaluation, prepared by a qualified professional, of all known technically accepted alternative methods of pursuing the activity in compliance with 302 CMR 12.18 including a detailed explanation as to each such alternative of the factual circumstances that render it unreasonable within the meaning of 302 CMR 12.18(1);

c. a detailed description, prepared by a qualified professional, of the substitute measures intended to provide the same or greater degree of protection to the public health, safety and the environment as the application of the regulation(s) from which a variance is requested would provide, accompanied by an opinion, including the basis on which that opinion was formed, that the substitute measures will in fact perform their intended function; and

d. evidence that an overriding public interest is associated with the project which justifies a variance from the regulation(s) if required by the Department pursuant to 302 CMR 12.18(3)(b).

(5) Filings. A person requesting a variance from 302 CMR 12.00 must file a request with a Division Director. Filing and service may be made by hand or by using a suitable form of mail addressed to the person to be served and requiring the return of a signed receipt.

(6) Initial Action. The Division Director, after considering a request for a variance, requesting and receiving such additional information as may be required, and holding a public hearing if the public interest in the matter or the technical complexity or uniqueness of the issues warrant doing so, shall grant or refuse the request in whole or in part. If the Division Director determines to grant the request in whole or in part, the determination will include a specific finding that the request makes the showing required by 302 CMR 12.18(2); a specific statement that the application of certain specified regulation(s) is altered or waived; and a specification of the requirements or conditions imposed, if any. The determination of the Division Director is final unless, within 21 days, an appeal is taken to the Commissioner pursuant to the provisions of 302 CMR 12.18(7). The Division Director shall notify by mail the person requesting the variance and any abutter who has requested notice of the determination of the action taken upon the request.

(7) Appeal to the Commissioner.

a. A person requesting a variance from the application of 302 CMR 12.00, or any aggrieved party, may appeal the determination of the Division Director to the Commissioner.

b. An appeal is taken by delivering a request for a hearing to the Commissioner within the time period established by 302 CMR 12.18(6) that identifies the request for a variance, states the determination of the Division Director upon it, specifies why the party is aggrieved and the grounds for the appeal. The Department shall hold a hearing upon and determine the appeal pursuant to the provisions of 801 CMR 1.00. In any such proceeding it shall be the burden of the person requesting the variance to demonstrate how the criteria are met.

c. Notice of an appeal shall be given to the applicant by the party appealing the decision concurrently with filing the appeal.

(8) Expiration, Modification or Suspension of a Variance. Any variance or other modification made pursuant to 302 CMR 12.18 may be subject to such qualification, revocation, suspension, or expiration as the Department expresses in the variance. A variance or other modification made pursuant to 302 CMR 12.18 may otherwise be revoked, modified, or suspended.

12.19: Revocation of Permits

(1) All DCR permits are considered licenses, do not convey an interest in property, and are revocable at will.

(2) Any violation of a permit by its holder, its agents, employees, contractors or guests of any term or condition therein shall constitute grounds for its suspension or revocation by the Department, which action therein shall be final.

(3) In case of revocation of any permit, all monies paid for or on account thereof shall, at the option of the Department, be retained by the DCR. Neither such retention by the DCR of the whole nor any part of such monies nor the recovery or collection thereby of such damages, including claims against any bond, or both, shall in any manner relieve such person(s) from civil liability or from criminal liability for violation of any other state or local law, ordinance, rule or order and the permittee, together with its contractors, agents, representatives, employees, licensees, guests and invitees who violated said term(s) or condition(s) shall be jointly and severally liable to the Commonwealth for all damages or loss suffered by the Department in excess of such monies retained.

(4) Within ten calendar days of revocation or termination, the permittee shall restore the DCR property that was the subject of the permit to a condition satisfactory to the Department.

12.20: Violations and Enforcement

(1) Any person who by his actions violates any provision of 302 CMR 12.00, or any person who fails to comply with any reasonable request of DCR personnel or law enforcement official, may be denied admittance to a DCR property, and may be subject to fine, eviction, banning or a combination of those penalties.

(2) DCR Rangers, other DCR personnel and other law enforcement officers are authorized to issue citations for violations of all DCR regulations, including, without limitation, 302 CMR 11.00 and 302 CMR 12.00.

(3) Ban

a. A person may be banned from DCR property upon written notification from a Division Director. Such notification shall provide for an opportunity for a hearing in accordance with M.G.L. c.30A.

b. A ban shall be for a period not to exceed one year.

c. A person who has been duly banned from DCR property is subject to arrest and prosecution if such person violates the ban.

(4) Any person who violates a provision of 302 CMR 12.00 is subject to a fine, as may be provided by law.

(5) Anyone conducting activities or otherwise utilizing DCR property must comply with 321 CMR (Massachusetts Department of Fisheries and Wildlife), 323 CMR (Division of Law Enforcement), and all other applicable federal, state, and local laws, ordinances, and regulations.

12.21: Appeals

A party who is aggrieved by a DCR decision may appeal such decision in writing within 30 days. Appeals to DCR decisions will be conducted in accordance with M.G.L. c.30A and the regulatory provisions found at 801 CMR 1.00.

12.22: Rates and Fees

Rates and fees for the use of and access to DCR properties can be found at 801 CMR 4.02.

REGULATORY AUTHORITY

302 CMR 12.00: M.G.L. c. 21, § 1; M.G.L. c. 132A, § 7; M.G.L. c. 92 §§33, 34B, 35, 35A, 37, 38, 41, 95A, Chapter 41 of the Acts of 2003.

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