



**THE CORPORATION OF THE TOWN OF KEARNEY**

**By-law No. 2021 - 04**

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**Being a By-law to Regulate DOGS within the Town of Kearney**

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**WHEREAS** *The Municipal Act, 2001, S.O. c.25*, as amended, Section 103 authorizes the Council of a municipality to pass By-laws regulating or prohibiting with respect to the being at large or trespassing of and control of dogs in the municipality;

**AND WHEREAS** *The Municipal Act, 2001, S.O. c. 25*, as amended, Section 10(2) authorizes the Council of a municipality to pass By-laws respecting health, safety and well-being of persons;

**AND WHEREAS** *The Municipal Act, 2001, S.O. c.25*, as amended, Section 105 authorizes the Council of a municipality to pass By-laws for the muzzling of dogs;

**AND WHEREAS** *The Municipal Act, 2001, S.O. c.25*, Section 128 authorizes the Council of a municipality to pass a By-law to prohibit and regulate public nuisances;

**AND WHEREAS** *The Municipal Act, 2001, S.O. c.25*, as amended, Section 391(1) authorizes the Council of a municipality to impose fees and charges for services provided;

**AND WHEREAS** The Council for The Corporation of the Town of Kearney wishes to regulate dogs and noise from dogs in the Town of Kearney;

**NOW THEREFORE THE CORPORATION OF THE TOWN OF KEARNEY ENACTS AS FOLLOWS:**

**1.0 DEFINITIONS:**

In this By-law,

- 1.1** **Animal Control Officer** shall mean the Municipal By-Law Enforcement Officer, and any person so designated by Council;
- 1.2** **At Large** shall mean a dog found on any property other than the premises of the owner and not restrained or under the physical control of any person;
- 1.3** **Bite** shall mean a puncture of the skin with teeth;
- 1.4** **Dog** shall mean any member of the species *canis familiaris* be it a male or female over the age of 12 (twelve) weeks;
- 1.5** **Menace** shall mean a dog that would cause a person being chased or approached to reasonably believe that the dog will cause physical injury to that person or their domestic animal;
- 1.6** **Harbour** shall mean owning, having care, custody or control of a dog;
- 1.7** **Muzzle** shall mean a humane fastening or covering device of adequate strength and design and suitable to the breed of the dog that fits over the mouth of a dog and cannot be removed by the dog, to prevent a dog from biting or attacking a person or domestic animal;
- 1.8** **Municipal Law Enforcement Officer** shall mean a municipal By-law Enforcement Officer appointed under Section 15 of the Police Services Act by the Corporation of the Town of Kearney and shall include any person appointed as an Animal Control Officer by the Town for the purposes of this By-law;
- 1.9** **Owner** shall mean any person including the tenant or occupant of land or premise who possesses or harbours a dog and where the owner is a minor the person responsible for the custody of the minor and owns or owned have a corresponding meaning;

- 1.10 **Pound** shall mean such premises and facilities designated by the municipality for the safe keeping of impounded dogs;
- 1.11 **Leash** shall mean a strap, cord, chain or like that is securely attached to a dog and firmly grasped by a person and which is capable of holding and controlling a dog.
- 1.12 **Service Animal** shall mean an animal which is trained to assist in the movements of a person with a physical, visual, or neurological impairment and shall include a Police Dog in which a dog is trained for law enforcement for the police or other person duly appointed as a peace officer.
- 1.13 **Town** shall mean the Corporation of the Town of Kearney. Municipality shall have the same meaning;
- 1.14 **Pound keeper** shall mean the Muskoka Animal Centre;
- 1.15 **Pit Bull** shall mean: a pit bull terrier; a Staffordshire bull terrier; an American Staffordshire bull terrier; an American pit bull terrier and a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in Section 8.

## 2.0 **LICENSING**

- 2.1 No person shall, within the Town of Kearney, own any dog over the age of six (6) months without first having obtained a license for the dog and registering the dog at the Township Offices.
- 2.2 Every person who owns or harbors any dog shall pay a license fee:
  - (i) annually on March 1st of each calendar year.
- 2.3. The owner shall register their dog with the town, and provide particulars pertaining to the dog and the owner of the dog.
- 2.4 Cost of the dog licensing fees shall be set out in the Fee and Charges By-law and *Schedule "A"* of this By-law for the Corporation of the Town of Kearney.
- 2.5 Upon payment of the license fee, the owner shall be furnished with a dog tag bearing a serial number and the year of the issue and said tag shall be securely affixed on the dog at all times until renewed or replaced.
- 2.6 Every person who owns a dog shall notify the Clerk, or Animal Control Officer when the contact information changes from the information provided at the time of the purchase of the tag.
- 2.7 A new resident of the Corporation of the Town of Kearney shall be required to obtain a license for their dog within fifteen (15) days of becoming a new resident.
- 2.8 The owner shall upon request supply written confirmation that the dog have been immunized against rabies and or proof of spay or neuter.
- 2.9 All licenses and tags issued pursuant to this By-law shall be serially numbered and a record shall be kept by the Clerk showing the name and address of the owner, serial number of the dog tag and the fees paid in respect of each dog.
- 2.10 In the event the dog license is lost, the dog owner shall upon satisfying the license issuer that the license is lost shall be entitled to receive a replacement license upon payment as indicated in *Schedule "A"*.
- 2.11 No owner of a dog shall use a license issued for any dog other than the dog for which the license was issued.
- 2.12 Where a certificate is produced from the Canadian National Institute for the Blind stating that the dog is being used as a guide dog for a blind person, no licensing fee shall be charged.

## 3.0 **RESPONSIBILITIES OF THE DOG OWNER**

- 3.1 No owner or owners living at the same address shall keep more than four (4) dogs in any one household over the age of six months:
  - (i) This section does not apply to the operation of a licensed kennel.

- 3.2 Every person who owns or harbors a dog shall, in a sanitary manner, remove forthwith and dispose of any excrement left by such a dog anywhere within the Municipality.
- 3.3 Every person who owns or harbors a dog shall upon leaving their property, ensure the dog is properly restrained and if stipulated muzzled.
- 3.4 No person shall allow a dog to run at large or otherwise create a nuisance within the Municipality. Any dog found running at large may be seized and impounded by the Animal Control Officer or their designate. An animal control officer or their designate may enter on any public or private property for the purpose of impounding or otherwise detaining any dog found running at large pursuant to the provisions of this By-law.
- 3.5 If the Animal Control Officer or their designate is unable to seize any dog found to be running at large, and the owner of such a dog is known, the owner is guilty of an offence and shall be subject to a penalty in accordance with the provisions of this By-law.
- 3.6 No person shall permit a dog to trespass on private property at any time even when the dog is equipped and restrained with a leash.
- 3.7 No person shall permit a dog to persistently bark or create noise.
- 3.8 No person shall permit a dog to be in any area designated as a public swimming area.
- 3.9 No person shall permit a dog to be within a park or on a trail within the Municipality unless the dog is leashed.
- 3.10 No person shall permit a dog to be within a municipally owned or operated facility or building used by the public at any time unless during an event where dogs have been approved.
- 3.11 A Service Animal shall not be restricted by the provisions in Sections 3.2, and 3.10.

#### **4.0 SEIZE AND IMPOUND**

- 4.1 Any person shall be entitled to take charge of any dog found running at large and deliver same to the Municipal Law Enforcement Officer or to the Pound Keeper.
- 4.2. The Municipal Law Enforcement Officer may seize and impound any dog that is found running at large and deliver to Pound Keeper.
- 4.3. The Pound Keeper or Municipal Law Enforcement Officer shall, within twenty-four (24) hours from the seizure of any dog bearing a municipal license notify the owner that the dog has been impounded and conditions whereby the dog can be reclaimed.
- 4.4. The Pound keeper may keep any impounded dog for a redemption period of three (3) days, excluding:
  - i) the day on which the dog is impounded;
  - ii) statutory holiday; and
  - iii) days on which the pound is not open.
- 4.5 During the redemption period, the Pound Keeper:
  - i) may inoculate the impounded dog to provide immunization against distemper or any other contagious or infectious disease;
  - ii) shall provide veterinary care of an injured or ill impounded dog as may be necessary to sustain its life.
- 4.6 During the redemption period, the Pound keeper may euthanize a dog without delay where, in the opinion of the Pound Keeper, this is warranted for humane reasons.
- 4.7 The Pound Keeper shall be entitled to recover from the owner of the dog, the cost of inoculating or providing veterinary care during the redemption period in addition to any other applicable fees for the redemption of the dog.
- 4.8 During the redemption period, the owner of an impounded dog may redeem it if the owner:

- i) pays the applicable fees for redemption of the dog;
- ii) provides evidence satisfactory to the Pound Keeper that they own the dog
- iii) provides evidence satisfactory to the Pound Keeper that the dog is licensed under this By-law.

**4.9** After three (3) days of a redemption period for an unclaimed dog, the Pound Keeper may keep, sell or dispose of, including euthanize the dog, subject to applicable provisions of the Animals for Research Act.

**4.10** Where a Municipal Law Enforcement Officer captures or otherwise detains a dog found running at large contrary to provision of this By-law, and said dog has a current municipal dog license, the Municipal Law Enforcement Officer may return the dog to the owner without transporting said dog to the Pound. Where the dog is returned to the owner, the Municipal Law Enforcement may issue an Animal Control Service Fee Notice to the owner of the dog and the owner of the dog shall pay an Animal Control Service Fee as set out in Schedule "A" of this By-law.

**4.11** Where a Municipal Law Enforcement Officer captures or otherwise detains a dog found running at large contrary to provision of this By-law and said dog is injured the Officer may euthanize said dog without delay where, in the opinion of the Officer that it is warranted for humane reasons.

## **5.0 MUZZLING AND LEASHING OF DOGS**

**5.1** Where a dog has bitten a person or domestic animal or has behaved in a manner that poses a menace to the safety of persons or domestic animals, the Municipal By-law Enforcement Officer, at their discretion, may Order the dog to be muzzled or leashed or both, for a period of time to be determined by the Officer. Further, the owner of said dog shall comply with the Order.

**5.2** Should the owner of the dog disagree with the Order to muzzle and/or leash, he or she may appeal the decision to the Town Council.

**5.3** Upon receipt of notification of an appeal, the Town Council shall, as soon as practicable, conduct a hearing pursuant to the Statutory Powers Procedure and shall hear evidence presented by both the Municipal Law Enforcement Officer and the owner of the dog. Further, it is understood in the interim between the date of the Order to muzzle and/or leash and the date of the hearing of the appeal, the owner shall comply with the Order.

**5.4** At such time as the Town Council makes its decision to confirm, modify or quash the Order, the decision shall be considered to be final and binding and the owner of the dog shall comply therewith.

## **6.0 KENNELS**

**6.1** All Kennels must be licensed and inspected for compliance annually. No person shall operate a Kennel without first obtaining a license.

**6.2** A KENNEL LICENSE may be issued to areas zoned with permitted uses as pursuant to the Towns Zoning By-law, that may be amended from time to time, for keeping, breeding or boarding of dogs.

i) Class 1 is for the Breeding Kennel for the breeding of dogs.

ii) Class 2 is for the Boarding Kennel for the temporary lodging of dogs.

iii) Class 3 is for the lodging of more than 4 dogs kept for activities resulting in monetary gain, or sled dogs.

**6.3** An applicant for a kennel licence must satisfy the township Council that this kennel operation will not disturb neighbouring properties. Owner

must follow *Schedule "C"* attached. The cost of the license shall be as prescribed in *Schedule "A"*. Kennel Inspection Report is attached as *Schedule "D"*.

- 6.4 Provisions of this By-law shall not apply to prevent the use of any existing, licensed kennel that was lawfully used and legally established for such purpose on the date of passing of this By-law. So long as it continues to be used for that purpose, the use is not discontinued for any length of time and that the existing dogs cannot be replaced when they are given away or die.

#### **7.0 PENALTIES**

- 7.1 Any person who is contravenes any provision of this By-law is guilty of an offense and upon conviction is liable to a fine up to a maximum of \$5,000.00 as provided for under the provisions of the Provincial Offences Act, R.S.O. 1990, C.P. 33, as amended.
- 7.2 Every person guilty of an offence under this By-law may, if permitted under the Provincial Offences Act, pay a set fine and the Chief Judge of the Ontario Court (Provincial Division) shall be requested to establish, pursuant to the Provincial Offences Act, set fines in accordance with *Schedule "B"* of this By-law.

#### **8.0 PIT BULL RESTRICTIONS**

- 8.1 No person shall own, possess, be in control of or harbor a pit bull in Town. If the owner of a pit bull refutes that the dog is a pit bull as defined, the burden of proof that the dog is not a pit bull is the owner's.

#### **9.0 REPEAL**

- 9.1 That By-law No. 2020-25 is hereby repealed.
- 9.2 That the set fines in *Schedule "B"* for By-law No. 2021-04 shall come into force and effect upon approval by the Chief Judge of the Ontario Court (Provincial Division).
- 9.3 That this By-law shall come into force and effect on the date of passing.

#### **10.0 ENFORCEMENT**

- 10.1 Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this By-law at any time.

#### **11.0 SEVERABILITY**

- 11.1 All sections of this By-law shall be deemed to be separate and independent and the invalidity of any section or provision thereof shall not affect the remaining sections.

READ A FIRST, SECOND AND THIRD TIME, passed, signed and the Corporate Seal attached hereto, this 29<sup>th</sup> day of JANUARY, 2021.

THE CORPORATION OF THE  
TOWN OF KEARNEY



Carol Ballantyne, Mayor



Brenda J. Fraser, Clerk

**The Corporation of the Town of Kearney  
By-law No. 2021-04 to Regulate Dogs within the Town of Kearney**

**SCHEDULE "C"  
KENNEL REGULATIONS**

1. No kennel or any part thereof shall be located closer than 30 metres to any roadway, or closer than 150 metres to any adjacent residential lot or to any boundary of any residential zone.
2. The building shall be separated and enclosed and shall not be attached to a dwelling unit, unless it is a breeding kennel and it can be closed off from the living area.
3. The building shall conform to the Building Code Act. It shall be maintained in such a manner as to be free from damage.
4. The building shall have a floor of concrete or some other impermeable material, the floor shall be cleaned daily or more often if necessary.
5. All dogs that are kept in cages, shall be kept in cages of adequate size, to allow the animal to extend its legs fully, to stand or sit or lie down in a fully extended position. All cages shall be constructed solely of metal, wire-mesh or impermeable concrete block.
6. All dogs shall be kept in sanitary, well bedded, clean quarters and such quarters shall be kept at a healthful temperature at all times.
7. All dogs shall be adequately fed and watered, periodically each day and shall be kept in a clean healthy condition free from vermin and disease.
8. Where dogs are allowed to use an outside area, this area shall be surrounded by a metal mesh fence of a height and mesh size, that will safely contain the breed. For the purpose of these regulations, the fence shall be deemed to be part of the building. Such outdoor use shall not be permitted between the hours of 9 p.m. and 7 a.m. except during supervised exercise periods when the operator or his/her employee shall be in control of the dog(s).
9. Every owner/operator of a kennel shall file with the Township a letter, issued and signed by the Animal Control Officer of the Town of Kearney, stating that the kennel operation complies with all requirements of this By-Law as well as any other applicable laws and/or regulations.
10. No owner/operator or employee shall allow the kennel to become a nuisance to the public due to unreasonable noise from barking dogs or otherwise.
11. In case of a complaint, any individual in the employ of the North Bay Parry Sound District Health Unit, or the Animal Control Officer, who is duly authorized may during business hours, enter such kennel location to inspect it and ensure compliance with this By-law.

See Schedule "A" for kennel licence fees.

**The Corporation of the Township of Kearney  
By-Law No. 2021-04 to Regulate Dogs within the Town of Kearney**

**Schedule "A"  
Control & Licensing of Dogs**

**Dog Licence Fees**

Description	Annual Fee
First dog	\$ 12.00
Second dog	\$ 8.00
For each additional dog	\$ 5.00
Replacement tag	\$ 5.00
Kennel license	\$ 100.00
Each dog tag for kennel dogs	\$ 5.00
Replacement license	\$ 50.00
Dog redemption from impound	
First offence	\$ 50.00
Second offence	\$ 75.00
Third offence and each subsequent offence	\$ 100.00
 Animal Control Service Fee	 \$ 50.00

**The Corporation of the Town of Kearney  
By-Law No. 2021-04 to Regulate Dogs within the Town of Kearney**

**SCHEDULE "B"  
Part 1 Provincial Offences Act**

<u>Item</u>	<u>Column 1</u> SHORT FORM WORDING	<u>Column 2</u> PROVISION CREATING/DEFINING OFFENCE	<u>Column 3</u> SET FINE
1	Fail to obtain dog license	2.1	\$50.00
2	Fail to affix dog tag	2.5	\$50.00
3	Fail to notify Clerk or Animal Control Officer of changes to owner information	2.6	\$50.00
4	Allowing more than 4 dogs to reside in a residence	3.1	\$50.00
5	Fail to remove excrement	3.2	\$50.00
6	Owner permit dog to be at large	3.4	\$50.00
7	Owner permit dog to trespass on private property	3.6	\$50.00
8	Owner permit persistent dog barking	3.7	\$50.00
9	Owner permit dog in public swim area	3.8	\$75.00
10	Fail to leash dog in park or trail	3.9	\$50.00
11	Owner permit dog into Municipal facility or building	3.10	\$100.00
12	Fail to obey muzzle order	5.1	\$300.00
13	No person shall operate a kennel without first obtaining a license	6.1	\$100.00

**Note:** The general penalty provision for the offences listed above is Section 7.1 of By-law 2021-04, a certified copy of which has been filed.

**The Corporation of the Town of Kearney  
By-law No. 2021-04 to Regulate Dogs within the Town of Kearney**

**SCHEDULE "D"**



**By-law Enforcement  
Corporation of the Town of Kearney  
8 Main Street, PO Box 38  
Kearney ON, P0A 1M0  
705 636 7752**

**KENNEL INSPECTION REPORT**

**Licence No.:** \_\_\_\_\_ **Name of Kennel:** \_\_\_\_\_  
**Address:** \_\_\_\_\_

**Type of Kennel**  
Breeding kennel – Class 1                      Boarding Kennel – Class 2                      Dogs kept for monetary gain, or sled dogs - Class 3

**Type of Inspection**    Routine                       New                       Complaint                       Follow-up

**Licence Previously Investigated by Animal Control Officer?**    Yes     No

**Licence Currently Revoked?**    Yes     No

**Kennel Capacity: Dogs:** \_\_\_\_\_ **Isolation Area:**    Yes     No

Indoor Facilities	S	I	N/A
Bldg-Construction, Maintenance			
Heating			
Lighting			
Drainage			
Ventilation			
Cleanliness - cages			
Cleanliness - runs			

Outdoor Facilities	S	I	N/A
Shelter			
Drainage			
Bedding			
Premises - Cleanliness			
Runs - Cleanliness			
Runs 3.0sq m			

Animal Care	S	I	N/A
Feeding			
Watering			
Cleanliness -utensils			
Enclosures - construction, maintenance			
Animal grouping			
Animal identification			
Veterinary Care			

General	S	I	N/A
Running water			
Food Storage			
Waste Disposal			

*Listed below are specific improvements that must be made in order to comply with Town of Kearney By-law No. 2021-04.*

*Failure to take corrective action by the due date can result in revocation of your Kennel Licence:*

Item	Action Required	Due Date

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

Next inspection due: \_\_\_\_\_



The Corporation of the Town of Kearney  
By-law No. 2021-04 to Regulate Dogs within the Town of Kearney

SCHEDULE "E"



By-law Enforcement  
Corporation of the Town of Kearney  
8 Main Street, PO Box 38  
Kearney ON, P0A 1M0  
705 636 7752

**KENNEL LICENCE APPLICATION**

Date of Application: \_\_\_\_\_ Kennel # Issued: \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Mailing Address of Applicant: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Cell: \_\_\_\_\_

Name of Kennel: \_\_\_\_\_

Address of Kennel (if different from applicant's address):  
\_\_\_\_\_  
\_\_\_\_\_

How long have you been in operation: \_\_\_\_\_ (years) \_\_\_\_\_ (months)

Roll # of Location of Kennel: \_\_\_\_\_ Total # of Dogs: \_\_\_\_\_

Have you previously had a Kennel Licence in the Town of Kearney? Yes  No   
If yes, when: \_\_\_\_\_

If yes, have there been any changes to your property since you were last issued a Kennel License?  
Yes  No   
Please indicate any changes:  
\_\_\_\_\_  
\_\_\_\_\_

**FEES MUST ACCOMPANY APPLICATION**

Please attach:

Kennel Inspection Report: Yes  No

Building Compliance report  
(including signage if required): Yes  No

Fire Inspection Report (if required): Yes  No

Site Drawing: Yes  No

Zoning Compliance: Yes  No

I hereby declare that I have never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty;

I hereby grant permission for Staff at any time to inspect the said kennel;

I hereby agree and understand the terms and conditions set out in By-law 2021-04 and will comply therewith. I understand that any non-compliance may result in the revoking of my Licence without refund.

Personal information contained on this form is collected under the authority of the Municipal Act, 2001 and will be used, maintained and disclosed in accordance with the Municipal Freedom of Information and Protection of Privacy Act and will be used by the Corporation of the Town of Kearney in determining the suitability for licensing.

Information submitted by applicants may be shared with officials, agencies and departments of the Corporation of the Town of Kearney, who are assisting the By-law Officer.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
By-law Officer

\_\_\_\_\_  
Date