

GENERAL ZONING INFORMATION

Below are some helpful first steps and considerations when looking into zoning requirements:

As a first step, identify the municipality in which the property is located, i.e. the city, town, township, etc., which may be different from the name of the city or town in the property's common address. A good place to look is at the property's tax bill.

Next, find the municipality's zoning code, which may be called a "zoning code", a "unified development code", or something similar. Most zoning codes are available online and can be located through a basic search on Google, or through a direct request to the planning or zoning department. Obtaining an electronic copy of the zoning code can be helpful for running keyword searches. Zoning codes usually include "definition" sections or a "defined terms" sections which will be helpful in making the determinations described below.

You will also need to find the municipality's zoning map, which is also usually available online, and find the property on that map to determine the zoning district (or districts) the property is located in. Knowing the zoning district(s) will help you find the portions of the zoning code applicable to your property which you will need to comply with. Some common examples of zoning districts are "Residential", "Commercial" or "Mixed Use".

Next, you will want to determine if the sheltering of animals is permitted in your zoning district. Locate the section that applies to the zoning district in which the property is located. Here you should find a list of "permitted" or allowed uses for that zoning district. Sometimes a use is permitted outright. Sometimes the use requires permission through a special use permit or conditional use process (each described further below). Sometimes if the use is not permitted, an application for a variance can be submitted where the municipality will evaluate the need and make an exception or variance to the existing zoning code to permit the use.

- o First, look to see whether sheltering pets is permitted as part of the existing use of the property as a shelter. The definition section or defined term section of the zoning code may include provisions that detail what kinds of uses are permitted in connection with the existing shelter, but it may not. There could also be specific municipal approvals for the shelter when it originally opened that could contain relevant requirements. If there are any, these should be included in your zoning report (described below). If you do not get a zoning report, the municipality may have copies of the zoning approvals for the shelter which you can request. If the existing use or approved use allows pets, follow any requirements related to sheltering of pets. Also review any municipality restrictions on the number of pets under the municipal code or call local animal control to verify.
- o Second, if sheltering animals is not necessarily permitted as part of the existing shelter use, review the zoning code to determine whether pet kenneling or similar term is permitted. There may be several uses described in the zoning code that are similar to an animal shelter, such as "animal refuge", "kennel", etc., or there may be none that fit

perfectly. In that case, it may make sense to reach out to the zoning department to discuss whether or not the use is permitted. If the zoning staff hesitate to provide guidance, ask them what uses involve pets under the code which will allow you to review the definitions and see if there is a fit for your contemplated housing of animals.

- Sometimes the use may require special approval, such as a “conditional” or “special use permit” or even a variance. The zoning code will set forth the process for obtaining this approval.
- The zoning code will also set forth physical requirements for the property, such as “setback” requirements that require that the building be located no less (and sometimes no more) than a certain distance from the property lines and roads for new construction. This information will be relevant to any construction, such as the building of an addition. The zoning code will set forth a formula for determining how much off-street parking the property is required to have, which typically is based on the use classification identified in the previous step. Additionally, the zoning code will often provide the maximum building height permitted and the percentage of the lot that may be covered by structures. Analysis of these requirements should be done by the engineering firm preparing the plans for any additions or renovations considered as part of the project, all of which should be approved by the municipality to the extent required by applicable laws. Below is some additional information to be aware of in connection with physical property requirements:
 - o An “ALTA” (American Land Title Association) survey of the property from a licensed surveyor can be helpful in evaluating whether the property and any proposed addition will conform to the physical requirements of the zoning code. The survey will show property boundaries, existing structures, and easements, to the extent applicable.
 - o If the property does not comply with current zoning code requirements, the physical non-conformity may be considered “legally nonconforming” if the nonconformity existed before the current regulations were enacted. Legal nonconforming uses or structures are typically permitted to continue, but may be subject to various requirements and restrictions relating to expansion, modification, or reconstruction.
 - o Note that some municipalities require plans for the construction be approved by the municipality and, if the property is built in accordance with the approved site plan, the municipality may consider the property legally nonconforming or even legally conforming though it does not comply with applicable zoning code requirements.
 - o For any physical nonconformities that are not legally nonconforming, i.e., they do not predate the current zoning code or the property was built pursuant to an approved plan but does not comply with that approved plan, there may be a process for obtaining the municipality’s approval of the non-conformity.

ADDITIONAL ZONING NOTES

Zoning Reports and Zoning Consultants

Consider engaging a reputable zoning consultant to prepare a comprehensive “zoning report”, which will contain many of the items noted below. The role of a zoning consultant includes directly contacting the relevant municipal departments to gather detailed information about the property in question and they are well-versed in making these kinds of inquiries. Zoning consultants will also obtain a “zoning verification letter” from the municipality, which will confirm the property’s zoning district and may confirm whether the contemplated use of the property is permitted. The zoning verification letter may also include or reference important documentation such as approved development plans, zoning board decisions, and/or variances applicable to the property, which may not be available through public online resources. The zoning consultant will also obtain from the municipality statements of whether the property has any open zoning, building, or fire code violations, which may not be generally available online.

Legal Counsel’s Role in Zoning

You may want to consider engaging legal counsel to review the zoning report and to provide a thorough evaluation of zoning and land use issues. As noted above, evaluating zoning issues requires a review of applicable local codes, related municipal ordinances, and potentially other applicable state or federal laws that may affect the property and/or proposed project. As such, this may require engaging local legal counsel familiar with the specific procedures and requirements of the jurisdiction where the property is located.