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ZONING COMMISSION
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ZONING COMMISSION
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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 14-10

(Text Amendment – 11 DCMR)

(Text Amendments to Chapters 7 & 8)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, as amended, D.C. Official Code § 6-641.01 (2012 Repl)), hereby gives notice of its intent to amend §§ 721, 735, 736, 737, 738, and 739 of Chapter 7 (Commercial Districts), as well as §§ 801 and 802 of Chapter 8 (Industrial Districts), of Title 11 (Zoning) of the District of Columbia Municipal Regulations (DCMR).

The proposed text amendments clarify the prohibition against the adjacency of animal boarding, pet grooming, pet shop, veterinary boarding hospital, and animal shelter uses to residential uses in two ways. First, the amendments provide that an animal use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District and dictate how that distance is to be measured. Second, the amendments address animal uses within the same structure as residential uses, requiring that an applicant demonstrate during the special exception review process that the use would produce no odor or noise objectionable to residential units within the same building. Additionally, the requirement that the animal use take place within a soundproof building would be replaced with a requirement that the use produce no noise objectionable to nearby properties, to be more consistent with the standard special exception criteria. Finally, the proposed text amendments would permit animal boarding uses to operate as a matter of right in the basement or cellar of a building beginning in the in the C-2-A Zone District.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following amendments to the Zoning Regulations are proposed:

Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

Section 721, USES AS A MATTER OF RIGHT (C-2), § 721.2 is amended by adding a new paragraph (a) and by relettering the existing paragraphs so that the entire subsection reads as follows:

721.2 In addition to the uses permitted in C-1 Zone Districts by § 701.1, the following service establishments shall be permitted in a C-2 Zone District as a matter-of-right.

(a) Animal boarding, provided:

(1) The use shall be located within a basement or cellar space,

- (2) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use,
 - (3) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;
 - (4) Windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;
 - (5) No animals shall be permitted in an external yard on the premises;
 - (6) Animal waste shall be placed in closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly;
 - (7) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system,
 - (8) Floor finish materials, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable, and
 - (9) An animal boarding use not meeting the provisions of this section may be approved as a special exception subject to § 735,
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- (b) Automobile laundry, with reservoir space for at least fifteen (15) automobiles,
 - (c) Automobile rental agency,
 - (d) Billiard parlor or pool hall;
 - (e) Blueprinting or similar reproduction service;
 - (f) Bowling alley, provided, that it shall be soundproof,

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- (g) Catering establishment,
- (h) Dental laboratory,
- (i) Driver's License Road Test Facility;
- (j) Film exchange;
- (k) Funeral, mortuary, or undertaking establishment;
- (l) General indoor storage, not exceeding twenty-five hundred square feet (2,500 sq ft) of gross floor area;
- (m) Interior decorating shop;
- (n) Laundry, self service, with no limitations on the gross floor area,
- (o) Laboratory, optical;
- (p) Parcel delivery service,
- (q) Photographic studio,
- (r) Picture framing studio or shop;
- (s) Plumbing or heating shop, excluding outdoor storage,
- (t) Printing, lithographing, or photoengraving establishment, in each case not exceeding twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;
- (u) Public bath, physical culture, or health service;
- (v) Radio or television broadcasting studio not including antenna tower, or monopole,
- (w) Streetcar or bus passenger depot;
- (x) Tailor shop or valet shop, with no limitation on the gross floor area,
- (y) Telegraph office, and

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- (z) Veterinary hospital, which may also include the incidental boarding of animals as necessary for convalescence, pet grooming, and the sale of pet supplies, but not as an independent line of business

Section 735, ANIMAL BOARDING (C-2) is amended to read as follows:

735 ANIMAL BOARDING (C-2)

- 735.1 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section
- 735.2 The use shall not be located within twenty-five feet (25 ft) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use
- 735.3 The animal boarding use shall produce no noise or odor-objectionable to nearby properties, including residential units located in the same building as the use.
- 735.4 The applicant shall demonstrate that the animal boarding use will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:
 - (a) The animal boarding use shall take place entirely within an enclosed building,
 - (b) Buildings shall be designed and constructed to mitigate noise to limit negative impacts on adjacent properties. Additional noise mitigation shall be required for existing buildings not originally built for boarding of animals, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
 - (c) The windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core,
 - (d) No animals shall be permitted in an external yard on the premises;

- (e) Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;
- (f) Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system; and
- (g) Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in) from the floor, shall be impervious and washable.

735 5 The Board may impose additional requirements pertaining to the location of buildings or other structures, entrances and exits, buffers, banners, and fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property.

735.6 External yards or other exterior facilities for the keeping of animals shall not be permitted

Section 736, PET GROOMING ESTABLISHMENT (C-2) is amended to read as follows:

736 PET GROOMING ESTABLISHMENT (C-2)

736.1 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section

736 2 The pet grooming establishment shall produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use.

736.3 The applicant shall demonstrate that the pet grooming establishment will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:

- (a) All animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly,
- (b) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system, and

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(c) No animals shall be permitted in an external yard on the premises.

736.4 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet grooming establishment and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet grooming establishment, such as hallways and trash rooms, shall not be considered as part of the pet grooming use

736.5 The sale of pet supplies is permitted as an accessory use

736.6 The Board may impose additional requirements as it deems necessary to protect nearby properties.

Section 737, PET SHOP (C-2) is amended to read as follows:

737 PET SHOP (C-2)

737.1 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section

737.2 The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use

737.3 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet shop and any portion of a street or alley that separated the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet shop, such as hallways and trash rooms shall not be considered as part of the pet shop use.

737.4 External yards or other external facilities for the keeping of animals shall not be permitted.

737.5 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties

Section 738, VETERINARY BOARDING HOSPITAL (C-2) is amended to read as follows:

738 VETERINARY BOARDING HOSPITAL (C-2)

- 738 1 A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section
- 738.2 A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D C. Official Code § 8-1808(h)(1)
- 738 3 No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals
- 738 4 The veterinary boarding hospital shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use
- 738.5 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft) shall be measured to include any space on the lot or within the building not used by the veterinary boarding hospital and any portion of a street or alley that separated the use from a lot within a Residence District Shared facilities that are not under the sole control of the veterinary boarding hospital, such as hallways and trash rooms shall not be considered as part of the veterinary boarding hospital
- 738 6 External yards or other external facilities for the keeping of animals shall not be permitted.
- 738 7 Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses
- 738.8 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

Section 739, ANIMAL SHELTER (C-2) is amended to read as follows:

739 ANIMAL SHELTER (C-2)

- 739.1 An animal shelter may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

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- 739.2 The animal shelter shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use
- 739.3 The applicant shall demonstrate that the animal shelter use will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:
- (a) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping,
 - (b) All animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;
 - (c) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system, and
 - (d) External yards or other external facilities for the keeping of animals shall not be permitted unless the entire yard is located a minimum of two hundred feet (200 ft.) from an existing residential use or Residence District
- 739.4 The use shall not be located within twenty-five feet (25 ft) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal shelter use and any portion of a street or alley that separated the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal shelter, such as hallways and trash rooms shall not be considered as part of the animal shelter use.
- 739.5 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties

Chapter 8, INDUSTRIAL DISTRICTS, is amended as follows:

Section 801, USES AS A MATTER OF RIGHT (C-M), § 801.7 (a) is amended so that the entire subsection reads as follows:

- 801.7 The following additional uses shall be permitted as a matter of right in a C-M District, subject to the standards of external effects in § 804.

- (a) An animal shelter shall be permitted as a matter of right subject to the following standards.
 - (1) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
 - (2) Animal shelters shall place all animal waste in closed waste disposal containers and shall utilize a waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system,
 - (3) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal shelter use and any portion of a street or alley that separated the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal shelter, such as hallways and trash rooms shall not be considered as part of the animal shelter use, and
 - (4) Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:
 - (A) No animals shall be permitted in outdoor runs or external yards between the hours of 8 00 p.m. and 8.00 a.m.;
 - (B) External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of the animals and the absorption of noise fencing and/or walls shall be a minimum of eight (8) feet in height and constructed of solid or opaque materials with maximal noise-absorbing characteristics;
 - (C) No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time, and
 - (D) No part shall be located within two hundred feet (200 ft.) of an existing residential use or Residence District;

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- (b) An asphalt plant located in D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, S.W., and east of the Anacostia Freeway (D C. Village site) if the plant was located in Square 705, Lot 802 on November 21, 2005 and was relocated to the D.C Village site, provided that the plant
 - (1) Meets the requirements of 802 17 (a) through (h); and
 - (2) Displays no signs visible from the Anacostia Freeway;
- (c) An Electronic Equipment Facility (EEF), provided an EEF exceeding twenty-five percent (25%) of the gross floor area of a building shall not be located within eight hundred feet (800 ft.) of an established or planned Metrorail station or within one thousand, two hundred and fifty feet (1,250 ft) of the edge of a river as measured at mean high tide;
- (d) Any light manufacturing, processing, fabricating, or repair establishment, except those uses for which a special exception is required pursuant to § 802;
- (e) Carting, express, moving, or hauling terminal or yard,
- (f) Commercial athletic field,
- (g) Driver's License Road Test Facility,
- (h) Experimental, research, or testing laboratory,
- (i) Fire Department Training Facility;
- (j) Incinerator;
- (k) Laundry or dry cleaning establishment, without limitation on gross floor area;
- (l) Motorcycle sales and repair, with no limitation on location,
- (m) Public utility pumping station,
- (n) Repair garage, and
- (m) Wholesale or storage establishment, including open storage, except a junk yard

Section 802, SPECIAL EXCEPTIONS (C-M), is amended as follows:

Subsections 802.22 and 802.23 are amended to read as follows:

- 802 22 The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use
- 802.23 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use.

Subsections 802.25 through 802.27 are amended to read as follows:

- 802 25 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the following requirements of this subsection
- (a) The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste,
 - (b) Animal waste shall be placed in closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly,
 - (c) The use shall not be located within twenty-five feet (25 ft) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet grooming establishment use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet grooming establishment, such as hallways and trash rooms, shall not be considered as part of the pet grooming establishment,
 - (d) External yards or other external facilities for the keeping of animals shall not be permitted;
 - (e) The sale of pet supplies is permitted as an accessory use,

- (f) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system, and
- (g) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties

802.26 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the following requirements of this subsection

- (a) The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste,
- (b) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet shop use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet shop, such as hallways and trash rooms, shall not be considered as part of the pet shop use,
- (c) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (d) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

802.27 A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the following requirements of this subsection:

- (a) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to DC Official Code §8-1808 (h) (1);
- (b) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;

- (c) The veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
- (d) The use shall not be located within twenty-five feet (25 ft) of a lot within a Residence District. The twenty-five feet (25 ft) shall be measured to include any space on the lot or within the building not used by the veterinary boarding hospital and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the veterinary boarding hospital, such as hallways and trash rooms, shall not be considered as part of the veterinary boarding hospital;
- (e) External yards or other external facilities for the keeping of animals shall not be permitted,
- (f) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and
- (g) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W , Suite 200-S, Washington, D C 20001. Ms Schellin may also be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.