

ANIMAL

Chapter 321 KENNEL

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WHEREAS section 150 of the *Municipal Act, 2001* authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality;

AND WHEREAS the Town of Richmond Hill deems it advisable to enact a by-law to license, regulate and govern the establishment of kennels within the Town;

AND WHEREAS purposes of consumer protection will be served by this by-law through:

- the establishment of a well-administered licensing and regulatory system governing businesses to which the Chapter relates;
- the requirement of accountability of licensees through the disclosure of information, the requirement for regular renewals and the ensuring of proper conduct;

AND WHEREAS purposes of health and safety will be served by this by-law through:

- ensuring that proper and adequate conditions are maintained for the dogs;

AND WHEREAS purposes of nuisance control will be served by this by-law through:

- the requirement that the owners achieve the appropriate zoning approval to operate this type of business;

AND WHEREAS Council at its meeting of December 12, 2005 adopted the recommendations of the Committee of the Whole at its meeting of November 30, 2005 in SRPD.05.183;

AND WHEREAS a public meeting was held in accordance with section 150 of the *Municipal Act, 2001* on November 30, 2005;

AND WHEREAS notice of the intention to pass this by-law was given on November 15, 2005 in accordance with the provisions of Chapter 278 of the Town of Richmond Municipal Code - Public Notice.

Article 1 INTERPRETATION

321.1.1 Applicant - defined

“applicant” means a person applying for a licence under this Chapter.

321.1.2 Commissioner - defined

“Commissioner” means the Commissioner of Planning and Development of The Corporation of the Town of Richmond Hill.

321.1.3 Corporation - defined

“Corporation” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

321.1.4 Council - defined

“Council” means the Council of The Corporation of the Town of Richmond Hill.

321.1.5 Kennel - defined

“kennel” means any building or structure or part thereof or place used for the keeping of dogs where four or more dogs or other animals are kept for breeding, boarding, treatment or for sale.

321.1.6 Licence - defined

“licence” means a licence issued by the Corporation to own or manage a kennel under this Chapter.

321.1.7 Licence Hearings Committee

“Licence Hearings Committee” means a Committee of Council duly appointed to conduct hearings under this Chapter. By-law 188-05, 12 December, 2005.

321.1.8 Licensing Officer - defined

“Licensing Officer” means a person appointed by the Commissioner from time to time to issue licences. By-law 145-08, 14 July, 2008.

321.1.9 Manager - defined

“manager” means a person who alone or with others operates, manages, supervises, runs or controls a kennel.

321.1.10 Other animal - defined

“other animal” means any animal, other than a dog, which is kept as a household pet, but does not mean animals commonly known as livestock.

321.1.11 Owner - defined

“owner” means a person who alone or with others has the right to possess or occupy a kennel or actually does possess or occupy such a facility and includes a lessee.

321.1.12 Person - defined

“person” means a natural individual, including women as well as men, and includes their heirs, executors, administrators or other legal representatives of such person to whom the context can apply according to law, as well as artificial beings such as corporations, and words importing the masculine gender shall include the feminine or neuter gender or the plural thereof, whatever the context so requires.

321.1.13 Town - defined

“Town” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

Article 2**PREMISES REQUIREMENTS****321.2.1 Operator - requirements - set out**

Every person who operates a kennel shall comply with the requirements set out in Sections 321.2.2 through 321.2.5 inclusive.

321.2.2 Location - distance from property line - minimum

No part of a kennel shall be constructed or maintained closer than 30.48 metres (100 feet) from the property line of any residence other than that of the operator.

321.2.3 Building - attached - floor - drainage

Where a kennel forms part of, or is physically attached to a building used for human habitation or to which the public has access, such kennel shall have a concrete or other impermeable floor with a drain opening constructed as a plumbing fixture, provided however, that the dogs or other animals may be kept in adequately sized cages constructed solely of metal or wire or partly of metal and partly of wire and having metal or other impermeable bottoms.

321.2.4 Licence - must comply with zoning

No licence shall be issued for a kennel on premises where the Town's zoning by-law does not permit the use of those premises for such purposes.

321.2.5 Fence - minimum requirements - outside areas

Where dogs or other animals are permitted to use an outside area as part of a kennel there shall be constructed around the perimeter of such area, a solid board fence having a height of at least 1.2 metres (four feet); a gate which is at least 1.2 metres (four feet) in height or a wall of a building abutting such area shall be deemed to be part of the required fence.

321.2.6 Fence - not required - distance from property line

Where an outside area as described in Section 321.2.4 is more than 60.96 metres (200 feet) from the nearest property line, no fence shall be required.

Article 3**MAINTENANCE - ANIMAL CARE****321.3.1 Operator - requirements - set out**

Every person who operates a kennel shall comply with the requirements set out in Sections 321.3.2 through 321.3.7 inclusive.

321.3.2 Inspection - animal - before admission

Before any animal is taken into any kennel it shall be inspected as to distemper or other contagious or infectious disease.

321.3.3 Disease - outbreak - kennel - closed

If any kennel has an outbreak of distemper or other disease, the kennel may be closed at any time by the Licensing Officer or other person appointed by the Council.

321.3.4 Maintained - clean - sanitary - well-ventilated

At all times the kennel shall be maintained in a sanitary, well-ventilated, clean condition and free from offensive odours.

321.3.5 Floors - cages - cleaned - washed - daily

The floors of the kennels and cages referred to in Section 321.2.3 shall be cleaned and washed daily.

321.3.6 Bedding - ventilation - light - temperature

The dogs or other animals shall be kept in sanitary, well-bedded, well-ventilated, naturally lighted, clean quarters and such quarters shall be kept at a healthful temperature at all times.

321.3.7 Feeding - watering - requirements - disease - prevented

The dogs or other animals shall be adequately fed and watered periodically each day and kept in a clean, healthy condition, free from vermin and disease.

321.3.8 Inspection - at any time - authorized officer

Any kennel operating within the Town of Richmond Hill shall be open to inspection by the Licensing Officer or other person appointed by the Council.

321.3.9 Kennel - licence - fee qualifications - requirements

Despite anything herein to the contrary, the owner of a kennel of dogs that are registered or eligible for registration with an association incorporated under the *Animal Pedigree Act (Canada)*, shall pay an annual licence fee as set out in Chapter 684 [Tariff of Fees] to the Licensing Officer on or before the first day of January in each year and upon payment thereof, is not liable to pay in respect of such pure-bred dogs, a licence fee under Chapter 314 [Dog Licensing - Keeping].

Article 4 REPORT TO COUNCIL

321.4.1 Report to Council

Where the Commissioner is of the opinion that an applicant for a licence does not comply with any one or all of the conditions set out in Article 6 of this Chapter, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the licence if, in the opinion of Council, the said conditions have been satisfied.

Article 5 LICENCE NON-TRANSFERABLE WITHOUT COUNCIL APPROVAL

321.5.1 Licence not transferable

A licence issued under this Chapter shall not be transferred or assigned by the licence holder without the consent of Council upon the recommendation of the Commissioner.

Article 6 GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE

321.6.1 Licence - entitlement

An applicant is entitled to be licensed and a licensee is entitled to have his or her licence renewed.

321.6.2 Licence refused - financial position

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where, having regard to his or her financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

321.6.3 Licence refused - past conduct of applicant

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty.

321.6.4 Licence refused - contrary to public interest

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where the issuance of the licence or renewal of the licence would be contrary to the public interest.

321.6.5 Licence refused - activities in contravention of this Chapter

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

321.6.6 Licence refused - premises - use - non-compliance

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where there are reasonable grounds for belief that the nature, condition or use of the premises, or any equipment, vehicle or other personal property used or to be used by the applicant or licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this Chapter or any other law.

321.6.7 Licence refused - applicant provides false information

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee or applicant, contains a false statement or provides false information.

321.6.8 Licence refused - information provided no longer accurate

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where the information provided to the Town by or on behalf of the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the Town sufficient to allow the Council to conclude that the licence should be granted or maintained as valid and subsisting.

321.6.9 Licence refused - fee not paid

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where the fee payable in respect of the licence applied for has not been paid.

321.6.10 Licence refused - applicant - non-compliance

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where the applicant does not comply or ensure compliance with any condition imposed under this Chapter upon the business or upon the licensee, as a requirement of obtaining, continuing to hold or renewing a licence.

321.6.11 Licence refused - corporation - conditions

Notwithstanding Section 321.6.1, a licence may not be issued or renewed where if the applicant or licensee is a corporation:

- (a) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
- (b) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law;
- (c) the issuance of the licence or renewal of the licence would be contrary to the public interest; or
- (d) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

Article 7**COUNCIL'S POWER TO REFUSE TO ISSUE
OR TO RENEW A LICENCE****321.7.1 Council's power to refuse to issue or renew a licence**

Council may refuse to issue or renew a licence or may refuse to renew a licence, where the applicant or licensee would be disentitled to a licence for any of the reasons set out in Article 6.

Article 8**REFUND OF FEE ON REFUSAL TO ISSUE
OR RENEW A LICENCE****321.8.1 Licence not issued - refund of fee**

When an application for a licence or renewal of a licence is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50 per cent of the application processing fee.

Article 9**ISSUANCE OF LICENCE ON TERMS AND CONDITIONS****321.9.1 Licence issued - terms and conditions**

Notwithstanding any other provision of this Chapter, Council may issue a licence or renew a licence subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the Licence Hearings Committee after a hearing as provided for in Section 321.16.1 of this Chapter.

Article 10**COUNCIL'S POWER TO REVOKE
OR SUSPEND A LICENCE****321.10.1 Licence revoked or suspended**

Council may revoke or suspend a licence where the licensee would be disentitled to a renewal of a licence on the grounds set out in Article 6 of this Chapter.

Article 11**REFUND OF FEE ON REVOCATION OF A LICENCE****321.11.1 Licence revoked - refund of fee**

When a licence is revoked under Section 321.10.1, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the licence fee which is proportionate to the unexpired part of the term for which the licence was issued.

321.11.2 Refund of fee - not applicable

The provisions of Section 321.11.1 do not apply when the unexpired part of the term is less than four months.

Article 12**CANCELLATION OF A LICENCE****321.12.1 Licence - cancelled**

Any licence issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

Article 13
APPEALS TO THE LICENCE HEARINGS COMMITTEE

321.13.1 Licence refused - recommendation to Council

When an applicant or a licensee is not entitled to be licensed or to have his or her licence renewed for any of the grounds set out in Article 6, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the licence, or that Council suspend or revoke the licence, or, subject to Section 321.9.1, that Council issue a licence on terms and conditions.

321.13.2 Licence refused - written notice

Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the licence, shall be given to the applicant or licensee by the Licensing Officer.

321.13.3 Written notice - contents

The written notice to be given under Section 321.13.2, shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licensing Officer,
- (d) inform the applicant or licensee that he or she is entitled to a hearing before the Licence Hearings Committee, if he or she delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Licence Hearings Committee.

Article 14
NOTICE OF HEARING

321.14.1 Notice of hearing

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the Licence Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

Article 15
SERVICE OF WRITTEN NOTICE

321.15.1 Written notice - service

The written notice referred to in Sections 321.13.2, and 321.13.3, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the Licensing Section records.

31.15.2 Written notice - service - via registered or certified mail

When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the written notice until a later date.

Article 16
HEARING BEFORE THE LICENCE
HEARINGS COMMITTEE

321.16.1 Licence Hearings Committee - applicant does not attend

When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Licence Hearings Committee may proceed with the hearing in his or her absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

321.16.2 Recommendation to Council

At the conclusion of a hearing, the Licence Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

Article 17
COUNCIL AUTHORITY AFTER THE HEARING

321.17.1 Recommendation - Licence Hearing Committee - decision

Council may accept or vary the recommendations of the Licence Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

Article 18
RETURN OF THE LICENCE AFTER
REVOCATION OR SUSPENSION

321.18.1 Licence revoked - suspended - returned - Licensing Officer

When a licence has been revoked or suspended, the holder of the licence shall return the licence to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council.

321.18.2 Licence revoked - Licensing Officer to obtain licence

When a person has had his or her licence revoked or suspended under this Chapter he or she shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the licence, in accordance with Section 321.18.1.

Article 19
TRANSITION

321.19.1 By-law - previous

A license issued under the applicable by-law in effect immediately prior to the enactment of this Chapter shall remain in effect following the enactment of this Chapter only until the earlier of its expiry or its revocation.

Article 20
SEVERABILITY

321.20.1 Validity

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

Article 21
ENFORCEMENT

321.21.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and, upon conviction is liable to a fine and other penalties imposed pursuant to the *Provincial Offences Act*.

Article 22
REPEAL - ENACTMENT

321.22.1 By-law - previous

Chapter 321 of the Town of Richmond Hill Municipal Code respecting Kennels be repealed in its entirety and replaced. By-law 16-01 be repealed.

321.22.2 Expiry

This Chapter and the enabling by-law shall expire five years after the date of its enactment. By-law 188-05, 12 December, 2005.