



## DEPARTMENT OF PLANNING AND DEVELOPMENT

**ZONING TEXT AMENDMENT:** *Article 15. Nonconforming Uses;  
Article 16. Conditional Uses; and  
Article 30. Definitions*

**Staff Report:**

---

**Planning Board Hearing:** September 13, 2010 6:00pm

**Board of Commissioners Public Hearing:** To be scheduled by that Board

---

**Applicant:** Surry County Administration on behalf of Surry County Planning Board

**Proposal:** Applicant proposes to amend the Surry County Zoning Ordinance text to modify and clarify County land use regulations regarding new and existing Kennels.

**Overview of the Request:**

The request originated in discussion during regular Planning Board meetings in spring and summer of 2010. Staff expressed concern that existing ordinance language in definition and on treatment of Kennels did not provide a clear picture of which facilities should be regulated, in terms of intensity of use, commercial intent, and state/federal licensing under animal welfare laws. A subcommittee of three Planning Board members was appointed, and met with staff on August 19, 2010. New ordinance language was proposed to redefine the use based on state/federal licensing requirements and commercial handling of three or more animals over a 12-month period; to add a minimum lot size of two acres and case-by-case determination of facility capacity to the conditional use requirements; and to authorize County staff to require nonconforming kennels to be brought into compliance in nuisance situations.

---

**Zoning Code Analysis:**

- A. Article 4 of the Surry County Zoning Ordinance establishes a process to initiate changes and amendments to that code. The proposed text amendments are presented in compliance with this process.
  - B. Article 15, Section 2 allows that nonconforming uses may continue without a zoning permit; and Article 15, Section 8 provides that certain exceptions apply in the treatment of nonconforming uses; no current exception is made in the continuing use of nonconforming kennels.
  - C. Article 16 Section 8 includes specific requirements preceding consideration and granting of a conditional use permit for a kennel; but does not address maximum facility capacity or minimum lot size for the use.
  - D. Article 30 provides definitions suited to purposes of the ordinance, and includes a definition for kennels. Facilities meeting the definition are subject to specific regulations for kennels found in Articles 11 and 16. The current definition is based in part on sales and handling of litters and minimum numbers of animals "at any one time"; and does not refer to state and federal licensing requirements for boarding kennels.
-

**Planning Staff Recommendation:**

Planning Staff recommends adoption and agrees with the Planning Board's view that the proposed amendments would improve and clarify parameters of local regulation of the use such that ordinance intent is better served.

---

**Planning Board Recommendation:**

After a discussion of the proposed changes \* made a motion to recommend adoption. The motion was duly seconded by \* and the motion passed on a vote of \*. The Planning Board cites the following elements of *Land Use Plan 2015* as consistency principles guiding its recommendation:

- 5.3.3 Encourage economic and commercial development that does not detract from the rural environment.
- 5.3.4 Equip leaders to make good development decisions.
- 5.3.5 Maintain rural character.
- 5.3.7 Maintain quality of life.
- 5.4.5.14 Standard site development requirements for commercial and non-residential land uses should be incorporated into the Zoning Ordinance that will facilitate the desire to better address landscaping, access and site design.
- 5.4.6.2 Appropriate non-residential uses should be permitted in rural and agricultural areas on a case-by-case basis, which blend well with the rural/agricultural framework.

**AN ORDINANCE TO AMEND  
THE SURRY COUNTY  
ZONING ORDINANCE**

**WHEREAS**, pursuant to N.C Gen. Statute 153A-342, as amended and for the purpose of promoting the health, safety, morals, or general welfare of the inhabitants of the County by lessening congestion in and around the streets; securing safety; preventing the overcrowding of land; avoiding undue congestion; and facilitating the adequate provision of transportation,

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the County of Surry that the Surry County Zoning Ordinance be amended as follows:

- 1) Amend Article 15, Section 2, to read as follows (changes highlighted):

**Section 2. Continuation, Maintenance, and Repair of a Nonconformity Allowed Without Permit**

Except as provided in Section 8 below, the continuation of any nonconformity and the normal maintenance and repair thereof is allowed without a general or conditional use approval. Normal maintenance and repair means that which is necessary to maintain and to correct any damage or deterioration to the structural soundness or to the exterior or interior appearance of a building or structure.

- 2) Amend Article 15, Section 8, to read as follows (inserting highlighted paragraph at the beginning of the Section):

**Section 8. Exceptions and Modifications**

A nonconforming kennel may be required to be immediately brought into compliance with this ordinance, by cessation of the use or by issuance of a Conditional Use Permit under the requirements of Article 16 where applicable.

The following exceptions and modifications shall be allowed without the issuance of a Conditional Use Permit by the Planning Board.

3) Amend Article 16, Section 8, to read as follows (inserting highlighted provisions):

**Kennel**

Zoning Districts: RA, CB, HB

Site Standards:

1. Minimum lot size shall be two (2) acres.
2. The Planning Board shall determine case-by-case the total facility capacity, defined as the maximum number of animals that may be housed or kept on the property, including those owned by the occupant/applicant. Provided that if a lesser capacity is required by state or federal licensing requirements existing or as amended, the lesser capacity shall apply.
3. All buildings or other structures pertaining to the operation, including outdoor runs and pens, shall maintain required setbacks from all property lines the same as required for the principal structure on the property.
4. No accessory building, outdoor run, or other animal holding or exercising facility shall be located in the front or side yard.

Lighting: Outdoor lighting shall be designed so as to minimize light from directly hitting adjacent property or any public right-of-way.

Screening: All kennel buildings, runs, pens, or other facilities shall be buffered from adjacent property used or zoned for residential purposes by fencing or vegetation meeting the requirements of Article 18 (Buffers and Screening).

4) Amend Article 30. Definitions, the Definition of KENNEL, as follows (new language highlighted):

**KENNEL.** Any facility used for the purpose of boarding animals, excluding horses, cattle, swine, sheep, goats, geese or peafowl. Kennels may conduct other such incidental activities, such as the sale of animals, treatment of the animals, grooming or cleaning, and the sale of pet supplies. In addition, any establishment wherein any person engages in business or practice, for fee, of boarding, breeding, grooming, letting for hire, or training of more than one litter or of more than three domesticated animals in any twelve month period; or any facility that houses domesticated animals in connection with an activity requiring a license under the state and/or federal Animal Welfare Acts. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats, and other generally accepted household pets. The following shall not constitute the operation of a kennel as defined above and in no way shall these provisions regulate the following:

- (a) The ownership of domesticated animals as household pets;
- (b) The ownership of domesticated animals for hunting or tracking purposes;
- (c) The ownership of domesticated animals for the purpose of exhibiting at shows, obedience or field trials; and
- (d) The ownership of domesticated animals for the purpose of protection or guarding of residences or commercial establishments.

This ordinance shall become effective on the date of its adoption.

Adopted this Seventeenth day of May, 2010,

ATTEST:

Paul Johnson, Chairman

Conchita Atkins, Clerk to the Board