



## King County

### Department of Development and Environmental Services

900 Oakesdale Avenue Southwest  
Renton, WA 98057-5212

206-296-6600 TTY 206-296-7217

[www.kingcounty.gov](http://www.kingcounty.gov)

## FINAL CODE INTERPRETATION L08CI005

### Background

On August 25, 2008, Mr. Rhys Sterling filed a code interpretation request on behalf of his client, Centennial Kennels. Centennial Kennels is located on Parcel 102206-9112, a RA-5 zoned parcel located adjacent to State Route (SR) 18.

Centennial Kennels and its predecessors have operated under a conditional use permit issued in 1968. The site was originally triangular shaped and approximately 11.48 acres. Since that time, the property has been subdivided and is now approximately 5.87 acres. In addition, SR 18 has recently been expanded. This resulted in making a sign advertising Centennial Kennels that was located on the end of a barn on the site less visible to passing motorists. Centennial Kennels constructed two signs on the roof of a barn that is visible to passing motorists driving in both directions on SR 18.

There is a pending code enforcement complaint against Centennial Kennels. (See E0600136) Mr. Sterling requests an interpretation of two code sections related to Centennial Kennels operation: King County Code (K.C.C.) 21A.08.050B.36, which establishes standards for a kennel-free dog day care facility and K.C.C. 21A.20.060C relating to signs for commercial uses located in residential zones.

### Discussion

Kennel-Free Dog Boarding and Day Care Facility Requirements. K.C.C. 21A.08.050 was amended by the King County Council in 2007 to add animal specialty services as a permitted use. Ord. 15816, Sec. 1. Animal specialty services are defined in SIC 0752 and include activities such as animal shelters, dog grooming, and showing of pets. In the RA zones, animal specialty services are a conditional use. Under two specific circumstances, animal specialty services are an outright permitted use. One is for animal rescue shelters that meet certain conditions, including a minimum site area and building setbacks. K.C.C. 21A.08.050B.35. The other is for "kennel-free dog boarding and daycare facilities" which also is subject to specific requirements related to lot size, building setbacks, and hours of operation. K.C.C. 21A.08.050B.36. As an outright permitted use, new kennel-free dog boarding facilities were allowed for only one year.

A kennel-free dog boarding and daycare facility is defined in K.C.C. 21A.06.661 as a "Dog boarding or daycare facility that utilizes rooms or outdoor exercise area, rather than cages or cement floored runs, to allow for and encourage the socialization, interaction and exercise of dogs."

A building used by Centennial Kennels for kennel-free dog boarding is located approximately 30 feet from a neighboring residential parcel. That parcel was part of the Centennial Kennel property in 1968 when the kennel was originally permitted. K.C.C. 21A.08.050B.36 requires that buildings "housing dogs" at the kennel-free dog boarding and daycare facility must be at least 75 feet from neighboring properties.

Mr. Sterling argues that the building used for the daycare operation does not house or board dogs and that the 75 foot requirement does not apply. The verb "house" is not defined in K.C.C. Title 21A. The American Heritage College Dictionary defines the term to include "2. to shelter, keep, or store in or as if in a house. 3. To contain; harbor." This clearly covers the use of a building for daycare, where animals are sheltered, kept, or harbored. Mr. Sterling suggests that there is no need for a setback for a building being used for daycare as opposed to for housing overnight or for feeding. If the King County Council had intended to limit this provision to buildings used as a kennel or for overnight boarding, it could have made that intent clear. Instead, it used a more general term that encompasses both daycare and boarding activities.

Mr. Sterling suggests that if the setback is measured from the original property boundary, before the lot segregations that reduced it from over 11 acres to less than 5 acres, the setback requirement would be satisfied. He also suggests that King County somehow was complicit in creating a non-conforming use by approving the lot segregation in 1970. There is nothing in the King County Code to support this interpretation. At the time the lot segregation was approved, the building at issue here had not yet been constructed. K.C.C. 21A.08.050B.36 requires that a building housing dogs must be 75 feet from property lines. This calculation is determined at the time the use is established.

Finally, although Mr. Sterling does not state this explicitly, his request appears to be based on an assumption that if the building cannot be approved under K.C.C. 21A.08.050B.36, it would not be permitted at all. Kennel-free dog boarding and day care facilities, along with other animal specialty services, are allowed as a conditional use in the RA zone. As a conditional use, they are not subject to the requirements in Subsection B.36. The standards for review and approval of conditional uses are set forth in K.C.C. 21A.44.040. Therefore, although the building at issue here does not meet the requirements of K.C.C. 21A.08.050B.36 as an outright permitted use, it may be considered as a conditional use under 21A.44.040.

In conclusion, the building at issue does not satisfy the requirements for an outright permitted use under K.C.C. 21A.08.050B.36 because the building does not meet the 75-foot setback requirement. However, those setback requirements would not prohibit use of the building for a kennel-free dog boarding and day care facility as a conditional use. The provisions of K.C.C. 21A.08.050B.36 will be considered in evaluating a conditional use application, but they are not mandatory.

Sign mounted on roof. When SR 18 was expanded, an existing sign mounted on the side of a barn on the Centennial Kennel's property was no longer readily visible to passing motorists on SR 18. Centennial Kennels constructed new signs mounted on the roof of the barn that face both directions.

K.C.C. 21A.20.060 establishes general sign requirements. K.C.C. 21A.20.060C prohibits signs mounted on the sloping portion of a roof in the residential zones. K.C.C. 21A.20.060J provides that "Any sign attached to the sloping surface of a roof shall be installed or erected in such a manner that there are no visible support structures, shall appear to be part of the building itself, and shall not extend above the roof ridge line of the portion of the roof upon which the sign is attached."

K.C.C. 21A.20.080 establishes additional standards for signs in residential zones. Centennial Kennels is located in the RA zone, which is a residential zone. K.C.C. 21A.20.080A.1. provides that for non-residential uses in the residential zones "One sign identifying nonresidential uses, not exceeding twenty-five square feet and not exceeding six feet in height is permitted."

The signs constructed by Centennial Kennels violates several of these provisions. The structure supporting the signs are clearly visible. In addition, there are two signs, one facing each direction, and each sign is more than twenty-five square feet.

Mr. Sterling argues that the sign does not exceed the maximum size because each letter can be considered an incidental sign, which, under K.C.C. 21A.20.030, is exempt from limitations as long as the sign is less than two square feet. K.C.C. 21A.06.1120 defines an incidental sign as "a sign, emblem or decal designed to inform the public of goods, facilities, or services available on the premises." Examples of incidental signs include signs designating restrooms, hours of operation, property ownership, and recycling containers. The Centennial Kennel sign does not qualify as an incidental sign.

Mr. Sterling also suggests that the new sign should be considered as nothing more than the relocation of an existing sign to a new location. The flaw in this suggestion is that one sign has been replaced by two and that the new sign is on the roof in a manner that violates K.C.C. 21A.20.060J.

Mr. Sterling argues that signs that are painted on the roof are different from signs that are mounted and that the prohibition in K.C.C. 21A.20.060C does not apply to a sign painted on the roof. This is a correct reading of the code. In fact, DDES has suggested to Centennial Kennels that a sign painted on the roof of the barn as a resolution to the code enforcement issue with respect to the sign.

Mr. Sterling then argues that the number and size limitations in K.C.C. 21A.20.080A do not apply to Centennial Kennels because this would amount to a "taking of a valuable business property subject to just compensation." If there was a taking, it was due to the fact that the State of Washington expanded SR 18 which resulted in making the prior sign less visible. Centennial Kennels will need to take this issue up with the State of Washington. If Centennial Kennels believes that King County's sign codes result in a taking of a valuable business property that is an issue that should be addressed through a different mechanism than a code interpretation.

In conclusion on the sign issue, the current sign violates provisions of K.C.C. 21A.20.060 that prohibit signs mounted on the sloping portion of a roof in the RA zone. However, K.C.C. 21A.24.060C does not prohibit painting a sign on the sloping portion of a barn roof. K.C.C. 21A.24.080A.1 does limit non-residential uses in the RA zone to one sign that is no larger than 25 square feet.

### **Decision**

Kennel-Free Dog Boarding and Day Care Facility. K.C.C. 21A.08.050B.36 requires that a building housing dogs in a kennel-free dog boarding and day care facility must be at least 75 feet from property lines in order to allow the facility as a permitted use. A building housing dogs includes buildings used in a day care operation as well as buildings used for boarding and overnight stays. The Centennial Kennels' building is less than 75 feet from a property line and therefore cannot be permitted as an outright permitted use. However, Centennial Kennels may apply for approval of the kennel free dog boarding and day care facility as a conditional use. The 75 foot setback requirement is not mandatory on a conditional use.

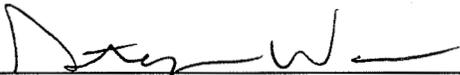
Sign mounted on roof. K.C.C. 21A.20.060C prohibits signs mounted on the sloping portion of roof in a residential zone. K.C.C. 21A.20.060J requires that signs that are mounted on a sloping portion of a roof, when allowed, cannot extend above the roof line and that the supporting structure cannot be visible. Because the Centennial Kennels site is in a residential zone, a sign mounted on the sloping portion of the roof is not allowed. In addition, the Centennial Kennel signs have a visible supporting structure. A sign painted on the roof is not mounted and, therefore, is not prohibited by K.C.C. 21A.20.060C.

K.C.C. 21A.20.090A.1. limits non-residential uses in the residential zones to one sign not more than 25 square feet. Therefore, if Centennial Kennels decides to paint a sign on the roof, only one sign is permitted and the sign is limited to 25 square feet.

The individual letters of the sign are not incidental signs that are exempt under K.C.C. 21A.20.030.

### **Finality of Code Interpretations**

Under K.C.C. 2.100.040, a code interpretation that relates to a code enforcement action is final when issued by the director. In such a case, the code interpretation may be appealed to the Hearing Examiner when the Department takes its final action on the code enforcement complaint. The Director determines that this code interpretation relates Code Enforcement Complaint E0600136. Therefore, this code interpretation is final when it is issued and may be appealed together with any appeal of the related Code Enforcement Action.

  
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Stephanie Warden  
Director  
Development and Environmental Services

10/28/08  
Date