

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW 2007 - 53

A By-law to Regulate and Control the Breeding of Dogs and Animals within the Township of Essa.

WHEREAS the *Municipal Act, 2001*, S.O. 2001, Chapter c.25, as amended, provides that Municipalities may pass By-laws for licensing, regulating, prohibiting, impounding, muzzling, or selling animals; and

WHEREAS the *Municipal Act, 2001*, as amended, provides that lower tier municipalities may pass by-laws respecting animals; and

WHEREAS Section 128 of the *Municipal Act, 2001*, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances; and

WHEREAS Section 129 of the *Municipal Act, 2001*, as amended, provides that a local municipality may prohibit and regulate with respect to noise, vibration and odour;

NOW THEREFORE the Council of the Corporation of the Township of Essa hereby enacts as follows:

DEFINITIONS:

- a. "Backyard Breeder" means a dog owner whose pet is either bred by accident or who breeds on purpose for a variety of reasons. Also known as an Amateur Breeder.
- b. "Breeding Kennel" is a kennel which conforms to Schedule 1 of the Township of Essa Business Licensing By-law, with the additional proviso that breeding of animals shall take place in compliance with this By-law.
- c. "Breeding Kennel License" means a kennel license issued by the municipality for the proper keeping, breeding, reproduction and sale of dogs until they reach the age of 12 weeks.
- d. "Canine Control Officer" means the Municipal Law Enforcement Officer employed and appointed by The Township of Essa, and also any person, firm, corporation or association, or employees or agents of such person or agency who has entered into a contract with The Township of Essa to control dogs and to carry out, enforce and implement the provisions of this by-law.
- e. "Clerk" means the Clerk of the Corporation of The Township of Essa.

- f. “Commercial Breeder” is one who often has several breeds of dogs with profit as the primary motive. Dogs may not be healthy, the kennel may not be clean, and dogs may not be screened for genetic diseases.
- g. “Control of Dogs By-law” refers to Township of Essa By-law 2006-18, or any subsequent by-law passed thereafter.
- h. “Dog” means a male dog or female dog or spayed bitch or neutered dog over the age of twelve weeks;
- i. “Dwelling Unit” means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.
- j. “Hobby Breeder” means a person who keeps more than three registered dogs or dogs eligible for registration and who typically has only one breed. This breeder follows a breeding plan, produces up to five litters per year, breeds only when a litter will enhance the breed and the breeding program, raises the puppies with plenty of environmental and human contact, and has a contract that protects the breeder, the dog and the buyer. This breeder runs a small, clean kennel and usually works with a breed club or kennel club.
- k. “Kennel” means an enclosed building made of four walls and a roof used for the keeping, breeding or boarding of dogs or any other function normally associated or related to dogs which is located on the property of an individual or agency who owns or harbours three (3) or more dogs.
- l. “OPP Officer” refers to a member of the Nottawasaga OPP, under contract with the Township of Essa.
- m. "Owner" of an animal includes any person who possesses or harbours an animal and the expression "Own", "Owns" or "Owned" have a corresponding meaning herein, and where the owner is a minor, the person responsible for the custody of the minor.
- n. "Pound Keeper" shall mean a person, firm, corporation or association who has entered into a contract with the Corporation of the Township of Essa to maintain a pound, and any servants or agents of such person.
- o. “Puppy Mill” means a breeder who produces puppies quickly with profit as the motivating factor and conducts no breeding program, little attention to placement, and poor health and socialization practices. A puppy mill may or may not be dirty and overcrowded and the dogs may be neglected or abused because the breeder cannot properly handle the large number of dogs.

- p. “Schedule of Fees” means the Township’s Schedule of Fees approved under the authority of By-law 2007-35, or any subsequent by-law passed for this purpose.
- q. “Township” means The Corporation of The Township of Essa.
- r. “Trespassing” means a dog being on property or running at large on property owned by a person who is not the owner of the dog, or property owned by or highways maintained by a municipality.

2. LICENSING AND REGISTRATION

- a. Every owner of a dog in the Township of Essa shall obtain a license annually and cause the dog to be registered, numbered, described and licensed with the Township as soon as the dog has attained the age of twelve (12) weeks.
- b. No person shall:
 - i. register an unsprayed female dog as a spayed female;
 - ii register an unneutered male as a neutered male;
 - iii use a tag upon a dog other than the dog for which it was issued.
- c. Upon application for a dog license or kennel license, the applicant will be required to produce a certificate signed by a registered veterinarian that every dog has been inoculated with an anti-rabies vaccine within a period of twenty-four (24) months from the date of application for the license in accordance with the *Health Protection and Promotion Act, R.R.O. 1990, Reg. 567*.
- d. Dog tags shall be worn at all times, and shall bear the serial number and the year in which it was issued, and a record shall be kept by the Township of Essa showing the name and address of the owner and the serial number of the tag issued to such owner.
- e. No license tag or registration shall be transferable to another person or dog, and the license tag shall expire and become void upon the sale, death, or other means of disposal of the dog. No refund of the licensing fee shall be provided to the dog owner in the event of the dog’s demise.

3. BREEDING KENNELS

- a. No person shall own, operate, manage, control, supervise, or have located on any property, any breeding operation unless a breeding kennel license has been issued for the property by the Township.

- b. No one person shall, nor shall any one household own, possess, harbour, board, or license more than three dogs unless the person or household holds a valid kennel license pursuant to this By-law or the Business Licensing By-law.
- c. Regardless of the number of dogs per household, all dog owners within the Township of Essa shall comply with the Control of Dogs By-law relating to running at large, barking or howling, or causing a nuisance or disturbance.
- d. To provide a buffer for noise attenuation and nuisance control no breeding kennel license shall be issued unless the kennel complies with the following minimum standards:
 - (i) No part of any kennel shall be closer than 30 metres (98.4 feet) from an abutting property line nor closer than 100 metres (328.1 feet) from any highway, road or street;
 - (ii) No part of any kennel shall be within 150 metres (492.1 feet) of a residential dwelling on adjacent property; and
 - (iii) The kennel must be located on a lot with a minimum area of 1.5 hectares (3.7 acres).
- e. In the case of a proposed kennel that has not been built, an applicant for a breeding kennel license shall submit, with his license application, drawings as set in Appendix "B" (Supplementary Application); and all other information as the Township may require to determine whether the proposed kennel and runs conform with the requirements of this by-law.
- f. If, upon inspection of the property, the Township is satisfied that the kennel and runs conform with the requirements of this by-law a license may be issued.
- g. All kennels shall be operated and maintained in accordance with the following regulations:
 - (i) Each kennel shall provide sufficient space for the animals which are kept therein to stand and be in comfort, and being no less than 1.5 square metres (16.1 square feet) per animal;
 - (ii) Each kennel shall be kept in a sanitary, well ventilated, clean condition and free from offensive odours, disease and vermin;
 - (iii) Each kennel shall contain facilities to provide each animal with adequate access to drinking water;
 - (iv) No kennel or part thereof shall be used for human habitation; and

- (v) All animals shall be confined to the kennel building between the hours of 9:00 p.m. and 6:00 a.m.
- h. The holder of a kennel license shall ensure that a responsible person designated by such holder is in attendance at the kennel at least once every 24 hours.
- i. Notwithstanding the provisions of Section 2 of this By-law, a person holding a breeding kennel license shall not be required to have a license for every dog, but rather shall be subject to the fees and regulations listed in the Business Licensing By-law and in the Fees and Charges By-law, as may be amended from time to time.
- j. Each applicant shall complete a supplementary application in the form of Appendix "B", Supplementary Application, attached hereto.
- k. Breeding of any dog breed classified as a Pit Bull under the *Dog Owners Liability Act*, as amended, shall be prohibited.

4. HOBBY BREEDERS

- a. A Hobby Breeder refers to a person who keeps more than three registered dogs or dogs eligible for registration and who typically has only one breed. This breeder follows a breeding plan, produces up to five litters per year, breeds only when a litter will enhance the breed and the breeding program, raises the puppies with plenty of environmental and human contact, and has a contract that protects the breeder, the dog and the buyer. This breeder runs a small, clean kennel and usually works with a breed club or kennel club.
- b. Only those breeders who qualify as Hobby Breeders above will be issued a Breeding Kennel License.
- c. The conditions for approval of a Breeding Kennel License under this By-law shall be concurrent with Schedule 1, Kennels, of the Township of Essa Business Licensing By-law.
- d. Applications for a Breeding Kennel License shall include the following documentation:
 - Proof of membership in good standing of the Canadian Kennel Club;
 - Copy of CKC registration certificate for every dog kept within this license;
 - Copy of litter applications submitted to the CKC throughout the calendar year;
- e. A license shall not be granted under this by-law if any parcel of land to be used for the purpose of breeding is within any settlement area and/or plan of subdivision.

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- f. Council may revoke any license issued to the hobby breeder under this By-law if three or more substantiated written complaints have been received by the Township in relation to this By-law.
- g. The maximum number of dogs permitted in any one Kennel for which a Breeding Kennel License has been issued shall be dependent on the size of the kennel at no less than 1.5 square meters (16.1 square feet) per animal in the enclosed area.

5. TYPES OF BREEDERS

- a. A Backyard Breeder is a dog owner whose pet is either bred by accident or who breeds on purpose for a variety of reasons. This breeder tends to disregard breed standard, genetics, behaviour and good health practices, often failing to provide necessities for safe and healthy breeding.
- b. A Puppy Mill is a breeder who produces puppies quickly with profit as the motivating factor and conducts no breeding program, pays little attention to placement, and offers poor health and socialization practices. A puppy mill may be dirty and overcrowded and the dogs may be neglected or abused because the breeder cannot properly handle the large number of dogs.
- c. Commercial Breeders often have several breeds of dogs with profit as the primary motive. Dogs may or may not be healthy, and the kennel may be clean or not clean. Dogs are not likely screened for genetic diseases and the breeding stock is not selected for resemblance to the breed standard or for good temperament. This type of breeder often sells their puppies to pet stores or brokers who sell to pet stores.

6. INSURANCE

- a. The Township shall not issue a license under this schedule unless the applicant obtains liability insurance for a kennel in the amount of two million dollars (\$2,000,000.00) and provides the Township proof of such insurance.
- b. The applicant shall keep the liability insurance current for the term of the license and shall instruct the insurer to provide 10 days' written notice to the Township of any cancellation, expiry or variation of such insurance.
- c. The business license shall be invalid upon the cancellation or expiry of the liability insurance.

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7. RECOVERY OF EXPENSES

- a. The Municipality shall have the right to recover from the owner of an animal all costs incurred in applying and enforcing this by-law, and shall include an administration fee as set out in the Township Fees and Charges By-law, as amended, in accordance with Section 391(1) of the *Municipal Act*, 2001, as amended.
- b. In all cases the owner shall be responsible for all costs, charges and fines associated with the seizure, impound or care of any and all animals which are incurred by the municipality, or any outside agency, to ensure the health and safety of the animals.
- c. At the discretion of the Officer, a warning and opportunity to comply shall be issued to an owner upon first offence.

8. ENFORCEMENT

- a. Every person who fails to comply with the provisions of this By-law shall be guilty of an offence and, upon conviction is subject to a penalty pursuant to the *Provincial Offences Act*.
- b. The license of any person who contravenes any provision of this by-law shall be revoked.
- c. Each day that a breach of this by-law continues shall constitute a separate offence.
- d. Fines pursuant to subsections a, b and c above are recoverable under the *Provincial Offences Act*, as amended.

9. GENERAL PROVISIONS

- a. The short form title of this By-law shall be the “Breeding By-law”.
- b. The Township of Essa takes no responsibility for the enforcement, licensing or control of animals other than dogs; notwithstanding a situation wherein breeding of an animal other than dogs was discovered, and the life and health of such animals are in jeopardy, an Officer of the Township may enforce this by-law, and exchange the word “dog” for “animal” in any instance.
- c. Notwithstanding any other provision of this by-law, the number of kennel licenses issued by the Township shall not exceed 25 at any one time.
- d. This By-law is to be enforced by The Township of Essa Municipal Law Enforcement Officers and/or Canine Control Officers as appointed by Council.

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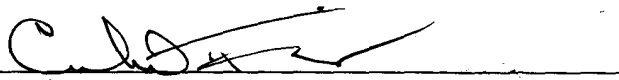
- e. Should any Section or part of a Section of this By-law be declared by a court of competent jurisdiction to be invalid, same shall not affect the provisions of this By-law as a whole or any part thereof, other than the part so declared to be invalid.
- f. Any Kennel License issued in 2007 will be grandfathered between the date of passing of this by-law, and January 1, 2008, at which time the Breeding By-law will take effect for all kennel operators.
- g. This By-law shall come into force and have effect on the day it is finally passed.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this the Nineteenth day of September, 2007.

Amended / Repeated by
By-law: <u>2007-58</u>
Initials: <u>KP.</u>



David Guergis, Mayor



Carol O. Trainor, Clerk

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APPENDIX "B" to By-law 2007 - 53
SUPPLEMENTARY APPLICATION FOR KENNEL LICENSE
This form must accompany a Business License (Renewal) Application

Name of Kennel: _____

Address/Location of Kennel: _____

Is this intended to be a Breeding Kennel? Yes ____ No ____

Breed of Dogs license is being applied for: _____

Total Number of Dogs kept on the property: _____ (maximum of 15)

Kennel to be operated by same as registered owner (), or:

(Full name)

(Address)

Does this property abut any properties which have a kennel located on them? Yes () No ()

Professional affiliations of owner or operator: Canadian Kennel Club Yes () No ()

Other (specify if breed specific) _____

Have any changes been made to the property since the last license was issued? Yes () No () If Yes, please indicate changes on a sketch, survey or drawing shown as a separate page.

NOTE: Applicant must attach a sketch or drawing showing:

- (a) the true shape and dimensions of the property;
- (b) the location, height and dimensions of the kennel;
- (c) the location and dimensions of all runs used in connection with the kennel.

A copy of your current Insurance Policy or Certificate of Insurance showing Kennel insurance with a minimum of \$2 million liability insurance coverage is required

Applicant

Date

Clerk/Licensing Officer

Date

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TOWNSHIP OF ESSA
Appendix "C" to By-law 2007 - 53
Breeding By-law
Part I Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Operate a breeding kennel without a license.	Sec. 3 a	\$200.00
2.	Failing to procure a kennel license	Sec. 3 b	\$100.00
3.	Kennel does not comply with setback and size requirements	Sec. 3 d (i)	\$50.00
4.	Kennel does not meet minimum area requirements	Sec. 3 d (iii)	\$100.00
5.	Kennel provides insufficient space for animals	Sec. 3 g (i)	\$50.00
6.	Kennel not clean or free of faeces and odours	Sec. 3 g (ii)	\$200.00
7.	Failure to provide access to drinking water	Sec 3 g (iii)	\$200.00
8.	Kennel used for human habitation	Sec. 3 g (iv)	\$200.00

NOTE: The penalty provision for the offences indicated above is Section 8 of By-law 2007 ⁵³, a certified copy of which has been filed.

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