

# CLARK COUNTY STAFF REPORT



**DEPARTMENT:** Community Development  
**DATE:** November 26, 2013  
**REQUEST:** Kennel Code Amendments  
**CHECK ONE:**             Hearing             CAO

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## BACKGROUND

Responding to a Hearing Examiner's decision regarding application of the kennel code (CCC 40.260.110), the Board of County Commissioners directed staff to revisit the kennel standards, especially related to noise.

In an effort to balance operations of commercial kennels with their surrounding neighbors, the Planning Commission and Community Development Code Enforcement proposed changes to the kennel code. Two primary issues were addressed in the proposal: 1) noise standards pursuant to WAC 173-60-040 and 2) a 'residency' requirement for the owner/operator of a commercial kennel.

The Board held a public hearing on October 29 and made preliminary amendments to the draft in front of it at the time. The preliminary amendments clarified and completed the WAC noise standards and the 'residency' requirement on non-commercial rural property. The Board also directed staff to delete section 3 of the ordinance and to return to the Board in the event there is a demonstrable need to keep that section.

Staff has reviewed the content of section 3 and finds the need to keep the provisions, except for the proposal for a 'residency' requirement. The reason for keeping this section is to provide standards for commercial kennels in urban commercial zoning districts, where they are allowed as a permitted (P) use. Where commercial kennels are allowed as a conditional (C) use, staff and the Hearing Examiner may impose reasonable standards to mitigate for impacts caused by commercial kennels. Without this section, commercial kennels would locate in urban commercial zones without any standards.

The preliminary amendments, as directed by the Board, are included in the attached ordinance.

## COMMUNITY OUTREACH

The Board held one public hearing on this matter October 29, 2013, and received testimony to inform the commissioners' deliberation.

## BUDGET AND POLICY IMPLICATIONS

The request for a caretaker onsite is not expected to have a fiscal impact. Two measurable methods of monitoring noise are available. The first method is currently employed by Clark County Animal Protection & Control as well as many other jurisdictions in our region. This allows for video recorded evidence from affected parties to be submitted, evaluated/verified. This method requires minimal staff time. The second method requires staff to monitor noise via a county-owned dosimeter or a video recording device. Data from this equipment is downloaded, evaluated/verified. This method requires additional staff time, with potential for overtime charges.

As outlined in the fiscal note, insufficient budget capacity within the 2013-2014 Expenditure Budget exists to cover the cost of monitoring noise complaints. An additional \$5,000 is required for the current biennium and \$10,000 will be required for 2015-2016.

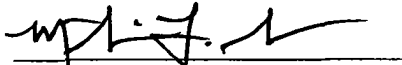
**FISCAL IMPACTS**

Yes (see attached form)

No

**ACTION REQUESTED**

Restore the language in section 3, with an amendment to sub-section(c) to add '040' after 'Chapter 173-60', and approve the proposed ordinance.



Martin Snell  
Director, Community  
Development

Approved: Nov. 26, 2013

CLARK COUNTY  
BOARD OF COMMISSIONERS

**FISCAL IMPACT ATTACHMENT**

**Part I: Narrative Explanation**

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

No additional revenues are attached to this proposal.

**Part II: Estimated Revenues**

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
GF Transfer approved	0		0		0	
<b>Total</b>	0		0		0	

II. A – Describe the type of revenue (grant, fees, etc.)

**Part III: Estimated Expenditures**

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
GF 0001/Code Enf 589	0	5,000		10,000		10,000	
<b>Total</b>	0	5,000		10,000		10,000	

*One callout per week, after regular hours. Two hour minimum, @ 1.5x regular pay. 52 weeks.*

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits	5,000		10,000		10,000	
Contractual						
Supplies						
Travel						
Other controllables (ER&R)						
Capital Outlays						
Inter-fund Transfers (TER&R)						
Debt Service						
<b>Total</b>	5,000		10,000		10,000	

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4                                   **ORDINANCE NO. 2013-11-14**  
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6                   **An ordinance relating to land use and adopting changes to the**  
7                   **County's kennel ordinance, CCC Section 40.260.110.**  
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10                   WHEREAS, in response to a recommendation of the Rural Lands Task  
11 Force, the Board of County Commissioners (Board) adopted Ordinance 2011-03-  
12 09 which made the permitting of kennels an easier process; and

13                   WHEREAS, in spite of Ordinance 2011-03-09, there have been continuing code  
14 compliance issues; and

15                   WHEREAS, the Board adopted Ordinance 2012-02-03 in an attempt to address  
16 these continuing issues; and

17                   WHEREAS, kennel noise continues to be an issue with some kennel operators  
18 and their neighbors; and

19                   WHEREAS, the Planning Commission held a duly-advertised public hearing on  
20 June 20, 2013; and

21                   WHEREAS, the Board held a duly-advertised public hearing on October 29,  
22 2013, and continued to November 26, 2013; and

23                   WHEREAS, the Board finds and concludes that adoption of this Ordinance will  
24 further the public health, safety and welfare; now, therefore,

25                   BE IT ORDERED AND RESOLVED by the Board of County Commissioners of  
26 Clark County, State of Washington, as follows:

27 **Section 1. Amendatory.** Ordinance 2012-02-03, as most recently amended by  
28 Ordinance 2012-12-14 and codified as CCC 40.260.110, are each amended to read as  
29 follows:

30 **40.260.110 KENNELS**

31 A. **Applicability.** This section applies to private and commercial kennel facilities as defined  
32 in Section 40.100.070. Animal boarding facilities and animal day use facilities are  
33 regulated under Section 40.260.040.

34 B. **General Standards and Provisions.**

35  
36 1. **Private and Commercial Kennels in the Rural Area.** The following standards and  
37 provisions shall apply to both private kennels and commercial kennels in the  
38 rural area:

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40 a. In the rural area, structures housing dogs shall be set back a minimum of  
41 fifty (50) feet to all property lines.

- 42  
43 (1) If the structure is sufficiently enclosed at all times to mitigate  
44 noise impacts to abutting properties, no landscaping buffer is  
45 required outside the structure.  
46  
47 (2) If the structure is not sufficiently enclosed at all times to mitigate  
48 noise impacts to abutting properties, an L3 landscaped buffer is  
49 required between the structure and abutting properties; provided,  
50 that if the structure is over one hundred twenty-five (125) feet to  
51 any property line, no landscaped buffer is required.

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53 b. Outdoor runs and outdoor exercise areas shall be screened from abutting  
54 properties as follows:

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56 (1) Runs and exercise areas less than fifty (50) feet to any property  
57 line shall provide a ten (10) foot wide L4 landscaped buffer  
58 between the run or exercise area and the property line.

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60 (2) Runs and exercise areas between fifty (50) feet and one hundred  
61 twenty-five (125) feet to any property line shall provide an L3  
62 landscaped buffer between the run or exercise area and the  
63 property line.

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65 (3) Landscaping may be placed immediately outside the run or  
66 exercise area, or may be placed along the perimeter of the site,  
67 provided all portions of the run or exercise area are screened  
68 from view of abutting properties.  
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- 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 between the hours of 10:00 p.m. and 7:00 a.m.
- e. Noise (~~levels are~~) is subject to the maximum allowable environmental (~~noise~~) levels in Chapter 173-60-040 WAC, as shown in Table 40.260.110-1.

<b>Table 40.260.110-1. Allowable noise standards.</b>			
<u>EDNA<sup>1</sup> OF NOISE SOURCE</u>	<u>EDNA<sup>1</sup> OF RECEIVING PROPERTY</u>		
	<u>Class A</u>	<u>Class B</u>	<u>Class C</u>
<u>CLASS A</u>	<u>55 dBA</u>	<u>57 dBA</u>	<u>60 dBA</u>
<u>CLASS B</u>	<u>57</u>	<u>60</u>	<u>65</u>
<u>CLASS C</u>	<u>60</u>	<u>65</u>	<u>70</u>

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<sup>1</sup>Environmental designation for noise abatement.

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- (1) Between the hours of 10:00 p.m. and 7:00 a.m., noise limits shall be reduced by 10 dBA for receiving property within Class A EDNAs.
- (2) At any hour of the day or night the applicable noise limitations may be exceeded for any receiving property by no more than:
  - (a) 5 dBA for a total of fifteen (15) minutes in any one-hour period; or
  - (b) 10 dBA for a total of five (5) minutes in any one-hour period; or
  - (c) 15 dBA for a total of one-and-a half (1.5) minutes in any one-hour period.
- 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.

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- 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 neighbor's 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.

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h. For commercial kennels on non-commercial properties, the owner/operator of the kennel shall reside on the property on which the kennel is operated.

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

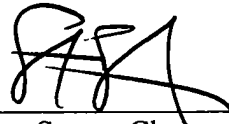
- a. Setbacks for structures and allowed outdoor runs and exercise areas for commercial kennels requiring a conditional use permit are determined by the conditional use criteria in Section 40.520.030(G)(2). Setbacks for indoor commercial kennel facilities not subject to conditional use requirements are 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))~~ Noise is subject to the maximum allowable environmental levels in Chapter 173-60-040 .See Table 40.260.110-1.
- 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. Dogs shall be kept in an enclosed structure between the hours of 10:00 p.m. and 7:00 a.m.

ADOPTED on this 26<sup>th</sup> day of November 2013.

Attest:

  
Clerk of the Board

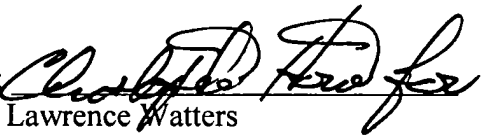
BOARD OF COUNTY COMMISSIONERS  
FOR CLARK COUNTY, WASHINGTON

  
Steve Stuart, Chair



Approved as to form only:  
ANTHONY F. GOLIK  
Prosecuting Attorney

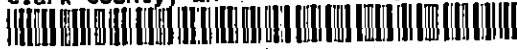
\_\_\_\_\_  
Tom Mielke, Commissioner

By:   
Lawrence Watters  
Deputy Prosecuting Attorney

\_\_\_\_\_  
David Madore, Commissioner

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Clark County  
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Document Title(s)

ORD 2013-11-14

Reference Numbers(s) of related documents:

ORD #15 2011-03-09; 2012-02-03; 2012-12-14

Additional Reference #'s on page \_\_\_\_\_

Grantor(s) (Last, First and Middle Initial)

Clark County

Additional grantors on page \_\_\_\_\_

Grantee(s) (Last, First and Middle Initial)

Public

Additional grantees on page \_\_\_\_\_

Legal Description (abbreviated form: i.e. lot, block plat or section, township, range, quarter/quarter)

Land use / changes to Clark County Code 40.260.110 -  
Kennels

Additional legal is on page \_\_\_\_\_

Assessor's Property Tax Parcel/Account Number

Additional parcel #'s on page \_\_\_\_\_

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Signature of Requesting Party

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