

BY-LAW NO. 2004-144

A BY-LAW TO REGULATE ANIMALS

PASSED: June 22, 2004

WHEREAS the *Municipal Act, 2001* authorizes the councils of municipalities to pass by-laws with respect to animals;

AND WHEREAS City Council considers it advisable to pass such a by-law;

THEREFORE the Council of The Corporation of the City of Kingston enacts as follows:

1. DEFINITIONS:

1.1 In this by-law,

***“agricultural property”*** means a property that is zoned for agricultural use in the zoning by-law that applies to the property;

***“animal”*** means any member of the animal kingdom, other than a human;

***“animal control officer”*** means an authorized employee or agent of the City who is responsible for the enforcement of the provisions of this by-law;

***“animal shelter”*** and ***“shelter”*** mean the shelter operated by or on behalf of the City of Kingston.

***“Appeals Committee”*** means the committee established by the Council Procedure By-Law (No. 98-1, as amended) and includes any successor committee designated by Council to carry out the Committee’s responsibilities;

***“at large”*** means, in the case of a dog, being in a place other than a property owned or occupied by its owner and not under the control of its owner or another person acting on behalf of the owner;

***“breeder”*** means a person, other than a person who operates a kennel, who breeds purebred dogs or cats on his or her property as a home occupation;

***“Building and Licensing Division”*** and ***“Division”*** mean the Building and Licensing Division, Department of Planning and Development Services or, in the event of organizational changes, another unit designated by Council to carry out the Division’s responsibilities for the administration and enforcement of this by-law;

***“cat”*** means a male or female cat, whether neutered or intact;

***“City”*** and ***“City of Kingston”*** mean The Corporation of the City of Kingston, as incorporated on January 1, 1998;

***“Council”*** and ***“City Council”*** mean the Council of the City of Kingston;

***“dog”*** means a male or female dog, whether neutered or intact;

***“domestic animal”*** means a dog, cat or other animal that is normally kept as a household pet;

***“dwelling”*** means a self-contained residential unit;

***“guard dog”*** means a dog trained to guard property from any intruder that ventures into the area where the dog is kept;

***“highway”*** includes all land between the lateral boundaries of every provincial and municipal highway within the City;

***“home occupation”*** has the same meaning as in the zoning by-law that applies to the property;

***“keep”*** means to have temporary or permanent custody or control of an animal, and ***“keeps”*** and ***“kept”*** have corresponding meanings;

***“kennel”*** means premises other than a pet store, veterinary hospital or clinic, animal shelter or property that is operating a legitimate fostering program for dogs or cats under the authority of the animal shelter, in which the predominant activity consists of the raising, boarding or training of dogs or cats;

***“livestock”*** includes cattle, fur-bearing animals, goats, horses, sheep, pigs, donkeys and other animals, except for poultry, that are kept for agricultural purposes;

***“local board”*** includes the Kingston Police Services Board;

***“Manager of Building and Licensing”*** means the Manager, Building and Licensing Division and his or her designate or, in the event of organizational changes, another person designated by Council;

***“minor”*** means a person who has not attained the age of eighteen years;

***“muzzle”*** means to place a humane fastening or covering device over the mouth of a dog that is of adequate strength to prevent it from biting, and ***“muzzled”*** and ***“muzzling”*** have corresponding meanings;

***“neutered”*** means spayed in the case of female dogs and cats, and castrated in the case of male dogs and cats;

***“owner”*** includes any person who possesses, harbours or keeps an animal and, where an owner is a minor, includes the person who is responsible for the custody of the minor;

***“pet store”*** means a place of business that sells live animals as household pets;

***“poultry”*** includes game birds but does not include any bird sold as a household pet;

***“property”*** means a parcel of land and any buildings or other structures on the land;

***“residential property”*** means a property that is zoned for residential use in the zoning by-law that applies to the property;

***“rural area”*** means the areas that are designated in Schedule B as being part of the rural area of the City;

**“service animal”** means a **“service dog”** or **“service cat”** with proper identification that has been trained by a qualified facility, agency or person to provide special services to a person with a disability or to the City or a local board of the City;

**“trespass”** means, in the case of a dog or cat, to enter or remain on a privately-owned property other than a property owned or occupied by its owner without the express permission of the owner or occupant of that other property, and “trespassing” has a corresponding meaning;

**“under the control of its owner”** means, in the case of an dog, being kept on a leash or lead or being physically restrained by some other effective method by its owner or by another person acting on the owner’s behalf;

**“urban area”** means the areas that are designated in Schedule B as being part of the urban area of the City;

**“veterinarian”** means a person licensed under the *Veterinarians Act*;

**“veterinary hospital or clinic”** means premises operated under the supervision of a veterinarian for the medical treatment of animals; and

**“zoning by-law”** means a by-law passed under Section 34 of the *Planning Act* that restricts the use of land.

## 2. APPLICATION:

- 2.1 Except as otherwise provided, the regulations established by this by-law apply to all animals within the boundaries of the City and to the owners of such animals.

## 3. ADMINISTRATION:

- 3.1 The Building and Licensing Division is responsible for the administration and enforcement of this by-law.
- 3.2 In accordance with subsection 105(3) of the *Municipal Act, 2001*, the authority of Council to hear appeals from the owners of dogs that are required to be muzzled under section 4.27 is delegated to the Manager of Building and Licensing.

### Procedure for Registration of Dogs and Cats

- 3.3 If a dog or cat is required to be registered, its owner or another person acting on the owner’s behalf shall register the dog or cat in the City’s animal identification system by providing the information required by the Building and Licensing Division and by paying the applicable annual registration fee, as set out in Schedule A.
- 3.4 A person may register or renew the registration of a dog or cat at the places designated by the Division for this purpose.
- 3.5 A person who is registering a neutered dog or cat for the first time shall provide evidence that the animal has been neutered in order to be eligible for the reduced registration fee.

- 3.6 A person who is registering or renewing the registration of a dog or cat may be required to provide evidence that the animal has a current certificate of immunization against rabies.

### **Applications for Kennel Permits and Breeder Permits**

- 3.7 Every application for a kennel permit or a breeder permit or for the renewal of such a permit shall be submitted to the Building and Licensing Division in the form provided by the Division, together with the annual permit fee, as set out in Schedule A, and shall indicate the purpose for which the permit is being obtained.
- 3.8 Every application for a permit will be reviewed by the Division to determine whether it meets the requirements of this by-law and, as part of this review, will be circulated to the Building Section, Kingston Fire and Rescue, KF&LA Health Unit, Kingston Humane Society, and an animal control officer for comments.
- 3.9 These agencies and individuals, as part of their review, may require an inspection of the property, other than a room or place used as a dwelling.
- 3.10 If it is determined that an application meets the requirements of this by-law, the Division will issue the permit if the permit fee has been paid.
- 3.11 If it is determined that an application does not meet the requirements of this by-law, the Division will refuse to issue the permit and will refund the permit fee.
- 3.12 If, at any time, the Division determines, as a result of evidence that is provided, that the operation of a kennel or the activities of a breeder do not conform with the requirements of this by-law, it may suspend or revoke the permit.
- 3.13 A person whose application for a kennel permit or a breeder permit or a renewal of such a permit has been refused or whose permit has been suspended or revoked may, within fifteen days of being notified of the Division's decision, submit an application to the Appeals Committee for a review of the matter, together with the required administrative fee, as set out in Schedule A.
- 3.14 A person who has applied for a review of the Division's decision will be given an opportunity to make written representations or to appear before the Appeals Committee when it reviews the matter.
- 3.15 The Appeals Committee will review the matter at its next meeting and may affirm the decision of the Division or direct it to issue, renew or reinstate the permit.
- 3.16 Decisions of the Appeals Committee are final.

### **Additional Fees**

- 3.17 Every owner of a dog or cat, every breeder and every person operating a kennel who does not pay the applicable annual fee for the renewal of the registration or permit by January 31st of each year shall be required to pay a penalty for late payment, as set out in Schedule A, in addition to the registration or permit fee.

- 3.18 Every owner of a dog or cat, every breeder and every person operating a kennel who has been convicted of an offence under this by-law or under the Dog Owners' Liability Act shall be required to pay an additional amount in each year, as set out in Schedule A, in addition to the regular annual registration or permit fee.

#### Procedures re Impounded Dogs and Cats

- 3.19 The animal shelter will keep a record of every dog and cat that has been impounded, including its date of impoundment, description, registered number or other means of identification, if any, date of disposition, and method of disposition.
- 3.20 The owner of an impounded dog or cat or a person acting on the owner's behalf may, within five business days, recover the dog or cat during the hours when the shelter is open to the public and, in order to do so, shall be required to pay the full amount of the administrative fee, as set out in Schedule A, the fee established by the shelter for the period that the animal has been in the shelter, and the full amount of any emergency veterinary medical care that was required by the dog or cat.
- 3.21 If a dog that has been impounded is not registered in the City's animal identification system, the owner or person acting on the owner's behalf shall be required to pay the applicable annual registration fee, as set out in Schedule A, in order to recover the dog from the shelter.
- 3.22 If a cat in the urban area that has been impounded is not registered in the City's animal identification system, the owner or person acting on the owner's behalf shall be required to pay the applicable annual registration fee, as set out in Schedule A, in order to recover the cat from the shelter.

#### 4. REGULATIONS:

##### Registration and Permits

##### Dog and Cat Registration

- 4.1 Every dog and cat that has reached the age of twenty weeks shall be registered in the City's animal identification system in accordance with Part 3.
- 4.2 The regulation set out in section 4.1 does not apply to a cat in the rural area.
- 4.3 Upon payment of the applicable annual registration fee, as set out in Schedule A, the dog or cat will be included in the animal identification system by means of issuing a tag with the registered number of the dog or cat or by another means of identification that is adopted by the City.
- 4.4 If a tag is issued, it shall be kept securely fixed on the dog or cat at all times.
- 4.5 A dog or cat registration is valid for one calendar year only, and shall be renewed by December 31<sup>st</sup> of each year by paying the applicable annual registration fee.

### Kennel Permits and Breeder Permits

- 4.6 No person shall operate a kennel or operate as a breeder anywhere within the City unless he or she has first obtained a kennel permit or a breeder permit in accordance with Part 3.
- 4.7 A person is not eligible for a kennel permit or a breeder permit or for the renewal of such a permit unless his or her application is accompanied by the annual permit fee, as set out in Schedule A.
- 4.8 A person is not eligible for a kennel permit or the renewal of a kennel permit unless:
- (1) the use or proposed use conforms with the zoning by-law that applies to the property;
  - (2) the property complies with the property standards by-law and any other applicable by-laws;
  - (3) the property conforms with all applicable law, including the *Health Protection and Promotion Act*, the *Ontario Society for the Prevention of Cruelty to Animals Act*, and the *Fire Protection and Prevention Act*;
  - (4) the property is kept in a clean and sanitary condition at all times;
  - (5) every dog that has reached the age of twenty weeks and that resides on the property permanently has been registered in the City's animal identification system; and
  - (6) if the property is in the urban area, every cat that has reached the age of twenty weeks and that resides on the property permanently has been registered in the City's animal identification system.
- 4.9 A person is not eligible for a breeder permit or the renewal of a breeder permit unless:
- (1) the dogs or cats to be bred are registered or are eligible to be registered by a nationally or internationally recognized club or association;
  - (2) the activity or proposed activity qualifies as a home occupation under the zoning by-law that applies to the property, and the property complies with the property standards by-law and any other applicable by-laws;
  - (3) the property conforms with all applicable law, including the *Health Protection and Promotion Act*, the *Ontario Society for the Prevention of Cruelty to Animals Act*, and the *Fire Protection and Prevention Act*;
  - (4) the property is kept in a clean and sanitary condition at all times;
  - (5) every dog that has reached the age of twenty weeks and that resides on the property permanently has been registered in the City's animal identification system; and

- (6) if the property is in the urban area, every cat that has reached the age of twenty weeks and that resides on the property permanently has been registered in the City's animal identification system.
- 4.10 Every person who holds a kennel permit or breeder permit shall allow, at any reasonable time, an animal control officer or other authorized employee or agent of the City to inspect the property, other than any room or place used as a dwelling, to determine whether all requirements of this by-law are being complied with.
- 4.11 A permit is valid for one calendar year only, and shall be renewed by December 31<sup>st</sup> of each year by paying the annual permit fee.

### **Keeping of Animals**

#### **Guard Dogs**

- 4.12 No person shall keep a guard dog on any property unless the owner of the guard dog or the owner or occupant of the property places and maintains a sign in a prominent place on the property that reads: "*Beware Guard Dog*".

#### **Livestock and Poultry**

- 4.13 No person shall keep livestock or poultry on any property except in a veterinary hospital or clinic or as part of a cultural, recreational or educational event, including a public or agricultural fair.
- 4.14 The regulation set out in section 4.13 does not apply to an agricultural property, to a property of five or more acres, or to a property that houses horses that are in the service of the City or a local board of the City.

#### **Snakes, Tarantulas, Scorpions and other Spiders**

- 4.15 No person shall carry or display a snake, scorpion, tarantula, or other spider on any highway or in any public place or other place to which the public is customarily admitted except in accordance with sections 4.16 and 4.17.
- 4.16 A snake, scorpion, tarantula, or other spider may be carried or displayed in:
- (1) an educational institution or research facility where such animals are housed or studied;
  - (2) an educational or entertainment display, including a circus or zoo, that is supervised at all times by a qualified handler;
  - (3) a veterinary hospital or clinic, and
  - (4) the premises of a pet store which holds a business licence with the City.
- 4.17 Every person who needs to transport or carry a snake, scorpion, tarantula, or other spider on any highway or in any public place or other place to which the public is customarily admitted shall, while it is being carried or transported, confine the snake, scorpion, tarantula, or other spider in a cloth bag which has been placed inside a box made of

durable material with a lid that has been fastened securely, provided that the animal has sufficient air to breathe.

### **Being at Large or Trespassing**

#### **Dogs**

- 4.18 No owner shall cause or permit his or her dog to be at large or to trespass.
- 4.19 Every dog shall be under the control of its owner at all times when on any property that is not owned or occupied by its owner.
- 4.20 The regulation set out in section 4.18 does not apply to a dog that is at large on a property with the express permission of the owner or occupant of that property.

#### **Cats**

- 4.21 No owner shall cause or permit his or her cat to trespass.
- 4.22 The regulation set out in section 4.21 does not apply to the rural area.

#### **Behaviour of Dogs**

- 4.23 Every owner and other person who is in charge of a dog shall immediately remove any faeces left by his or her dog.
- 4.24 No owner shall cause or permit his or her dog to become a public nuisance by:
- (1) persistently barking or howling;
  - (2) damaging public or private property;
  - (3) scattering garbage or interfering with waste management activities;
  - (4) persistently barking at or chasing persons, vehicles, domestic animals, livestock, poultry, or other animals kept on an agricultural property;
  - (5) swimming at a public beach, swimming or wading pool; or
  - (6) being in a public park or recreational area and not under the control of its owner.
- 4.25 No owner of a dog shall engage in activity or conduct which is intended or is likely to cause the dog to bite or attack a person, domestic animal, livestock, poultry, or other animal kept on an agricultural property.
- 4.26 An animal control officer may issue an order to an owner whose dog is alleged to have bitten or attacked a person or animal, requiring the owner to muzzle the dog.
- 4.27 An owner may appeal an order to muzzle his or her dog to the Manager of Building and Licensing, but an appeal shall not act as a stay of the muzzling order.
- 4.28 Where a proceeding has been commenced by the City under the *Dog Owner's Liability Act* against an owner whose dog is alleged to have bitten or attacked a person or domestic animal, the owner shall be required to muzzle the dog until a determination of the matter has been made by the court.

### Impounding Dogs and Cats

4.29 Any dog that is at large or trespassing and any cat that is trespassing in contravention of this by-law may be impounded by an animal control officer and taken to the shelter.

4.30 An animal control officer may use any reasonable means to impound a dog that is at large or trespassing or a cat that is trespassing in contravention of this by-law.

### Obstruction

4.31 No person shall obstruct or hinder or attempt to obstruct or hinder an animal control officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this by-law.

## 5. **EXEMPTIONS:**

5.1 There are no exemptions to the regulations established by this by-law except for the exemptions set out in Part 4.

## 6. **SCHEDULES:**

6.1 The following Schedule is attached to and forms part of this by-law:

Schedule A Fees

Schedule B Map of Designated Urban Area and Rural Area

## 7. **OFFENCE AND PENALTY PROVISIONS:**

7.1 Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a penalty as provided for in the *Provincial Offences Act* and to any other applicable penalties.

7.2 Every owner of a dog, cat or other animal who contravenes any provision of this by-law or whose dog, cat or other animal contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a penalty as provided for in the *Provincial Offences Act* and to any other applicable penalties.

7.3 If this by-law is contravened and a conviction entered, the court in which the conviction was entered or any Court of competent jurisdiction may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

## 8. **VALIDITY:**

8.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

9. **COMMENCEMENT:**

9.1 This by-law comes into force on the day on which it receives third reading and is passed.

**GIVEN FIRST AND SECOND READINGS** June 15, 2004

**GIVEN THIRD READING AND FINALLY PASSED** June 22, 2004

**CITY CLERK**

**MAYOR**

**SCHEDULE A:**

**FEES**  
(including taxes)

**Dog Registration (Annual)**

Dog	\$ 40.00
Dog that has been neutered or spayed	\$ 15.00
Dog that is used for breeding by kennel or breeder with permit	No fee

**Cat Registration (Annual)**

Cat	\$ 20.00
Cat that has been neutered or spayed	\$ 5.00
Cat that is used for breeding by kennel or breeder with permit	No fee

**Service Animal**

No fee

**Kennel Permits and Breeder Permits (Annual)**

Permit Fee, including registration of animals used for breeding	\$ 200.00
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**Recovery of Animal from Animal Shelter**

Administrative Fee	\$ 75.00
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**Late Payment Fee**

Additional amount for late payment	\$ 10.00
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**By-Law and Dog Owners' Liability Act Offences**

Additional fee for convicted owner	50%
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**Appeals under Section 3.13**

Administrative Fee	\$ 75.00
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SCHEDULE B:

