

## **FACTSHEET**

**TITLE: CHANGE OF ZONE NO. 06084**, requested by the Director of Planning, amending Title 27 of the Lincoln Municipal Code relating to Zoning for "kennels".

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/17/07, 02/14/07 and 03/14/07  
Administrative Action: 03/14/07

**STAFF RECOMMENDATION:** Approval, as revised on March 2, 2007.

**RECOMMENDATION:** Approval, as revised on March 2, 2007 (9-0: Carroll, Cornelius, Sunderman, Esseks, Krieser, Taylor, Strand, Larson and Carlson voting 'yes').

**ASSOCIATED REQUEST:** Amendments to Title 6 submitted by the Lincoln-Lancaster County Health Department (07-54, 07-55 and 07-56)

### **FINDINGS OF FACT:**

1. These proposed amendments to Title 27 are associated with the proposed amendments to Title 6 that would permit Commercial Boarding Kennels within the city limits. The Title 27 amendments would only be valid if the amendments to Title 6 are approved.
2. The proposed amendments to Title 27 provide definitions for "animal hospitals", "indoor animal hospitals", "kennels", "indoor kennels", "boarding", "indoors", and "outdoor exercise areas"; makes provisions to allow indoor animal hospitals and indoor kennels as permitted uses in the B-1, B-2, B-3, H-2, H-3 and H-4 Districts; and creates a special permit in the H-3 and H-4 Districts for outdoor exercise areas. A summary of the proposed amendments is found on p.6-8.
3. The staff recommendation of approval, as revised, is based upon the "Analysis" as set forth on p.2-4, concluding that the provisions of Lincoln Municipal Code (LMC) Title 6 currently prohibit kennels within the city limits and would need to be amended to allow them. The Zoning Ordinance currently only allows kennels in the AG, AGR, B-4, I-1 and I-2 zoning districts. This amendment defines indoor animal hospitals and indoor kennels as having no more three animals outside at any one time and no outside boarding, and allows them as permitted uses in the B-1, B-2, B-3, H-2, H-3 and H-4 districts. The ability to have more than three animals outside at any one time is limited to H-3 and H-4, requires a special permit approved by the Planning Commission, and must conform to certain minimum conditions which can be made more restrictive by the Commission.
4. This proposed legislation was heard by the Planning Commission at three meetings. The first deferral was requested by Peter Katt on behalf of Camp Bow Wow, and the second deferral was requested by the Planning Commission for additional investigation by staff and the drafting of amended language in response to questions raised by the Commission (See Minutes, p.17-18).
5. The staff presentations at the public hearings are found on p.9, 11-15 and 19-21.
6. Testimony in support is found on p.9-10, 15-16 and 21-22. The additional information submitted in support is found on p.36-46.
7. Testimony in opposition is found on p.10, 16-17 and 22, and the record consists of two letters in opposition (p.47-50). The opposition is primarily concerned about the interaction between the public and animals and opening up a large portion of the city to commercial dog boarding. The opposition pointed out that the Animal Control Advisory Committee and the Board of Health have both voted not to forward this proposal to the City Council.
8. On March 14, 2007, the Planning Commission agreed with the revised staff recommendation and voted 9-0 to recommend approval.

9. The ordinance (07-57), as drafted by the Law Department, modifies the proposed text change approved by the Planning Commission as follows:
- A. The definitions of "animal hospital," "animal hospital, indoor," "kennel" and "kennel, indoor" have been slightly modified for better clarity.
  - B. Definitions for "boarding" and "indoors" have been added for clarity.
  - C. The definition of "outdoor exercise area" has been revised to limit this use to indoor animal hospitals and indoor kennels as an outdoor exercise area did not seem relevant to animal hospitals and kennels in general as the latter uses allow for outdoor boarding.
  - D. Condition (f) under Section 27.63.780 for use of an outdoor exercise area has been revised to require the Planning Commission to base its decision on "the character of the facilities and the effect on adjacent land uses", rather than being based on "consideration given to both the facilities and adjacent environment". This change places the burden on the applicant to demonstrate the need for the increased outside activity.
10. After the Planning Commission hearing, Council member Marvin contacted Planning and Law requesting that a substitute ordinance be prepared for the Council's consideration with several changes which would further restrict the location of these uses:
- # Indoor boarding kennels and animal hospitals in the B and H zoning districts would be treated as "conditional" uses, with the buildings at least 150 feet from residential zoning districts.
  - # Anyone wishing to locate these uses within 150 feet of a residential zone can apply for a special permit, and the Planning Commission will decide on the merits of these applications.
  - # Outside exercise areas associated with a kennel or animal hospital would be handled by special permit as recommended by the Planning Commission, but the minimum distance between these areas and residential zones would be increased (from 100 feet) to 150 feet.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** May 7, 2007

**REVIEWED BY:** \_\_\_\_\_

**DATE:** May 7, 2007

**REFERENCE NUMBER:** FS\CC\2007\CZ.06084 text

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for March 14, 2007 PLANNING COMMISSION MEETING

## -REVISED REPORT-

(\*\*As Recommended by Planning Commission: 3/14/07\*\*)

**PROJECT #:** Change of Zone #06084

**PROPOSAL:** A text amendment that defines animal hospitals, indoor animal hospitals, kennels, indoor kennels, and outdoor play yards; allows animal hospitals and indoor kennels as permitted uses in the B-1, B-2, B-3, H-2, H-3 and H-4 districts; and creates a special permit in the H-3 and H-4 zoning districts for outdoor play yards.

**CONCLUSION:** The provisions of Lincoln Municipal Code (LMC) Title 6 currently prohibit kennels within the city limit and would need to be amended to allow them. The Zoning Ordinance only allows kennels in the AG, AGR, B-4, I-1 and I-2 zoning districts. This amendment defines indoor animal hospitals and indoor kennels as having no more three animals outside at any one time and no outside boarding, and allows them as permitted uses in the B-1, B-2, B-3, H-2, H-3 and H-4 districts. The ability to have more than three animals outside at any one time is limited to H-3 and H-4, requires a special permit approved by the Planning Commission, and must conform to certain minimum conditions which can be made more restrictive by the Commission.

**RECOMMENDATION:**

Approval

**HISTORY:** This request was delayed for four weeks by the Planning Commission at the January 17, 2007 public hearing at the request of the Planning Department. Staff requested the delay to allow time for staff to gain a better understanding of the animal care/boarding industry and refine the draft text if necessary.

At the February 14, 2007 hearing, the Planning Commission voted to delay this item for four weeks to allow time for the amendment to be revised to include definitions for kennels, veterinary clinics and outdoor play areas, and provisions that require more equal treatment of veterinary clinics and kennels regarding animal boarding. The Commission also wanted to allow for input from veterinarians if animal boarding associated with clinics was treated the same as kennels.

### **ANALYSIS:**

1. Kennels are regulated by LMC Title 27 (Zoning Ordinance), and are allowed in the AG, AGR, B-4, I-1 and I-2 zoning districts as a permitted use. Kennels are also regulated by LMC Title 6 (Animals), which prohibits them within Lincoln's city limit except for the Humane Society, an animal shelter or research facility, zoos, or animal hospitals operated by licensed veterinarians.

2. A local agent for a nationally-franchised company named Camp Bow Wow has been attempting to site a facility in the Lincoln area, but has been unable to find a suitable location. The use is described by the owner as a “Premier Doggy Day and Overnight Camp”, and is considered a kennel (specifically, a commercial boarding kennel) for the purposes of LMC. The intent of this text amendment and associated amendments to LMC Title 6 now under consideration by the Board of Health are intended to provide areas within the city where such businesses can locate.
3. Being allowed in only the AG, AGR, B-4, I-1 and I-2 zoning districts and outside the city limit, areas where kennels can be located are limited and often not in proximity to the population centers where customers live. While a kennel is not an appropriate land use in residential or low intensity commercial/office areas, it is an appropriate land use in additional zoning districts beyond those currently allowed.
4. Planning Staff originally proposed amending Chapter 27 to allow commercial boarding kennels in the H-4 district by special permit, and continue as a permitted use in the AG, AGR, B-4, I-1 and I-2 districts inside or outside the city. At the January 17, 2007 public hearing, there was testimony to the effect that the boarding activities have grown beyond the point of being incidental and accessory to veterinary operations in some cases. The Commission continued the hearing to February 14, to allow staff time to research the facts and implications and return any new proposals that research would suggest.
5. At the February 14, 2007 hearing, staff presented a new option: treating kennels as “conditional uses” in the H-3 and H-4 districts. This was intended to recognize the expanded boarding activities occurring in some existing animal hospitals. The Commission continued the hearing again until March 14, 2007. Members expressed concerns about the adequacy of the proposed conditions for outdoor exercise areas. They also suggested that zoning regulations should deal with the impacts of outdoor animal exercise areas in the same manner regardless of whether or not the operator of the boarding use is a veterinarian.
6. Based on the Commissioners’ February 14 comments, staff has developed and advertised a third approach to this issue:
  - a) Allow “indoor kennels” as permitted uses in all the same commercial zoning districts in which “animal hospitals” are currently allowed , but not kennels: B-1, B-2, B-3, H-2, H-3 and H-4.
  - b) Define both uses as including outside animal runs for no more than three animals at any one time. This would be the equivalent to the three dogs which any household in the city can keep as pets inside and outside on a residential property.
  - c) Create a special permit process for individualized review/approval by the Planning Commission of outdoor animal runs, defined as allowing more than three animals outside at any one time - whether part of an animal hospital or an indoor kennel. These special permits would only be available in the H-3 and H-4 districts, but not the B districts.

7. LMC Title 6 has five definitions for uses that include the term 'kennel'. The definition in LMC Section 6.02.140 states "Commercial boarding kennel shall mean any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska." The intent of this amendment to title 27 is to allow those kennels as defined by LMC Section 6.02.140 - Commercial Boarding Kennel - as permitted uses if they have very limited outdoor activity, and to allow more substantial outdoor activity only by special permit.
8. Impacts typically associated with kennels include noise from dogs barking, and odor caused by confined animals. The proposed conditions for the conditional use are intended to mitigate these impacts by confining boarding inside the building, limiting the number of animals during the noise sensitive night hours, and requiring outdoor play areas to be 100% screened and located a minimum of 100' away from any land zoned R-1 through R-8. A summary of the proposed text amendment is attached.
9. This amendment does not change the current provisions regarding kennels in the AG, AGR , B-4, I-1 and I-2 districts. The requirements for the AG and AGR districts were not amended because the minimum lot areas (20 acres in AG and 3 acres in AGR) help provide separation among uses, and because there are few areas inside the city limit zoned AG and AGR. The B-4, I-1 and I-2 districts were not included because kennels are already permitted in those districts, and all three districts allow a wide range of uses generally compatible with kennels.
10. For kennels to be allowed in the city, Title 6 must be amended. The Board of Health and the Animal Control Advisory Committee held public hearings on the proposed amendments to Title 6 in January and February. The Board of Health voted to not amend Title 6 in order to allow commercial boarding kennels inside the city limits. The minutes from that meeting are attached to this report. Councilmember Svoboda, who is also a member of the Health Board but was not present for that hearing, has requested that the issue be brought to the City Council along with proposed zoning amendments.
11. Chapter 6 also has a provision called "Barking, Howling or Yelping Dogs" (6.08.160), which makes loud, continued barking which causes a disturbance a misdemeanor offense. The Humane Society and veterinary operations are currently exempted from this provision. If one accepts the Planning Commission's premise that the outdoor activities of a veterinary operation and a commercial boarding operation be handled consistently in the zoning ordinance, then to be consistent, veterinary operations should not be exempted from this provision in Chapter 6. This issue was not considered by the Health Board at their meetings.
12. This item has not been presented to the Mayor's Neighborhood Roundtable, as staff has been instructed that the Roundtable will not be presented zoning text amendments until further notice.

Prepared by:

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Planner

March 2, 2007

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**PROPOSED TEXT AMENDMENT - KENNELS**  
**(\*\*As Recommended by Planning Commission on March 14, 2007\*\*)**

1. Amend Chapter 27.03 Definitions to include the following new definitions:

- a. **Animal Hospital** - Animal hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of injuries of animals including boarding of animals under treatment or benefit of the client; provided said veterinarian or veterinarians are duly licensed under the laws of Nebraska.
- b. **Animal Hospital, Indoor** - Indoor Animal hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of injuries of animals including boarding of animals under treatment or benefit of the client; provided said veterinarian or veterinarians are duly licensed under the laws of Nebraska, but shall not include outdoor boarding and shall be limited to no more than three animals outside at any one time.
- c. **Kennel** - Kennel shall mean any building, yard, enclosure or place where pet animals as defined by LMC Section 6.02.420 owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals and indoor animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska.
- d. **Kennel, Indoor** - Indoor Kennel shall mean any building, yard, enclosure or place where pet animals as defined by LMC Section 6.02.420 owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals and indoor animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, but shall not include outdoor boarding and shall be limited to no more than three animals outside at any one time.
- e. **Outdoor Exercise Area Associated with an Animal Hospital or Kennel** - An area located outside for more than three animals for the purpose of an animal exercise area, but shall not include animal boarding.

2. Amend the following sections to allow Indoor Animal Hospitals as a permitted use in the following districts:

27.29.020(k) - **Indoor Animal Hospitals** ~~and clinics for animals, but not open kennels~~ (B-1).

27.31.030(k) - **Indoor Animal Hospitals** ~~and clinics for animals, but not open kennels~~ (B-2).

27.33.020(j) - **Indoor Animal Hospitals** ~~and clinics for animals, but not open kennels~~ (B-3).

27.41.020(l) - **Indoor Animal Hospitals** ~~and clinics for animals, but not open kennels~~ (H-2).

27.43.020(j) - **Indoor Animal Hospitals** ~~and clinics for animals, but not open kennels~~ (H-3).

27.45.020(k) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (H-4).

27.63.470(a) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~  
(Permitted Special Use, Planned Service Commercial).

3. Add the following sections to allow Indoor Kennels as a permitted use in the following districts:

27.29.020(ee) - Indoor Kennels (B-1).

27.31.030(aa) - Indoor Kennels (B-2).

27.33.020(ff) - Indoor Kennels (B-3).

27.41.020(ff) - Indoor Kennels (H-2).

27.43.020(ll) - Indoor Kennels (H-3).

27.45.020(x) - Indoor Kennels (H-4).

27.63.470(a)(24) - Indoor Kennels (Permitted Special Use, Planned Service Commercial in H-4).

4. Add a new section creating a special permit for Outdoor Exercise Area Associated with an Animal Hospital or Kennel .

27.63.780 Outdoor Exercise Area Associated with an Animal Hospital or Kennel

Outdoor Exercise Areas Associated with an Animal Hospital or Kennel may be allowed by special permit in the H-3 and H-4 zoning districts under the following conditions:

- (1) All outdoor exercise areas associated with an animal hospital or kennel and fences surrounding outdoor exercise areas shall meet the setbacks of the zoning district, except the outdoor exercise area must be at least 100' from any R-1 through R-8 zoning district as measured to the closest point of the outdoor exercise area.
- (2) Outdoor exercise areas associated with an animal hospital or kennel shall be screened 100% from the ground to 6' in height with an opaque fence or wall. Slats in chain link fence are not acceptable.
- (3) Use of outdoor exercise areas associated with an animal hospital or kennel between the hours of 10:00 p.m. and 7 a.m. is prohibited.
- (4) An outdoor exercise area associated with an animal hospital or kennel is only allowed in conjunction with an animal hospital or kennel.
- (5) The Planning Commission may limit the number of animals allowed in the outdoor exercise area at any one time.

- (6) The Planning Commission may increase these requirements with consideration given to both facilities and adjacent environment.
- (7) Animals in the outdoor exercise area shall be under the supervision of handlers at all times.

5. Add the following sections allowing Outdoor Exercise Area Associated with an Animal Hospital or Kennel by special permit in the H-3 and H-4 districts, and as a permitted use in Planned Service Commercial.

27.43.040 - Permitted Special Uses (H-3):

- ®) Outdoor Exercise Area Associated with an Animal Hospital or Kennel .

27.45.030 - Permitted Special Uses (H-4):

- ®) Outdoor Exercise Area Associated with an Animal Hospital or Kennel .

27.63.470(a)(25) - Outdoor Exercise Area Associated with an Animal Hospital or Kennel (Permitted Special Use, Planned Service Commercial):

- (l) Provided that such facilities comply with the requirements of 27.63.780, Outdoor Exercise Area Associated with an Animal Hospital or Kennel.

# CHANGE OF ZONE 06084

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 17, 2007

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

Staff presentation: **Brian Will of Planning staff** submitted a letter of opposition from Nanci Kyhn.

He stated that this request is for a text amendment to the zoning ordinance. It adds a provision to make a kennel a special permit in the H-4 zoning district. These changes are being brought forward at the same time that the Health Dept. is considering changes to Title 6. Currently, kennels are prohibited inside city limits. This request was initially brought forward by the local franchise, Camp Bow Wow. Those amendments to Title 6 are being discussed by the Board of Health. The Planning Dept. thought it appropriate to consider changes to Title 27. At this time, the staff is requesting a four-week delay. He believes there will be proposed amendments suggested today. The H-3 zoning district is similar to H-4. He believes the applicant might propose that kennels be allowed in H-3. Any outdoor storage associated with vet clinics, dog runs, etc., are currently prohibited and this needs to be addressed.

**Marvin Krout**, Director of Planning, stated that due to the fact that staff is asking for a deferral, there will almost certainly be additional testimony. He would like to see a motion at the end of the public hearing so all opinions can be heard.

### Proponents

**1. Peter Katt** appeared on behalf of Tom and Colleen Ryan. They are franchisers of Camp Bow Wow, headquartered in Boulder, Colorado. They have been somewhat stymied by different regulations. Kennels are also licensed by the State Dept. of Agriculture. He believes they are also a permitted use in I-2, but you can't locate in that district due to Health Dept. regulations. Kennels can be operated by Animal Control, humane societies or facilities operated by a licensed veterinarian.

Katt submitted that the issues are twofold. Currently, in the City of Lincoln, there are boarding facilities. The yellow pages show pet boarding. Commercial kennels are operated by veterinary animal clinics in the City of Lincoln. In B-1, B-2, B-3, H-1, H-2 and H-3, those facilities are authorized as hospitals and clinics but not boarding kennels. Boarding has been an accessory use. An accessory use is incidental to the main use of the premise. The existing businesses have some issues with land use compliance. He presented a map showing existing animal clinics in the city. He proposes what he believes is a good solution to make all the clinics lawful. A number of spaces for commercial boarding kennels would be found.

Taylor wondered about the average size of a kennel in Lincoln. Katt does not know. He believes the average of 60 would be correct. Competitors have been a little reticent to supply him with numbers. He sees current regulations for boarding being only related to medical care. People want nice, clean,

good facilities for their pets conveniently located. He believes this use should be accommodated. Indoor boarding kennels are not a toxic use in the city.

Carlson wondered about kennels in B-1 district. He thinks there needs to be research to see what districts currently have hospitals operating today. Katt is sure the information could be obtained from the Dept. of Agriculture. Carlson sees size of the operation being considered. Katt does not know the sizes. The size being proposed by his client would be 60.

Sunderman wondered if there is a size regulation, etc. Katt replied that is regulated by the Health Dept.

Sunderman questioned the size of the building that would be needed. Katt replied 8,000 square feet.

### Opposition

**1. Henry Sader, Wilderness Kennels, 2030 Saltillo Road, Roca,** testified in opposition. He is concerned whether there is a need to have kennels allowed in the city limits. He was forced to build outside the city limits on a certain number of acres. He wouldn't look at allowing kennels as a strip mall type boarding facility. This would open up to groom shops and pet shops who would be able to board animals. This will create a lot of turmoil down the road; the waste, the nuisance and the barking. There will be a lot more to changing this. In light of the Planning Dept. recommendation, if there is any further discussion, he would like to review and address it.

**2. Mike Anderson, Driftwood Kennels, 100 McKelvie Road (located north of Fallbrook),** testified in opposition. His facility was built in 2003. This is a complicated issue. There are health, zoning and state agriculture issues. There are the issues of the pets themselves. These laws and ordinances have been on the books for a long time. He purchased 24 acres for his business. This would open the door for unfriendly or unfair competition for existing kennels that have abided by the law. It would be an advantage to be in the city. There is the issue of the animals. He is sure this is a tremendous organization. He is concerned about the availability of anyone to walk in and become a dog kennel. He is also concerned with the fact that there are health issues involved. Everyone talks about the need for more kennels in the City of Lincoln. He does not currently operate at 100 percent capacity. It fluctuates up and down. Fairness should be considered.

Sunderman wondered about the size of Anderson's kennel. Anderson replied he can accommodate 50 animals with an average stay of about three to five days.

Anderson stated that one of the reasons behind the current 20 acre requirement would be the noise issue. If you allow 100 feet between a kennel and a residence, it would defeat the purpose of him having 20 acres.

## Staff response

Will stated that the amendments to Title 6 being considered by the Board of Health would ultimately be reviewed by the City Council. He mentioned that Judy Halstead from the Board of Health was present today if the Commissioners had any questions. As far as any revised language, a revised staff report would be published and made available before the next public hearing.

Krout stated that some more research needs to be done on this issue. He suspects there is no more than incidental boarding. The larger facilities that they know of are in the H-3 and H-4 districts. His inclination is to suggest that a substantial kennel with outside runs should be in the more intensive commercial districts and not in office or business districts, and certainly not by right. Staff is struggling with the wording. One of the issues that came up at the Health Board meeting is that with city expansion, the city would be annexing kennels that are currently outside the city limits. If a kennel is annexed and the health code is not changed, the health code would override the grandfathering of a non-conforming use. As far as he knows, it is not a state requirement to have 20 acres for a kennel. In AG, you have 20 acres for any kind of use.

Taylor questioned incidental boarding. Is it allowed for strictly medical related only? Krout replied this is where the research needs to be done. The way this is interpreted today, that is the only type of boarding that is allowed in the city. He is guessing that there is some type of boarding being done where the boarding is independent, but it is relatively small. That is different than a facility at S. 56<sup>th</sup> & Hwy. 2 where there are 50 spaces for boarding. That is certainly not incidental and he believes Building and Safety would surely say it is not a legal use.

### **ACTION BY PLANNING COMMISSION:**

January 17, 2007

Taylor moved a four week deferral, seconded by Sunderman and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent. This application will have continued public hearing before Planning Commission on February 14, 2007.

### **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 14, 2007

Members present: Cornelius, Strand, Carroll, Taylor, Esseks, Sunderman, Krieser and Carlson; Larson absent.

Staff recommendation: Approval, as revised.

Ex Parte Communications: None.

Staff presentation: Brian Will of Planning staff reminded the Commission that this legislation was first introduced at the Planning Commission meeting on January 17, 2007. At that time, the staff requested a four week delay for some additional fact finding. This legislation is associated with amendments to Title 6 relating to regulation of animals. At the last public hearing one of the questions raised related to vet clinics and animal hospitals in the city and whether some of those currently in the city were actually a kennel or a vet clinic. The staff had requested the delay to investigate this question and staff did visit all of those clinics and hospitals that advertise as being animal boarding, and some others advertised as vet clinics. The finding of staff was that generally speaking, the vast majority of vet clinics

do some amount of animal boarding. The percentage of the business varies from clinic to clinic; however, it is also clear that none of the vet clinics had kennels as the principal use. The staff is taking the position that a kennel operation is a normal and customary accessory use to the vet clinic. The zoning ordinance as well as Title 6 both make a distinction between vet clinics and kennels.

Will explained that the current proposal does two things:

1) it deletes the limitation on hospitals and clinics for animals by deleting "but not open kennels". This is an attempt to acknowledge that all of the clinics, whether they board or not, typically sometimes keep animals overnight for surgical care, etc. This proposal also acknowledges that some of the vet clinics do boarding.

2) it creates two conditional uses and allows kennels as a conditional use in the H-3 and H-4 districts. The rationale is that when you compare a kennel to those ranges of uses found in those two districts, this use appears to be consistent with the intensity of those uses and would not be incompatible.

Will advised that the Board of Health considered the proposed changes to Title 6 that would accompany this legislation and they voted not to forward those changes to Title 6 to the City Council.

Esseks inquired about the 100' buffer. Will explained that there were a couple of separations that were originally proposed by the Health Department and this 100' buffer was one of them that remained and was at the recommendation of the Health Department. It provides at least some minimum buffer – some minimum separation – from those residential districts.

Esseks then inquired why the two highway districts, H-3 and H-4? Will suggested that it is clear that there are some districts where kennels are not appropriate, but as we look at the range of uses and the intensity of the uses allowed in H-3 and H-4, it is staff's position that a kennel would be consistent and not incompatible with those ranges of uses that are allowed in those districts.

Esseks indicated that his only concern is the nuisance of odors and sound, especially sound. With the H-3 and H-4, he wonders how much of that space has vulnerable residential areas adjacent so that the issue of the buffer size is relevant. Will did not have a specific number and agrees that there will be incidents where residential abuts the H-3 or H-4 district. One of the conditions is that:

Outdoor play areas shall be screened 100% from the ground to 6' in height with an opaque fence or wall. Slats in chain link fence are not acceptable.

In visiting some of the clinics, Will advised that he was told that if the outdoor play area is screened to where the animals cannot see out and are not distracted, it greatly reduces the amount of noise. The screening should significantly reduce or eliminate the source of distractions which make the dogs bark, etc.

Bruce Dart, Director of the Health Department, gave a report on the action by the Board of Health. There was concern about regulating the noise and nuisances; however, he advised that the Health Department has not had any complaints of noise, nuisance or otherwise at any commercial kennel or vet clinic here in the community. The vote was something like 5-3 not to take the proposed amendments to the City Council.

Carlson pointed to the B-1 and B-3 districts, suggesting that certainly there are vet clinics that board animals in these zones now and they are close to residential with no outdoor facilities. Will advised that this proposal does not change anything in the B-1 and B-3 districts. It is the staff's position that the language about "open kennels" should be deleted because it is not clear and the majority of these clinics have them now. In addition, the Health Department has had no complaints on record on any of those facilities. A vet clinic should have authority to have the accessory use of boarding animals with some provision to take them outside. This proposal just acknowledges the reality that exists in the community now by making this deletion.

Strand inquired whether the outside facilities are just merely a fenced yard or are they actual outdoor runs? Will indicated that he did not see any with just an outdoor run. Strand wondered whether this language allows the 24/7 outdoor kennels. Will responded that kennels are already allowed in 5 districts. This proposal makes it a conditional use in the H-3 and H-4. It does not change anything relative to where a vet clinic can be located.

Carlson is concerned about opening up the opportunity for more outdoor facilities and expansion. Will believes there is a distinction between outdoor play areas and stay areas. Once the principal use becomes a kennel, then they must comply with the requirements of a kennel. As long as it is operating as a vet clinic, the city considers that to be the principal use, and they must comply with the provisions for a vet clinic.

Taylor wondered whether the H-3 and H-4 districts are more liberal in terms of proximity of homes. Will stated, "no, the H-3 and H-4 would be more restrictive than the AG and AGR."

Carlson is still concerned about the B districts and wondered whether the requirement that all animal boarding must occur inside the building applies to the B district. Will indicated that that requirement only applies to the H-3 and H-4 districts. Title 6 would allow Health to be the licensing entity. The proposed conditions for H-3 and H-4 would not apply to the other districts. Carlson is concerned about outdoor boarding in the B districts. Will suggested that it is happening and there is an inconsistency. Carlson would rather have the restrictions in the H-3 and H-4 apply also to the B districts. Will suggested that the proposal recognizes the practical reality—the majority of clinics will have an outdoor area. Without striking that language, we are left with some potential enforcement action. You could make the argument that the outdoor area is an open kennel and in violation, and thus a majority of the vet clinics would be operating in violation.

Carroll purported that this gives an advantage to the vet clinics over the kennels. But if you are in H-3 and H-4 you are restricted under the definition of kennels. Will stated that these are two separate and distinct uses. By virtue of that, the staff believes that it makes sense to regulate them differently. You can have a vet clinic in some areas where you may not want a kennel. The boarding of animals in an outdoor area associated with the principal use of a vet clinic was just that—it's like the incidental sale

of pet food, incidental grooming, etc. It is not the primary use of the business. There is a different level of care found with a veterinarian. There is a different focus in the nature of the business. This is an accessory use much as a lot of the uses around the city have smaller, subordinate accessory uses.

Carroll suggested that vets will take advantage if we take away the restriction of no open kennels. It's just business sense. Why can't we add the definitions in H-3 and H-4 back into the B-1, B-2 and B-3, making it equal to everyone? He does not want to allow a vet clinic to decide to be in the boarding business with this change. Will reiterated that there are no complaints on record or criticism with clinics and hospitals currently operating in the city. There was no intent to create nonconforming uses. It was just to recognize the reality.

**Marvin Krout, Director of Planning**, advised that the staff did talk about some threshold to define the number of dogs or cages that make it no longer an accessory use, but the enforcement agency, Building & Safety, felt comfortable that they could tell whether it was an accessory use or something larger. There is at least one emerging business out there which is in the midst of an expansion plan which would have the number of dogs being kenneled so large that it would be difficult to be considered a customary and ancillary use to the vet clinic. This proposal would treat that as a conditional use.

On the issue of outside nighttime boarding of animals, Krout suggested that it might be helpful to get input from the Health Department because in their definition of commercial boarding kennels in Title 6, they were dealing with outside uses and overnight outside boarding.

**Bruce Dart, Director of Health**, clarified that vet clinics are exempt from the state regulations that oversee commercial boarding kennels. The Health Department took its licensing proposal off the table. The state will continue to oversee commercial boarding kennels and vet clinics would continue to be exempt. The language that the Health Department proposed in terms of animals being outdoors after business hours stipulated that staff would be there to monitor dogs when they are outside. What the Health Department has proposed would insure that staff be on-site to mitigate that problem when it occurs, basically in the evening hours. This would only be for commercial boarding kennels, not vet clinics. However, that language was not approved by the Board of Health.

Esseks likes the idea that where the animals are outside, there be certain conditions to protect nearby residents, but he does not believe 100 feet is enough. He likes the idea of having staff on-site. Esseks would rather wait for that language in Title 6 to come before the Planning Commission.

Will advised that the amendments to Title 6 will not come to the Planning Commission -- only to the City Council.

Carlson inquired whether the kennel requirements proposed for H-3 and H-4 could also be applied to the hospital and animal clinics. Will stated that the staff did discuss it and the rationale for not doing it was primarily that there have been no complaints or violations. In addition, if that were to happen, there would be a good number of the existing facilities that would not be able to meet these conditions/requirements. They would become nonconforming uses.

Cornelius observed that a good number of these facilities are nonconforming uses as the law is written today. Will concurred.

Carroll observed that there is a vet clinic that is going to expand and if we delete the “no open outside kennels” language, then they have the opportunity to have open kennels without meeting all the requirements. Will reminded the Commission that the difference is the principal use. There may be an issue with kennels and that is the reason to draw the distinction between the two uses. As soon as you become a kennel, you are regulated.

Cornelius suggested that the Planning Commission is looking for the bright line between a vet clinic and a kennel. Will suggested that that responsibility falls on the city in any number of cases where the zoning ordinance describes a use and there is a complaint. The staff is suggesting the same here – you’re a vet clinic and at some point you may become a kennel, but when you do, you are regulated as a kennel.

Strand suggested that you could suddenly have 55.5 percent of your business be vet clinic and 49.5 percent be boarding. We have a law that you cannot have more than a certain amount of pets in the city limits, and suddenly they would be allowed to exceed that. Are we suddenly going to allow outdoor kennels with a vet clinic? She does not want to suddenly have 6-10 dog runs within 100 feet of a neighborhood with all those dogs outside all night long.

Taylor suggested putting the stop sign up after something happens as opposed to reacting. We may be overreacting to a problem that won’t even exist. Should we really be that concerned? He understands that the vets are pretty much exempt from most of these regulations anyway. He thinks we are putting the cart before the horse.

Will suggested that the Lincoln Municipal Code is providing some guidance now. Title 6 specifically exempted vet clinics when it talked about regulating kennels. It is recognition of a distinction between those uses and a level of care or attention to those activities and those accessory uses.

#### Support

**1. Peter Katt** appeared on behalf of the franchise holders of a **Camp Bow Wow** facility for Lincoln if they can ever be welcome into town to do business. This is a much more complicated matter than he imagined it could be because it involves the health regulation. He reminded the Commission that their role is to deal with the land use issues. Both of these bodies (Planning Commission and Health Board) are to make a recommendation to the City Council. The Board of Health last night decided they were not going to forward anything to the City Council. That means that the Director will not forward it unless one or more City Council members ask that it be forwarded anyway. Katt believes that the City Council will ask for the proposal to come forward.

With regard to commercial boarding kennels (which is what his client would operate), he and his clients are satisfied. What are we going to do with commercial boarding kennels? And what are we going to do with “vet clinic”? In the zoning ordinance, you use animal hospital and animal clinic, and Health uses animal hospitals operated by a veterinarian. In his opinion, he believes that he could probably qualify his clients’ facility as either an animal clinic or an animal hospital if there were a veterinary involved. It is important to recognize that kenneling operations in animal clinics or hospitals in town can be used creatively to accomplish other things. Katt pointed out that the current kenneling operation

associated with vet clinics is an accessory use. Two examples - 88 kennel vet clinic and the one to be expanded to 60 plus kennels. It boggles his mind that those operations are accessory to the veterinary. Those are considered accessory uses to animal hospitals and clinics today in the City of Lincoln, so if we are unsuccessful in changing the Health regulations, there will be the opportunity for his client to open and operate a 60-kennel animal clinic in the city limits. As of today, animal clinics may be operated in the city with up to 88 kennels and be considered an accessory use to the veterinary clinic.

## Opposition

**1. David Barga**n appeared on behalf of the **Nebraska Animal Medical Center**. They are confused about the process in that the Board of Health voted last night not to recommend this proposal to the City Council. The Animal Control Advisory Board also voted twice not to support these changes, and the Health Board voted not to support these changes based on the health issues. He understood that the proposal would now die.

The Nebraska Animal Medical Center is concerned about the buffer being sufficient for the noise issue. The difference is that a vet clinic has professionals on staff who have gone to school to be veterinarians. They have emergency facilities. They are trained in much different ways than just general kennels.

As far as the outdoor boarding, Barga indicated that he was not prepared to answer that question today. His client is confused about what that means and the definition.

The major concern of Nebraska Animal Medical Center is simply with expanding these commercial boarding facilities in the city of Lincoln. The code as it stands now is not changed. Until that is changed, these ordinances are not effective because commercial boarding facilities are not allowed in the city limits. His client has nothing against Camp Bow Wow. The concern, however, is, "where does this go from here?" If we allow commercial boarding facilities within the city limits, what if WalMart got in the business of having a kennel, or PetsMart? How do we define who gets to do this in the city and what are the regulations? As far as annexation creating nonconforming uses, the Health Code could be rewritten to exempt operations that are brought into the city through annexation without having to make changes to the zoning ordinance. In general, as the entire package was presented, the Nebraska Animal Medical Center is opposed to allowing commercial boarding facilities in the City of Lincoln in terms of nuisance and health issues.

The Nebraska Animal Medical Center is a veterinary clinic in the city. Barga did not know how many animals boarded at this facility but it is nothing like 88, and maybe not even 60.

Carroll inquired whether the Nebraska Animal Medical Center has an open kennel now. Barga answered, "no". It may have an outside exercise facility but there are no open kennels. That's the confusion. What does that really mean? If it means outdoor play or walking area, that may be the case, but they do not have an outdoor boarding facility.

**2. Henry Sader, Wilderness Kennels**, 2030 Saltillo Road, is opposed. He is confused because the Animal Control Advisory Board has reviewed this twice and twice they have said no. It went before the Health Board and the Health Board says no, but yet we're back here discussing things that include having commercial kennels within the city limits. He agrees that passing this would indeed mean open kennels. An open kennel is where dogs can run side-by-side. Open play areas are different. The

fenced area and setback of 100' from a residential area for two dogs is absurd. You could take 20 dogs and put them in kennel runs – they don't need to see anything – they are going to bark and they are going to make a mess. They could be one-half mile from a residential use and they could be heard. The fencing will not make a difference.

Wilderness Kennels can facilitate 122 dogs. The property is zoned industrial. The facility is about one-half mile from any residential use. Sader has not received any complaints. His facility is next to Wilderness Park and there is a large gas supply facility next to them. Wilderness Ridge is about 1.5 miles away and those residents have said on a good day in the morning they can hear the dogs barking.

### Staff response

Dart confirmed that the Title 6 proposal would normally not be forwarded unless requested by the City Council or Mayor.

As far as why proposing this now, Will advised that the staff believes it to be prudent that the zoning ordinance also be considered in light of the amendments being proposed to Title 6 so that they could come forward together.

Relative to Mr. Katt's comments, Will believes that 88 kennels would mean the principal use is in fact a kennel. It would be obvious to a rational person that it is a kennel, so it would not be a vet clinic.

Carroll made a motion to delay four weeks because he does not believe this is done, seconded by Strand.

Carroll understands the H-3 and H-4 definition of kennels, but there are too many questions about vet clinics and what they can and cannot do. Until we get a definition of kennel and open play area, he does not think a final decision can be made.

Strand wants to provide that vet clinics can have open play area and not open kennels and she wants that redefined.

Esseks wants information on the setbacks and other ways to mitigate noise and possible odor problems. Either we need more evidence that the 6' opaque fence and 100' setback are going to be effective or some better supported standards need to come forward.

Taylor thinks it will be interesting because the opposition comes from kennels and also from representatives of veterinarians.

Carlson thinks it would be interesting to see what kind of response we might get from the hospitals and clinics for animals if we applied some of the additional conditions on their practices. He

understands they don't get complaints now, but we aren't getting complaints in H-3 either. He thinks the auxiliary use could be a problem.

Strand would like to see the language about staff over-site while animals are outside in the zoning ordinance as well.

Strand would like to see a definition of play area versus an open kennel.

Carlson wants to make sure the conditions are adequate and whether they should be applied to any expansion of a nonconforming use, even if auxiliary and incidental to a vet clinic.

Sunderman wants to know what "auxiliary to a vet clinic" means. Krout stated that Building & Safety deals with those issues everyday and it is kind of an art. Building & Safety believes that they know when a use is auxiliary or principal when they see it. If that is not satisfactory then there needs to be a number for differentiating.

Carroll suggested that 88 boarding kennels tells you what business they are in. If you are boarding for a fee, then you can qualify as a kennel.

Carlson suggesting leaving H-3 and H-4 on the table, and then have some of those restrictions debated for hospitals and animal clinics. Krout suggested, then, that it would be appropriate to allow a commercial kennel in B-1, B-2 or B-3 if we control the outside play area. Carlson disagreed.

Esseks wants to address the issue of this group making a land use recommendation based upon our perceptions of what's good for the public health and safety. If the Health Board has said no twice, that leaves us in a real deficit of information. He would like those experts to advise what would represent good conditions to guard against nuisance problems. Zoning decisions have been guided over the years by good advice on the public health and nuisance effects. Who is going to advise us? What are the conditions that will prevent serious nuisances? Krout suggested that the Planning Commission is advisory just like the Health Board is advisory to the City Council. In the end, the City Council is going to have to evaluate both recommendations.

Strand indicated that she is prepared to make a motion to deny and re-define the difference between a play area and vet clinics and move forward with that. She does not want to see kennels inside the city limits unless grandfathered in as the city grows. She is not in favor of letting vet clinics create more of a boarding situation. We either delay four weeks or she is ready to make a motion to deny.

Krout believes that there is probably more I-1 zoning in the city limits than H-3 or H-4.

Motion to defer four weeks, with continued public hearing and action scheduled for March 14, 2007, carried 7-1: Cornelius, Carroll, Taylor, Esseks, Sunderman, Krieser and Carlson voting 'yes'; Strand voting 'no'; Larson absent.

Members present: Carroll, Cornelius, Sunderman, Esseks, Krieser, Taylor, Strand, Larson and Carlson.

Ex Parte Communications: None.

Staff recommendation: Approval, as revised.

Additional Information for the record: Brian Will of Planning staff submitted a letter in opposition from David Barga on behalf of Nebraska Animal Medical Center. He also submitted a staff memorandum including some recommended changes to the staff recommendation at the request of the Law Department for clarification purposes, and a recommendation that an additional condition be added to the special permit section:

Animals in the outdoor exercise area shall be under the supervision of handlers at all times. Will also provided the Commission with a copy of the Title 6 amendments for proposed alternative commercial boarding kennel ordinances, for information purposes only. Title 6 is not in the jurisdiction of the Planning Commission but will go forward to the City Council with the proposed amendments to Title 27.

Staff presentation: **Brian Will of Planning staff** recalled that the Planning Commission wanted to see some revised language, and chief among those was more equity among the way that animal hospitals and kennels are treated. The revised proposal has three major changes:

1. Adds definitions for Animal Hospital, Indoor Animal Hospital, Kennel, Indoor Kennel and Outdoor Exercise Area Associated with an Animal Hospital or Kennel;
2. Treats indoor kennels and indoor animal hospitals the same way – they would be permitted uses in the B-1, B-2, B-3, H-1, H-3 and H-4 districts (the distinction for indoor animal hospital or indoor kennel would be the outdoor area with no more than three animals in that area at any one point in time); and
3. Creation of a special permit in the H-3 and H-4 districts for outdoor exercise area with seven conditions.

Carroll noted that the definitions for kennel and indoor kennel still appear to exclude “animal hospital” from that definition. Will agreed. Carroll does not understand how the conditions put on indoor kennels for different zoning districts can be held up under the code if we are excluding them under the definition. How could an animal hospital have an indoor kennel when it’s not in the definition? Will explained that to be the reason for the definition of “animal hospital” and “indoor animal hospital”.

Carroll inquired why animal hospital is excluded from the definition of kennel and indoor kennel. Will explained that the genesis of these definitions is from Title 6 in the Health Code. That exception is also included in the definitions of Title 6.

**Marvin Krout, Director of Planning**, noted that at the last meeting the discussion was about when an animal hospital becomes a kennel and where to draw the line between those two. If we say these

are two uses, they could each be operated independently but also operated together in one building, and we would treat them the same in terms of what zoning districts in which they are permitted. Indoor hospital and kennel are allowed in the same districts. If you want an outdoor play area, whether animal hospital or kennel, it is a special permitted use in the H-3 and H-4.

Carroll posed the question, what if an animal hospital in B zoning wanted to have an indoor kennel? Krout stated that they could have a kennel because a kennel is a permitted use. Carroll does not see the difference.

Strand noted the provision in Title 6 that no animal shall be allowed in outdoor exercise or play areas after business hours. She wanted a definition of "business hours". Will reminded the Commission that the Title 6 provisions are for information purposes only. Title 6 does not go through the Planning Commission. These proposed amendments to Title 27 are exclusive of the amendments to Title 6.

Carroll then pondered, if an animal hospital in B zoning is sized to a kennel, there is no limit to the number they can kennel inside their facility? Will agreed that to be correct as long as the kennel meets the definition of animal hospital. There is a limit on the outdoor component. Will believes the intent was to treat them exactly the same. The definitions were brought forward in order to treat them the same.

Esseks inquired about the 100' buffer between the boarding facility and the nearest residential district. Why not 200 feet or 50 feet? Will advised that to be a community standard selected in doing research. There are some ordinances with a much greater standard and some with none at all. The Planning staff is suggesting, given the circumstances we have here and the requirements in the code, that 100 feet seems reasonable and prudent for this use. Currently, in Title 6, there is a provision that already regulates barking dogs and treats it as a misdemeanor. Therefore, there are regulations already in place to regulate the potential nuisance. Additionally, by making that outdoor component a special permit, the Planning Commission, through public hearing, can consider other circumstances associated with any particular location and make a decision based on the circumstances.

Esseks is concerned about 60 or more dogs inside the facility at one time. He is okay with the three outdoor at a time, but 60 or more animals inside at one time can be a problem unless the windows and walls are constructed to suppress that noise. For example, the city of Scottsdale, Arizona, provides that all animal kennels must be in sound-proofed buildings. Why don't we recommend that? Will suggested that the staff did not go down that path because there are already provisions in place in Title 6 that regulate either noise or barking dogs. Sound-proofing could be problematic and would need more investigation as to what it means as far as noise levels, etc.

With the Health Department enforcing the noise complaints, Strand expressed concern because she believes the Health Department has suffered some major budget cuts in that division. Will suggested that it also relates to the absence of any complaints regarding the operations currently in the community.

Cornelius sought confirmation whether the absence of complaints relates to "boarding facilities". Will noted that it has been reported that some of the vet clinics can accommodate upwards of 80 animals, but he does not believe that is typical. He would have to rely on the Health Department to get specific in that regard.

Carlson confirmed that with the new definitions, indoor and outdoor becomes the controlling factor. Will

stated that an indoor kennel or indoor animal hospital is allowed in B-1, B-2 and B-3, so there is no advantage one over the other. If you want outdoor or more than three animals you need to go to a commercial area or get a special permit to facilitate the outdoor component, which is only allowed in the H-3 and H-4.

Carlson expressed concern about the definition of indoor kennel: “....shall mean any building, yard, enclosure or place...”. Rick Peo of Law Department believes it was an attempt to be broad on the definition of kennel as to what might constitute a kennel as to both indoor and outdoor. Indoor would exclude the yard provision. He agreed that possibly the word “yard” should be excluded from the definition for indoor kennel. It might need some clarification.

### Support

**1. Heidi Flammang, founder and CEO of Camp Bow-Wow**, a national dog care facility and franchise, testified in support. Camp Bow-Wow is excited about coming to Lincoln to provide a service to the community. She has been involved in about 75 like situations around the country. The text amendment as proposed is very typical of how communities are dealing with this around the country. The proposal addresses the grandfathering issue in terms of annexation. It also addresses the issue that the current vets within the city limits are in fact doing boarding. This levels the playing field. The key that is really important that will be helpful is the special permit provision. It allows a lot of control on a case-by-case basis and that is something that cities are having a lot of success with. It is a good solution. She did suggest that the Commission might consider coming up with a general term such as “animal care facility”, which allows more leeway as these “super” facilities come into play with vets, boarding, grooming, etc. With regard to sound, an acoustical study done in Durham, North Carolina, found that the equivalent of 70 barking dogs did not cause a noise nuisance 100' away.

Esseks inquired whether there was any need for sound-proofing. What about the windows? The representative of Camp Bow-Wow stated that the windows would need to be closed. Esseks wondered whether residents could complain if the windows are left open. The representative of Camp Bow-Wow stated that it is important to keep a good relationship with the neighbors in the area. In some cases, the cities have put into place a complaint process and that is another way to alleviate concerns.

**2. Colleen Clark**, testified on behalf of **Camp Bow-Wow**, and advised that the Belmont Vet Clinic has 88 indoor heated runs and the Nebraska Animal Medical Center has built a multi-million dollar addition with 50+ kennels, both in Lincoln.

**3. Megan Allen**, Director of the Site Search Group for **Camp Bow-Wow**, stated that dog safety and their well-being is really important. In most of their facilities, it is not an option to open the

windows because of the required temperature guidelines. It would waste utilities to have the windows open.

### Opposition

1. **Dr. Tom Haug**, veterinarian at **Belmont Veterinary Center**, with 5 vets in the practice, testified in opposition. He clarified that their Web page does refer to 88 kennels for boarding; however, it is incorrect. They have a total of about 37 runs and 51 cages. Belmont Vet Center is not a boarding kennel. When this clinic was built, it was imperative that all runs and cages be inside and the only time the animals are allowed outdoors is on a leash with direct supervision. It is common knowledge that a dog is less likely to bark if on a leash. If turned out in an exercise run, the subsequent barking and noise would increase. The Belmont Vet Center only generates 5% of its income from boarding. He believes that a lot of outdoor exercise pens would lead to a significant noise problem.

2. **Henry Sader**, 2030 Saltillo Road, **Wilderness Kennels**, testified in opposition. He agreed with the letter submitted by David Barga on behalf of the Nebraska Animal Medical Center. Allowing more kennels in the city limits will result in more of these facilities in all of these different zoning areas popping up that are probably not as well accredited as Camp Bow-Wow. You will have to let everyone that applies and meets the criteria to put a kennel in a strip mall, for example. The 100' is absurd. It is absurd to think that you cannot hear dogs. He has one building at Wilderness Kennels with 28 kennel runs and you definitely can hear the dogs from 100 feet. There is no doubt. He believes this proposal has been created by the Planning staff on behalf of Camp Bow-Wow. He does not have a problem with Camp Bow-Wow. They can build outside the city limits. That's what he had to do. The benefit of having them in the city is not going to outweigh the public disgruntlement of others because of the barking noise, the odor, etc. Dogs are animals – they are not people – they don't think like people. You need to look at the benefits of not having them within the city limits. The Animal Advisory Board has voted "no" and the Health Board has voted "no".

### Other Testimony in Support

1. **Peter Katt**, attorney representing the local franchisee, **Camp Bow-Wow**, addressed the comments in opposition. The proposal defines indoor kennel and perhaps it is unfortunate that we have to use the word "kennel". The point to be made is that we have facilities today that operate within this function within the city limits. Animals are boarded in vet clinics, so it is a land use that has operated successfully in the city without any problems. He does not believe that it requires a veterinarian to manage animals. We don't require doctors to run day cares. This concept of a pet day care is important to be facilitated inside the city limits. It is a day care. It is not an overnight stay. Lincoln has been a unique experience for Camp Bow-Wow in terms of finding a way to accommodate the concerns and locate in the city. He does not understand why Lincoln cannot find a way to accommodate this type of business in our community.

Katt pointed out that there is a complaint process in place today. There are enforcement mechanisms in place today. This is a use that is needed today, and one which is allowed in a lot of communities throughout the nation. We have examples of how they successfully operate in the city today.

Katt supports the revised staff recommendation.

## Staff Questions

Relative to Title 6, Will explained that currently the zoning ordinance allows kennels as a permitted use in the city. Title 6 currently prohibits kennels within the city limits. The change to Title 6 must occur in order for the proposed changes to Title 27 to have any meaning. Both Title 6 and Title 27 will need to go forward to the City Council.

Will noted that Camp Bow-Wow described the nature of their use. However, we must be careful when writing provisions to make sure we have everyone in mind, that is, the range of operators that could potentially come in.

Strand inquired whether Will believes this legislation covers all contingencies. Will answered in the affirmative. He pointed out again that Lincoln already has these facilities within the city. The Health Department has said there have been no complaints, so the staff did not see any reason not to support it. Relative to the special permit, those applications will come forward to Planning Commission and will be reviewed on a case-by-case basis. That is also the reason for adding that the Planning Commission may increase the requirements in consideration of the adjacent environment. The special permit is only allowed in H-3 and H-4.

Esseks wanted to know what could be done if a nearby resident or worker at an office had a real gripe against one of these kennels, such as the noise, smell, etc. Will suggested that it would either be a zoning violation or a Health Code violation. In any event, a city agency is going to respond and be responsible for investigating. Those provisions are already in place.

Esseks wondered whether there is any remedy for enforcement if one agency were over-taxed for lack of budgetary resources. Will's response was that we can't stop doing development and we can't stop uses from coming in. That would be a broader policy issue. Rick Peo of the Law Department advised that occasionally noise complaints have to be brought directly into the City Attorney for prosecution when there is not a health officer available, so there is a remedy through the City Attorney office.

Strand wondered whether Camp Bow-Wow could come into Lincoln today if they joined in with a vet clinic. Will stated that currently, the ordinance allows animal hospitals in the city limits. If an entity comes in and if the city has found the use to be appropriate, they could do so.

Cornelius asked what constitutes "sufficient evidence". Peo stated that obviously, it is a case-by-case situation. Usually in a neighborhood issue of dogs barking, the evidence would include the amount of time outside barking, how long, etc. Is it unique to you but not your next-door neighbor? It would be a case-by-case decision to determine whether it is a noise violation. Obviously, a parole officer would go out and investigate.

Cornelius inquired whether we know how many citations have been issued for this type of violation in general. Peo did not know. He did prosecute a few years ago and it was not an infrequent issue that gets investigated, but he was not aware for current situations.

### **ACTION BY PLANNING COMMISSION:**

March 14, 2007

Strand moved approval, as revised, seconded by Sunderman.

Strand stated that she hates listening to barking dogs and she loves dogs, but this obviously is happening within Lincoln and there need to be rules that allow some conformity and some rules to be applied. Why not make it allowable as a business without having to play the game? Dogs do get bored during the day and to take them to a day care is something that people like to do. There is a need.

Esseks stated that he will support the motion, also, but he believes it will be a rather heavy burden as we deal with the reality of these large facilities and the problems they might cause.

Cornelius stated that he will also support the motion, with one caveat – what we learned over the course of this process is that between the land use ordinance and the Title 6 Health Code, we have kind of a mess. This is a step toward creating some consistency in those ordinances. He is hopeful that as this proceeds forward that the people to whom the Planning Commission is making a recommendation will also take into account the recommendation of the Health Department with regard to enforcement and location of animal care facilities, hospitals, etc., near residential areas.

Carroll stated that he will support the motion. There are problems that need to be addressed. He expressed appreciation to the staff.

Carlson commented that there is a complex set of questions and there is a varying rate of understanding. He also expressed appreciation to staff.

Motion for approval, as revised, carried 9-0: Carroll, Cornelius, Sunderman, Esseks, Krieser, Taylor, Strand, Larson and Carlson voting 'yes'. This is a recommendation to the City Council.

LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

Board of Health Minutes

January 9, 2007

I. ROLL CALL

The meeting of the Board of Health was called to order at 6:32 PM by Lisa Peterson at the Lincoln-Lancaster County Health Department. Members present were: Cathy Alley, Rodrigo Cantarero, Deb Humphrey, Tony Messineo, Ed Schneider, Ken Svoboda, Ann Harrell (ex-officio) and Lisa Peterson.

Members Absent: Larry Hudkins, Hena Roy, Kristy Bauer (ex-officio), and Tonya Skinner (ex-officio).

Staff Present: Bruce Dart, Steve Beal, Judy Halstead, Charlotte Burke, Jim Weverka, Dave Humm, and Elaine Severe.

Others Present: Mark Anderson, Marvin Krout, Peter Katt, Paul Marcussen, Tom Ryan, Kent Forney, Henry Sader, Sr., Henry Sader, Jr., Mike Anderson, Hal Smith.

II. APPROVAL OF AGENDA

Dr. Peterson asked that the Alcohol Use Sub-Committee Report be moved from Item C to Item B under New Business. She asked if there were any other additions or corrections to the Agenda.

Motion: Moved by Dr. Alley that the Agenda be approved as amended. Second by Mr. Svoboda. Motion carried by acclamation

III. APPROVAL OF MINUTES

Dr. Peterson asked if there were any additions or corrections to the Minutes.

Motion: Moved by Dr. Schneider that the December 12, 2006 Minutes be approved as mailed. Second by Dr. Alley. Motion carried by 7-0 roll call vote.

IV. PUBLIC SESSION

V. DEPARTMENT REPORTS

A. Health Director Update

Dr. Dart stated the monthly highlights were mailed to the Board members. He stated plans are underway for the Department's Annual Meeting. It is scheduled for Wednesday, April 18, 2007 from 11:30-1:00 at Bryan LGH East Conference Room. Lt. Governor Rick Sheehy will be the keynote speaker. The topic of the meeting will be Adolescent Health and Risk Factor Issues. The meeting will include a luncheon, awards presentation, and a panel discussion session following until 3:30 PM.

Dr. Schneider asked Dr. Dart for an explanation for the 73% increase in gonorrhea cases in the past year in Lancaster County. Dr. Dart will obtain the information from the Communicable Disease staff. He also asked Ms. Burke about the 35% non-compliance in

establishments selling tobacco products to minors. Ms. Burke responded there has been an increase and staff are working with the Lincoln Police Department on this issue. Board members also asked about food handler permits and requirements, tuberculosis cases and shigella cases in day care centers. Dr. Dart responded staff are now providing education classes to day care centers. Board members also asked if the increase in the federal minimum wage would affect the City's living wage ordinance. Mr. Svoboda responded increases are built into the City's living wage ordinance.

Mr. Messineo asked Dr. Dart whether food establishments that employ Special Needs employees are required to have a Level IV Manager on staff when the employees are scheduled to work. Dr. Dart will respond to Mr. Messineo.

VI. CURRENT BUSINESS

VII. NEW BUSINESS

A. 59<sup>th</sup> Annual Report for the Lincoln-Lancaster County Health Department

Mr. Beal provided a draft copy of the 59<sup>th</sup> Annual Report. The final report will be ready in approximately two weeks. It will have interactive pages and promote the Department's website. In past years, the Annual Report has been distributed through the Lincoln Journal Star. This will not be done this year. Release and availability of the Annual Report will be done through a media release.

B. Alcohol Use Sub-Committee Policy Statement

Mr. Beal and Mr. Humm stated the Sub-Committee met to review the information and are recommending a letter be sent to the Substance Abuse Action Coalition from the Board of Health supporting the Coalition's efforts regarding substance abuse prevention in Lincoln and Lancaster County. Mr. Humm provided an update on the Coalition's work to date and what their next steps will be. He serves as a member of the Coalition and will provide monthly updates on the Coalition's work in the Department's Monthly Report. Dr. Schneider asked that the letter emphasize "action".

Motion: Moved by Mr. Messineo that the Board of Health send a letter of support to the Substance Abuse Action Coalition supporting their substance abuse prevention efforts in Lincoln and Lancaster County. Second by Dr. Schneider. Motion carried on a 7-0 roll call vote.

C. Proposed Revisions to LMC 6.02 - Definitions; 6.04 - Animals Generally; 6.08 - Dogs; 6.10 - Dangerous and Potentially Dangerous Dogs; and 6.12 - Cats

Mr. Weverka reviewed the proposed revisions to the animal control ordinances. They were reviewed by the Animal Control Advisory Committee and all were recommended for approval for the Board of Health except those related to Commercial Boarding Kennels. The Committee reviewed and discussed the Commercial Boarding Kennel ordinance draft in December, 2006 and heard comments from the boarding kennel owners

and veterinarian present. They did not want competition from franchise operations, they disagreed with the City Attorney opinion that if annexed by the City, they would have to cease operation. Therefore, the Animal Control Advisory Committee voted to not approve the ordinance revisions regarding boarding kennels. Staff prepared an alternate proposal and he distributed it to Board members. Changes included kennels would have to comply with all zoning and land use restrictions of the City of Lincoln and they would have to be licensed under the State of Nebraska. Dr. Dart stated Camp Bow Wow is proposing a kennel operation and would like to operate in the City limits. Under current ordinances, they would not be allowed to do that. Dr. Dart stated the City of Lincoln is growing and kennels that are now outside the City limits will eventually be annexed. The City will eventually have to deal with this issue. If the property current kennels are located on is annexed, they would not comply with current City ordinances. The proposed revisions to the ordinance would simplify the process.

Dr. Peterson stated each person present who wished to comment will be given 5 minutes to do so.

Testifiers - Support for the Ordinance Revisions.

- 1) Tom Ryan - Camp Bow Wow Owner. He stated Camp Bow Wow would like to begin operations in the City of Lincoln. He provided information on his proposed operation and their services. Currently commercial boarding kennels are not allowed in the City limits under current ordinances.
- 2) Peter Katt - Pierson Fitchett Law Firm - Camp Bow Wow Attorney - Mr. Katt stated he fully supported the proposed revisions. Currently, commercial boarding kennels are not allowed in the City Limits. The revisions would bring the Health ordinances and Zoning regulations up to date and allow Camp Bow Wow to locate in Lincoln. He noted many cities allow commercial kennels within their borders. He also commented veterinarians have already ben providing commercial boarding within the City limits and there are no concerns with that.
- 3) Paul Marcussen - Prairie Winds Kennels Owner. Mr. Marcussen stated he supported the revisions. He did ask that the hours be defined in the zoning regulations. He stated there would be noise and complaints may be received depending on where the kennels are located. He currently owns a kennel outside the city limits. He supported the "grandfathering clause" for those operations that are already in existence.

Testifiers - Against the Ordinance Revisions

- 1) Henry Sader, Sr. and Henry Sader, Jr. - Wilderness Kennels Owners. Mr. Sader stated Wilderness Kennels has been in operation since 1968 at 21<sup>st</sup> & Saltillo Road. He stated there is no need to put a kennel within the City limits.

Commercial kennels should be built outside the City Limits and allowing them in the City limits would allow for unfair competition.

- 2) Kent Forney - Veterinarian. He stated he is a local veterinarian and he is opposed to the ordinance revisions. He stated there was no need for more boarding kennels in the City of Lincoln. He stated the Board of Health should listen to the Animal Control Advisory Committee and follow their recommendations. He felt opening the City to commercial kennels would open the door for other operations such as Pet Smart to offer boarding kennel services. He stated his business does offer boarding services but most of the animals he boards have health problems and require monitoring.
- 3) Mike Anderson - Driftwood Kennels owner. He stated he wanted to build a kennel in the City limits in the 1990s and was not allowed to. He had to purchase 20 acres in the County to open his operation. He stated he is opposed to the ordinance revisions as they allow for unfair competition.

Testifiers - Neutral

- 1) Hal Smith - Highlands Animal Hospital owner. He stated noise would be an issue that would have to be addressed. The more animals you have, the more noise you have.

Marvin Krout, Lincoln Lancaster County Planning Director, stated the Planning Commission would address the zoning changes and a public hearing would be held by the Planning Commission. Mr. Svoboda asked if the Special Permit process would address the hours of operation of proposed boarding kennels. Mr. Krout responded yes. He also suggested the Board of Health get a legal opinion from the City Attorney to determine whether health regulations override "grandfathering" issues.

Dr. Schneider and Mr. Svoboda stated the Board of Health should only address public health issues when reviewing the proposed ordinance revisions. Dr. Schneider stated he believed the staff and Board could prepare language that was acceptable to all parties to deal with these issues. From a public health perspective, he saw little need to add commercial kennels within the City limits. He asked that the Board request a legal opinion on this issue on non-conforming use property and grandfathering issues. Dr. Canterero asked Dr. Dart what the public health implications would be. Dr. Dart replied they would be noise and sanitation issues. He noted the State currently oversees and licenses kennel operations. Dr. Alley asked whether the Animal Control Advisory Committee had an opportunity to review the new proposed language. Dr. Dart replied they had not seen it.

Motion: Moved by Dr. Schneider that the Board of Health table the proposed ordinance revisions until the February 13, 2007 meeting and ask that the revisions be presented to

the Animal Control Advisory Committee prior to the February 13, 2007 meeting. The Board also requests the City Attorney provide a legal opinion on non-conforming use property. Second by Dr. Alley. Motion carried by a 7-0 roll call vote.

D. Election of Officers

Dr. Peterson presented the nominations for Board of Health officers for 2007. President - Dr. Lisa Peterson, Vice-President - Tony Messineo. She and Mr. Messineo have agreed to serve if elected:

Motion: Moved by Dr. Schneider that the Board of Health elect Lisa Peterson, MD as President and Tony Messineo as Vice-President for 2007. Second by Dr. Cantarero. Motion carried by a 7-0 roll call vote.

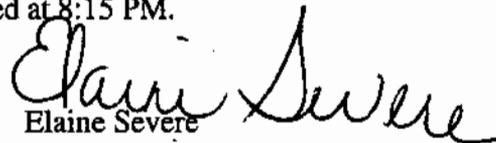
VIII. FUTURE BUSINESS

IX. ANNOUNCEMENTS

The next meeting is February 13, 2007 at 6:30 PM.

X. ADJOURNMENT

Motion: Moved by Dr. Schneider to adjourn the meeting. Second by Dr. Alley. Motion carried by acclamation. The meeting was adjourned at 8:15 PM.

  
Elaine Severe  
Recording Secretary

Tony Messineo  
Vice-President

LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

Board of Health Minutes  
February 13, 2007

**DRAFT**

I. ROLL CALL

The meeting of the Board of Health was called to order at 6:31 PM by Lisa Peterson at the Lincoln-Lancaster County Health Department. Members present were: Rodrigo Cantarero, Deb Humphrey, Tony Messineo, Ed Schneider, Deb Schorr, Ann Harrell (ex-officio) and Lisa Peterson.

Members Absent: Cathy Alley, Hena Roy, Ken Svoboda, Kristy Bauer (ex-officio), and Tonya Skinner (ex-officio).

Staff Present: Bruce Dart, Steve Beal, Charlotte Burke, Jim Weverka, Scott Holmes, and Elaine Severe.

Others Present: Mark Anderson, Ron Burke, Peter Katt, Paul Marcussen, Tom Ryan, Kent Forney, Henry Sader, Sr., Henry Sader, Jr., Mike Anderson, Coleen Claric, David Bargaen, Larry Hudkins.

Dr. Peterson welcomed Deb Schorr to the Board of Health. Ms. Schorr represents the Lancaster County Board of Commissioners. Board members introduced themselves and welcomed Ms. Schorr to the Board of Health.

II. APPROVAL OF AGENDA

Dr. Peterson asked if there were any additions or corrections to the Agenda.

Motion: Moved by Mr. Messineo that the Agenda be approved as mailed. Second by Dr. Humphrey. Motion carried by acclamation

III. APPROVAL OF MINUTES

Dr. Peterson asked if there were any additions or corrections to the Minutes.

Motion: Moved by Dr. Schneider that the January 9, 2007 Minutes be approved as mailed. Second by Dr. Cantarero. Motion carried by acclamation.

IV. PUBLIC SESSION

V. DEPARTMENT REPORTS

A. Health Director Update

Dr. Dart stated the monthly highlights were mailed to the Board members. He reported a 11 year old Lancaster County resident has died of influenza. Nebraska Health and Human Services System issued a news release and Communicable Disease staff are doing followup with the family. Dr. Dart reported the number of influenza cases has increased and noted influenza vaccine is still available at the Health Department's Clinic.

Dr. Dart responded to Dr. Schneider's request from last month on the increase in the number of gonorrhea cases in the past year in Lancaster County. He stated the Department is testing more individuals, therefore, the number of cases reported has increased. Mr. Messineo asked for an update on the statewide smoking legislation. Dr. Dart responded the Legislature heard testimony on the bill today. The proposed legislation essentially mirror's Lincoln's Smokefree Act.

Mr. Messineo suggested the Board of Health set aside time at each Board of Health meeting for members to ask questions about any issue. This would allow Board of Health members opportunities to bring up issues for discussion or agenda items for future meetings. Dr. Peterson and Dr. Dart will review and discuss Mr. Messineo's request.

Mr. Beal previewed the Health Department's 59<sup>th</sup> Annual Report. The Report will be available on the City of Lincoln/Health Department website. A news release will announce the release of the Report and it will be made available to our stakeholders via e-mail. It will also be debuted on Chanel 5 City TV. Dr. Schneider complimented Mr. Beal and the staff for their fine work on the Annual Report. The Report will be presented to the Board of Health for approval at the March 13, 2007 meeting.

Mr. Messineo asked for an update on the pandemic flu. Staff are meeting with the Lincoln Police Department and Lincoln Fire & Rescue to finalize their pandemic plans. Mr. Messineo requested for information on pandemic flu to disseminate to businesses. The website and pertinent information will be forwarded to Mr. Messineo and his office.

## VI. CURRENT BUSINESS

### A. Proposed Revisions to LMC 6.02 - Definitions; 6.04 - Animals Generally; 6.08 - Dogs; 6.10 - Dangerous and Potentially Dangerous Dogs; and 6.12 - Cats

Dr. Dart stated the proposed revisions to the Animal Control ordinances were tabled at the January 9<sup>th</sup> meeting to allow the Animal Control Advisory Committee another chance to review them. He stated the Animal Control Advisory Committee met on February 7, 2007 to discuss the revisions. They voted to send their recommendations on boarding kennels to the Board of Health. Their vote failed 5-3. Mr. Weverka stated the proposed revisions are now presented to the Board of Health for their review. Ordinance 6.04.205 - mandatory neuter/spay will be removed from the materials presented as the Animal Control Advisory Committee wanted more time to review this particular revision. This revision relates to microchips. Dr. Dart stated the City Attorney continues to maintain that if existing boarding kennels are annexed into the City of Lincoln, they cannot be "grandfathered in". The City Attorney's Office says the Planning Commission will discuss zoning issues and health issues override zoning issues. Board members asked if the "grandfathering issue" could be changed.

Mr. Bargan, attorney for the Nebraska Animal Medical Center, stated public health issues need to be addressed. He also disagreed with the City Attorney on annexation and grandfathering issues. Mr. Sader, Sr. stated allowing more kennels in the city limits will bring more problems. He also stated a 100 ft. setback is not enough to eliminate noise issues. Dr. Forney stated the Animal Control Advisory Committee has voted twice to not

allow commercial boarding kennels in the city limits and asked the Board of Health to follow the advise of the Advisory Committee. Mr. Ryan, Camp Bow Wow, stated Camp Bow Wow's plans call for 60 kennels. He stated the Belmont Veterinary Clinic has 88 kennels and the Nebraska Animal Medical Center has 50 kennels. He stated kennels are not the same as they were 50 years ago and there are no problems with the kennels that are currently in the city limits. He stated people are requesting this service and Camp Bow Wow looks out for the welfare of their animals. Mr. Katt, attorney for Camp Bow Wow, stated we currently have boarding kennels in the city of Lincoln and there are no problems. The Board of Health should not pick and choose who should be allowed and who should not. Mr. Marcussen, stated his kennel provides a service to the community and asked for parity with the veterinarians. Mr. Anderson asked what the Department will do when bad owners bring animals into public places.

Dr. Schneider stated if more kennels are allowed in the City of Lincoln, there could be more barking complaints, odor complaints, etc. He suggested forwarding the proposed ordinance revisions to the City Council stating there is no public health reason to locate more kennels in the City Limits and express the Board's concerns. Dr. Dart stated the Department has not received noise/sanitation complaints from kennels. Dr. Dart reminded Board members that their role is to advise on policy issues as they affect the public health of the community. Dr. Peterson read a letter from Board member Svoboda stating commercial boarding kennels, operated by veterinarians, already exist within the city limits, the Health Department has not received any complaints regarding the existing kennels, The City Attorney's Office continues to express concern relative to annexation of boarding kennels into the City limits and the role of the Board of Health is to advise on policy issues based on public health principles only. Zoning issues and policy development on land use are the role of the Planning Commission and the City Council.

Mr. Messineo stated there might be health issues in the future. Camp Bow Wow appears to be a good operation, but we don't know who else may wish to locate in the City of Lincoln. Dr. Cantarero asked if we could assume regulate of the kennels. The State of Nebraska currently regulates the veterinary clinics and kennels located outside the City limits. Dr. Humphrey noted she has concerns about noise/barking issues and noted the Animal Control Advisory Committee voted it down on two occasions.

Motion: Moved by Dr. Schneider to forward the Animal Control ordinances (without the commercial boarding kennels and micro-chipping portions) to the City Council for their review. Second by Mr. Messineo. Motion carried on a 6-0 roll call vote.

Motion: Moved by Dr. Schneider to not forward the commercial boarding kennel ordinance revisions to the City Council. Second by Mr. Messineo. Motion failed by a 4-2 roll call vote.

## VII. NEW BUSINESS

A. Proposed Policy 222.92 - Food Code Variance Requests

Mr. Holmes reviewed the proposed policy stating the FDA National Retail Food Program Standard #3 requires that regulatory agencies have a written policy on how requests for variances of the Food Code are reviewed and approved. The food industry is constantly evolving and there is a need to allow for a variance from the regulations as long as food safety is not compromised. Mr. Holmes stated requests for a variance are not common so having a written policy is important to assure the review is completed appropriately.

Motion: Moved by Mr. Messineo that the Board of Health approve Policy 222.92 - Food Code Variance Requests. Second by Dr. Humphrey. Motion carried by a 6-0 roll call vote.

B. Proposed Policy 222.82 - HACCP Plan Reviews

Mr. Holmes reviewed the proposed policy stating the FDA National Retail Food Program Standard #3 requires regulatory agencies have a written policy on how HACCP (Hazardous Analysis Critical Control Points) plans that are required by the Food Code are reviewed and approved. The Department has reviewed two plans in the past. Requests to review a HACCP plan are not a common occurrence so having a written policy is important to assure that review is completed appropriately.

Motion: Moved by Dr. Cantarero that the Board of Health approve Policy 222.82 - HACCP Plan Reviews. Second by Dr. Humphrey. Motion carried by a 6-0 roll call vote.

VIII. FUTURE BUSINESS

IX. ANNOUNCEMENTS

The next meeting is March 13, 2007 at 6:30 PM.

X. ADJOURNMENT

Motion: Moved by Dr. Humphrey to adjourn the meeting. Second by Ms. Schorr. Motion carried by acclamation. The meeting was adjourned at 8:07 PM.

Elaine Severe  
Recording Secretary

Tony Messineo  
Vice-President

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# MEMORANDUM

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**DATE:** March 14, 2007  
**TO:** Planning Commission  
**FROM:** Brian Will ~~/~~ Planner  
**RE:** CZ-06084 Text Amendment - Kennels

For clarity the Law Department has suggested two changes to the proposed definitions for Kennel and Indoor Kennel. Staff recommends the definitions be amended as indicated below. Additionally, staff recommends an additional condition be added to those proposed for a special permit for an outdoor exercise area associated with an animal hospital or kennel. Last, the text amendment to Title 6 recently considered by the Board of Health is also attached for the Planning Commission's information.

Amend Chapter 27.03 Definitions to include the following new definitions:

c. **Kennel** - Kennel shall mean any ~~kennel building, yard, enclosure or place~~ where pet animals ~~as defined by LMC Section 6.02.420~~ owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals and indoor animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska.

d. **Kennel, Indoor** - Kennel shall mean any ~~kennel building, yard, enclosure or place~~ where pet animals ~~as defined by LMC Section 6.02.420~~ owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals or indoor animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska.

Add the following condition to the proposed Section 27.63.780:

(7) Animals in the outdoor exercise area shall be under the supervision of handlers at all times.

## **Proposed Alternative Commercial Boarding Kennel Ordinances**

### **6.02.140 Commercial Boarding Kennel.**

Commercial boarding kennel shall mean any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska. All commercial boarding kennels operating within the City limits of Lincoln shall be duly licensed under the laws of the State of Nebraska.

### **6.04.165 Pet Shop, Commercial Boarding Kennels, and Groom Shops; Restrictions.**

(a) It shall be unlawful to operate a mobile pet shop or conduct a business of obtaining pet animals for resale, adoption, or selling from any vehicle parked or operated on any city street.

(b) It shall be unlawful for the owner, proprietor, employee, or volunteer of any pet shop to knowingly sell or offer for sale a sick or ill pet animal or misrepresent the breed or sex of a pet animal to any buyer or consumer.

~~(c) It shall be unlawful to board any dog or cat overnight at any pet shop, groom shop, or obedience training business, except that licensed veterinarians, animal shelters, and humane societies are excluded from the requirements of this subsection.~~

(c) Commercial boarding kennels or combinations thereof with a pet shop or groom shop shall comply with all zoning and land use restrictions of the City of Lincoln

(d) It shall be unlawful to breed pet animals in commercial boarding kennels.

(e) Commercial boarding kennels shall provide only indoor housing facilities for the animals which may include an outdoor exercise or play area for the animals. No animals shall be allowed in outdoor exercise or play areas after business hours.

(f) All commercial boarding kennels operating within the City limits of Lincoln shall be duly licensed under the laws of the State of Nebraska.

### **6.08.310 Dog Kennels Prohibited; Exceptions.**

It shall be unlawful for any person to keep, or permit to be kept upon any premises occupied or under such person's charge or control, any dog kennel. Provided, however, the provisions of this section shall not apply to the Humane Society, animal shelter, animal research facilities, zoos, animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, commercial breeding kennels, commercial boarding kennels or to multi-dog households.

If upon the trial of the offense mentioned in this section it shall appear to the county judge that the person be guilty as charged in said complaint, said county judge shall, in addition to the usual judgment of conviction, declare said dog kennel a public nuisance, order the party or parties so convicted to abate said nuisance forthwith, and in the event the party or parties convicted shall fail to do so, order the Health Director or the Chief of Police to remove to the animal shelter said dog or dogs so kept and harbored in violation of this section, there to be impounded and disposed of in accordance with the terms of this chapter. The cost of such impoundment and disposal shall be borne by the convicted person.

## **Camp Bow Wow Proposal**

Indoor commercial boarding kennels should have no greater restrictions than the boarding facilities provided by the existing hospitals and clinics for animals. These commercial boarding kennels have been operating for years, apparently as an accessory use, without any known problems or complaints. These facilities are allowed as a permitted use in the B-1, B-2, B-3, H-2, H-3 and H-4 zoning districts with the following language:

**“Hospitals and clinics for animals but not open kennels”**

We would ask the Planning Commission to change the language to read as follows:

**“Hospitals and clinics for animals and indoor animal boarding facilities including outdoor exercise or play areas for the animals”**

With this change, the existing commercial boarding facilities in the vet clinics become fully legalized, the new operators will have choices throughout the community and all of the operations will be on the same playing field.

The Planning Department’s proposed new permitted special use, 27.63.780 should be applied to any of these facilities which may want to locate in the O-1, O-2, O-3 and B-5 Districts.

Animal boarding facilities, both indoor and outdoor (open?) should continue to be permitted uses in the AG, AGR, B-4, I-1 and I-2 districts with out any specific land use restrictions. They will be subject to State of Nebraska requirements and could also be regulated by the Health Department.

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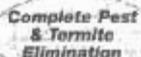
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<b>27.03.590</b>	<b>Street Centerline.</b>
<b>27.03.600</b>	<b>Street Line.</b>
<b>27.03.610</b>	<b>Structure.</b>
<b>27.03.620</b>	<b>Structural Alteration.</b>
<b>27.03.625</b>	<b>Temporary Shelter for the Homeless.</b>
<b>27.03.630</b>	<b>Townhouse.</b>
<b>27.03.633</b>	<b>Tree Service.</b>
<b>27.03.635</b>	<b>Technology Transfer Industries or Applications.</b>
<b>27.03.636</b>	<b>Warehouse.</b>
<b>27.03.640</b>	<b>Yard Line.</b>
<b>27.03.650</b>	<b>Yard, Required.</b>
<b>27.03.660</b>	<b>Yard, Required Front.</b>
<b>27.03.670</b>	<b>Yard, Required Rear.</b>
<b>27.03.680</b>	<b>Yard, Required Side.</b>

**27.03.010 Definitions; General Provisions.**

For the purpose of this title, certain terms and words are hereby defined. Certain chapters contain definitions which are additional to those listed here. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "structure" shall include the word "building," and the word "shall" is mandatory. (Ord. 12571 §3; May 8, 1979).

**27.03.020 Abutting.**

Abutting shall mean adjacent or contiguous and shall include property separated by an alley. (Ord. 12571 §4; May 8, 1979).

**27.03.030 Accessory Buildings and Uses.**

An accessory building is a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises. (Ord. 12571 §5; May 8, 1979).

**27.03.035 Administrative Offices.**

Administrative offices shall mean offices that house the administrative support functions of an association, corporation or other similar organization including, but not limited to, finance, accounting, personnel, policy development, administration, and similar administrative activities that do not generally involve frequent or regular face-to-face interaction with the public. This definition of "administrative offices" is intended to prohibit all manufacturing, retail, wholesale, service, and other activities that involve the on-site production, distribution, delivery, or marketing of goods and services to the public. (Ord. 15164 §1; May 8, 1989).

**27.03.037 Adult Care Center.**

Adult care center shall mean a facility in which a program of structured and supervised social, manual, physical, and intellectual services or activities are provided to adults who are either ambulatory or wheelchair mobile. Such services or activities shall be provided for a minimum of

- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Garden centers;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (j) Service stations;
- (k) Hospitals and clinics for animals, but not open kennels;
- (l) Self-service laundromats;
- (m) Receiving stores for dry cleaning or laundry;
- (n) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space.
- (o) Messenger and telegraph stations;
- (p) Office buildings;
- (q) Restaurants;
- (r) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- (s) Undertaking establishments;
- (t) Photography studios;
- (u) Bicycle sales and repair shops;
- (v) Key shops;
- (w) Ambulance services;
- (x) Clubs;
- (y) Enclosed commercial recreational facilities;
- (z) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments. (Ord. 18345 §1; April 26, 2004: prior Ord. 17320 §2; April 20, 1998: Ord. 16962 §2; March 25, 1996: Ord. 16767 §5; April 10, 1995: Ord. 16593 §2; April 11, 1994: Ord. 14626 §2; March 16, 1987: Ord. 13736, as amended by Ord. 13745 §2; January 3, 1984: Ord. 12571 §167; May 8, 1979).

**27.31.040 Permitted Conditional Uses.**

A building or premises may be used for the following purposes in the B-2 Planned Neighborhood Business District in conformance with the conditions prescribed herein:

- (a) Automobile wash facility:
  - (1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.
  - (2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines

SUBMITTED AT PUBLIC HEARING  
BEFORE PLANNING COMMISSION: 1/17/07  
BY PETER KATT



Results: 1 - 16 of 16 Kennels around  
Lincoln, NE



Kennels

A. 4-20P-ETS-7387

040

- B.**
- C.** [A. J. Wilentz Hospital](#)  
(402) 475-2282
- D.** [Bellevue Day Services](#)  
(402) 783-9000
- E.** [Bellevue Home Health Services](#)  
(402) 483-7001
- F.** [Bellevue Hospice](#)  
(402) 464-1382
- G.** [Bellevue Hospice](#)  
(402) 488-8190
- H.** [Bellevue Hospice Services](#)  
(402) 465-0123
- I.** [Bellevue Hospice Services](#)  
(402) 488-3535
- J.** [Bellevue Hospice Services](#)  
(402) 794-5041
- K.** [Bellevue Hospice Services](#)  
(402) 489-9902
- L.** [Bellevue Hospice Services](#)  
(402) 477-7877
- M.** [Bellevue Hospice Services](#)  
(402) 421-2300
- N.** [Bellevue Hospice Services](#)  
(402) 423-6939
- O.** [Bellevue Hospice Services](#)  
(402) 475-3471
- P.** [Bellevue Hospice Services](#)  
(402) 488-0993

1 - 16 of 16



DISADVANTAGED  
IN

1994	▲
1984	—
1974	▼

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PEST - PET 689

**Pest Control Services (Cont'd)**

**PRIORITY TERMITE & PEST CONTROL INC**  
Lincoln 484-0101  
(See Display Ad This Page)

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Ron's Pest Control 4230 J Lincoln 483-0177  
**STETSON WILDLIFE MANAGEMENT**  
Lincoln 476-6663  
(See Display Ad This Page)

Terminator Pest Control 580-7378  
**TERMINIX INTERNATIONAL**  
(See Display Ad Page 686)  
T S Services 438-2847  
Usher Pest Control Co  
2235 Orchard Lincoln 477-5418

**Pest Control Supplies & Equipment**

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For The Do-It-Yourselfer  
Mice-Roaches-Ants  
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Lincoln 476-6663

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7405 Pioneers Blvd Lincoln 488-0993  
**CAPITOL ANIMAL CLINIC**  
633 N 66 Lincoln 464-1382  
Driftwood Kennels  
100 McKee Rd Lincoln 435-3003  
**OKENL INN INC**  
See Our Ad Under Kennels  
10101 Old Cheney Rd Lincoln 438-8190  
**LEGACY EQUESTRIAN CENTER & KENNEL**  
**LEGACY KENNELS**  
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Staffed by true animal lovers who provide a safe, fun and stress-free environment  
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**NEBRASKA ANIMAL MEDICAL CENTER**  
5720 Old Cheney Rd Lincoln 423-9100  
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6501 S 176 Walton 782-6502

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HOME

ABOUT US

SERVICES

DOCTORS

STAFF

CONTACT



### Boarding Facilities:

Belmont Veterinary Center has one of the largest boarding facilities in the Lincoln area. We have 88 indoor, heated runs and a variety of kennel sizes ranging from small to extra large cages. All animals are checked on a regular basis to assure their well-being during their stay with us. Boarding is available for dogs, cats, and other small animals year round. Dogs are taken outside twice daily with an option of a third "play-time" available at check-in. Early reservations are always encouraged, especially near holiday seasons. Current vaccinations are required for all boarders to prevent the spread of infectious diseases.

x

## NEBRASKA ANIMAL MEDICAL CENTER

ABOUT US | HOURS | LOCATION | CONTACT US |

Doctors

Surgery

Boarding

Daycare

Grooming

Pet Insurance

News Letter (Fall '06)



Pardon  
Our  
Dust

As you  
may  
have  
noticed  
we are  
in the  
middle  
of our

**Pet Portal**

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Username (help)

Get a Pet Mail

NO FEE!

**Re-NEW-iation....** Watch us as we add additional space and more services in order to provide even better care for you and your beloved pets. We thank you in advance for your patience and understanding during this time of construction. We trust that you will be pleased with our progress and the new and improved NAMC that is coming. When construction is finished we will have a big open house and **YOUR'E ALL INVITED**. Until then please feel free to come in and call if you have any questions or concerns. We will be more than happy to share our enthusiasm about this project with you!! Also make sure to check back here often for update, pictures, and more!! Click on Picture above for more information!!

### WHAT IS PET PORTALS??

#### AAHH Re-creditation

We are pleased to announce that we have successfully completed our AAHA (American Animal Hospital Association) re-creditation.

Member Since



Member Since 1998

AAHA is the only organization that accredits animal hospitals throughout the U.S. & Canada. AAHA-accredited hospitals adhere to the highest-quality standards available, which helps ensure the best care for your pet. The American Animal Hospital Association (AAHA) is an international association of more than 32,000 veterinary care providers who treat companion animals. Established in 1933, AAHA is well known among veterinarians and pet owners for its standards for hospitals and pet health care. Over 3,000 (approximately 17%) veterinary hospitals voluntarily participate in the AAHA hospital evaluation program. Trained consultants regularly visit these hospitals to ensure compliance with AAHA's standards for services and facilities. As members of AAHA we have regularly undergone inspections by AAHA to ensure that we comply with the association's high quality standards of care. These standards cover nearly every aspect of our hospital including surgery, pharmacy, laboratory, exam facilities, pet health records, cleanliness, emergency services, dental and nursing care, diagnostic imaging, and anesthesiology. For more



NEBRASKA ANIMAL MEDICAL CENTER



NEBRASKA ANIMAL MEDICAL CENTER

ABOUT US | NEWS | HOURS | LOCATION || CONTACT US

- Doctors
- Pharmacy (COMING SOON)
- Surgery
- Boarding (COMING SOON)
- Daycare
- Grooming
- Pet of the Month

- Forms
- Daycare Release
- Boarding (Coming Soon)
- Prescription Order Form
- Order Form (Coming Soon)
- (Coming Soon)
- (Coming Soon)

Newsletters  
Fall 2006



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Headlines



Pardon Our Dust

As you may have noticed we are in the middle of our Re-NEW-

vation... Watch us as we additional space and more services in order to provide even better care for you and your beloved pets. We thank you in advance for your patience and understanding during this time of construction. We trust that you will be pleased with our progress and the new and improved NAMC that is coming. When construction is finished we will have a big open house and YOUR'E ALL INVITED. Until then please feel free to come in and call if you have any questions or concerns. We will be more than happy to share our enthusiasm about this project with you! Also make sure to check back here often for update, pictures, and more!! Click on Picture above for more information!!

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NEBRASKA ANIMAL MEDICAL CENTER



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Nanci Kyhn  
<nk41042@alltel.net>  
01/17/2007 09:47 AM

To bwill@lincoln.ne.gov

cc

bcc

Subject

History: This message has been forwarded.

To the Planning Commission regarding Commercial Kennels within the city of Lincoln:

I find it interesting that the city is allowing one commercial boarding facility, such as Camp Bow Wow, to change ordinances within the city of Lincoln.

Not that many years ago a friend of mine who raised husky dogs was denied permission to have a kennel (with her own 6 dogs) on her acreage (4 acres in the country) because she didn't have 40 acres. The argument was noise, smell, etc., etc...How can the planning commission deny a personal request to an individual to house 6 dogs and, because of money and lawyers, allow boarding kennels IN the city limits of Lincoln. I feel that this is not fair to kennels who have built outside of the city limits and had to adhere to rules and regs, yet now a conglomerate comes in and appears to get their own way. Why should the city of Lincoln "bow" down to them now change the rules, when other "citizens" have met them previously. Are you opening up Lincoln to a Pandora box that may not be able to be contained? Who will regulate these kennels? Lincoln already has a problem regulating "puppy mill supporting" pet stores and the Animal Control budget continually gets decreased. Is this the best use for the city \$\$? We have good commercial boarding kennels who live by the rules and do a good job...ie: Trudy's Dog Motel and Wilderness Kennels. These families have been in business a long time and have a history here. It is a slap in their face to allow this within the city. Let the commercial group follow the rules too!! I do not have personal interest in the mentioned kennels (Trudy's and Wilderness), but have knowledge of them and know of their integrity.

I do hope that the Planning Commission will carefully consider the citizens of Lincoln, the "control issues" of kennels within the city, and the current tax paying kennel operations who have met all the regulations and now stand to lose to outsiders.

Thank you.

OPPOSITION

ITEM NO. 5.1: CHANGE OF ZONE NO. 06084  
(p.61 - Cont'd Public Hearing - 3/14/07)

James F. Rembolt  
Alan D. Stassery  
Robert L. Nefsky  
Peter C. Wagman  
Rick D. Lange

Daniel E. Klaus \*  
Timothy F. Clara  
Timothy L. Moll  
Jane F. Langan  
Mark A. Fahleson

Brian J. Ehlers  
Brian S. Kruse  
Troy S. Kirk \*  
David J. A. Bergen  
Sarah S. Pillion

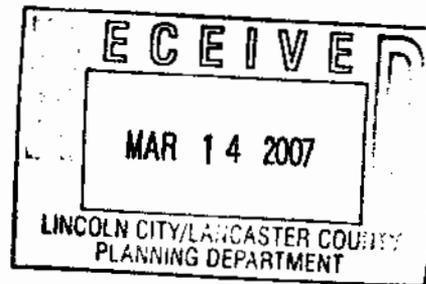
OF COURSE  
David A. Ludtke  
Kevin C. Siebert  
John H. Binning  
\* also admitted in Colorado

**Rembolt | Ludtke**

Rembolt Ludtke LLP  
Attorneys at Law  
Lincoln - Seaward

March 13, 2007

Via Facsimile to 402-441-6377  
Lincoln-Lancaster County Planning Commission  
555 South 10<sup>th</sup> Street  
Suite 213  
Lincoln, NE 68508



RE: Change of Zone #06084

Dear Commission Members:

This firm represents Nebraska Animal Medical Center ("NAMC"), a locally owned veterinary clinic located in southeast Lincoln. I previously appeared at the Planning Commission meeting on February 14, 2007 to oppose the proposed Change of Zone #06084 (the "Application") to allow commercial boarding kennels in additional zoning districts as proposed by the Planning Department.

Rather than restate all of the arguments made at such meeting, I would like to briefly highlight a couple of the points made at the February 14, 2007 meeting. I will then specifically address the text amendments which have recently been proposed to the Application.

The primary concern that NAMC has with the expansion of commercial boarding services within the city limits of Lincoln is the interaction between the public and animals. The Lincoln Municipal Code currently contains exceptions for facilities that are uniquely qualified to handle animals, or for which it has been determined that the public interest dictates a significant need for certain types of facilities. Specifically, the following types of facilities are allowed within city limits: (a) humane society; (b) animal shelter; (c) animal resource facilities; (d) zoos; (e) animal hospitals operated by licensed veterinarians; (f) commercial breeding kennels located on more than one acre which have no more than ten (10) dogs; and (g) multi-dog households provided that they are located on more than one acre and have less than six (6) dogs. Under all of these exceptions, the public is able to choose whether it desires to interact with animals.

March 13, 2007  
Page 2

**Rembolt | Ludtke**

By allowing commercial boarding kennels within city limits, the door is effectively open for any number of retail businesses to mix public retail facilities with the boarding of animals. Specifically, retail establishments such as Walmart, Pet Smart, and other similar large box stores have all expressed interest in boarding animals if allowed pursuant to local regulations. As a result, the possibility that the public will interact with animals in settings in which it did not anticipate doing so increases significantly. Locations which do not have the personnel or the facilities uniquely qualified to handle animals may be located throughout the city. This issue is exacerbated by the text amendment which would now allow commercial boarding kennels as permitted uses in B-1, B-2, and B-3 districts.

Though the Planning Staff Report for the most recent changes attempts to downplay the decisions of both the Animal Control Advisory Board (twice) and the Public Health Board to recommend not amending the municipal code to allow kennels within the city limits, the fact remains that both boards have clearly spoken so. The Public Health Board is every bit an advisory board to the Lincoln City Council, as is the Planning Commission. I attended the meeting of the Public Health Board, as well as the second meeting of the Animal Control Advisory Board, and both boards were reminded repeatedly what their roles were in this process, and what discussion was legitimately within their purview, before they voted. Both boards still voted to recommend not changing the municipal code. The Planning Staff Report implies that, under the Planning Commission's rationale, veterinary clinics should be treated the same as commercial boarding operations under LMC 6.08.160 regarding barking dogs, that the Public Health Board did not consider that argument, and therefore the conclusion of the Public Health Board, arrived at after considerable discussion and testimony from the public, is somehow suspect. That assertion misses the point. The larger issue is that by allowing any commercial operation to board animals in expanded areas of the city, sensible control of boarding facilities is essentially lost. The expertise required for the operation of veterinary clinics and the unique nature of their business not only insures proper care for animals, it also insures responsible separation of boarded animals from the general public, and effectively limits the care and boarding of animals in close proximity to city residents to highly trained, highly skilled animal medical professionals.

After reviewing the text amendment, it appears that the Planning Commission has taken the position that "anything goes" with regard to animals within the city limits. By equating commercial boarding facilities to veterinary clinics, the Planning Department has opened up a large portion of the city to commercial dog boarding. Rather than deal with some of the public concerns that residents would have with such a proposal, the Planning Department instead has drafted amendments which basically tell the public to fend for themselves. The Planning Department has chosen to not acknowledge that a difference does exist between a veterinary clinic and a boarding facility.

NAMC estimates that nearly seventy-five percent (75%) of the animals which it boards require some type of medical treatment, attention or administration. It provides these services as a natural ancillary part of its business to allow its clients to have peace of mind with regard to their animals. At any veterinary hospital, there are multiple staff members who have been trained in handling, restraining, diagnosing, treating, and administering drugs to animals. As a result, veterinary clinics are uniquely positioned to protect the public with regard to its interaction with animals.

NAMC empathizes with boarding facilities such as Driftwood Kennels and Wilderness Kennels. These operators previously attempted to have the city amend its zoning ordinances so that they

March 13, 2007  
Page 3

**Rembolt | Ludtke**

could provide commercial boarding kennels within city limits. However, such operators were informed that such uses were not allowed. As a result, they played by the rules and established facilities outside of city limits. Now, the Planning Department is proposing to change the rules for such commercial boarding kennels after current kennel operators have expended great deals of money to comply with the prior city rules.

In conclusion, it is NAMC's position that there is no need to amend the current provisions of the Lincoln Municipal Code to allow commercial boarding kennels within the city limits. Commerce does not stop at the city's border. People will do business with a facility outside the city limits, and in the past, it is our perception that such facilities have been extremely successful. In NAMC's experience, clients generally prefer to board their animals at facilities which are located in large, expansive areas outside the city, unless their animal requires some type of medical treatment or care during a boarding period. Under the revised Application, the door is now open for a significant number of mixed interactions between the public and animals under circumstances in which the public does not anticipate such interaction.

As stated during my comments on February 14, 2007, the Application, together with the proposed change to the public health ordinances, results in facilities located throughout the city of Lincoln which are not regulated by any city officials and which do not require any inspection in order to be operated. NAMC believes that this is not a positive step for the city of Lincoln and opposes the change in the changes proposed by the Application.

Sincerely,



David J. A. Bargaen  
dbargaen@remboltludtke.com