

## Memorandum

Date: February 6, 2020  
To: Town Council  
From: Ethan J. Croce, Community Development Director  
Re: Proposed ordinance amendments re: Kennels

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One of the higher priority Council Work Plan items delegated to the CDC this year was to “review and possibly amend standards for kennels”. The impetus for this Work Plan item was a request from the owner of a dog daycare facility in the VC1 District to amend the Zoning Ordinance to allow kennels as an allowed land use in the VC1 District. Amending the ordinance to allow kennels as a land use type would allow existing dog daycare businesses the ability to board more than four animals overnight.

As part of its review of this subject, the CDC solicited feedback from existing kennel, pet grooming, and dog daycare business owners in Falmouth. The CDC also reviewed the State of Maine’s statutes and licensing requirements for kennels.

### Existing Zoning Context for Kennels

Falmouth’s Zoning Ordinance defines “Kennel” as: *An establishment in which more than four (4) dogs or four (4) cats more than one year old are housed, bred, boarded, trained or sold.* The only zoning district in which kennels are currently allowed is the Farm and Forest District where kennels are classified as a conditional use requiring both BZA conditional use review and Planning Board site plan review.

During its review of the kennel topic, the CDC was made aware of some ambiguity around the terms “housed” and “boarded” in the kennel definition. These two terms have been being interpreted by the Town as being synonymous with the overnight keeping of animals. This means that businesses that keep animals overnight have been classified as kennels but businesses that operate as animal daycares and which keep fewer than five animals overnight have been being classified as retail and service establishments.

Many zoning districts in Falmouth allow retail and service establishments as a permitted use but kennels are only allowed in the Farm and Forest District and only as a conditional use. The effect of this has been the following:

- Animal daycares may become established in numerous zoning districts where kennels are not allowed;
- With one narrow exception, animal daycares are prohibited from opening in the one zoning district where kennels are allowed;

- Animal daycares, unlike kennels, have not had to undergo BZA conditional use review because retail and service establishments are permitted uses and not conditional uses.

This has resulted in differentiation in the permitting processes for these two types of businesses even though, functionally-speaking, these two business types can often be indistinguishable from each other and indistinguishable to abutters to these businesses.

#### Proposed Zoning Amendments

To address the issue above, the CDC recommended that the ordinance definition of “kennel” be clarified and amended to include animal daycares. This will ensure that these similar businesses types will be permitted by the Town in a similar and consistent fashion. This will also bring the Town into greater alignment with the State’s regulatory approach on this issue since the State treats these business types similarly, and licenses and classifies animal daycares as a category of kennel.

In conjunction with the proposed change to the ordinance definition of kennel, the CDC recommended expanding the number of zoning districts where kennels are allowed as a conditional use. Specifically, the CDC recommended that kennels be allowed as a conditional use in the VC1, VC2, MUC, VMU, Gray Road Special District, and West Falmouth Crossing Master Planned Development District.

The CDC presented its recommendations for these ordinance amendments at the January 27, 2020 Council meeting. At that meeting, the Council indicated support for the CDC’s recommendations and instructed staff to draft ordinance amendments for a formal introduction.