

CLARK COUNTY STAFF REPORT

DEPARTMENT: Community Development

DATE: June 3, 2013

REQUEST: Amendment of Clark County Code 40.260.110, regarding regulations for kennels

CHECK ONE: _____ Consent X Public Hearing

BACKGROUND

Due to an appeal of a kennel application, the Clark County Hearings Examiner issued a decision earlier this year necessitating an amendment to a provision of the kennel regulations. At issue was the definition and interpretation of an enclosed 'soundproof' structure found under the general standards subsection. The Hearings Examiner applied a literal interpretation of the term 'soundproof' thereby creating a prohibitively difficult and expensive standard.

In looking at noise related regulations of this chapter, the intent of the enclosed structure provision is to mitigate noise emanating from any buildings that house dogs. To this point, the proposed amendment deletes the term 'soundproof' and replaces it with the clause 'which attenuates noise'.

A second issue, raised during the review of the kennel application and by staff in discussions with the Board of County Commissioners, is that of residency or on-site operator. To ensure that an approved kennel is operating consistent with the regulations and to have a contact person should any problems arise with the kennel operation, adding a new provision to require residency or an on-site caretaker or operator is proposed.

COMMUNITY OUTREACH

None.

BUDGET AND POLICY IMPLICATIONS

There is no budgetary implication with this proposal.

FISCAL IMPACTS

Yes (see attached form) No

ACTION REQUESTED

Adopt the code amendment as proposed.

DISTRIBUTION

Jim Muir, Chief Building Official
Chris Horne, Senior Civil Prosecuting Attorney
Axel Swanson, Senior Policy Analyst
Gordy Euler, Program Manager, Community Planning

Martin L. Snell
Community Development
Director

40.260.110 KENNELS

- A. Applicability. This section applies to private and commercial kennel facilities as defined in Section [40.100.070](#). Animal boarding facilities and animal day use facilities are regulated under Section [40.260.040](#).
- B. General Standards and Provisions.
1. Private and Commercial Kennels in the Rural Area. The following standards and provisions shall apply to both private kennels and commercial kennels in the rural area:
 - a. In the rural area, structures housing dogs shall be set back a minimum of fifty (50) feet to all property lines.
 - (1) If the structure is sufficiently enclosed at all times to mitigate noise impacts to abutting properties, no landscaping buffer is required outside the structure.
 - (2) If the structure is not sufficiently enclosed at all times to mitigate noise impacts to abutting properties, an L3 landscaped buffer is required between the structure and abutting properties; provided, that if the structure is over one hundred twenty-five (125) feet to any property line, no landscaped buffer is required.
 - b. Outdoor runs and outdoor exercise areas shall be screened from abutting properties as follows:
 - (1) Runs and exercise areas less than fifty (50) feet to any property line shall provide a ten (10) foot wide L4 landscaped buffer between the run or exercise area and the property line.
 - (2) Runs and exercise areas between fifty (50) feet and one hundred twenty-five (125) feet to any property line shall provide an L3 landscaped buffer between the run or exercise area and the property line.
 - (3) Landscaping may be placed immediately outside the run or exercise area, or may be placed along the perimeter of the site, provided all portions of the run or exercise area are screened from view of abutting properties.
 - c. The responsible official may reduce or waive the need for the setbacks and/or screening requirements in Section [40.260.110\(B\)\(1\)\(a\)](#) and/or Section [40.260.110\(B\)\(1\)\(b\)](#) when circumstances such as topography, existing dense vegetation that is likely to remain, or distance from neighbors clearly make such mitigation unnecessary.
 - d. Dogs shall be kept in an enclosed ~~soundproof~~ structure, which attenuates noise, between the hours of 10:00 p.m. and 7:00 a.m.

- e. Noise levels are subject to the maximum allowable environmental noise levels in Chapter [173-60](#) WAC.
 - f. Kennels shall not cause external effects such as increased lighting or glare on nearby properties, or odors that are readily detectable at any point beyond the property line of the facility.
 - g. All kennels shall comply with the requirements in Titles 8 (Animals), 14 (Building), 15 (Fire) and 24 (Public Health).
2. Commercial Kennels in the Rural Area. In addition to the requirements in Section [40.260.110](#)(B)(1), the following additional requirements apply to commercial kennels in the rural area:
- a. Process. Subject to Section [40.520.020](#), commercial kennels shall be reviewed using a Type II process as specified in Section [40.510.020](#), demonstrating that the proposal complies with all development and performance criteria in this section.
 - b. Minimum lot size is five (5) acres, including right-of-way to the extent permitted by Section [40.200.040](#)(C) and/or de minimus standards set forth in Section [40.520.010](#)(G). Parcels that are less than five (5) acres may be combined if abutting and under the same ownership to meet the five (5) acre minimum requirement. Commercial kennels that have been in operation since April 15, 2011, may be approved on less than five (5) acres providing that a fully complete application is submitted by August 15, 2013. If setback requirements cannot be met, the responsible official may impose additional conditions to mitigate impacts.
 - c. In addition to describing the scope of the kennel operation, the narrative shall specifically address how the proposal will meet noise standards, the provision of adequate parking, and shall include a plan for dog waste disposal and runoff.
 - d. Parking shall meet the requirements in Section [40.340.010](#), except that parking areas need not be paved as required in Section [40.340.010](#)(A)(8).
 - e. One (1) sign of sixteen (16) square feet or less is allowed. A separate sign permit is not needed if included with the kennel application.
 - f. Applications for kennels on a private road shall include evidence that safety and maintenance impacts are adequately mitigated. Impacts to be addressed shall include, but are not limited to: dust, noise, trip generation, and road safety and maintenance. Evidence of mitigation of impacts on the private road may be through a neighbors agreement provided at the time of application. For purposes of the agreement, “neighbors” shall include all who are entitled to use the private road.
 - g. Applications for commercial kennels shall include all items in Table [40.510.050-1](#), lines 1 through 9.a. In addition, a scaled site plan showing the name and width of any road frontage, dimensioned property lines, the

location of buildings, dog runs, outdoor exercise areas, driveways, parking areas, landscaping, distances to the closest off-site residences, environmental features including watercourses, wetlands, and geohazard areas. Additional information may be required on a site-specific basis to determine whether the application meets or can meet the code requirements.

h. If the owner/operator of the kennel does not reside on the property on which the kennel is located, the owner/operator shall provide for an on-site caretaker or operator to ensure that the kennel operates within the requirements of this section.

3. Commercial Kennels in the Urban Area. The following standards and provisions shall apply to commercial kennels in the C-3, GC, ML, MH, BP and OC zones:

a. Setbacks for structures and allowed outdoor runs and exercise areas for commercial kennels requiring a conditional use permit are determined by the conditional use criteria in Section [40.520.030\(G\)\(2\)](#). Setbacks for indoor commercial kennel facilities not subject to conditional use requirements are determined by the applicable landscaping buffers in Section [40.320.010](#).

b. Outdoor dog runs and exercise areas are prohibited within one hundred twenty-five (125) feet of residential zoning districts.

c. At a minimum, noise levels are subject to the maximum allowable environmental noise levels in Chapter [173-60](#) WAC. Kennels requiring a conditional use permit may be subject to lower noise levels.

d. Kennels shall not cause external effects such as increased lighting or glare on nearby properties, or odors that are readily detectable at any point beyond the property line of the facility.

e. Site plan review subject to Section [40.520.040](#) is required.

f. In addition to describing the scope of the kennel operation, the narrative shall specifically address how the proposal will meet noise standards, the provision of adequate parking, and shall include a plan for dog waste disposal and runoff.

g. If the owner/operator of the kennel does not reside on the property on which the kennel is located, the owner/operator shall provide for an on-site caretaker or operator to ensure that the kennel operates within the requirements of this section.