

# THE CORPORATION OF THE MUNICIPALITY OF NEEBING

## BY-LAW NUMBER 029-2014

Being a by-law requiring the Licensing of Dog Kennel operations within Neebing.

### Recitals:

The Municipal Act, 2001 authorizes municipalities to regulate the keeping of animals and to regulate noise and other nuisances. The same legislation authorizes the Municipality to licence businesses, including Dog kennels.

Council has received complaints relating to improper operation of Dog Kennels, sometimes referred to as “puppy mills”.

The Council recognizes that balance must be achieved between the clash of individual interests that arise in modern municipalities, and that the existence of organized society depends upon the principle of “give and take”.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF NEEBING ENACTS AS FOLLOWS:**

### Section One: Definitions and Interpretation

1.01 **Definitions:** Wherever a term set out below appears in the text of this By-law with its initial letter capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.

- (a) **“Applicant”** means the person making application for issuance of a License to Operate a Kennel.
- (b) **“Acquired”** includes: purchased, received by gift or donation, received for boarding purposes, or birthed on site. **“Acquisition”** has a similar meaning.
- (c) **“By-law”** means this By-law, as it may be amended from time to time, unless another by-law is expressly referenced by name or number. The Recitals to, and any Schedules attached to, this By-law are considered integral parts of it.

- (d) **“Cage”** means a cage, pen, container, kennel, or other type of containment meant for a single Dog or a relatively small number of Dogs.
- (e) **“Clerk”** means the person employed or contracted by the Corporation to provide the services of a municipal clerk as required by the Municipal Act, 2001.
- (f) **“Corporation”** means The Corporation of the Municipality of Neebing.
- (g) **“Committee”** means the Council sitting as Committee of the Whole.
- (h) **“Confine”** means to keep stationary by means of confinement in a Cage or other Quarters, or Secured.
- (i) **“Council”** means the elected municipal council for the Corporation.
- (j) **“Dog”** means a domesticated canine, either male or female.
- (k) **“Includes”:** The use of the word “includes” in any tense (for example, “including”, “included”, or “include”) is not intended to restrict or limit any of the words or phrases either preceding or following it.
- (l) **“Kennel”** means an establishment used for breeding, raising or boarding of more than two (2) Dogs over the age of six (6) months on a commercial basis.
- (m) **“License”** means a License to Operate a Kennel issued pursuant to this By-law.
- (n) **“Licensee”** means the holder of a License.
- (o) **“Medical Officer of Health”** means the Medical Officer of Health of the Health Unit. The term also includes his or her designate.
- (p) **“Municipal Law Enforcement Officer”** means a Police Officer, a law enforcement officer, the Manager, a person in the employ of the Thunder Bay District Humane Society or other organization associated with the Society for the Prevention of Cruelty to Animals, or another person duly appointed to enforce the by-laws of the Corporation.
- (q) **“Neebing”** means the geographic area under the jurisdiction of the Corporation.

- (r) **“Operator”** means a person who has care and control of a Kennel at any given point in time. The term includes any one or more of the following persons:
- i) the Owner of a location from which a Kennel is conducted;
  - ii) the Operator of a Kennel;
  - iii) the occupier of a location from which a Kennel is conducted;
  - iv) one who assists or acts on behalf of the Owner or occupier of a location from which a Kennel is conducted, including a manager or supervisor;
  - v) one who has the care or management of a location from which a Kennel is conducted; or
  - vi) a Licensee.

The terms **“Operate”**, **“Operation”** and words of like import or intent have corresponding meanings

- (s) **“Owner”** when used in reference to property, means a person with legal title to that real or personal property. **“Owner”** when used in reference to a Dog, means the person with legal title to the Dog but also includes a person to whom care of the Dog has been entrusted. Where the Owner of a Dog is a minor, the term refers to the person responsible for the custody of the minor Owner.

The terms **“Own”**, **“Ownership”**, and words of like import or intent have corresponding meanings.

- (t) **“Quarters”** means an area set aside for the containment of a relatively large number of Dogs. The term includes a room or a place containing a group of Cages.

- (u) **“Register”** means a record of a Kennel’s Acquisitions and Sales as required by Section 3.07.

- (v) To **“Secure”** means to tether, fasten or tie down. **“Secured”** has a corresponding meaning.

- (w) **“Sold”** includes: returned to its Owner, given away, donated, sold, died or humanely disposed of. **“Sell”** and **“Sale”** and words of like import have corresponding meanings.

1.02

**Gender/Plurals:** Terms expressed in a masculine gender may be interpreted in the feminine gender, and vice-versa, whenever the context requires it. Terms expressed in plural may be interpreted in the singular, and vice-versa, whenever the context requires it.

- 1.03 **Citing Legislation and by-laws:** When provincial legislation is cited in this By-law using a date within the title to the legislation, the reference is to the Statutes of Ontario for that particular year. Where the title does not have a date in it, the reference is to the Revised Statutes of Ontario, 1990. In both cases, the term refers to the legislation as amended from time to time, and includes successor legislation. Where another by-law is cited by number in this By-law, the reference is to the by-law of the Corporation which has that number. The reference includes that by-law, as amended from time to time, including any successor by-laws.
- 1.04 **Text Organization:** The organization of this By-law into sections or paragraphs, and the use of headings, is intended to assist readers, and is not intended to imply any particular interpretation.
- 1.05 **Changes over Time:** If a person is referred to in this By-law by virtue of an office held, or an organization is referred to in this By-law by a name, and the title of the office or the name of the organization changes, the By-law text is deemed to continue to refer to the holder of the title (as changed) or the particular organization (as re-named)
- 1.06 **Acting Directly or Indirectly:** Where this By-law prohibits an action, or requires a person to undertake an action, the prohibition or requirement applies both directly and indirectly. This means that a person prohibited from doing something is also prohibited from causing, allowing or permitting that action to be done. Likewise, a person may fulfil the requirements of this By-law to undertake a particular action by causing, allowing or permitting the action to be undertaken.
- 1.07 **Nouns:** Reference to any noun is considered to be a reference to all or any part of that item. For example, reference to “a Cage” should be interpreted as reference to “all or any portion of a Cage”.
- 1.08 **Severability:** If any portion of this By-law is considered by a court or tribunal of competent jurisdiction to be unenforceable or void, that ruling will not apply to the balance of the By-law, which shall be considered to remain in full force and effect.
- 1.09 **Conflicts with other By-laws:** In the event of any conflict between this By-Law and any other by-law passed by the Corporation, the more restrictive provision prevails unless applicable law requires otherwise.

## **Section Two: Kennel Regulations**

### 2.01 **Licence Required:**

- (a) It is an offence for a person to Operate a Kennel without having first taken out a License from the Corporation pursuant to this By-law.
- (b) It is an offence for any person to Operate a Kennel from a site which is not authorized by a License.

### 2.02 **Licence Applications:** Applications for all Licenses or License renewals under the provisions of this By-law must be filed at the Municipal Office. Applicants shall provide the following:

- (a) payment of the licence fee;
- (b) a sketch (or an update to a sketch already on file) showing the location of all animal care facilities and structures on the property to be licenced;
- (c) proof of the Applicant's right to use the property (i.e. title documents or lease); and
- (d) any other document or information as may be required in any other part of this By-law.

### 2.03 **Health Unit Approval:** Every site for which the Applicant seeks a License is subject to investigation approvals from the Health Unit and/or a licenced Veterinarian.

### 2.04 **Licence Issue:** Where the Applicant meets the requirements of this By-law, the Clerk shall issue the Licence. Where a Licence is denied to an Applicant, the reasons for the denial shall be specified in writing, and the Clerk shall provide the Applicant with the reasons. The Clerk may issue a Licence that will take effect upon the Applicant meeting certain conditions. The Applicant shall be provided with the conditions in writing, and shall also be provided with written reasons as to why the conditions were imposed.

### 2.05 **Licence Fees & Term:** Licences are valid for the calendar year and must be renewed annually. The fee for a Licence is twenty-five (\$25.00) dollars. Where a new Licence (and not a renewal of an existing Licence) is issued after October 1 in any year, the Licence fee payable is thirty-five (\$35.00) dollars and the Licence shall be valid until December 31 of the following year.

### 2.06 **Production:** A Licensee must be able to produce a copy of his or her Licence within twenty-four (24) hours of having been requested to do so.

### 2.07 **Revocation or Suspension:** No person enjoys a vested right in the continuance of a License. The Clerk may recommend to the Committee that a License be revoked or suspended for a certain period of time in the following

circumstances:

- (a) the Licensee is unable to hold the License or Operate the Kennel under this By-law or any other legislation;
- (b) the Licensee failed to comply with any condition imposed upon the License under Section 2.04 of this By-law; or
- (c) the Licensee has been convicted of an offence pursuant to this By-law on more than one (1) occasion within a twelve (12) month period.

2.08 **Appeal:** Any person may appeal the Clerk's decision to deny a Licence (under Section 2.04), or to impose conditions on a Licence (under Section 2.04) to the Committee. Similarly, any person whose Licence is the subject matter of a request under Section 2.07, has the right to participate before the Committee to provide information as to why revocation or suspension is not warranted. Where an appeal under this Section, or a request under Section 2.07 has been made, the Committee shall meet as soon as reasonably practicable to hear the cases for and against the issue and render a decision. The decision of the Committee shall be presented to Council, at the next regular meeting following the Committee meeting, for the purposes of review. Council may affirm the Committee's decision or may alter it in any way it sees fit. The decision of the Council is final.

2.09 **License Surrender:** A Licensee may at any time surrender a License. Surrender of a License does not entitle the Licensee to a refund of all or any portion of the License fee paid.

2.10 **Transfer Prohibited:** Every License, at all times, is Owned by the Corporation and is valid only in respect of the Person and the site named in the License. No License may be sold, purchased, leased, mortgaged, charged, encumbered or assigned. Should a Kennel be re-located or sold, a new License must be obtained.

2.11 **Register to be Kept:** The Operator of every Kennel shall maintain a Register which meets the requirements of Section 2.12. Failure to maintain the Register as required by this Section is an offence.

2.12 **Requirements of Register:** The Register may be kept manually or electronically. In either case, the Register shall:

- (a) be maintained in legible print; and
- (b) contain a record relating to each Dog Acquired and/or Sold, which records:
  - i) the date of Acquisition and/or Sale, as applicable
  - ii) the type of Dog
  - iii) a description of the Dog, including all relevant identifiers such as registration papers or tattoos; and

- iv) the name, address and description of the person from whom the Dog was Acquired or to whom the Dog was Sold as applicable

- 2.13 **Register Entries:** It is an offence for the Operator of a Kennel to fail to record the details required by Section 2.12 of this By-law in the Register at the time of Acquisition or Sale of any Dog.
- 2.14 **Availability of Register:** It is an offence to fail to make the Register available at all times during business hours to any Municipal Law Enforcement Officer. A Municipal Law Enforcement Officer may remove the Register from the Kennel premises at any time for inspection or for use as evidence. Where the Register has been removed, the Licencee must provide an alternate Register for temporary use. When the Register is returned to the Licencee, the information in the temporary Register shall be recorded in the Register.
- 2.15 **Conditions:** It is an offence for an Operator of a Kennel to fail to maintain any Dog's Cage or Quarters in a sanitary, well-ventilated, clean condition, free from offensive odours.

Requirements for Cages under this Section include:

- (a) maintenance of clean and sanitary conditions;
- (b) provision of adequate ventilation;
- (c) avoidance of drafts;
- (d) provision of shade from the sun or other light, where appropriate;
- (e) provision of adequate and suitable bedding;
- (f) maintenance of an appropriate number of Dogs per Cage;
- (g) provision of natural light; and
- (h) maintenance of healthy temperatures.

- 2.16 **Animal Care:** It is an offence for the Operator of a Kennel to fail to adequately feed and water all Dogs in the Kennel.
- 2.17 **Animal Health:** It is an offence for the Operator of a Kennel to keep any Dogs within the Kennel which are not in a healthy condition, free from vermin and/or disease.
- 2.18 **Age of Dogs:** It is an offence for the Operator of a Kennel to permit the Sale of any Dog which is under the age of eight (8) weeks.
- 2.19 **Receipts:** It is an offence for the Operator of a Kennel to Sell a Dog, unless he or she provides to the recipient a receipt including all of the following

information:

- (a) the name and address of the Kennel;
- (b) the name and address of the recipient;
- (c) the date of the Sale;
- (d) the Sale price, if any;
- (e) reference to any identifying registration papers or tattoos for the Dog;  
and
- (f) the breed or crossbreed, sex, age and description (including colour and placing of any markings) of the Dog.

### **Section Three: Enforcement & Penalties**

- 3.01 **Enforcement:** This by-law may be enforced by the Municipal By-law Enforcement Officer, or by way of private information sworn in accordance with the Provincial Offences Act.
- 3.02 **Authorization to Enter Property:** The Clerk, the Medical Officer of Health, a Municipal Law Enforcement Officer, or any person acting under those persons, may at reasonable times, enter onto private property that is not a building used for human habitation. The person so authorized shall, upon request, produce identification of him- or her-self as authorized to carry out enforcement of this By-law. Entry into a residence is permitted only with consent of the Occupant of the dwelling, after that person has been provided with identification of the authorized person, and advised of the purpose for the entry. Occupants are not required to consent to entry to building used for a residential dwelling.
- 3.03 **Authorization to Inspect:** For the purposes of enforcing the provisions of this By-law, the Clerk, the Medical Officer of Health, a Municipal Law Enforcement Officer, or any person acting under those persons, may, at reasonable times, inspect:
- (a) any premises where a Kennel business is carried on or there are reasonable and probable grounds to believe a Kennel business is being carried on;
  - (b) any goods, equipment, books, records or documents used or to be used by the Operator in connection with the Kennel business;
- 3.04 **Obstructing Enforcement:** It is an offence for any person to hinder or obstruct, or to attempt to hinder or obstruct, any person exercising any power authorized by Sections 3.02 or 3.03.
- 3.05 **Re-Inspection Fee:** When a re-inspection is required to confirm compliance with a condition or an order imposed or because the Applicant or Operator failed to appear at a scheduled inspection, a re-inspection fee of twenty-five



(\$25.00) dollars may be imposed.

- 3.06 **Payment of Fees**: All fees payable under this By-law are a debt owed to the Corporation and collection may be enforced in accordance with the Municipal Act, 2001 and other applicable law.
- 3.07 **Penalties**: Every person who commits an offence pursuant to this By-law is liable, upon conviction, to the penalties prescribed in the Provincial Offences Act.

#### **Section Four: General Provisions**

- 4.01 **Other Provincial Laws**: Notwithstanding anything in this By-law, Dog Owners are subject to the Dog Owners' Liability Act, the Protection of Livestock and Poultry Act, and any other applicable legislation.
- 4.03 **Effective Date**: This By-law shall come into force and take effect upon the date that it is passed.

**ENACTED AND PASSED IN COUNCIL** this 19th day of November, 2014 as witnessed by the corporate seal of the Corporation and the hands of its proper Officers duly authorized in that behalf.

THE CORPORATION OF THE  
MUNICIPALITY OF NEEBING

Ziggy Polkowski

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Mayor

Erika Kromm

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Deputy Clerk

Read for a first and second time this 19th day of November 2014.

Read for a third time and finally passed this 19th day of November 2014.