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ZONING COMMISSION
District of Columbia
CASE NO. 14-10
EXHIBIT NO. 24

ZONING COMMISSION
District of Columbia
CASE NO.14-10
EXHIBIT NO.24

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-10
Z.C. Case No. 14-10
(Text Amendments to Chapters 7 & 8)
February 9, 2015

The Zoning Commission for the District of Columbia (the Commission), 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 adoption of the following text amendments to the Zoning Regulations of the District of Columbia, at Chapters 7 (Commercial Districts) and 8 (Industrial Districts), Title 11 (Zoning), of the District of Columbia Municipal Regulations (DCMR) A Notice of Proposed Rulemaking was published in the *D.C. Register* on January 2, 2015 at 62 DCR 154. The amendments shall become effective upon the publication of this notice in the *D C Register*

Description of Amendments

The 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 is 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 text amendments permit animal boarding uses to operate as a matter-of-right in basement or cellar spaces beginning in the in the C-2-A Zone District

Procedures Leading to Adoption of Amendments

Setdown and Public Hearing

On June 20, 2014, the Office of Planning (OP) submitted a memorandum that served as a petition requesting amendments to the regulations The proposed amendments were developed at the request of the Commission to clarify regulations pertaining to animal-related uses, particularly in relation to residential zones and uses. OP proposed text amendments that would require a twenty-five foot (25 ft) separation between the animal use and a property in a Residence District used for residential purposes OP also proposed the clarification of general standards, such as replacing the requirement that the facility be “soundproof” with a requirement that the facility “produce no noise objectionable to nearby properties.”

At its public meeting on June 30, 2014, the Commission voted to set down the proposal for a public hearing. During the public meeting, the Commission noted a provision within the existing regulations that prohibits the boarding of domesticated dogs in veterinary boarding hospitals and asked that OP revisit that prohibition. The Commission also urged OP to ensure that the proposed regulations are consistent with similar uses and to take into account the advances in noise attenuation and waste processing that could mitigate the impact of animal boarding facilities. A Notice of Public Hearing containing the text of the proposed amendments was published in the August 15, 2014 edition of the *D.C. Register* at 61 DCR 8396.

In advance of the public hearing, the Commission received a letter from Alma Gates on behalf of Neighbors United Trust in opposition to the proposed text amendment, arguing that the proposed twenty-five foot (25 ft.) separation between animal boarding uses and Residential Zone Districts would not provide adequate protection for neighboring residents. The Commission also received a letter from the Washington Humane Society in support of the text amendment. The Washington Humane Society emphasized the growing need for animal care facilities and suggested that the Commission lessen the distance restrictions pertaining to an animal shelter's external yard.

On October 23, 2014, the Commission held a public hearing on the proposed text amendments and heard testimony from William Licko of View 14 Investment, LLC, Leila Batties of Holland & Knight, Martin Sullivan of Sullivan & Barros, LLP, Brock Benson of Planet Pet, LLC, and David Liedman of City Dogs. The individuals giving testimony were all supportive of the text amendments generally, but offered suggestions for clarification and revision of the proposal. For example, Ms. Batties raised the question of how the twenty-five foot (25 ft.) distance would be measured and whether the parts of a building not occupied by the animal boarding use would be included within that measurement. Ms. Batties also suggested that the Commission adopt a clearer standard for the Board of Zoning Adjustment to consider noise impacts on neighboring properties, such as by using noise level standards established by the American Society of Heating, Refrigeration and Air Conditioning Engineers.

Similarly, Mr. Sullivan made suggestions intended to clarify the proposed text amendments. First, Mr. Sullivan advocated for the adoption of language that matches the existing requirements for gas stations, bowling alleys, and fast food establishments. Unlike the proposed text amendments, the distance provisions for these uses require a separation of twenty-five feet (25 ft.) from a Residential District "unless separated from the Residential District by a street or alley" (11 DCMR §§ 706.3, 709.3.) Mr. Sullivan suggested that this language would be consistent with the Zoning Regulations and supports the original intention of the animal use regulations that an alley would constitute adequate separation from a Residential District. Second, Mr. Sullivan recommended that the Commission consider matter-of-right options for animal boarding facilities. Mr. Benson and Mr. Liedman, both owners of animal boarding businesses, added that the proposed text amendments would make it exceedingly difficult to locate animal boarding facilities and concurred with the suggestions made by Mr. Sullivan.

In light of the written comments and testimony, the Commission asked OP to revisit the proposed text amendments. Specifically, the Commission asked OP to consider adding matter-of-right options for animal boarding uses and to consider revising the distance requirement to more closely match that of gas stations, bowling alleys, and fast food establishments. In addition, the Commission suggested that OP remove the term “breed” from § 735.5, such that the Board of Zoning Adjustment cannot impose additional requirements regarding the breed of animals, and that OP remove the reference to HEPA filters in § 735.4, as that technology does not function as an odor control system. The Commission closed the record and requested that OP address these issues in a supplemental report.

Proposed Action

On November 18, 2014, OP filed a supplemental report including revisions to the proposed text amendment and possible alternative language for the distance requirement. The first option provided by OP would require that an animal use be separated from a Residence District by a distance of twenty-five feet (25 ft.) unless the use is separated from the Residence District by all or a portion of a street or alley. The second option maintained the originally proposed twenty-five foot (25 ft.) separation between an animal use and a Residence District and explained that the measurement includes streets, alleys, and shared facilities that are not under the sole control of the animal use. In its supplemental report, OP also proposed options for matter-of-right animal boarding uses, including for those located in basements beginning in the C-2-A Zone District. Finally, OP removed the references to animal breeds in § 735.5 and HEPA filters in § 735.4, as the Commission requested.

At its public meeting on November 24, 2014, the Commission authorized the publication of a notice of proposed rulemaking in the *D C Register* and a referral to the National Capital Planning Commission (NCPC) for the thirty (30)-day period of review required under § 492 of the District Charter for the proposed text amendments. During its deliberations, the Commission adopted OP’s second option for the distance provision, requiring that an animal use be separated from a Residence District by twenty-five feet (25 ft.) and describing how that distance is to be measured. The Commission also adopted the provisions permitting animal boarding as a matter-of-right use in basement spaces starting in the C-2-A Zone District and noted that cellar spaces should also be included in the proposed amendment.

A Notice of Proposed Rulemaking was published in the *D C Register* on January 2, 2015 at 62 DCR 154 with proposed text that reflected the revisions made by the Commission during deliberations. A written comment was received from Leila Batties of Holland & Knight, who requested that the phrase “including residential units located in the same building as the use” be added to § 735.4(b). Ms. Batties noted that the same phrase appears in § 735.3, which also concerns noise, so that adding the phrase to § 735.4(b) would make the two (2) provisions consistent in application.

In a letter dated November 28, 2014, NCPC's Executive Director indicated that, through delegated action, he found that the proposed text amendments would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

Final Action

In advance of the Commission's public meeting on February 10, 2015, the Office of the Attorney General (OAG) with the concurrence of OP recommended minor clarifying revisions to the proposed text.

First, OAG recommended revisions to § 721 2(a) and § 735.1. As proposed, § 721.2(a) permitted "animal boarding" as a matter-of-right whereas § 735.1 permitted the same use only by special exception. In order to clarify the Commission's intent, OAG recommended that the matter-of-right use permitted by § 721.2(a) be called "animal boarding located in a basement or cellar" and that § 735.1 require special exception approval for an "animal boarding use that is not permitted as a matter-of-right pursuant to § 721 2(a)."

Second, OAG recommended the elimination of § 721 2(a)(8). That provision would have allowed the Commission to waive any of the operating conditions stated in § 721 2(a)(1) - (7) through a special exception granted under § 735, even though § 735 contained most of those same conditions. It is the Commission's intent that the waiver of any of conditions set forth in §§ 721 2(a) and 735 requires a variance.

Finally, OAG noted that existing § 735 3 prohibited an animal boarding use from producing noise or odor objectionable to "nearby properties," whereas §735.4(b) as amended would require that the building housing the use be designed and constructed to mitigate noise to limit negative impacts on "adjacent properties." OAG believed that the same standard should be used in both provisions and recommended the use of "adjacent properties" because that term appears in the other provisions being amended by the rulemaking.

At a properly noticed public meeting held on February 9, 2015, the Commission took final action to adopt the text amendments, making the changes proposed by Ms. Batties and OAG.

Title 11 of the District of Columbia Municipal Regulations, ZONING, is amended as follows:

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 located in a basement or cellar space, provided.
 - (1) 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,
 - (2) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;
 - (3) 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;
 - (4) No animals shall be permitted in an external yard on the premises;
 - (5) Animal waste shall be placed in closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly;
 - (6) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system, and
 - (7) Floor finish materials, and wall finish materials measured a minimum of forty-eight inches (48 in) from the floor, shall be impervious and washable,
- (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,
- (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
- (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 that is not permitted as a matter-of-right pursuant to § 721.2(a) 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 adjacent 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, including residential units located in the same building as the use. Additional noise mitigation shall be required for existing buildings not originally built for the 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 of Zoning Adjustment 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
- (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 of Zoning Adjustment 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 of Zoning Adjustment 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.
- 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 of Zoning Adjustment 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 of Zoning Adjustment 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 Zone 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 separate 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 feet (8 ft.) 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;
- (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 of Zoning Adjustment 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 D.C. 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 of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

On November 24, 2015, upon the motion of Chairman Hood, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 9, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 13, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-10
Z.C. Case No. 14-10
(Text Amendments to Chapters 7 & 8)
February 9, 2015**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.