



PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

From: Zach Mosher, City Planner

Re: Text Amendment to allow Dog Kennels in the Agricultural and Resource Protection district.

Date: June 13, 2017

- I. PROPOSAL- The Planning Board initiated a text amendment at its May 9, 2017 meeting. The initiation for the text amendment came as a result of a letter from a local citizen who is interested in constructing a dog kennel on his property in the Agricultural and Resource Protection (AGRP) district for the purpose of temporarily boarding dogs overnight.

Dog kennels are not currently allowed in the AGRP district. The text amendment would allow dog kennels in the AGRP district as special exception. Dog kennels are first mentioned in the Low Density Rural Residential district (LDRR). The LDRR district allows kennels as a special exception use #7: *“Licensed kennels provided that there shall be available land area of at least three acres.”*

The proposed text amendment allowing dog kennels in the AGRP district as a special exception. The staff also recommends the special exception to carry-over into the Low Density Country Residential District (LDCR). As mentioned, kennels are currently permitted as a special exception use in the LDRR district. The special exception use of dog kennels is then allowed to carry over into every other higher density residential district provided the three acre minimum lot size is intact. However, staff would like to discuss whether to continue to allow the special exception use of dog kennels in all residential districts or whether to exclude its use in the smaller lot districts.

- II. DEPARTMENT REVIEW- The Plan Review Committee met and reviewed this proposal at its May 17, 2017 meeting. The group discussed the general impact of the text amendment and had little concerns about the text amendment itself. There was some discussion and agreement over prohibiting dwelling units as an accessory to the use of dog kennels in the AGRP district. Kennels do not require the substantial investment and commitment to a long term natural resource based

industry as other agricultural uses do and the potential for using a kennel for the purpose of establishing a residence exists.

- a. Police – No comments
 - b. Auburn Water and Sewer – No comments
 - c. Fire Department – No Comments
 - d. Engineering – No Comments.
 - e. Public Services – No comments.
 - f. Economic and Community Development- No comments.
- III. **PLANNING BOARD ACTION** – The Planning Board is being asked to send a recommendation on the text amendment to the City Council. The draft text amendment is attached with this report and consists of two conditions, 1) the minimum lot size of the zoning district or three acres, whichever is greater and 2) new residential dwelling units shall not be permitted as an accessory to the dog kennel.
- IV. **STAFF RECOMMENDATION** – The staff considered the impacts of allowing dog kennels in the AGRP district. Dog kennels can create negative impacts of noise to adjacent neighbors. Kennels as a special exception in the AGRP, LDCR and LDRR districts will allow the Planning Board to provide public notice and evaluate impacts to the surrounding area, using the special exception and site plan review criteria. Staff also recommends keeping the three acre minimum lot size or the lot size required by the zoning district, whichever is greater. Staff further recommends adding a clause specifying residential dwellings are not permitted in the AGRP district as an accessory to the special exception use of dog kennels.

The Staff recommends the Planning Board send a recommendation of **APPROVAL** to the City Council for the text amendment with the following findings:

- 1) Kennels in the AGRP district is a reasonable special exception use given its low-density, rural nature.
- 2) Allowing kennels as a special exception in the AGRP district will allow adequate protection to surrounding areas from adverse impacts
- 3) The City of Auburn’s Comprehensive Plan supports “...a broader range of rural uses” (Chapter 2, p. 108).



Zach Mosher
City Planner

DIVISION 2. - AGRICULTURE AND RESOURCE PROTECTION DISTRICT

Sec. 60-144. - Purpose.

The purposes of this district are to allow for conservation of natural resources and open space land, and to encourage agricultural, forestry, and certain types of recreational uses. It is declared to be in the public interest that these areas should be protected and conserved because of their natural, aesthetic and scenic value, the need to retain and preserve open space lands, their economic contribution to the city, and primarily because these areas are so remote from existing centers of development that any added uncontrolled growth could result in an economic burden on the city and its inhabitants. This section shall be construed so as to effectuate the purposes outline here and to prevent any attempt to establish uses which are inconsistent with these purposes or any attempt to evade the provisions of this division.

(Ord. of 9-21-2009, § 3.31A)

Sec. 60-145. - Use regulations.

(a) *Permitted uses.* The following uses are permitted:

- (1) One-family detached dwellings, including manufactured housing subject to all the design standards, except the siting requirements of section 60-173, as set forth in article XII of this chapter, accessory to farming operations subject to the following restrictions:
 - a. No certificate of occupancy shall be issued for any such farm residence until the barns, livestock pens, silos, or other such buildings or structures which are to be erected in connection with the proposed agricultural use as shown on the plans and specifications presented to the municipal officer charged with enforcement are substantially completed.
 - b. In no case shall any farm residence constructed under the provisions of this section after the effective date of the amended ordinance from which this section is derived continue to be occupied as a residence if the principal agricultural use has been abandoned or reduced in scope below the minimum requirements as shown on the plans and specifications presented to the municipal officer charged with enforcement.
 - c. Any residence constructed under this article shall not be converted to nonfarm residential use except by permission of the planning board based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this article.
- (2) Buildings, equipment and machinery accessory to the principal use including, but not limited to: barns silos, storage buildings and farm automobile garages.
- (3) Forest products raised for harvest.
- (4) Field crop farms.
- (5) Row crop farms.
- (6) Orchard farms.
- (7) Truck gardens.
- (8) Plant and tree nurseries.
- (9) Greenhouses.
- (10) Handling, storage and sale of agriculture produce and processed agricultural products derived from produce grown on the premises.

- (11) Livestock operations including poultry farms, cattle farms, dairy farms, stud farms, hog farms, sheep ranches, other animal farms, including farms for raising fur-bearing animals.
 - (12) Wayside stands.
 - (13) Two-family dwellings which are created from the conversion of a one-family dwelling structure which was constructed prior to 1900.
- (b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVII of this chapter:
- (1) Sawmills and their customary accessory land uses and buildings incidental to the harvesting of forest products, subject to the following conditions:
 - a. Sawmill and accessory activity shall not be detrimental to the neighborhood or the city by reason of special danger of fire or explosion, pollution of rivers or perennial streams or accumulation of refuse.
 - b. Wood processing operation shall be located no closer than 75 feet from any river or perennial stream, 250 feet from any zoning district boundary or residential dwelling and shall be limited to four persons employed.
 - c. Where natural vegetation is removed, it shall be replaced within six months with other vegetation which will be equally effective in retarding erosion and will preserve natural beauty.
 - (2) Veterinary hospitals, where operated by licensed veterinarians, including offices and facilities for temporarily boarding animals.
 - (3) Handling, storage and sale of agricultural services, equipment, and supplies accessory to the farming use.
 - (4) Bona fide residences required for farm labor. Any residence constructed for farm labor shall not be converted to nonfarm residential use except by permission of the planning board based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this division. The findings and the conditions upon which such altered use may be continued shall be made a part of the permanent records.
 - (5) Recreational uses of land intended or designed for public use subject to the following conditions:
 - a. No such recreational use shall be expanded or extended so as to occupy additional land area greater than 20 percent of the original area or one acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than 900 square feet of additional floor space unless the owner or occupant first obtains approval of the planning board in the manner and upon the same terms as approvals of initial recreational uses.
 - b. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the planning board may grant reasonable extension of time where good cause for the failure to complete is shown.
 - (6) Any legally nonconforming summer camp or cottage may be rebuilt if destroyed by fire or other casualty, subject to the following conditions:
 - a. Such reconstruction shall comply with all ordinances applicable to new construction. Such reconstruction need not, however, comply with zoning provisions which would otherwise be applicable except for the provisions of article XII of this chapter.
 - b. In cases where no minimum setback is established by division 5 of article XII of this chapter an open yard space of at least ten feet between the building as reconstructed and each of the property lines shall be maintained.

- (7) Rifle, pistol, skeet or trap shooting ranges, public or private.
- (8) Cemeteries, subject to the following conditions:
 - a. At least 20 acres in area.
 - b. Not located in any environmental overlay district or over any known aquifer.
- (9) Municipal sanitary landfills, subject to the following conditions:
 - a. Not located in any environmental overlay district or over any known aquifer.
 - b. Provisions shall be made to avoid surface water and groundwater pollution.
 - c. Provisions shall be made for frequent covering of deposited wastes with earth to counteract vermin, insects, odors, and windblown debris.
- (10) Radio, radar, television and radio telephone transmitting or broadcasting towers, but not studios or offices for such transmitting or broadcasting, provided that:
 - a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of the surrounding residents, building occupants, land uses and properties.
 - b. In no case shall such tower be located less than one and one-half times its height from the nearest property line.
- (11) Wholesale nurseries, subject to the following conditions:
 - a. At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner.
 - b. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.
- (12) Processing and storage of compost and bulking agents from the municipal wastewater sewerage sludge facilities provided that:
 - a. All compost and amendments are to be stored undercover or screened from the public way and abutting property as determined by the planning board.
 - b. All federal, state and local ordinances and laws relating to the processing and storage of waste are complied with.
 - c. An end-use plan must be filed as part of the planning board process.
- (13) Licensed hospice care facility provided that it shall be licensed by the state as a Medicare certificate hospice.
- (14) Slaughterhouse, stockyard, abattoir, dressing plant in compliance with state and federal regulations subject to the following conditions:
 - a. The facility shall not be located within the Lake Auburn Watershed Overlay District, the Watershed of Taylor Pond, the Shoreland Overlay District or the Floodplain Overlay District.
 - b. The proposed use shall not occupy more than 10,000 square feet of building area.
 - c. The number of employees shall be limited to not more than 15.
 - d. Accessory retail sales shall be limited to 10 percent of building area or 1,000 square feet, whichever is smaller.
 - e. Hours of operation shall limited to between 6 a.m. and 8 p.m.
- (15) Compost operations, excluding municipal and industrial waste, to process products such as manure, bedding, animal mortalities, waste feed, produce, forestry by-products, leaves and yard trimmings in compliance with state and federal regulations, subject to the following conditions:

- a. All compost sites shall be evaluated for suitability by a properly qualified professional, including benchmark water testing prior to approval.
- b. Provisions shall be made to avoid surface and groundwater pollution.
- c. Provisions shall be made to counteract vermin, insects and odors.
- d. Must comply with all applicable state department of environmental protection and state department of agriculture rules and regulations and best management practices.
- e. Shall not be located within the Lake Auburn Watershed Overlay District.

(16) Licensed kennels subject to the following conditions:

- a. Minimum lot size of zoning district or three acres, whichever is greater
- b. No residential dwelling unit will be allowed as an accessory to the use of dog kennels

(Ord. of 9-21-2009, § 3.31B; Ord. No. 32-02072011-07, 2-7-2011; Ord. No. 06-08012011-07, 8-1-2011)