

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** *JLS*  
Jennifer Steingasser, Deputy Director

**DATE:** April 2, 2018

**SUBJECT: OP Final Report – Case 18-02, Veterinary Hospitals and Veterinary Boarding Hospitals.** Text amendments to the Animal Sales, Care and Boarding use category to permit veterinary hospitals and veterinary boarding hospitals when abutting an existing residential use in a mixed use building to abut residential uses or zones as a special exception uses, subject to a list of conditions within MU-Use Groups C, D and E.

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**I. RECOMMENDATION**

The applicant proposes to amend Subtitle U, Chapter 5, Use Groups C, D and E of the Zoning Regulations (ZR-16) to permit “veterinary hospital” and “veterinary boarding hospital” as special exception uses when located within mixed use buildings that include residential uses. OP recommends the Zoning Commission **approve** the text amendments as submitted (Exhibit 6, Corrected Language for Text Amendment) and revised (Exhibit 15, Supplemental Statement) by the applicant.

The full text of the proposed amendments can be found within the Appendix at the end of this report.

**II. BACKGROUND**

At its February 12, 2018, public meeting the Zoning Commission voted to set down the proposal. The applicant requested the Commission set down the application as an emergency rulemaking. Instead the Commission set it down for an expedited public hearing with a thirty day notice, instead of forty-five days.

The Commission requested information from OP on ZC Case 14-02, an animal boarding case for which the applicant in that case had also requested a hearing date as soon as possible. That case began as a special exception application before the BZA (BZA 18702) to permit a dog day care center within a PUD (ZC 05-22) located within the C-2-B zone (ZR58). However, the PUD property directly abutted a residential district, in contradiction with one of the criteria for the granting of a special exception to permit the use, even though the applicant had requested a variance from that provision. OP filed a text amendment (ZC 14-10) to amend the zoning regulations as they pertained to the proximity of animal related uses to residential areas. The applicant for the special exception requested the case be scheduled by the Commission at the

earliest possible date because the BZA application was being held in abeyance pending the outcome of the text amendment application, and because the applicant had spent a considerable amount of time and money on the development approval process. The applicant also filed a request to modify the PUD (ZC 05-22A) to permit a dog day care center on the ground floor, which was granted by the Commission. The applicant then filed a motion with the BZA to withdraw the special exception application.

The difference between the above referenced case and the subject application is that the former was to allow an animal boarding use on a property that did not conform to one of the criteria, specifically separation from residential uses or zones. The subject application is a request to permit veterinary boarding hospitals, also an animal use, within mixed use buildings that include residential uses, not permitted by ZR16.

The subject application proposes text amendments to allow veterinary offices, hospitals and boarding hospitals to locate within mixed-use residential/commercial buildings located within mixed-use zones by special exception, as permitted by Use Groups C, D and E<sup>1</sup>. Veterinary offices and hospitals are not currently permitted when abutting an existing residential zone or residential use. The proposed text amendment would continue to prohibit these uses when abutting existing residential zones or uses, but would allow them to be permitted by special exception when located within a mixed-use building that includes residential units, subject to a list of criteria intended to protect the residents of the building from potential negative impacts.

### III. ANALYSIS

The proposed criteria generally mimic the criteria currently required for animal boarding uses when located within Use Groups C, D and E and found under Subtitle U Secs. 508.1, 511.1 and 513.1. The application makes the following modifications to the text as it exists under U Sec. 513.1(m)(2) for animal boarding uses, for inclusion in the above referenced sections as a part of the proposed text amendments. Additions are in **bold**, deletions in ~~strikeout~~.

Veterinary office or hospital, **or veterinary boarding hospital** subject to the following conditions:

- (1) A veterinary hospital **or 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)(j)(1), ~~except domesticated dogs.~~

Amendments to this provision would add veterinary boarding hospitals to the list of uses permitted by special exception. The amendment to the citation to the D.C. Official Code reflects a change in the numbering of the subsections in 2017. Permitting domesticated dogs, animals legally permitted within the District, to be clients of veterinary hospitals and veterinary boarding hospitals, would make these services available to a larger segment of the population.

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<sup>1</sup> Affected zones are MU-3; MU-6; MU-12 – MU-14; MU-17 – MU-19; MU-24 – MU-27; CG-2; CG-5 – CG-7.

- (2) The veterinary hospital **or veterinary boarding hospital** shall not abut an existing residential use or a residential zone; **unless the existing residential use is in a mixed use building and the Applicant demonstrates that:**

**(A) The building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;**

Amendments to this provision clarifies that the use is permitted to locate within existing buildings, and not just new construction. Permitting veterinary uses within mixed use buildings would allow residents with pets to be able to obtain veterinary care services for their pets more easily within their neighborhoods.

**(B) The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;**

This criterion is similar to that required for animal boarding, except for the use of the word “shall” instead of “will” at the request of ANC 3D. Although OAG informed OP that either word is acceptable, use of the word “shall” would be consistent with many other parts of the zoning regulations.

**(C) Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least twice weekly;**

This criterion was modified to require waste disposal a minimum of twice per week, instead of once. OP finds that an increase in the number of minimum collections per week would serve to provide additional protections to the residents of the building.

**(D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and**

No changes are proposed to this criterion.

**(E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and**

The applicant revised this criterion by adding “areas intended to be wet”, which would serve to strengthen the intent by not limiting it to floor and wall finish materials.

### **III. COMPREHENSIVE PLAN**

The requested text amendments are not inconsistent with the Comprehensive Plan, as described under Section V of the OP setdown report (Exhibit 7).

JS/sjm<sup>AICP</sup>

Appendix

**Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, is amended as follows:**

**Paragraph (k) of § 508.1 of § 508, SPECIAL EXCEPTION USES (MU-USE GROUP C), is amended to read as follows:**

508.1 Unless specifically prohibited by Subtitle U § 509, the following uses shall be permitted in MU Use Group C if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to the following conditions:

...

- (k) Veterinary office, hospital, **or boarding hospital** subject to the following conditions:
  - (1) A veterinary hospital **or 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)(j)(1), ~~except domesticated dogs~~;
  - (2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
  - (3) The veterinary hospital **or veterinary boarding hospital** shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
  - (4) The veterinary hospital **or veterinary boarding hospital** shall not abut an existing residential use or a residential zone; **unless the existing residential use is in a mixed use building and the Applicant demonstrate that:**
    - (A) **The Building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;**
    - (B) **The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;**

**(C) Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least twice weekly;**

**(D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and**

**(E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and**

(5) External yards or other external facilities for the keeping of animals shall not be permitted; and

(6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

...

**Paragraph (m) of § 511.1 of § 511, SPECIAL EXCEPTION USES (MU-USE GROUP D), is amended to read as follows:**

511.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

...

(m) Veterinary office or hospital, **or veterinary boarding hospital** subject to the following conditions:

(1) A veterinary hospital **or 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)(j)(1), ~~except domesticated dogs;~~

(2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;

(3) The veterinary hospital **or veterinary boarding hospital** shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;

- (4) The veterinary hospital **or veterinary boarding hospital** shall not abut an existing residential use or a residential zone; **unless the existing residential use is in a mixed use building and the Applicant demonstrate that:**
- (A) **The Building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;**
  - (B) **The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;**
  - (C) **Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least twice weekly;**
  - (D) **Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and**
  - (E) **Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and**
- (5) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

...

**Paragraph (l) of § 513.1 of § 513, SPECIAL EXCEPTION USES (MU-USE GROUP E), is amended to read as follows:**

513.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section

...

(l) **Veterinary office or hospital, or veterinary boarding hospital** subject to the following conditions:

- (1) A veterinary hospital **or 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)~~(j)(1), ~~except domesticated dogs~~;
- (2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
- (3) The veterinary hospital **or veterinary boarding hospital** shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
- (4) The veterinary hospital **or veterinary boarding hospital** shall not abut an existing residential use or a residential zone; **unless the existing residential use is in a mixed use building and the Applicant demonstrate that:**
  - (A) **The Building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;**
  - (B) **The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;**
  - (C) **Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least twice weekly;**
  - (D) **Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and**
  - (E) **Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and**
- (5) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and