

LEGISLATIVE #

100686D

Review of Operating a Dog-sitting/Kennel Facility in the City of Gainesville as a Home Based Business

Issue: The Gainesville City Commission requested a review of dog-sitting or dog kennel type businesses in residential neighborhoods. The review was prompted by Code Enforcement activity that resulted in a local dog-sitter being cited for operating a business that violates Chapter 5 of the Code or Ordinances of the City of Gainesville. Compliance with city code in this case requires the business owner cease operation.

Code of Ordinances

Dog-sitters and related businesses are not allowed in residential or mixed-use districts based on Section 5-3 of the Gainesville Code of Ordinances. It generally states that an animal shall not be kept or harbored for use other than as a pet. Therefore keeping an animal in one's home for a business purpose such as dog-sitting is not allowed.

Section 5-3 – No person shall keep or harbor any animal for use other than as a pet within any residential district, as defined in section 30-41(a)(1) of this Code, or mixed-use district, as defined in section 30-41(a)(4) of this Code, in the city, except if such use is allowed by right or special use permit, or is such use existed as a legal non-conforming use on October 23, 1995.

Section 5-1 – Pet is defined as, any animal kept primarily for personal pleasure or companionship rather than to provide labor, food, or products for humans, or for other commercial or utilitarian purposes.

The Gainesville Code of Ordinances also lists several nuisances related to animals that dog-sitting/kennel related businesses have a potential to create. These nuisances are contrary to the rights of nearby residents to the quiet enjoyment of their property and would therefore constitute a public nuisance. Nuisances include: animals found to be at large; animals damaging, or depositing fecal matter, on the property of others; an animal molesting or biting a person; odors that are offensive to nearby property or attracting of flies; an animal attacking another domestic animal; and an animal making noise that is violation of the city's noise code (Chapter 15). In the particular case that brought the issue of dog-sitting to the forefront, the complainant found the noise from barking dogs on his neighbor's property to be offensive. However, because the property owner was found to be operating an illegal business, a Chapter 15 violation was not pursued.

Related Issue – Home Occupation Permit

Any business conducted out of one's home is required to obtain a home occupation permit as required in city code Section 30-58. The city believes that there are many benefits to allowing home based businesses such as reduced automobile traffic, more accessibility to the workplace, and the ability to earn income in lieu of constraints that make leaving the home difficult. However, home based business should not be allowed to alter the residential character of these neighborhoods or endanger the health, safety or morals of the neighborhood. To accomplish this, the City of Gainesville has placed

conditions on the characteristics of home based businesses that must be met to obtain a home occupation permit. These conditions are:

1. The home based business shall be conducted only within the principal building;
2. No more than one additional person, other than those residing at the residence, shall be employed or engaged in the home based business at the premises;
3. There shall be no alteration or change to the outside appearance, character or use of the building or premises, or other visible evidence of the conduct of such home occupation;
4. No home occupation shall occupy more than 20% of the total floor area of the dwelling unit. In no event shall the home occupation occupy more than 500 square feet;
5. No commodities or goods shall be sold on premises or displayed for sale elsewhere;
6. No equipment or process shall be used which creates noise, vibration, heat, glare, dust, odor, etc that is detectable outside of the dwelling;
7. No materials used in conjunction with the home occupation shall be stored in any area other than in the principal building;
8. No more than one vehicle or truck, no larger than a stock three-quarter-ton panel or pickup truck, used in conjunction with the home occupation shall be allowed on the premises. Such vehicle is allowed a minimal amount of signage;
9. No home occupation shall be permitted which involves the visitation of clients, customers, salesmen, suppliers or any other persons to the premises which would generate vehicular traffic in excess of two vehicles concurrently or more than ten vehicles per day;
10. Deliveries from commercial shall not be made more than twice per week to the dwelling in question;
11. The home occupation can not be made available to the public earlier than 7:00 am nor later than 10:00 pm;
12. The total number of home occupations conducted within a dwelling is not limited as long as the cumulative impact does not exceed the limits imposed on one home occupation;
13. There shall be no illegal discharge of any materials, fluids or gases into the sewer system or any other manner of discharging such items in violation of any applicable government code; and
14. Home occupations shall comply with all local, state or federal regulations pertinent to the activity pursued, and shall not be construed as an exemption from such regulations.

Conclusion

There are two issues related to current code that would hinder one's ability to perform dog-sitting/kennel services as a home occupation. Per current City of Gainesville Code Section 5-3 dog sitting, dog kennels, and other businesses related to animals are not allowed in residential and mixed-use districts. As previously described there are nuisance related issues dealing with noise, odor, etc which could become a problem for surrounding properties. The second issue deals with the limitations placed on home based businesses by Section 30-58. Many home based business approved by the City of

Gainesville involve business owners that work outside of the home but maintain a home office or space used to produce goods to sell elsewhere. In the case of the dog sitter that prompted the review of the city's stance on related businesses, the business was being conducted out of the owner's home and clients were visiting the home to drop off their dogs. In general, it could be assumed that such a business would violate conditions 1, 3, 4, 6, 9, 11, and 14. These conditions relate to the location and size of the business area within the home or property, the potential for odor and/or noise to extend past the property boundary, the number of visitors and hours of operation, and non-conformance with local regulations. For such a business to be conducted in the City of Gainesville there would need to be a significant change to Section 5-3 and Section 30-58. However, public nuisance related to noise (barking dogs for example) odor, and other issues will still have the potential to exist.

From: [Bredfeldt, Erik A.](#)
To: [Sweigard, Kimberly A.](#)
Subject: FW: Bruce Baber Matter
Date: Thursday, September 09, 2010 12:48:10 PM

Kimberly:

I would probably include this e-mail correspondence in the system as back-up to the Dog Sitting referral. We're going to talk to Sondra at 4pm about the BOA route. In the meantime, I would tentatively put the item on the agenda with a recommendation to continue the item (based upon the request below and our follow up with the Chair).

I'll confirm with you right after we speak to Sondra so we can get the packets out.

Erik

From: Sondra Randon, Esq. [mailto:sondra@foldsandwalker.com]
Sent: Wednesday, September 01, 2010 12:40 PM
To: Bredfeldt, Erik A.
Cc: 'S. Scott Walker'
Subject: Bruce Baber Matter

Mr. Bredfeldt:

I appreciate your and staff's input on Mr. Bruce Baber's efforts to obtain a legal nonconforming use on his property. However, we respectfully request that this petition be heard at the Board of Adjustment meeting scheduled for October 5, 2010.

In anticipation of the appeal to the Board of Adjustment in October, it would make sense to relieve the Community Development Committee, City staff, and neighborhood of the time and effort required for Mr. Baber to remain on the September 15, 2010 CDC agenda.

I appreciate your ongoing assistance with this matter and your consideration of this request.

Thanks,

Sondra

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