

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING

and

Z.C. ORDER NO. 05-21A

Z.C. Case No. 05-21A

(Pet Grooming, Pet Shops, Veterinary Hospitals, and Animal Shelters – Text Amendment)
January 8, 2007

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); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District Charter; hereby gives notice of adoption of the following amendments to § 199 (Definitions), § 602 (Prohibited Uses (CR)), § 721 (Uses as a Matter-of-Right (C-2)), § 735 (Animal Boarding), § 801 (Uses as a Matter-of-Right (C-M)), § 802 (Special Exceptions (C-M)), § 902 (Prohibited Uses (W)), § 2101 (Schedule of Requirements for Parking Spaces), and § 3104 (Special Exceptions), and of the addition of new § 736 (Pet Grooming Establishment), new § 737 (Pet Shop), new § 738 (Veterinary Boarding Hospital), new § 739 (Animal Shelter), and new §§ 822.20-822-22 (Special Exception). The amendments permit pet grooming, pet shop, veterinary boarding hospital, and animal shelter uses as special exceptions, subject to specific requirements within the C-2 through C-4 Zone Districts and in the industrial zones. The amendments also permit animal shelters as a special exception in the C-2 through C-4 Zone Districts and as a matter-of-right use the industrial zone districts subject to specific requirements.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 17, 2006, at 53 DCR 9297, for a 30-day notice and comment period. No comments were received.

The Commission took final action to adopt the amendments at a public meeting held on January 8, 2007. No changes were made to the text published in the Notice of Proposed Rulemaking, but minor changes were made to the numbering to accommodate changes made to the regulations while this case was pending.

This final rulemaking is effective upon its publication in the *D.C. Register*.

Existing Regulations

Pet grooming facilities, animal shelters, and veterinary boarding hospitals are not currently permitted in any zone district, either as a matter-of-right or by special exception. Pet shops and

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veterinary hospitals are permitted as a matter-of-right within the C-2, C-3, C-4, C-M, and M Zone Districts, although there is a lack of consistency in the use of these terms. Veterinary hospitals are prohibited within the CR and W Zone Districts.

Description of Text Amendment

The text amendments maintain veterinary hospital as a use permitted as a matter-of-right within the C-2, C-3, C-4, C-M and M Zone Districts and add that a veterinary hospital “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.”

Animal shelter is added as a use permitted as a matter-of-right within the C-M and M Zone Districts, subject to enumerated conditions. Animal shelter is added as a special exception use within the C-2, C-3, and C-4 Zone Districts, if approved by the Board of Zoning Adjustment (“BZA”), subject to enumerated criteria.

Pet grooming, pet shop, and veterinary boarding hospital are added as special exception uses within the C-2, C-3, C-4, C-M and M Zone Districts, if approved by the BZA, subject to enumerated criteria. A veterinary boarding hospital is defined as a veterinary hospital that boards animals as an independent line of business.

This rulemaking also defines the terms “animal shelter,” “pet grooming establishment,” “pet shop,” “veterinary boarding hospital,” and “veterinary hospital.”

Relationship to the Comprehensive Plan

The proposed text amendments will implement the themes, goals, objectives, and policies, of the Comprehensive Plan, including § 102 improving neighborhoods, and § 406, environmental protection.

Section 102.2 of the Comprehensive Plan recommends controlling the physical qualities that make neighborhoods desirable places to live to ensure that the character of these neighborhoods is maintained and improved. The addition of matter-of-right and special exception requirements for animal-related uses will help to control the potential for adverse impacts that can result from those uses and thereby maintain the desirable character of neighborhoods.

Section 406 of the Comprehensive Plan recommends promoting public health and sanitation through the enactment and enforcement of regulations regarding, among other things, the disposal of harmful biological materials and noise abatement. Section 406.2 establishes the policies of implementing programs to manage the handling, storage, and disposal of harmful biological materials and to minimize perpetual sources of noise. The addition of matter-of-right and special exception conditions will regulate the handling, storage, and disposal of animal wastes and odors and will control the noise associated with the specified uses.

Set Down Proceeding

The Commission initiated this rulemaking in response to a petition from the Office of Planning (“OP”) requesting that the Commission regulate certain animal-related uses that could adversely affect surrounding neighborhoods because of noise, odor, and animal waste.

The Commission invited OP to file the petition after conducting hearings for a companion case, Zoning Commission Case No. 05-21, whereby the Commission adopted rules regulating animal boarding facilities. After the hearings, the Commission was concerned that other animal-related businesses have similar potential adverse impacts and deserved similar regulatory treatment.

The Commission set down the requested text amendments for a public hearing at its meeting of January 9, 2006.

Public Hearing

On June 29, 2006, the Commission held a public hearing on the proposed text amendment.

The Washington Humane Society testified in support of permitting an animal shelter as a matter-of-right use within the C-M and M Zone Districts and suggested reducing the 1,000-foot distance required between outdoor runs and residential uses or residence zone districts in the rule as advertised to 200 feet. They indicated that adopting a 1,000-foot requirement would eliminate the possibility of them finding a new location within the District.

Members of the District of Columbia Veterinary Medical Association testified in opposition to making veterinary hospitals special exception uses within the C-2, C-3, and C-4 Zone Districts. They indicated that pets come from people’s homes and not office buildings and, therefore, veterinary hospitals need to be close to the residents they serve.

Residents of Q Street, N.W. testified in support of regulations to govern pet grooming, veterinarians, pet shops, and animal shelters as special exception uses within the C-2, C-3, and C-4 Zone Districts. However, they support veterinary hospitals as a matter-of-right use within the C-2, C-3, and C-4 Zone Districts, but subject to restrictions to control waste, odor, and noise. They testified against permitting exterior runs associated with animal shelters to be located within 200 feet of residential uses or residence zone districts.

The record was left open until July 31, 2006 to allow for additional submissions from the community.

The Washington Humane Society and the Q Street Neighborhood Association wrote a combined submission expressing support for outdoor runs and yards at animal shelters in industrial zones, so long as neighboring properties were adequately protected from noise and outdoor areas were

not allowed in commercial zones. Their comment also suggested that in commercial zone districts, animal shelters should be special exception uses and should not have outdoor runs or yards. In industrial zone districts, they suggested animal shelters should be a matter-of-right use, and outdoor runs and yards should be permitted.

Several District veterinarians and the American Veterinary Medical Association expressed their opposition to the special exception requirement for veterinary hospitals.

OP submitted supplemental reports on August 10 and September 7, 2006. The supplemental reports summarized the comments made at the hearing and recommended certain changes to the text to address the issues raised by the Commission and the community.

OP suggested adding a definition for a veterinary boarding hospital as a veterinary hospital, that utilizes fifty percent or more of its floor area for the boarding of animals, and text that would permit veterinary boarding hospitals as a special exception use within the C-2, C-3, C-4, C-M, and M Zone Districts, if approved by the BZA, subject to specified criteria. OP also suggested permitting animal shelters as a matter-of-right in industrial zones, subject to specified conditions, and permitting outdoor runs and yards at animal shelters subject to several conditions, including that the run or yard be at least 200 feet from a residential zone or residential use.

Proposed Action

At the September 11, 2006 meeting, the Commission took proposed action pursuant to 11 DCMR § 3027.2 to approve the text recommended by OP in its second supplemental report dated September 7, 2006.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 17, 2006, at 53 DCR 9297, for a 30-day notice and comment period. No comments were received.

The proposed rulemaking was referred to the National Capital Planning Commission (“NCPC”) under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated September 28, 2006, found that the proposed text amendments, to add definitions and regulations for pet grooming establishments, pet shops, veterinary boarding hospitals, veterinary hospitals, and animal shelters as special exception uses within the C-2, C-3, C-4, C-M, and M Zone Districts, subject to special exception review, would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on January 8, 2007.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby APPROVES the following amendments to the Zoning Regulations (Title 11 DCMR). Title 11 DCMR is amended as follows (deletions shown in ~~strikethrough~~, additions shown in **bold and underline**):

- A. Chapter 1, THE ZONING REGULATIONS, § 199.1, is amended by adding the following new definitions:

Animal shelter - Any premises that houses and feeds stray or abandoned animals without a fee and is operated by a non-profit organization or governmental agency.

Pet grooming establishment - An establishment that, for a fee, trims or cleans domestic pets, such as dogs and cats. A pet grooming establishment is considered an animal boarding use if more than ten animals are on the premises at a time or the overnight stay of animals is permitted.

Pet shop - A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets, to the extent permitted by D.C. Official Code § 8-1808(h)(1), and related supplies and equipment.

Veterinary boarding hospital - A veterinary hospital that boards animals as an independent line of business.

Veterinary hospital - An establishment used by a licensed veterinarian for the practice of veterinary medicine and not as an animal boarding establishment.

- B. Chapter 6, MIXED USE DISTRICTS, § 602.1 (a) is amended to read as follows:

602.1 The following uses shall be specifically prohibited in CR Districts:

- (a) **Veterinary Animal hospital** ~~or veterinarian~~;

C. Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

1. Section 721, Uses as a Matter of Right C-2, is amended as follows:

a. By amending 721.2 (x) to read as follows:

(x) 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.**

b. By striking subparagraph 721.3 (p).

2. Subsections 735 and 736 are amended by:

a. Re-designating the existing text of 736 as §§ 735.6 and 735.7. to read as follows:

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

735.7 Notwithstanding § ~~736.1~~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.

3. By re-codifying § 736 to read as follows:

736 ~~ANIMAL BOARDING: EXTERNAL YARDS~~ **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 be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.**

736.3 **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.**

736.4 **The pet grooming establishment shall not abut an existing residential use or Residence District.**

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

736.6 **The sale of pet supplies is permitted as an accessory use.**

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

4. By adding new §§ 737 through 739 to read as follows:

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.**

- 737.3** **The pet shop shall not abut an existing residential use or a Residence District.**
- 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.**
- 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.**
- 738.5** **The veterinary boarding hospital shall not abut an existing residential use or a Residence District.**
- 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.**

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.**

739.3 **The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping.**

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.**

739.5 **The animal shelter shall not abut an existing residential use or a Residence District.**

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.**

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

D. Chapter 8, INDUSTRIAL DISTRICTS, is amended as follows:

1. By adding new § 801.7 (p) to read as follows:

(p) **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; 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. By adding new §§ 802.25 through 802.28 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 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;

(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;

(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;
- (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.

3. By adding new §§ 822.20 through 822.22 to read as follows:

822.20 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;
- (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.

822.21 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;
- (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.

822.22 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;
- (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.

E. Chapter 9, WATERFRONT DISTRICTS, § 902.1(a) is amended to read as follows:

902.1 The following uses are prohibited in Waterfront Districts:

- (a) Veterinary ~~Animal hospital or veterinarian;~~

F. The table included in § 2101.1, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES is amended by striking the use “Office- Medical and dental, clinic, veterinary doctor-or veterinary hospital” and inserting the use “Office- Medical and dental, clinic, or veterinary hospital” in its place.

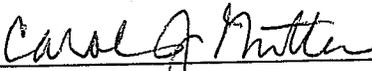
G. Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended by adding to the table of special exceptions in § 3104.1, in the proper alphabetical order, the following new entries:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
<u>Animal shelter</u>	<u>Any C-2, C-3, or C-4 District</u>	<u>§ 739</u>
<u>Pet grooming establishment</u>	<u>Any C-2, C-3, C-4, C-M, or M District</u>	<u>§§ 736, 802.25, and 822.20</u>
<u>Pet shop</u>	<u>Any C-2, C-3, C-4, C-M, or M District</u>	<u>§§ 737, 802.26, and 822.21</u>
<u>Veterinary boarding hospital</u>	<u>Any C-2, C-3, C-4, C-M, or M District</u>	<u>§§ 738, 802.27, and 822.22</u>

Vote of the Zoning Commission taken at its public meeting on September 11, 2006, to **APPROVE** the proposed rulemaking by a vote of **5-0-0** (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on January 8, 2007, by a vote of **5-0-0** (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is, on SEP 14 2007.



CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION



JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

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