

THE CORPORATION OF THE TOWNSHIP OF OTONABEE-SOUTH MONAGHAN

BY-LAW NUMBER 2009-31

Being a By-law to licence, regulate and govern kennels
In the Township of Otonabee-South Monaghan

WHEREAS section 150 of the Municipal Act, S.O. 2001 authorizes Council to licence and regulate a variety of businesses and events. The authority includes: the power to regulate or govern the place used in carrying on of businesses and many other matters, and

WHEREAS the Council of the Corporation of the Township of Otonabee-South Monaghan deems it necessary and desirable to licence certain businesses carried on in the Township of Otonabee-South Monaghan to promote the health and safety of residence, provide nuisance control, and ensure consumer protection.

NOW THEREFORE the Council of the Township of Otonabee-South Monaghan enacts as follows:

1.0 **Definitions:** For the purpose of this By-law:

ANIMAL – shall mean any member of the kingdom of living beings, excluding humans. Without limitation, “ANIMAL” shall include mammals, dogs, cats, birds and reptiles.

ANIMAL SOUND – shall mean any sound emitted from an animal which is audible at a point of reception. This term includes: barking, whimpering, whining, howling and yelping.

APPLICANT – shall include a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension.

BOARDING – shall mean the taking in of domestic animals for a period of time for financial gain.

BOARDING FACILITY – shall mean a facility that takes in domestic animals for a period of time for financial gain.

BREEDING – shall mean the generating of offspring resulting in a strain of related dogs similar in type and use.

BUSINESS – shall include a trade that requires a licence pursuant to this By-law, whether or not a licence has been issued or maintained for that business.

BY-LAW – shall mean this by-law as it may be amended from time to time. The recitals to and the schedules attached to this By-law are considered integral parts of it.

CHIEF BUILDING OFFICIAL – shall mean the person with the Municipality's administration who fulfills the function of Chief Building Official as required by the Ontario Building Code Act, 1992, or his or her designate.

COUNCIL – shall mean the elected municipal council for the Township of Otonabee-South Monaghan

DOG – shall mean a domestic canine (domesticated carnivore of the species *canis familiaris*) that is over 12 weeks of age, male or female, whether neutered or spayed.

DOG CONTROL OFFICER – shall include any person employed by the Township of Otonabee-South Monaghan to enforce the provisions of this By-law

DOG HOUSE – shall mean a freestanding enclosure offering protection from the elements for a dog or dogs when sleeping or resting;

DOG RUN – shall mean an enclosed area allowing freedom of movement and exercise for a dog or dogs

GUARD DOG – shall mean any dog that has been specifically trained to defend or protect persons or property against intruders or theft and is used exclusively for that purpose

GUIDE DOG – shall mean any trained and actively used to assist a person who is legally blind or legally deaf and is actively in use for such purposes

KENNEL – shall mean any building, structure, dog run or other facility or part thereof, where:

- a) Dogs are kept for breeding or show purposes, or
- b) Dogs are kept solely for the purpose of routinely entering into dog sled or other similar races; or
- c) Hunting dogs are kept for hunting purposes

KENNEL, COMMERCIAL BOARDING or COMMERCIAL BREEDING – shall mean any kennel used for the keeping of eight (8) or more dogs but does not include a veterinarian clinic.

KENNEL, PRIVATE – shall mean any kennels used for the keeping, breeding, or training or more than three (3) but less than eight (8) dogs for the personal, recreational use of the owner of lands upon which such kennel is located, but does not include a veterinarian clinic.

In addition to the maximum number of dogs set out above, a maximum of two (2) litters of pups, per bitch, upto sixteen (16) weeks of age may be permitted in any licensing year.

LICENCE - means a licence to operate a trade issued pursuant to this By-law.

LICENCEE – means a person who has been issued a Commercial Boarding, Commercial Breeding or Kennel Licence pursuant to this By-law.

MUNICIPAL CLERK – shall mean the person within the Municipality’s administration who fulfills the function of municipal clerk as required by the Municipal Act, 2001 or his or her designate.

MUNICIPALITY or **TOWNSHIP** – shall mean the Corporation of the Township of Otonabee-South Monaghan

MUNICIPAL LAW ENFORCEMENT OFFICER – shall mean a person or persons appointed by Council for the purpose of animal control or appointed as a Municipal Law Enforcement Officer.

OPERATOR – shall mean a person with care and control of a business at any given point in time, with authorization of the owner of the business. The terms “operate”, “operation” and words of like import and intent have corresponding meaning.

OWNER – shall mean the person who owns, possesses or harbours a dog and, where the owner is a minor, the person responsible for the custody of the dog.

POINT OF RECEPTION – shall mean any geographic location at which a sound can be heard, excluding the premises from which the sound originates.

PROPERTY OWNER – shall mean the person who is the registered owner of the property on which the kennel or boarding facility is located.

PUREBRED – shall mean the dog whose sire and dam represent the same breed and are themselves of unmixed descent.

- a) registered or eligible for registration in the register of the Canadian Kennel Club Inc. or the American Kennel Club; or
- b) recognized as such pursuant to the Animal Pedigree Act (Canada)

TRADE – shall mean and include business, calling or occupation and “carrying on a trade” includes any act of:

- a) Selling any goods or services, or
- b) Policing business or offering or exposing goods or services for sale or hire.

2.0 LICENSING

- 2.1 No person shall own, operate, manage, control, supervise or have any kennel, or boarding facility without a licence issued by the Municipality.
- 2.2 Only the Property Owner may apply for and be issued a licence. A licence issued to the Property Owner is **NOT** transferrable to any new Property Owner.
- 2.3 Every Property Owner who applies for a licence shall do so in writing on the form provided by the Municipality.
- 2.4 Private and Commercial Breeding Kennel applicants shall supply the following:
 - 2.4.1 In the case of a Kennel for Purebred Dogs, proof of active membership in the Canadian Kennel Club or any other association incorporated under the Animal Pedigree (Canada); or
 - 2.4.2 In the case of a Kennel for sled Dogs, proof of active participation or registration in dog sled or similar races within the previous or impending twelve (12) months as may be deemed acceptable by the Licencing Officer; or
 - 2.4.3 In the case of a Kennel for hunting Dogs,
 - (a) Proof of active membership in the Canadian Kennel Club for registered hunting dogs; or
 - (b) Proof of active membership in an association for the purpose of hunting dogs training or tailing; or
 - (c) A hunting dog licence for each dog issued by the Ministry of Natural Resources within the previous 12 months; or
 - (d) Such other proof of hunting activities in the previous or impending 12 month period as may be deemed acceptable by the Licensing Officer.
 - 2.4.4 In all cases, a list of all dogs to be kept at the subject property, including both purebreds and non-purebreds; and verification of current rabies vaccination for each dog; and
 - 2.4.5 In all cases, the Private Kennel Licence Fee or Private Commercial Breeding Kennel Licence Fee as set out in Schedule “A” of this By-law; and

2.4.6 A sworn declaration by the Owner or agent that he/she have never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty or a similar offence in another country, and for which the applicant has not received a pardon.

2.5 Every Owner applying for a Licence for a Commercial Boarding Kennel shall submit the following documentation:

2.5.1 Commercial Boarding Kennel Licence Fee as set out in Schedule “A” of this By-law; and

2.5.2 A sworn declaration by the Owner or agent that he/she have never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty or a similar offence in another country, and for which the applicant has not received a pardon.

2.6 **KENNEL REQUIREMENTS**

A Kennel Licence shall not be granted unless the following requirements are met:

- a) Written clearance from the Township of Otonabee-South Monaghan assuring the compliance with the Zoning By-law, with any associated costs borne by the applicant; and
- b) A site location drawing, drawn to scale showing the location of all buildings or structures on the subject property, including the location of all buildings, or structures on the subject property, including the location of all buildings, structures, dog runs or facilities to be used for a Boarding Facility. The site location drawing must also specify the distance which separates the Facility from all property lines and all buildings, including residential buildings situated on the adjacent properties; and
- c) The location of a kennel shall comply with the Township’s Zoning By-law. A kennel shall not be located within a residential zone, NOR situated within 305 metres (1,000 feet) of such zone, in accordance with the Township’s Zoning By-law, or a residential unit on a neighbouring lot without an amendment to the Township’s Zoning By-law.
- d) All exercising yards used in connection with the operation of a kennel shall be:
 - e) i) enclosed by a fence that is a minimum of two metres (6 ft.) in height and shall have the robustness of twelve gauge chain link or material of equal strength;
 - ii) At least thirty-three metres (108 ft.) from all property boundaries and public roads;

2.7 MAXIMUM NUMBER OF DOGS

- 2.7.1 The maximum number of dogs permitted in any one Commercial Breeding Kennel for which a Kennel Licence has been issued shall not exceed twenty dogs;
- 2.7.2 The maximum number of dogs permitted in any one Commercial Boarding Kennel for which a Kennel Licence has been issued shall not exceed thirty dogs;
- 2.7.2 The maximum number of dogs permitted in any one Private Kennel for which a Kennel Licence has been issued shall not exceed eight dogs;

2.8 Refusal of Licence

- 2.8.1 The Dog Control Officer shall refuse any Licence application which does not meet with all of the requirements of this By-law.
- 2.8.2 In the event that a Licence is refused, the Dog Control Officer shall give Notice in Writing to the Property Owner by registered mail or personal service.
- 2.8.3 The Property Owner may apply to the Dog Control Officer in writing within twenty (20) days from the date of notice for a hearing before Council.
- 2.8.4 Upon receipt of a request for a hearing, the Dog Control Officer shall arrange for such hearing at a Council Meeting and a notice of the date, time and location of the hearing shall be given to the Property Owner in writing by registered mail or personal delivery not less than seven (7) days prior to the hearing.
- 2.8.5 Council shall review the application licence together with the Dog Control Officer's reasons for refusal and/or recommendations for conditions to be placed on any licence and shall hear the Property Owner's or Agent's verbal or written submissions as to how the application fulfils the requirements of this By-law.
- 2.8.6 Council, upon reviewing and hearing these submissions shall confer on the matter and shall render its decision and reasons therefore. In accordance with Section 239 of the Municipal Act, Council may confer in Closed Session on the matter but shall render its decision and reasons therefore in Open Session.
- 2.8.7 Council may, in rendering its decision, place special conditions on the licence for a specified time period.
- 2.8.8 The Dog Control Officer shall give written Notice of Council's decision to the Owner in writing, by registered mail or personal service, within ten (10) days of the decision.
- 2.8.9 Council's decision shall be final and not subject to further review.

2.9 Licencing Period

- 2.9.1 Licences are valid from the date of issue and expire on December 31st, of each year.
- 2.92 Notwithstanding Section 2.7.1 above the Dog Control Officer shall suspend or revoke any licence issued under the authority of this By-law where the Dog Control Officer deems it desirable and necessary.
- 2.93 The provisions of Section 2.6; with necessary modifications, apply to the suspension or revocation of a Licence.

2.10 CHANGE OF OWNERSHIP

- 2.10.1 Every licensee shall, upon change of ownership of the licence business, return and surrender his/her current licence to the Municipality. The new owner shall make application for a new licence as set out in this by-law.

2.11 CHANGE OF PREMISE OR LOCATION

- 2.11.1 Where a currently licenced Kennel changes location or premise, such new location or premise shall not be deemed to be licenced. The applicant must immediately make application for a new licence under the provisions of this By-law and shall surrender to the Township the licence issued in respect of the previous location or premise.

2.12 Exemption from Dog Tags

- 2.12.1 Upon the issuance of a licence under this By-law, the Property Owner shall be exempt from the purchase of licences, under the Dog Control By-law for the Dogs in a Commercial Breeding Kennel or Dogs in a Private Kennel.
- 2.12.2 Notwithstanding 2.8.1 the Property Owner of a Commercial Boarding Kennel shall not be exempt from the purchase of licences, under the Dog Control By-law for any dogs owned by the Property Owner unless the Property Owner holds a valid Private Kennel Licence for the subject property.
- 2.12.3 Where the total number of Dogs permitted under the prevailing Dog Control By-law or the Dog Owners Liability Act, a Kennel licence is not required under this By-law.
- 2.12.4 No licence shall be required for the following operations:
 - a) an animal shelter operated by or on behalf of a public authority;
 - b) a veterinary hospital or clinic;
 - c) a publicly funded educational institute; or
 - d) any facility in which animals are placed for care pursuant to the Pounds Act.

2.13 Licence Display

2.13.1 Each kennel licence, when issued, shall be posted in a conspicuous place on the licenced premise.

2.14 Inspections of Premises

2.14.1 The Dog Control Officer may, at reasonable time, inspect the premises of the Owner or Operator of a kennel and the equipment, and other personal property used or kept for hire in the carrying on of the business. Where the kennel operation is conducted in part in a dwelling unit, the Officer may inspect that portion of the dwelling unit used as the Kennel operation.

2.15 Kennel Regulations

2.15.1 Where the kennel operation is located in part in a building or structure that is separate from the principle dwelling, the kennel owner shall ensure that the following standards are met:

- a) Dogs shall be housed in individual enclosures, except in the case of puppies less than six (6) months of age with or without the bitch, unless the pet owner expresses a specific wish for their pets to be housed together and would not be deemed inhumane to do so.
- b) Each enclosure shall be large enough to permit any dog enclosed therein to move freely and in particular shall permit each animal confined therein to:
 - i) stand normally to its full height
 - ii) turn around easily
 - iii) move about easily for the purpose of posture adjustments
 - iv) lie down in a fully extended position
 - v) enable species-appropriate contact
 - vi) provide bitches with nursing puppies an additional 10% space per nursing puppy
 - viii) provide for the social and behavior needs of the dog
- c) Floors shall be of smooth concrete finish or similar like material and shall be adequately sloped to drains.
- d) Walls shall be non-porous, watertight and easily cleaned and sanitized. Inside surfaces shall be smooth, durable and impervious to facilitate cleaning.
- e) Where floors are on grade, suitable bedding shall be provided in the form of a raised wood, fiberglass or similar platform, large enough for the dog to lie on.

- f) Roof coverings, fastened to sheathing or directly to the roof joists shall be laid so as to prevent the entrance of rodents and vermin into the facility, and covered with suitable materials in order to eliminate leakage and exposure of the Dogs to adverse weather conditions.
- g) Ceilings and walls shall abut closely to prevent crevices which can lead to rodent infestation.
- h) Corners of ceilings, walls and partitions shall be caulked and painted so as to be completely washable.
- i) Proper air circulation shall be ensured to prevent respiratory disease and to avoid the spread of contaminants, viruses, bacteria and molds.
- j) The temperature for an indoor facility shall be maintained at a minimum of 10°C with a maximum of 27°C. Temperatures shall be suitable to the breed, coat length, age and condition of the dogs housed in the Kennel.
- k) Outside exercise facilities shall be provided which shall be fenced and maintained in such a manner as to keep the Dogs securely enclosed. Outside exercise runs shall be large enough for Dogs to break into a trot and provide protection. The exercise running surface must be safe and not slippery, and free from debris that could cause injury or damage to the dog. Each dog shall be placed in such facilities at least twice in every 24 hour period for a duration appropriate to the weather conditions. The outdoor exercise facility shall be kept in a sanitary manner.
- l) No dog shall be placed in an outside exercise facility in inclement weather.

2.15.1 Notwithstanding 2.11.1 where a kennel forms part of the principle dwelling unit on the property, and where enclosures are provided for the dogs, the standards described in Section 2.11.1 (a) through (l) inclusive, shall apply to those enclosures.

2.16 Every Kennel Operator shall maintain the kennel in a clean and sanitary condition at all times. In particular the Kennel operator shall ensure that all excrement, refuse and other objectionable material is removed from the cages in the kennel area at least twice in every twenty-four (24) hour period including weekends and from the premises once per week in an acceptable manner. The Animals shall be removed from the cages and kennel area while the area is being cleaned.

2.17 Every Kennel Operator shall ensure that all dogs are provided with an adequate source of clean, fresh drinking water available to them at all times, and adequate, nutritional and contaminant-free food capable of maintaining the dog in full health and vigor is provided. Food storage bins must be covered, vermin proof and properly marked. Food dishes and utensils shall be stored in a clean and protected area.

- 2.18 The whelping are shall be separated from the individual and/or group kennel enclosures housing other kennel dogs, thereby providing the whelping bitch privacy.

3.0 Kennel Management

- 3.1 Every kennel owner shall provide adequate, regular supervision and efficient knowledge health care controls to ensure no harm comes through the association with incompatible dogs, sick dogs or other adversarial animals or vermin.
- 3.2 Every operator of a boarding kennel shall maintain kennel records for each dog boarded at the kennel. The record shall include: the dog's name; tattoo or microchip number, the owner's name, address and contact number; and emergency contact number; a daily health record of the dog including any meds or other health issues; documentation respecting any behavior incidents. These records shall be maintained for a minimum of six (6) months from the date of the stay at the kennel.
- 3.3 Every operator of a breeding kennel shall maintain records including; breed, sex, date of birth, the sire and dam, tattoo or microchip number, colour and markings. Individual records shall be developed by the time the litter is weaned and shall include medications, vaccinations, and examinations for internal and external parasites and the results thereof.
- 3.4 Every kennel operator shall have an established rapport with a local veterinary hospital to deal with emergencies that may arise from time to time.
- 3.5 Every kennel operator shall maintain written dog care procedures and such procedures shall be readily available to all kennel personnel at all times. These procedures shall include method of handling kennel sickness, injury or death, back-up transportation, and a list appropriate phone numbers for the Dog Control Officer, Human Society and the veterinarian.

4.0 NUISANCE ABATEMENT

Every person licenced under this By-law, in addition, to any other provisions or requirements expressed elsewhere in the By-law, shall comply with the following requirements.

- a) Shall not breach or violate or cause, suffer or permit any breach or violation of any By-law of the Township or any statute, Order-in-Council or Regulation of the Legislature of the Province of Ontario or the Parliament of Canada or any Agency, Board or Commission thereof, in upon or in connection with the operation of a Kennel or in relation to which such licence was issued, and

4.0 SUSPENSION / REVOCATION

The Township may suspend or revoke a licence issued to any licensee who:

- a) Has past breaches of this By-law, or
- b) Has failed to comply with the requirements of this By-law or other applicable By-laws of the Township or any other Corporation or of any statute, order-in-Council or Regulation of the Legislature of the Province of Ontario or the Parliament of Canada or any Agency, Board or Commission thereof, in, upon or in connection with the operation of a kennel or in relation to which such licence was issued, or
- c) Has any outstanding fines imposed under the Provincial Offences Act R.S.O. 1990, Chapter P.33, as amended, for the contravention of any provision of this By-law or any other Municipal By-law or Provincial statute where such fine is associated with an offence arising out of the conduct, operation or activity within or in conjunction with the kennel, or
- d) Where the Issuer considers it is in the public's interest to do so;

5.0 APPEAL

- a) Where the Township refuses to issue, suspends or revokes a Private/Commercial Breeding or Private/Commercial Boarding kennel licence, the Issuer shall notify the applicant in writing of such decision and the said notice shall set out the grounds upon which the issue of the said licence is refused, suspended or revoked.
- b) The applicant or licensee may appeal such decision by filing an appeal in writing with the Clerk of the Township;
- c) Upon receipt of an appeal from the applicant or licensee the Clerk will schedule the appropriate hearing before Council
- d) Prior to the hearing the applicant shall pay any outstanding fines imposed for the contravention of any provision of this By-law
- e) Council may, after having heard all of the evidence and submissions made to it by the Applicant or Licensee, and the Issuer resolve into the Close Session to debate the matter and to reach its decision.
- f) The decision made by Council to refuse to issue a licence, revoke a licence or suspend a licence may be subject to such terms as Council shall impose and shall be final and binding.
- g) No person shall engage in or continue to conduct or permit any person to engage in or continue to conduct a kennel for which either (Private/Commercial Breeding or Private/Commercial Boarding) licence is required under this By-law while such licence is suspended or revoked under the provisions of this By-law;

6.0 PENALTIES AND CONDITIONS

- 6.1 A Municipal Law Enforcement Officer or other duly appointed individual shall enforce the provisions of this By-law.

Any person who contravenes any provision of this By-law is a guilty of an offence and upon conviction shall be liable to a fine as set out in the Provincial offences Act, R.S.O.

- 6.2 In the event any provisions of this By-law is deemed invalid or void, in whole or part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.
- 6.3 Kennel licences issued under the Preceding By-law shall main in force and until the expiry of the licence.
- 6.5 This By-law shall come into full force and effect immediately upon its final passing by Council.

Read a first time this 1st day of June, 2009

Read a second time this 1st day of June, 2009

Read a third time and finally passed this 1st day of June, 2009

David P. Nelson, Reeve

Heather Scott, Clerk

Schedule "A"

Fee Schedule

Licence Type	First Time	Renewal
Commercial Boarding Kennel	\$200.00	\$150.00
Commercial Breeding Kennel	\$175.00	\$125.00
Private Kennel	\$150.00	\$100.00

Schedule "B"

Kennel Licence Application

Name of Applicant(s) Registered Owner(s) (If the applicant is not the Owner, a letter consenting to the application signed by the Owner(s) must be provided)

Name of Owner (if not applicant):

Business Name:

Mailing Address:

Civic Address:

Telephone Numbers (home, business, cell and fax)

Legal Description of Property:

Concession: _____ Lot: _____ 911 # _____

Fire Protection facilities if applicable: _____

Type of Heating: _____

Previous Year's Licence Number if applicable: _____

Has any licence been revoked or refused at any time: ☐ Yes ☐ No

Type of Licence: ☐ Commercial Breeding ☐ Commercial Boarding ☐ Private

Site Plan attached drawn to scale showing the true shape and dimensions of the property, the location, height and dimensions of all buildings or structures on the subject lot including those to be used for kennel purposes. The site plan must also specify the distances that separate the kennel buildings, structures, dog runs and facilities from all property lines and provide details in relation to drainage of the lot.

Maximum number of dogs for which the application is made and to which this kennel licence is restricted to:

Licence Type	First Time	Renewal
Commercial Boarding Kennel	\$200.00	\$150.00
Commercial Breeding Kennel	\$175.00	\$125.00
Private Kennel	\$150.00	\$100.00

The undersigned registered owner(s) hereby certify that the foregoing statements are true and complete and that the application and the facilities comply with all requirements of this By-law and the Municipal Zoning By-laws.

Date: _____

Signature(s) of Applicant(s):

*Note if a partnership, all partners must sign application.

A licence is granted for Licenced Kennel in terms of the above application and limited to the number of dogs specified above for the calendar year.

Date: _____

Debra Haigh, Dog Control Officer

<p>For any questions regarding your kennel license or free an inspection on your kennel please contact Debra Haigh, Dog Control Officer at (705) 939-6791</p>
