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District of Columbia
Office of Planning



MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: October 10, 2014

SUBJECT: ZC 14-10: Final Report – Request for Text Amendments to the Zoning Regulations: Chapter 7, § 735, Animal Boarding in Commercial Districts; § 736, Pet Grooming Establishments in Commercial Districts; § 737, Pet Shops in Commercial Districts; § 738, Veterinary Boarding Hospital in Commercial Districts; § 739, Animal Shelter in Commercial Districts; Chapter 8, § 801.7, Animal Shelter in Industrial Districts; § 802.21, Animal Boarding in Industrial Districts; § 802.26, Pet Shop in Industrial Districts; § 802.27, Veterinary Boarding Hospital in Industrial Districts.

I. RECOMMENDATION

The Office of Planning (OP) recommends approval of the following text amendments to Title 11DCRA. Additions to current regulations are shown in **bold** and deletions shown in ~~strike through~~ text).

Amend Chapter 7, Commercial Districts

1 Amend § 735 as shown below

735 ANIMAL BOARDING

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 animal boarding use shall not abut a Residence Zone. No portion of the animal boarding use shall be located within twenty five feet (25 ft.) of a property in a Residence District used for residential purposes;~~

735.3 ~~The animal boarding use shall take place entirely within an enclosed and soundproof building in such a way so as to 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:

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EXHIBIT NO. **7**

- (a) The animal boarding use shall take place entirely within an enclosed ~~and soundproof~~ building,
- (b) The windows and doors of the ~~premises space devoted to the animal boarding use~~ shall be kept closed;
- (c) ~~and~~ No animals shall be permitted in an external yard on the premises, *[(a), (b) and (c) originally in 735.3]*
- (d) Animal waste **shall be placed** in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly and
- (e) Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system.

735.5 The Board may impose additional requirements pertaining to the location of buildings or other structures, entrances and exits; buffers, barriers, and fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number and/or breeds 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.

~~735.7 Notwithstanding §735.6, an animal boarding use existing on July 11, 2005, under a Certificate of Occupancy for a "Dog Care Center" or "Dog Day Care Center," may continue the use of an external yard for the keeping of dogs if approved by the Board of Zoning Adjustment pursuant to § 3104 and the requirements of this section.~~

- ~~(a) The yard shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, and/or waste.~~
- ~~(b) The applicant shall demonstrate that the external yard will be fenced off for the safe confinement of the animals.~~
- ~~(c) The applicant shall demonstrate that the external yard is located entirely on private property.~~
- ~~(d) The Board shall establish the hours in which animals may be kept in the yard; provided that no animals shall be permitted in the yard between the hours of 8:00 p.m. and 7:00 a.m.~~

2 Amend § 736 as shown below

736 PET GROOMING ESTABLISHMENT

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.** ~~not be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.~~
- 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 utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly
 - (b) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system *[(a) and (b) originally 735 4]*
 - (c) No animals shall be permitted in an external yard on the premises *[(c) originally in 736 7]*
- 736 4 ~~The pet grooming establishment shall not abut an existing residential use or Residence District.~~ **No portion of a pet grooming establishment use shall be located within twenty-five (25 ft.) of a property in a Residence District used for residential purposes.**
- 736.5 ~~External yards or other external facilities for the keeping of animals shall not be permitted.~~
- 736 65 The sale of pet supplies is permitted as an accessory use
- 736 76 The Board may impose additional requirements as it deems necessary to protect nearby properties.

3 Amend § 737 as shown below

- 737 PET SHOP
- 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 pet shop shall not abut an existing residential use or a Residence District.~~ **No portion of a pet shop use shall be located within twenty-five (25 ft.) of a property in a Residence District used for residential purposes.**
- 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.

4 Amend § 738 as shown below

738 VETERINARY BOARDING HOSPITAL

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), ~~except domesticated dogs~~

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 veterinary boarding hospital shall not abut an existing residential use or a Residence District.~~ **No portion of a veterinary boarding hospital use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**

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

5 Amend § 739 as shown below

739 ANIMAL SHELTER

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'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 *[(a) originally 739 3]*
 - (b) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly.
 - (c) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system *[(b) and (c) originally 739 4]*
 - (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 (200) feet from an existing residential use or Residence District *[(d) originally 739 6]*
- ~~739.4 All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified 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.~~
- 739.54 ~~The animal shelter shall not abut an existing residential use or a Residence District. No~~ **portion of the animal shelter use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**
- ~~739.6 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 (200) feet from an existing residential use or Residence District.~~
- 739.75 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties

Amend Chapter 8, Industrial Districts

1 Amend § 801 as shown below

- 801 **USES AS A MATTER OF RIGHT (C-M)**
- 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

- (i) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping,
- (ii) Animal shelters shall place all animal waste in closed waste disposal containers and shall utilize a qualified 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,
- (iii) ~~Animal shelters shall not abut an existing residential use or a Residence District;~~ **No portion of an animal shelter use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes; and**
- (iv) 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 (200) feet of an existing residential use or Residence District.

2 Amend § 802 as shown below

- 802 21 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
- 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 animal boarding use shall not abut a Residence District.~~ **No portion of the animal shelter use shall be located within twenty-five feet (25 ft.) of a Residence District used for residential purposes.**
- 802.24 External yards or other exterior facilities for the keeping of animals shall not be permitted

- 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 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) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified 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,
 - (c) ~~The pet grooming establishment shall not abut an existing residential use or a Residence District.~~ **No portion of the pet grooming establishment use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**
 - (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, and
 - (f) 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 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 pet shop shall not abut an existing residential use or a Residence District.~~ **No portion of the pet shop use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes;**
 - (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 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), except domesticated dogs,
- (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 veterinary boarding hospital shall not abut an existing residential use or a Residence District~~ **No portion of the veterinary boarding hospital use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes;**
- (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
- (h) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties

II. BACKGROUND

At its June 30, 2014 public meeting the Zoning Commission set down this text amendment request for a public hearing. These amendments have been brought forward at the request of the Zoning Commission to clarify regulations pertaining to the proximity of animal related uses to residential areas.

III. ANALYSIS

In 2006 the Commission adopted a text amendment (Order 05-21) to permit animal boarding as a special exception use in any C-2, C-3, C-4, CM or M zone, subject to a list of standards, and defined the term “animal boarding” in Definitions § 199. In 2007 the Commission adopted Order 05-21A, which permitted animal shelters as a matter-of-right within industrial zones and by special exception in the C-2, C-3 and C-4, subject to a list of conditions, and added pet grooming establishment, pet shop and veterinary boarding hospital as special exception uses in the C-2, C-3, C-4, C-M and M zones, also subject to conditions, and provided for definitions for each of those terms.

When originally adopted the Office of Planning intended that animal uses should not directly “abut”, or directly touch, residentially zoned private property and that an alley would constitute adequate separation. However, § 107.5 of the Zoning Regulations, Zone District Boundary Lines, states, “ *the zone district boundary lines shall be intended to follow existing lot lines, the center lines of streets, alleys (including any closed streets or*

alleys not previously zoned), and natural water courses” Therefore, zone boundary lines follow the centerline of a street or alley, where they exist, even though public rights-of-way are not subject to zoning. Instead, OP proposes to separate animal uses by a distance of twenty-five feet from residential uses in residential zones.

Use of the wording “*. property in a Residence District used for residential purposes*” would provide for a consistent set back from residentially used properties in residential zones, whether an alley exists or not, regardless of the width of the alley. The twenty-five foot separation would be consistent with the distance utilized to separate other uses, such as gasoline service stations, bowling alleys and fast food restaurants from residence districts.

Provision of a specific distance results in a more uniform set back from residentially used properties in residential districts. Use of an alley to separate animal uses from those residential uses results in variable setbacks, depending on the width of the alley.

At the request of the Office of the Attorney General (OAG) OP proposes clarification of specific general standards and to separate out unrelated standards. The word “*soundproof*” is proposed to be replaced with “*no noise objectionable to nearby properties*,” to be more consistent with standard special exception criteria that these uses not result in objectionable conditions; and “*produce no noise objectionable to nearby properties*” is separated out from “*Animal waste shall be placed in closed waste disposal containers*.” The requirement that “*windows and doors of the premises shall be kept closed*” was modified to indicate that only windows and doors of space devoted to the animal uses must be kept closed.

Section 735.7, Animal Boarding, is proposed to be deleted, as it provided for grandfathering of animal uses that pre-dated the regulations and is no longer relevant.

IV. COMPREHENSIVE PLAN

The proposed amendments would not be inconsistent with the Comprehensive Plan. The proposed changes would generally support policy statements of the Land Use, Economic Development elements (Policies LU-1.3 and LU-2.3.2, Action LU-2.4.B and Section 309.6, and Policy ED-3.1.1).

V. COMMUNITY COMMENTS

OP received comments from one community member.

VI. AGENCY COMMENTS

No comments were received from other District agencies.

VII. COMMISSION CONCERNS AND OFFICE OF PLANNING SETDOWN COMMENTS

At the setdown meeting of June 30, 2014, the Commission requested OP provide information and clarification on the following items:

COMMISSION COMMENTS	OP RESPONSE
There are state of the art waste processors	The existing and proposed regulations require the use of <i>"a qualified waste disposal company to collect and dispose of all animal waste"</i> for animal boarding, pet grooming and animal shelters.
Dogs are prohibited from being boarded in veterinary hospitals. Review the language used in the text amendment for the SE Federal Center.	The language prohibiting the care of domestic dogs under § 738 2 was deleted
-There is a gasoline service station in West End beneath a housing development that is not 25 feet away from residential	-The gasoline station at 2150 M Street, N W is beneath an apartment building (1100 New Hampshire Ave., N.W) in the C-2-C (mixed use) district. Although not 25 feet from residential uses, it is more than 25 feet from <u>residential uses in a residential zone.</u>
-In Dupont there is an underground bowling alley that is within 25 feet of residential	-OP was unable to locate a bowling alley in Dupont. However, there is a bowling alley in Georgetown (1064 Wisconsin Ave , N W.) within the W-1 (waterfront) zone with residential uses above. Again, although not 25 feet from residential uses, it is more than 25 feet from any <u>residential uses in a residential zone</u>
-We need to be more consistent in our interpretations as well as in the fact that much has progressed in the care and feeding of animals	-The proposed regulations would permit animal uses in mixed use buildings (residential and commercial uses) by special exception within nonresidential districts, similar to the uses noted above. Therefore, the proposed amendments would be consistent with the existing regulations
It would be appropriate to get a letter from a professional declaring that noise attenuation is state of the art.	The regulations require applicants to document there would be no noise objectionable to neighboring properties, similar to language used elsewhere in the Zoning Regulations. No other special exception uses require a letter from a noise professional, although the BZA could require one based on the specifics of any one individual application

JS/sjm^{AICP}

Case Manager Stephen J Mordfin, AICP