

THE CORPORATION OF THE MUNICIPALITY OF WHITESTONE

BY-LAW NO. 05-2002

Being a By-Law to provide for the Regulating
and Licencing of establishments for the breeding
of dogs and boarding of domestic animals within the
Municipality of Whitestone. (Kennel & Boarding Facility
Licencing By-Law)

WHEREAS Section 210, Paragraph 1 of the Municipal Act, R.S.O. 1990, as amended from time to time, provides that the council of a local Municipality may pass by-laws for the prohibiting or regulating of the keeping of animals.

AND WHEREAS Section 210, Paragraph 2 and 11(e) provide that the council of a local Municipality may pass by-laws for regulating establishments for the breeding or boarding of animals, or any class thereof, within the Municipality or defined areas thereof and for annual licence for kennels.

AND WHEREAS Section 257.1 provides that the council of a local Municipality may pass by-laws for licencing, regulating and governing any business carried on within the Municipality.

AND WHEREAS the Council of the Corporation of the Municipality of Whitestone deems it necessary and desirable to provide for the regulating and licencing of establishments for the breeding of dogs and boarding of domestic animals within the Municipality of Whitestone.

NOW THEREFORE the Council of the Corporation of the Municipality of Whitestone enacts as follows:

1. **DEFINITIONS**

For the purpose of this by-law the following definitions shall apply:

- 1.1 **ANIMAL CONTROL OFFICER** shall mean a person or persons appointed by Council for the purpose of animal control or appointed as a Municipal Law Enforcement Officer.
- 1.2 **BOARDING** shall mean the taking in of domestic animals for the period of time for capital gain.
- 1.3 **BREEDING** shall mean the generating of offspring resulting in quality of bloodlines as in purebred.
- 1.4 **COUNCIL** shall mean the Council of the Corporation of the Municipality of Whitestone or any Committee of Council.

- 1.5 **DOG** shall mean any member of the species canis familiaris and shall include a male or female, spayed or neutered over the age of sixteen weeks.
- 1.6 **DOMESTIC ANIMALS** shall mean a dog, cat or any other similar pet which is generally understood to be domesticated and is typically kept indoors at a residence.
- 1.7 **DOMESTIC ANIMAL BOARDING FACILITY** shall mean any building, structure, run of facility, or part thereof used for the boarding (for hire) of more than one (1) domestic animal but does not include a veterinarian clinic. (hereinafter referred to as "Boarding Facility")
- 1.8 **HUMANE SOCIETY** shall mean the Ontario Society for the Prevention of Cruelty to Animals or any local branch of the Ontario Humane Society.
- 1.9 **KENNEL** shall mean any building, structure, dog run or other facility or part thereof, where:
- 1.9.1 purebred dogs are kept for breeding or show purposes; or
- 1.9.2 dogs are kept solely for the purpose of routinely entering into dog sled or other similar races; or
- 1.9.3 hunting dogs are kept for hunting purposes.
- 1.10 **KENNEL, HOBBY OR HOBBY KENNEL** shall mean any kennel used for the keeping of more than three (3) but less than eight (8) dogs, but does not include a veterinarian clinic. In addition to the maximum number of dogs set out above, a maximum of two litters of pups up to sixteen weeks of age may be permitted in any licencing year.
- 1.11 **KENNEL, COMMERCIAL BREEDING or COMMERCIAL BREEDING KENNEL** shall mean any kennel used for the keeping of eight (8) or more dogs but does not include a veterinarian clinic.
- 1.12 **LICENCE** shall mean a certificate permitting an owner to operate a hobby kennel, commercial breeding kennel or domestic animal boarding facility issued by the licencing officer upon compliance with the provisions of this By-Law.
- 1.13 **LICENCING OFFICER** shall mean a person appointed by Council for the purpose of processing and issuing licenses under this by-law.
- 1.14 **OWNER** shall mean the person who is the registered owner of the property on which the kennel or boarding facility is located and in the case of a kennel is also the person who owns, possesses or harbours a dog and where a dog and the owner is a minor, the person responsible for the custody of the minor.

- 1.15 **PERSON** shall mean an individual human being, his/her personal agent, heir, successors and assigns and shall include a corporation with or without share capital.
- 1.16 **PUREBRED** shall mean any dog that is registered or eligible of registration with an association incorporated under the Animal Pedigree Act (Canada).
- 1.17 **ZONING ADMINISTRATION** shall mean the person appointed by Council to administer the provisions of the Zoning By-Law.

2. **LICENCING**

- 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 owner may apply for and be issued a licence. A licence issued to the Owner is not transferable to any new Owner.
- 2.3 Every Owner who applies for a licence shall do so in writing on the form provided by the Municipality.
- 2.4 **Hobby Kennel and Commercial Breeding Kennel Application Requirements**

Every Owner applying for a licence for a hobby kennel or commercial breeding kennel shall submit the following documentation to the Licencing Officer.

- 2.4.1 in the case of a Kennel for pure-bred 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 pure-bred dog, proof of active participation or registration in dog sled or similar races within the previous of upcoming 12 months as may be deemed acceptable by the Licencing Officer; or
- 2.4.3 in the case of a Kennel for hunting dogs, proof of active membership in the Canadian Kennel Club for registered hunting dogs; or proof of active membership in an Association for the purpose of Hunting Dogs Training or Trailing; or a hunting Dog Licence for each dog issued by the Ministry of Natural Resources within the previous 12 months; or such other proof of active or upcoming 12 months as may be deemed acceptable by the Licencing Officer; and
- 2.4.4 in all cases written clearance from the Humane Society assuring compliance with Section 3 of the By-Law, with any associated costs borne by the applicant; and

- 2.4.5 in all cases, a site plan drawn to scale showing the location of all buildings or structures on the subject property, including the location of all buildings or structures to be used for Kennel purposes. The site plan must also specify the distance which separates the Kennel buildings, structure, dog runs and facilities from all property lines and all buildings, including any residential buildings situated on the adjacent properties; and
- 2.4.6 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
- 2.4.7 as applicable, the Hobby Kennel Licence Fee or Commercial Breeding Kennel Licence Fee as set out in Schedule "A" attached hereto and forming part of this By-Law; and
- 2.4.8 Sworn Declaration by the owner that he/she has never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty; and
- 2.4.9 Clearance from the Muskoka Parry Sound District Health Unit or such other agency or department responsible for public health, septic system approvals and/or sewage system approvals, as applicable. Such clearance is required for the initial licence issued to a Kennel and is not required for any annual renewal.

2.5 **Boarding Facility Application Requirements**

Every Owner applying for a Licence for a Boarding Facility shall submit the following Documentation

- 2.5.1 written clearance from the Humane Society assuring compliance with Section 3 of this By-Law, with any associated costs borne by the applicant; and
- 2.5.2 a site plan drawn to scale showing 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 plan 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
- 2.5.3 Boarding Facility Licence Fee as set out in Schedule "A" attached hereto and forming part of this By-Law; and
- 2.5.4 Sworn declaration by the owner that he/she has never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty; and

2.5.5 Clearance from the Muskoka Parry Sound District Health Unit or such other agency or department responsible for public health, septic system approvals and/or sewage system approvals, as applicable. Such clearance is required for the initial licence issued to a Boarding Facility and is not required for any annual renewal.

2.6 **Breeding Facility Prohibited in Dwelling Unit**

2.6.1 No Breeding Facility shall be located within any part of a dwelling unit or attached to any dwelling unit.

2.6.2 No part of any building or structure enclosing a Breeding Facility shall be used for human Habitation.

2.7 **Municipal Clearance**

Prior to the issuance of any licence, the Licencing Officer shall obtain municipal clearance from:

2.7.1 the Animal Control Officer

- a) there have been no By-Law infractions during the previous licencing year; and
- b) that a site inspection has been conducted to verify the information of the site plan and in the case of a Kennel, the number of dogs at the subject Kennel; and

2.7.2 the Zoning Administrator that the site plan and type of Kennel or Boarding Facility meets the applicable zoning requirements.

2.8 **Refusal of Licence**

2.8.1 The Licencing 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 Licencing Officer shall give Notice in writing to the Owner by registered mail or personal delivery.

2.8.3 The owner may apply to the Licencing Officer in writing within 20 days from the date of notice for a hearing before Council.

2.8.4 Upon receipt of a request for a hearing, the Licencing Officer shall arrange for such hearing at a Council meeting and notice of the date, time and location of the hearing shall be given to the Owner in writing by registered mail or personal delivery not less than 7 days prior to the hearing.

- 2.8.5 Council shall review the application for Licence together with the Licencing Officer's reasons for refusal and/or recommendations for conditions to be placed on any Licence and shall hear the Owner or Agent's verbal or written submissions as to how the application fulfills the requirements of this By-Law.
- 2.8.6 Council, upon reviewing and hearing these submissions may confer in Closed Session on the matter and 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 Licencing Officer shall give written Notice of Council's decision to the Owner in writing by registered mail or personal delivery within 10 days of the decision.
- 2.8.9 Council's decision shall be final and not subject to further review.

2.9 **Changes to Site Plan**

- 2.9.1 After the issuance of a Licence, the Owner shall apply in writing to the Licencing Officer for approval of any changes which would alter the Site Plan submitted with the Licence application. Said application for changes shall include a revised site plan.
- 2.9.2 Upon receipt of a revised site plan, the Licencing Officer shall obtain the Municipal clearance as set out in Section 2.7 of the By-Law and may consult with the Humane Society that provided clearance for the initial application if deemed appropriate.
- 2.9.3 Upon receipt of a revised site plan, the Licencing Officer may consult with the Muskoka Parry Sound District Health Unit or such other agency or department responsible for public health, septic system approvals that provided clearance for the initial application, if deemed appropriate.
- 2.9.4 Notice of approval or refusal of a site plan change shall be given by the Licensing Officer in writing by registered mail or personal delivery.
- 2.9.5 In the event that the proposed change is refused, the Owner may apply for a hearing before Council following the same procedures as set out in Section 2.8 above.

2.10 Expiry of Licence and Renewal

Every Licence issued pursuant to this By-Law shall expire on the 28th day of February in the year succeeding the date of issue and every application for renewal of a licence shall be finalized on or before the same date.

2.11 Exemption from Dog Tags and 3 Dog Limit

2.11.1 Upon the issuance of a Licence under this By-Law, the Owner shall be exempt from the purchase of dog tags under the Dog Licencing and Control By-Law for the dogs in a Kennel or dogs in a Boarding Facility.

2.11.2 Notwithstanding 2.11.1 the Owner of a Boarding Facility shall not be exempt from the purchase of dog tags of the 3 dog limit in respect to any dogs owned by the Owner unless the Owner holds a valid Kennel Licence for the subject property.

2.11.3 The three-dog limit shall apply where the boarding of one (1) domestic animal is permitted and no Boarding Facility Licence is required.

3. MINIMUM STANDARDS

All Kennels and Boarding Facilities shall comply with the minimum standards.

- 3.1 Every Kennel or Boarding Facility shall be of sufficient space to allow the dogs or domestic animals kept therein to stand erect and to be comfortable, and shall have no less than 2.3 square metres (25sq. ft.) of floor area per dog or domestic animal which may be increased in accordance with the size of the dog or decreased in accordance with the size of any other domestic animal using reasonable judgement and approved by the Humane Society.
- 3.2 Each dog run shall have a minimum floor area of 3.0 square metres (32sq. ft.) in the case of runs for domestic animals, the minimum floor area may be decreased in accordance with the size of the intended domestic animal using reasonable judgement and subject to approval by the Humane Society.
- 3.3 Every Kennel or Boarding Facility shall provide an adequate constant supply of potable water for each animal's consumption.
- 3.4 Every Kennel or Boarding Facility shall be kept in a sanitary, well ventilated condition and free from offensive odours, disease and vermin. Animal feces shall be removed daily.
- 3.5 The owner of a Kennel or Boarding Facility shall maintain compliance with the Health Protection and Promotion Act at all times.

4. CONFINEMENT AND CONTROL OF DOMESTIC ANIMALS

- 4.1 All dogs or domestic animals shall be confined inside the Kennel or Boarding Facility building during the hours of 10:00 p.m. to 7:00 a.m..
- 4.2 The Owner of a Kennel or Boarding Facility shall maintain control of all dogs or domestic animals under his care at all times.
- 4.3 The Owner of a Kennel or Boarding Facility shall maintain compliance with the Municipality's Noise By-Law at all times.

5. COMPLAINTS

- 5.1 In the event that a complaint is received by the Licencing Officer, that the Owner is not in compliance with the Minimum Standards set out in Section 3 of this By-Law.
 - 5.1.1 the Animal Control Officer shall be directed to investigate the matter and report to the Licencing Officer.
 - 5.1.2 Upon receipt of the Animal Control Officer's Report the Licencing Officer may request at the Owners expense, that the Humane Society re-inspect and provide an up-to-date approval in accordance with Section 2.4.4. or 2.5.1.
 - 5.1.3 Upon receipt of the Animal Control Officer's Report the Licencing Officer may request at the Owners expense, that the Muskoka Parry Sound District Health Unit or such other agency or department responsible for public health, septic system approvals and/or sewage system approvals provide an up-to-date approval.
 - 5.1.4 In the event that the Owner is found in contravention of the Health Protection and Promotion Act, the Muskoka Parry Sound District Health Unit may take whatever action is deemed appropriate under the provisions of the Act.
 - 5.1.5 In the event that the Owner is unable or unwilling to obtain an up-to-date approval from the Humane Society or from the Muskoka Parry Sound District Health Unit, or such other agency or department responsible for public health, septic system and/or sewage system approvals, where applicable. The Licencing Officer shall commence proceedings to revoke the licence under Section 6 of this By-Law.
- 5.2 In the event that a complaint is received by the Licencing Officer, that the owner is not in compliance with the confinement and control provisions set out in Section 4 of this By-Law.

- 5.2.1 The Animal Control Officer shall be directed to investigate the matter and report to the Licencing Officer.
- 5.2.2 In the event that the Owner is found in contravention of the Dog Control By-Law or Noise By-Law, the Animal Control Officer may take whatever action is deemed appropriate under the provisions of the applicable By-Law.
- 5.2.3 In the event that the Owner is unable or unwilling to comply with the provisions of Section 4, the Licencing Officer shall commence proceedings to revoke the licence under Section 6 of this By-Law.

6. REVOCATION OF LICENCE

- 6.1 Any Licence issued under the provisions of this By-Law may be revoked prior to expiration for any breach of the provisions of this By-Law.
- 6.2 Prior to the revocation of this Licence, the Licencing Officer shall give notice in writing to the Owner by registered mail or personal delivery and the Owner may apply for a hearing before Council, following the same procedures as set out in Section 2.8 of this By-Law.

7. ADMINISTRATION, ENFORCEMENT AND INSPECTION

- 7.1 This By-Law shall be administered by the Licencing Officer who shall give notice in writing to the Owner by registered mail or personal delivery and the Owner may apply for hearing before Council, following the same procedures as set out in Section 2.8 of the By-Law.
- 7.2 This By-Law shall be enforced by the Animal Control Officer, as defined herein or such other person or persons as the Council may by by-law appoint and all such persons shall be considered inspectors under the terms of this By-Law.
- 7.3 An inspector under this By-Law: Animal Control Officer, Licencing Officer, Building Inspector or an Inspector for the OSPCA.
 - 7.3.1 has the power to enter upon and examine any building, structure, run or facility or part thereof, used for Kennel or Boarding Facility purposes at any reasonable time or times; and
 - 7.3.2 shall, in the case of the kennel located within or as part of a residential unit, obtain the Owner's permission, such permission not to be reasonably withheld; and
 - 7.3.3 may be accompanied by such other person or persons as they deem necessary to properly carry out their duties under this By-Law.

8. OFFENCES

8.1 Every person who

8.1.1 hinders, disturbs, or obstructs any inspector in the carrying out of their duties under this By-Law, or;

8.1.2 contravenes any provisions of this By-Law guilty of an offence and subject to a penalty pursuant to the Provincial Offences Act. R.S.O. 1990, P.33 as amended.

8.2 The conviction of an offender upon breach of any provisions of the By-Law shall not operate as a bar to a prosecution against the same offender upon any continued or subsequent breach of any provisions of the Municipal Act, R.S.O. 1990 M.45,s.327, as amended from time to time, shall further apply to any continued or repeated breach of this By-Law.

8.3 If any court of competent jurisdiction finds that any of the provisions of this By-Law are ultra vires the jurisdiction of Council or are invalid for any reason, the other provisions of the By-Law shall remain in full force and effect.

9. MISCELLANEOUS

9.1 Where the context permits, words importing the singular member of/or the masculine gender, also include more than one person(s), parties, or things of the same kind than one and female as well as male.

9.2 This By-Law may be cited as the Kennel and Boarding Facility Licencing By-Law.

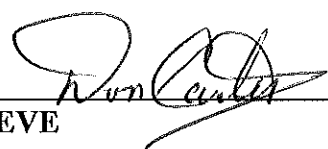
9.3 Schedule "B" shall provide for the exemption of existing kennels for Sections 2.4 to 2.7 and Sections 3.1 & 3.2.. All other sections shall apply and should their use cease they will not be exempt from this By-Law.

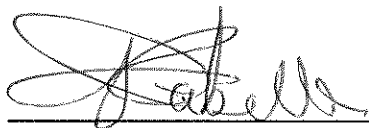
10. ENACTMENT

10.1 That this By-Law shall take full force and effect upon the date of final passing.

READ A FIRST, AND SECOND TIME ON THIS 27 DAY OF FEBRUARY 2002.

READ A THIRD TIME AND FINALLY PASSED ON THIS DAY OF 2002.


REEVE


CLERK

Schedule "A" to By-Law No. 05-2002

Licence Fee Schedule

Hobby Kennel	\$75.00
Commercial Breeding Kennel	\$75.00
Domestic Animal Boarding Facility	\$75.00

THE CORPORATION OF THE MUNICIPALITY OF WHITESTONE

Application for Kennel of Boarding Facility

() New Application () Renewal

For:

() Hobby Kennel Licence () Domestic Animal Facility () Commercial Breeding Kennel

OWNER: _____

ADDRESS: _____

_____ POSTAL CODE: _____

ROLL NO. _____

PHONE NO. _____ (HOME) _____ (WORK)

(If more than one owner and different addresses, attach separate sheet.)

If owner is Corporation, complete the information below.

Name of shareholders	Address	% of shares
_____	_____	_____
_____	_____	_____
_____	_____	_____

If more than three (3) shareholders attach a separate sheet.

Lot _____ Con _____ Plan No. _____

Professional Affiliations of Owner/Operator

Canadian Kennel Club () yes () no If yes specify Club No. _____

Other (specify): _____

Please complete the listing of ALL DOGS being kept on your property.

DECLARATION

I/We _____, hereby certify that I/We have knowledge of the particulars contained in the foregoing statement, and I/We solemnly affirm that the same are in every respect fully and truly stated to the best of my knowledge and belief, as if made under and by virtue of the Canadian Evidence Act and I/We solemnly affirm that I/We have not been convicted under Section 446 of the Criminal Code Act of Canada pertaining to animal cruelty.

Sworn before me on this day of 20__.

Commissioner of Oaths

Owner

Clearance for Licence by Humane Society

I/We _____, have inspected the subject property and facilities and hereby certify that the application meets the Minimum Standards as set out in Section 3 of this By-Law.

Ontario SPCA

DATE

Domestic Animal Boarding Facility Applicants Only

I/We _____, hereby certify on the behalf of the _____ a Domestic Animal Boarding Facility, that any dogs on our premises and under our watch and care are not being offered for sale and I/We have obtained the necessary Dog Licence for such dog(s).

Signature

Date

ADMINISTRATIVE USE ONLY

Application received by:

Municipal Employee

Date

Municipal Clearance Received from:

1. _____
Zoning Administrator

Date

2. _____
Animal Control Officer

Date

Kennel Licence No. _____

Issued by:

Licencing Officer

Date

REFUSAL OR REVOCATION OF LICENCE

Kennel Licencing No. _____ has been refused/revoked due to the following reasons:

Licencing Officer

Date

Schedule "B" to By-Law No. 05-2002

Kennels Exempt from this By-Law as per Section 9.3.

1. Gorhampton Kennels
2. Darrell Buchanan