

COLLIER COUNTY LAND DEVELOPMENT CODE STAFF CLARIFICATION

CURRENT PLANNING STAFF CLARIFICATION SC 09-002

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Subject: Update to March 12, 1997 memo regarding kenneling in Estates Zoning and further explaining regulations pertaining to commercial facilities and animals in the Agricultural and Estates zoning districts

As a result of several recent inquires and staff requests for interpretations on the subject of the keeping of animals (including kenneling), the above referenced memo has been re- evaluated. This memo supersedes the March 12, 1997 memo and updates the Zoning interpretations regarding kenneling in the Estates. This memo further expands into an explanation of regulations pertaining to land uses involving animals including breeding, raising, training, stabling and kenneling and provides guidance to staff when evaluating these types of land uses.

“Kenneling” is currently defined in the Land Development Code (LDC) as an establishment licensed to operate a facility housing dogs, cats, or other household pets or the keeping of more than 3 dogs, 6 months or older, on premises used for residential purposes, or the keeping of more than 2 dogs on property used for industrial or commercial security purposes.

The 1997 memo discusses the limitation on animals (specifically dogs) in the Estates zoning district and attempts to regulate through the text of the definition of Kenneling. Neither the term “Kenneling” nor the SIC Code for Kenneling is listed as a permitted or conditional use in the Estates district. Kenneling is identified as a permitted use in the Rural Agricultural district, under the grouping “Agricultural Activities” where it is allowable on parcels 20 acres in size or greater (meaning if applying the 1997 memo, only properties in the Agricultural zoning district that are 20 acres or greater in size, could house 3 or more dogs greater than 6 months of age) and as a conditional use on parcels less than 20 acres.

At issue is the 1997 interpretation of the phraseology “on premises used for residential purposes.” It is my opinion that the statement “on premises used for residential purposes” could be applicable in any zoning district (Agricultural, Estates, non-conforming use situations in commercial districts, etc.). It is a statement regarding use of the land without reference to a zoning classification. Regulating in this manner creates conflicts between the definition and the zoning regulations. For example, in an Agricultural zoning district one could use a parcel of land (any size) primarily for residential purposes and not be in violation of the provisions of the Agricultural zoning district. However, in either case if one applies the 1997 memo, the use of the land for residential purposes would preclude you from having more than 3 dogs on site, although the Agricultural district standards would allow it (see section 2.03.01.A.1.a.2.i.); this is clearly a conflict. Since 2004, the County has attempted to cease regulating through definitions.

The use of land is governed by the provisions of the Zoning districts. Within the LDC, Zoning districts are grouped into various categories, including residential and agricultural categories (see section 2.02.02). The conclusions reached in the 1997 memo are inconsistent with these groupings and as noted above are specifically in conflict with the Agricultural zoning district standards. The Estates and Agricultural zoning districts are grouped together and defined as Agricultural districts; not Residential districts despite the fact that both districts allow residential uses. As noted above, developed properties in the

Agricultural zoning district that are used primarily for residential purposes, clearly creates conflict between the list of permitted uses in the Agricultural zoning district allowing Kennels, and the 1997 memo.

In conclusion, the 1997 memo is not applicable to the Agricultural or Estates zoning districts; both of these districts are classified by the LDC as Agricultural, not residential. The residential standard and limitation contained in the definition is only applicable if the animals are specifically located on property in a residential zoning district as defined by Section 2.02.02. B. of the LDC. In this case they are limited to no more than 3 per site, if they are 6 months or older.

Furthermore, upon review and analysis of the LDC and SIC code books, the term “Kenneling” and its reference in the LDC, specifically within the Agricultural zoning district, is not, in my opinion, intended to address the keeping of dogs for personal use. Kenneling is clearly grouped with production and service type of land uses in Agricultural zoning, including animal breeding, raising, training and stabling as noted by the reference to a licensed establishment and its grouping with other production/service uses. Although animals may be kept or kenneled in a kennel structure on site, this does not mean that a use housing dogs in kennels is considered a commercial kennel operation. Kenneling is also often a component of Veterinary services and is also listed as a separate use (0752) Animal Specialty Services, except Veterinary, which is allowable in the C-3, C-4 and C-5 (commercial) zoning districts, and in the Agricultural zoning district as a conditional use. Therefore, a property owner housing more than 3 dogs for personal use in the Estates and Agricultural zoning designations is not necessarily operating a (commercial) kennel.

Regarding other animals, and for purposes of applying the Code provisions regarding breeding, raising, training, stabling and kenneling of animals, please use the following as a reference in conjunction with the use classification of the zoning district. Generally speaking in the Estates and Agricultural districts, animals kept on site for personal use are permissible; animals housed in exchange for services or payment where patrons and/or employees are regularly visiting the site (e.g. have a commercial component associated with their use) are more than likely commercial breeding, training or boarding services and are not permissible in the Estates but are permissible in the Agricultural zoning districts on properties 20 acres or more, or as a Conditional Use on properties less than 20 acres in area.

For purposes of deciding whether or not a situation involving animals is considered a commercial breeding, training, boarding, kennel or other service type of establishment and for purposes of identifying whether or not the use is permitted in the Agricultural or Estates zoning districts, use the following broad descriptions as a general guide in your decision making process. This is not intended to be an all inclusive list. Assess the facts associated with the situation by first deciding which broad category the situations falls into and then review the LDC for further guidance. If you have a unique situation that does not easily fit into these categories please contact me for further review and interpretation. This list does not to preclude the regulations pertaining to the very specific numerical restrictions on the number of fowl, horses and livestock or restrictions on hogs and reptiles in the LDC or any other County, State or Federal permitting requirements.

Permissible in Ag and Estates:

- Personal ownership for pet
- Personal ownership for show including training
- Personal ownership for breeding primarily for one’s self
- Personal ownership for stock handling purposes
- Animals kept for service training or work in personal homes (no commercial activity on site)
- Animals kept to provide services off-site (police, rescue, handicap service, etc)
- Temporary housing for rescue animals (those actively seeking permanent homes for animals)

Permanent housing for rescue animals (no storefronts, tours, events, exhibits, etc. on site)

Permissible in Ag on parcels 20 acres or greater:

Commercial animal breeding establishments (breeding for sale, profit or exchange of services)
Animal Grooming facilities offering services to patrons
Animal Boarding facilities offering services to patrons
Animal Training facilities offering services to patrons

Conditional Use in Ag:

Veterinary service facilities (clinics) without Boarding or animal housing
Veterinary service facilities (clinics) with Boarding or animal housing
Animals associated with Cultural, ecological or recreational facilities including wildlife/plant conservancies that include tours or commercial related activities on site(eco-tourism, agri-tourism, tour operations, animals as props, etc.)
Commercial animal breeding/production establishments on less than 20 acres (breeding for sale, profit or exchange of service)
Commercial animal breeding/production of exotic animals (non-agricultural)

Permissible in Ag only

Wildlife management, plant and wildlife conservancies, wildlife refuges and sanctuaries (private for personal use)

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