

RESOLUTION NO. 2010-190

A RESOLUTION SETTING FORTH THE ADOPTION OF MOHAVE COUNTY ORDINANCE NO. 2010-13, AN AMENDMENT TO SECTION 9 DEFINITIONS, SECTION 13 REGULATIONS FOR GENERAL OR “A” ZONE, SECTION 14 REGULATIONS FOR AGRICULTURAL-RESIDENTIAL OR “A-R” ZONE, SECTION 15 REGULATIONS FOR RECREATION OR “R-E” AND “C-RE” ZONES, SECTION 16 REGULATIONS FOR SINGLE FAMILY RESIDENTIAL OR “R-1”, “R-O”, “R-TT” ZONES, SECTION 16.1 REGULATIONS FOR SINGLE FAMILY RESIDENTIAL/MANUFACTURED HOMES PROHIBITED/LIMITED ANIMAL PRIVILEGES OR “R-OA” ZONE, SECTION 21 REGULATIONS FOR GENERAL COMMERCIAL OR “C-2” ZONE, SECTION 21.1 REGULATIONS FOR GENERAL COMMERCIAL HIGHWAY FRONTAGE OR “C-2H” ZONE, SECTION 22 REGULATIONS FOR COMMERCIAL-MANUFACTURING OR “C-M” ZONE, SECTION 22.1 REGULATIONS FOR COMMERCIAL-MANUFACTURING/OPEN LOT STORAGE OR “C-MO” ZONE, SECTION 23 REGULATIONS FOR GENERAL MANUFACTURING OR “M” ZONE, SECTION 24, REGULATIONS FOR HEAVY MANUFACTURING OR “M-X” ZONE, SECTION 27.M ESTABLISHMENT OF A KENNEL OR VETERINARY CLINIC – GENERAL PROVISIONS, AND SECTION 30 BOARD OF ADJUSTMENT AND VARIANCES, OF THE MOHAVE COUNTY ZONING ORDINANCE.

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held on September 7, 2010, a public hearing was conducted to determine whether approval should be granted to amend multiple sections of the Mohave County Zoning Ordinance, as requested by the Mohave County Development Services Department, and

WHEREAS, the proposed new and amended provisions are contained in Exhibit “A.” The language to be added has been **bolded** and the language to be removed has been ~~struck~~, and

WHEREAS, the proposed changes would revise portions of the Zoning Ordinance that deal with kennels. There are currently three separate ordinances that deal with kennels, and there are inconsistencies between them. This proposal is in conjunction with a joint proposal of the Mohave County Development Services Department, the Environmental Health Division of the Mohave County Health Department, and the Animal Control Division of the Mohave County Sheriff’s Office, to make the regulations and functions of the three departments more compatible, and

WHEREAS, the Mohave County Zoning Ordinance is administered by the Development Services Department and is a land use document. The Environmental Health Division has regulations dealing with public health issues. The Animal Control Division has regulations regarding the licensing and vaccination of dogs and the welfare of animals.

WHEREAS, at the public hearing before the Mohave County Planning and Zoning Commission on August 11, 2010, the Commission recommended **APPROVAL** for an Amendment to various provisions of the Mohave County Zoning Ordinance, as outlined in the attached Exhibit "A."

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors, at their regular meeting on Tuesday, September 7, 2010, **ADOPTED** Mohave County Ordinance No. 2010-13 amending the Mohave County Zoning Ordinance as recommended by the Mohave County Planning and Zoning Commission and outlined herein.

MOHAVE COUNTY BOARD OF SUPERVISORS

ATTEST

Buster D. Johnson, Chairman

Barbara Bracken, Clerk

EXHIBIT "A"

ORDINANCE NO. 2010-13

AN ORDINANCE SETTING FORTH AN AMENDMENT TO SECTION 9 DEFINITIONS, SECTION 13 REGULATIONS FOR GENERAL OR "A" ZONE, SECTION 14 REGULATIONS FOR AGRICULTURAL-RESIDENTIAL OR "A-R" ZONE, SECTION 15 REGULATIONS FOR RECREATION OR "R-E" AND "C-RE" ZONES, SECTION 16 REGULATIONS FOR SINGLE FAMILY RESIDENTIAL OR "R-1", "R-O", "R-TT" ZONES, SECTION 16.1 REGULATIONS FOR SINGLE FAMILY RESIDENTIAL/MANUFACTURED HOMES PROHIBITED/LIMITED ANIMAL PRIVILEGES OR "R-OA" ZONE, SECTION 21 REGULATIONS FOR GENERAL COMMERCIAL OR "C-2" ZONE, SECTION 21.1 REGULATIONS FOR GENERAL COMMERCIAL HIGHWAY FRONTAGE OR "C-2H" ZONE, SECTION 22 REGULATIONS FOR COMMERCIAL-MANUFACTURING OR "C-M" ZONE, SECTION 22.1 REGULATIONS FOR COMMERCIAL-MANUFACTURING/OPEN LOT STORAGE OR "C-MO" ZONE, SECTION 23 REGULATIONS FOR GENERAL MANUFACTURING OR "M" ZONE, SECTION 24, REGULATIONS FOR HEAVY MANUFACTURING OR "M-X" ZONE, SECTION 27.M ESTABLISHMENT OF A KENNEL OR VETERINARY CLINIC – GENERAL PROVISIONS, AND SECTION 30 BOARD OF ADJUSTMENT AND VARIANCES, OF THE MOHAVE COUNTY ZONING ORDINANCE.

AMEND THE MOHAVE COUNTY ZONING ORDINANCE AS FOLLOWS

1. Amend Section 9 Definitions as follows:

Cattery: a building, structure, enclosure or premises whereupon, or within which ten (10) or more cats, four months of age or older, are kept or maintained.

Kenel: ~~An area~~ Any building, structure, enclosure, or premises whereupon, or within which five (5) or more dogs, cats, or other small animals four months of age or older, are kept, or maintained, trained, bred, boarded, or offered for sale, with or without compensation, and with or without outside runs and facilities. **Kenel includes rescues, sanctuaries, and similar facilities. Licensed veterinary or animal hospital facilities are not "kennels" for the purposes of this ordinance.**

Kenel, residential: A noncommercial kennel at or adjoining a private residence where more than four adult dogs owned and controlled by a resident are kept for companionship, enjoyment of the species, or for training by the resident for field, working or obedience trials or exhibition for organized shows.

Kenel, non-residential: A kennel that provides boarding, grooming or training of animals not owned by a resident of the property, or that advertises such services, with or without compensation, or a facility that accepts stray or unwanted animals for adoption or long-term care, or that is not otherwise included in the definition of a residential kennel.

2. Amend Section 13 Regulations for General or “A” Zone as follows:
Add section A.4
 4. **A kennel may be permitted as allowed by Section 27.M.**
3. Amend Section 14 Regulations for Agricultural-Residential or “A-R” Zone as follows:
Add Section A.3
 3. **A kennel may be permitted as allowed by Section 27.M.**
4. Amend Section 15 Regulations for Recreation or “R-E” and “C-RE” Zones as follows:
Add Section A.4
 4. **A kennel may be permitted as allowed by Section 27.M.**
5. Amend Section 16 Regulations for Single Family Residential or “R-1”, “R-O”, “R-TT” Zones
Add Section A.3
 3. **A kennel may be permitted as allowed by Section 27.M.**
6. Amend Section 16.1 Regulations for Single Family Residential/Manufactured Homes Prohibited/Limited Animal Privileges or “R-O/A” Zone as follows:
Add Section A.4
 4. **A kennel may be permitted as allowed by Section 27.M.**
7. Amend Section 21 Regulations for General Commercial or “C-2” Zone as follows:
Add Section A.6
 6. **A kennel may be permitted as allowed by Section 27.M.**Delete Sections B.2 and C.4.
~~B.2.—Kennels and Veterinary Clinics with NO outside facilities or runs.~~
~~C.4.—Kennels and veterinary clinics with outside runs and facilities.~~
8. Amend Section 21.1 Regulations for General Commercial Highway Frontage or “C-2H” Zone as follows:
Add Section A.11
 11. **A kennel may be permitted as allowed by Section 27.M.**

9. Amend Section 22 Regulations for Commercial-Manufacturing or “C-M” Zone as follows:

Add Section A.3

3. A kennel may be permitted as allowed by Section 27.M.

10. Amend Section 22.1 Regulations for Commercial-Manufacturing/Open Lot Storage or “C-MO” Zone as follows:

Add Section A.3

3. A kennel may be permitted as allowed by Section 27.M.

11. Amend Section 23 Regulations for General Manufacturing or “M” Zone as follows:

Add Section B.24

24. A kennel may be permitted as allowed by Section 27.M.

11. Amend Section 24 Regulations for Heavy Manufacturing or “M-X” Zone as follows:

Add Section B.17

17. A kennel may be permitted as allowed by Section 27.M.

12. Amend Section 27.M Establishment of a Kennel or Veterinary Clinic – General Provisions as follows:

Delete the current provisions and add replacement material.

~~Section 27.M ESTABLISHMENT OF A KENNEL OR VETERINARY CLINIC – GENERAL PROVISIONS~~

~~M. Establishment of a Kennel or Veterinary Clinic.~~

~~Such facilities may be established with outside runs or facilities in A R (Agricultural-Residential), C RE (Commercial Recreation), or C 2 (General Commercial) zones, providing that the following conditions are met:~~

~~1. A Zoning Use Permit is obtained.~~

~~2. The property shall have a minimum lot size of 2.5 acres.~~

~~3. The exercise or stable area shall be surrounded by a solid fence or wall.~~

~~4. The use shall, in the opinion of the Planning and Zoning Commission and Board of Supervisors, be compatible with surrounding land uses.~~

Section 27.M ESTABLISHMENT OF A KENNEL, CATTERY, OR VETERINARY CLINIC

M. Establishment of a Kennel, Cattery, or Veterinary Clinic

1. General Provisions

- a. The residents of a residentially zoned property may keep up to four (4) dogs and four (4) cats as personal pets as an accessory residential use of the property.**
- b. This Section does not replace, supersede or otherwise affect the requirements of other state, county, or local authorities including, but not limited to, the Mohave County Environmental Health Division and Mohave County Animal Control Division, and does not limit the applicability of the statutory or common law of nuisance.**
- c. A kennel approval shall not be issued to an owner who has been convicted of a violation of A.R.S. § 13-2910 (cruelty to animals) or 13-2910.01 (dog fighting), or any other state, county, or municipal animal welfare law, except violations of leash laws.**
- d. The maximum number of animals on a property at any time, including personal pets of the owner, may not exceed the number allowed by permit or by the design capacity as indicated by the site plan, whichever is less.**
- e. Except where specifically allowed by zoning, a Zoning Use Permit is required for all kennels or catteries housing more than ten (10) dogs or ten (10) cats, and may be approved for kennels or catteries housing fewer animals if requested by the owner.**
- f. A Site Plan conforming to Section 27.P is required for all kennels that require a Zoning Use Permit and for all kennels located on properties zoned commercial or industrial. The Development Services staff may reduce the level of Site Plan requirements as provided in Section 27.P.5. A Site Plan may not include more pens or runs than the maximum number of animals allowed by the permit.**
- g. In the event of a conflict between the provisions of this Ordinance and other County ordinances the more restrictive shall apply.**

2. Limited Kennels and Catteries

a. Limited Residential Animal Permit

- 1. The Development Services Department may issue a limited permit to allow more than four dogs and four cats on a**

property as an accessory residential use subject to the following:

- a. The owner completes a **Kennel Permit** application.
- b. All animals are owned and kept as personal pets.
- c. Any required licenses and vaccinations shall be kept current at all times.
- d. The owner may not offer any animal boarding, breeding, adoption or long-term care services to others, with or without compensation.
- e. The permit shall be renewed annually.
- f. The use shall not become a nuisance to neighboring property owners.

2. **Property Size from 0.5 to 2.5 acres – up to 10 dogs and 10 cats.**

b. Limited Commercial Animal Permit

1. **The Development Services Department may issue a limited permit to allow small boarding or breeding kennels on residential properties zoned A, A-R, RO-A or R-E subject to the following:**

- a. The owner completes a **Kennel Permit** application.
- b. Any required licenses and vaccinations shall be kept current at all times.
- c. The owner shall comply with permitting requirements of the Mohave County Environmental Health Division.
- d. A **Site Plan** conforming to **Section 27.P** is required. The Development Services staff may reduce the level of Site Plan requirements as provided in **Section 27.P.5**.
- e. The kennel may not offer grooming services except as incidental to the boarding or breeding. No more than ten percent (10%) of the enclosed portion of the kennel facility may be devoted to grooming services.
- f. The permit shall be renewed annually.
- g. The use shall not become a nuisance to neighboring property owners.

2. **Property Size**

- a. 1 to 2.5 acres, up to 6 dogs and 6 cats.
- b. More than 2.5 acres, up to 10 dogs and 10 cats.

c. Expiration or Revocation of Limited Permits

1. A holder of an expired permit may reapply after expiration subject to a penalty fee established by the Board of Supervisors, provided that the permit has not been revoked as provided below.

- 2. A limited residential or commercial animal permit is subject to revocation upon thirty (30) days written notification by the Development Services Department staff if, in their opinion, the continued use of the permit is contrary to the public health, safety and welfare, violates the conditions of approval or if the number of animals on the property exceeds the number allowed under the permit. The notice shall be sent by certified mail to the owner's address written on the application for the limited residential animal permit. The owner may appeal the staff's decision to revoke the permit to the appropriate Board of Adjustment as provided in Section 30 of the Mohave County Zoning Ordinance. The holder of a permit revoked under this paragraph may not be issued another limited residential or commercial animal permit but may apply for a Zoning Use Permit.**
- 3. A petition signed by a minimum of fifty-one percent (51%) of the property owners or persons residing on properties within 300 feet of the property may be submitted to the Department stating that the continued use of the permit is contrary to the public health, safety and welfare, violates the conditions of approval, or the number of animals on the property exceeds the number allowed under the permit. The petition will initiate a public hearing to consider revoking the limited residential or commercial animal permit. The hearing will be conducted by the appropriate Board of Adjustment as provided in Section 30 of the Mohave County Zoning Ordinance. The holder of a permit revoked under this paragraph may not be issued another limited residential or commercial animal permit but may apply for a Zoning Use Permit.**
- 4. A limited residential or commercial animal permit is subject to immediate revocation upon the finding of a court that the continued use constitutes a public or private nuisance. The holder of a permit revoked under this paragraph may not be issued another limited residential or commercial animal permit for the same property.**
- 5. A limited residential or commercial animal permit is subject to immediate revocation upon conviction of the owner by a court for a violation of A.R.S. §§ 13-2910 (cruelty to animals) or 13-2910.01 (dog fighting), or any other state, county or municipal animal welfare law except violations of leash laws. The holder of a permit revoked under this paragraph may not be issued another limited residential or commercial animal permit for any property.**

6. Upon expiration or revocation, the number of animals on the property shall be reduced to no more than four dogs and four cats within 30 days.

3. **Other Kennels and Catteries and Veterinary Clinics**

- a. **Veterinary clinics, kennels housing more than ten (10) dogs and catteries housing more than ten (10) cats with no outside runs or facilities are allowed in any commercial zone except Neighborhood Commercial (C-1) zone or any industrial zone or in an A (General) zone where the predominant existing use of neighboring property is commercial. Veterinary clinics, kennels are not an allowed use in an A-D (Airport Development) zone.**
- b. **Veterinary clinics, kennels housing more than ten (10) dogs and catteries housing more than ten (10) cats with outside runs or facilities are allowed in an A (General) zone where the predominant existing use of neighboring property is commercial and in all commercial or industrial zones except Neighborhood Commercial (C-1) and General Commercial (C-2) zones. In a C-2 zone these uses may be allowed with approval of a Zoning Use Permit. Kennels are not an allowed use in an A-D (Airport Development) zone.**
- c. **Kennels housing more than ten (10) dogs and catteries housing more than ten (10) cats, with or without outside runs or facilities, are required to have an approved Zoning Use Permit in A-R (Agricultural-Residential), and R-E (Residential Recreation) zones and in A (General) zones where the predominant existing use of neighboring property is vacant or residential. The minimum parcel size for a kennel housing more than ten (10) dogs and catteries housing more than ten (10) cats is 2.50 acres.**

4. **Pet Stores and Pet Grooming facilities**

- a. **Pet stores and pet grooming facilities up to 1,000 square feet may be established in all commercial or industrial zones.**
- b. **Pet stores and pet grooming facilities exceeding 1,000 square feet may be established in all commercial or industrial zones, except (C-1) Neighborhood Commercial.**
- c. **Pet grooming facilities may be established as an accessory use associated with a kennel with a Zoning Use Permit in an A-R (Agricultural-Residential) zone. However, no more than ten percent (10%) of the enclosed portion of the kennel facility may be devoted to grooming services, and advertising of grooming services except as incidental to boarding or breeding is prohibited.**

5. **Setbacks**

- a. **Permanent shelters, runs, pens and other kennel structures may not be placed within any easements or building setbacks.**
- b. **Outdoor shelters, runs, pens and other kennel structures must be located at least one-half (1/2) foot for each dog to be maintained on the kennel property from the general building setbacks for the zone. This additional distance may be reduced if adequate buffering of sound is provided, or when the adjacent property is vacant land. Noise levels at the boundary of the property in excess of the table in Section 27.S may be presumed to be excessive. Outdoor shelters, runs, pens and other kennel structures must be at least one (1) foot for each dog to be maintained on the property from any occupied residential structure not located on the kennel property. Compliance with setbacks and maximum noise levels does not preclude a civil action by neighboring property owners that the time and duration of barking or other noise from the facility constitutes a nuisance.**
- c. **For purposes of this section a “kennel property” may include multiple contiguous lots or parcels. When multiple contiguous lots or parcels are designated as a kennel property the total combined area may be used to determine the maximum number of animals allowed, and the perimeter setbacks shall be based upon the perimeter lot lines of the combined lots or parcels, but no aggregation of lots, or parcels so combined shall have more than one kennel permit. Only whole lots or parcels may be aggregated for this purpose. When aggregated lots or parcels are owned by more than one owner, all owners must sign the application, and the animals of all owners shall be aggregated to determine the number of animals included in the permit. Permanent structures shall comply with the setbacks from lot lines of record within the kennel property, and shall not be placed within any easements located within the kennel property.**

13. Amend Section 30 Board of Adjustment and Variances as follows:

Amend Section 30.B.3 as follows:

3. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Zoning Inspector **or Department staff** in the enforcement of the provisions of this Ordinance and Regulations.