

Offered by Councillor JERRY P. McDERMOTT

CITY OF BOSTON

IN THE YEAR TWO THOUSAND FIVE



AN ORDINANCE PROHIBITING THE PAVING OF
YARDS IN AREAS ZONED FOR RESIDENTIAL USE

WHEREAS, In urban areas, the loss of even the smallest open and/or green spaces has a disproportionately adverse impact on the community; and

WHEREAS, Areas zoned for residential use encompass the homes and neighborhoods of the residents of the City of Boston; and

WHEREAS, The wholly-unchecked practice of paving over front yards, side yards, and rear yards negatively impacts the obvious aesthetic qualities of homes and neighborhoods while simultaneously generating substantial deleterious ecological effects including a loss of permeable surface area that exacerbates runoff to abutting residences oftentimes flooding basements while concurrently diminishing the maintenance or restoration of water tables; and

WHEREAS, The population growth in the City and the demand for residential space is intensifying the problem requiring immediate attention. *NOW THEREFORE*,

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

CBC Chapter XVI is hereby amended by appending CBC 16-51 as follows:

Section 1.

CBC 16-51 Prohibition against Paving Yards in Areas Zoned for Residential Use.

16-51.1 Purpose.

In urban areas, the loss of even the smallest open and/or green spaces has a disproportionately adverse impact on the community. Areas zoned for residential use encompass the homes and neighborhoods of the residents of the City of Boston. The wholly-unchecked practice of paving over front yards, side yards, and rear yards negatively impacts the obvious aesthetic qualities of homes and neighborhoods while simultaneously generating substantial deleterious ecological

effects including a loss of permeable surface area that exacerbates runoff to abutting residences oftentimes flooding basements while concurrently diminishing the maintenance or restoration of water tables. The population growth in the City and the demand for residential space is intensifying the problem requiring immediate attention. The provisions of these sections are designed to staunch the paving of front yards, side yards, and rear yards in areas zoned for residential use.

16-51.2 Prohibition.

No person shall pave the front yard, side yard, and/or rear yard in any area zoned for residential use.

16-51.3 Penalty and Enforcement.

Any person who violates the provisions of these sections shall be fined five hundred dollars and no cents (\$500.00) and every day that the violation remains shall be considered to be a separate and distinct violation. Additionally, any violation shall be remedied by the return of the paved area to an earthen and/or permeable condition.

These provisions may be enforced pursuant to the non-criminal disposition procedures as provided in Massachusetts General Laws, Chapter 40, Section 21D.

16-51.4 Applicability.

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provision of these sections shall control.

16-51.5 Enforcement Authority and Regulatory Authority.

The Inspectional Services Department shall have the authority to enforce the provisions of these sections.

The Inspectional Services Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections and nothing in these sections shall impede amendment of the Boston Zoning Code to include provisions harmonious with these sections.

16-51.6 Harmonious Construction and Severability.

The provisions of these sections shall be construed harmoniously with other applicable general laws, special laws, ordinances, orders, by-laws, regulations, rules, and policies regarding the use of real property such that all such legislation effectively provides the greatest level of protection to and preservation of earthen surfaces in areas zoned for residential use. If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

16-51.7 Implementation.

The provisions of these sections shall be effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until thirty (30) days after passage.

In City Council **PLACED ON FILE**

DEC 14 2005

Rosario Salerno

CITY CLERK