

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

BY-LAW 2008 - 118

A By-Law of The Corporation of the Township of Springwater to provide for the licensing, regulating and governing of certain businesses, trades or occupations carried on, or engaged in within the Township of Springwater; and to repeal By-laws 2001-005 ,2001-025, 2005-072, 2006-002 and 2006-031.

The Council of the Corporation of the Township of Springwater hereby enacts as follows:

1. **TITLE AND SCOPE**

This by-law shall be known as a by-law for the licensing, regulating and governing of trades, businesses or occupations or the persons carrying on, or engaged in such activities in the Township of Springwater and may be cited by its short title, "The Business Licensing By-law".

2. **AUTHORITY**

Municipal Act, 2001, S.O. 2001, Chapter 25, (the "*Municipal Act, 2001*"), as may be amended from time to time, Part IV, Sections 150 through 165 inclusive.

3. **DEFINITIONS**

For the purpose of this by-law:

- 3.1 **"Accessory"** means a use, building or structure that is normally incidental and/or subordinate, and is exclusively devoted to a main use and/or building and/or structure, and is located on the same lot therewith.
- 3.2 **"Animal"** means any canine, bovine, feline, swine, livestock, poultry or non-exotic animal residing at the same premises as a licensed operation.
- 3.3 **"Animal Control Officer"** means a person appointed or engaged by the Township for the purpose of animal control and includes a By-law Officer;
- 3.4 **"Annual License"** means a license to operate a business at one (1) designated location in the Township of Springwater for the duration of the licensing year and may for licensing purposes include a vehicle which travels from location to location in the Township.
- 3.5 **"Applicant"** means a person who is required to be licensed pursuant to this by-law or who has made application for a license to the Issuer of Licenses and shall include a licensee.

- 3.6 **“Approval”** means written approval unless otherwise specified.
- 3.7 **“Association”** means a group of persons joined together to carry on a common business that is not a partnership or corporation.
- 3.8 **“Auction”** means a sale in which bids on goods, articles, merchandise or effects are received by an Auctioneer and where each bid offers more than the last previous bid and where the good, article, merchandise or effect being put up for sale is sold to the highest bidder.
- 3.9 **“Auctioneer”** means any person selling or putting up for sale goods, wares, merchandise or effects by public auction and, without limiting the foregoing, may include livestock as shown in Schedule 5 attached.
- 3.10 **“Boarding”** means the taking in of domestic animals for a period of time for hire.
- 3.11 **“Breeding”** means the generating of offspring resulting in quality of bloodlines as in purebred.
- 3.12 **“By-law Enforcement Officer”** means a Municipal Law Enforcement Officer appointed by by-law for the purposes of carrying out inspections and the enforcement of municipal by-laws.
- 3.13 **“Business”** means any business wholly or partly carried on within a municipality, even if the business is being carried on from a location outside the municipality, and includes trades and occupations; exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise; the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader; and the display of samples, patterns or specimens of goods for the purpose of sale or hire.
- 3.14 **“Business Day”** means a day from Monday to Friday except a statutory holiday.
- 3.15 **“Campground”** means any parcel of land which is zoned for the siting of recreational vehicles, trailers and/or tents within the meaning of this By-law as shown in Schedule 2.
- 3.16 **“Complainant”** means a person who has filed a formal complaint under the provisions of this By-law.
- 3.17 **“Commercial Cooking Equipment”** means refreshment vehicles that are equipped with but not limited to all manners of cooking equipment, exhaust hoods, grease removal devices, exhaust ductwork, exhaust fans, dampers, fire extinguishing equipment and all other auxiliary or ancillary components or systems that are involved in the capture, containment and control of grease laden cooking effluent .

- 3.18 **“Council”** means the Council for The Corporation of the Township of Springwater.
- 3.19 **“Director”** means a person appointed or elected to the Board of Directors of a corporation.
- 3.20 **“Dog”** means any member of the species *Canis familiaris* and shall include a male or female, spayed or neutered dog over the age of twelve weeks.
- 3.21 **“Domestic Animal”** means a dog, cat, or other similar pet which is generally understood to be domesticated and is typically kept indoors at a residence.
- 3.22 **“Domestic Animal Boarding Kennel”** means any building, structure, run or facility or part thereof, used for the boarding for hire of more than one (1) domestic animal, but does not include a veterinarian clinic, (hereinafter referred to as “Boarding Kennel”).
- 3.23 **“Fee”** means a payment for services and remuneration paid for goods or other property.
- 3.24 **"Fire Official"** means the person who may, from time to time, be appointed by Council to the position of Fire Official/Chief or his designate.
- 3.25 **“Health Unit”** means the Simcoe Muskoka District Health Unit and includes any successor or assign.
- 3.26 **“Humane Society”** means the Ontario Society for the Prevention of Cruelty to Animals or any local branch of the Ontario Humane Society.
- 3.27 **“Inspector”** means a Township Building Inspector, Fire Inspector or Chief Building Official.
- 3.28 **"Issuer of Licenses"** means the Clerk or Deputy Clerk of the Township of Springwater.
- 3.29 **“Kennel”** means any building, structure, dog run or other facility, or part thereof, where:
- a) purebred dogs are kept for breeding or show purposes; or
 - b) dogs are kept solely for the purpose of routinely entering into competitive events;
 - c) hunting dogs are kept for hunting purposes; or
 - d) more than three (3) dogs are kept at any one time.
- 3.30 **“Kennel, Commercial Breeding”** means any kennel used for the keeping of eight (8) or more dogs, but does not include a veterinarian clinic.

- 3.31 **“Kennel, Hobby”** means any kennel used for the keeping of more than three (3) but less than eight (8) dogs, including taking in occasional dogs for sanctuary or shelter provided that documentation from the Humane Society confirms participation in an approved program but does not include a veterinarian clinic. In addition to the maximum number of dogs set out above, a maximum of two litters of pups up to twelve (12) weeks of age may be permitted in any licensing year.
- 3.32 **"License"** means a business license issued pursuant to the provisions of the appropriate Schedules of this by-law.
- 3.33 **“License Fee”** means the appropriate fee for the license as set out in Appendix “B” of this by-law.
- 3.34 **"Licensee"** means a person who has been issued a license pursuant to this by-law either in the current calendar year or in a previous calendar year and shall include an applicant.
- 3.35 **“Licensing Year”** means the period from January 1st to December 31st of each given year unless otherwise stated in the attached schedule.
- 3.36 **“Occupant”** means any person who pays for the use of a campground site.
- 3.37 **“Operator”** means a person who operates a business within the Township of Springwater.
- 3.38 **“Owner”** means the registered owner of a property located within the Township of Springwater.
- 3.30 **“Officer”** means a person appointed by the board of directors of a corporation to hold an office of management in a corporation such as president, vice-president, treasurer or secretary.
- 3.40 **“Park Model Trailer”** means a recreational trailer that meets the following criteria:
- a) built on a single chassis, mounted on wheels;
 - b) designed to facilitate relocation from time to time;
 - c) designed as living quarters for seasonal camping and may be connected to those utilities necessary for operation of installed fixtures and appliances; and
 - d) has a gross floor area, including lofts, not exceeding 50 m² (538.21 ft.²) when in the setup mode and having a width greater than 2.6 m (8.53 ft.) in the transit mode. 28.153
- 3.41 **“Park Model Trailer Add On”** means a pre-manufactured structure designed for use as a sunroom or porch, which is for the most part unenclosed on at least three sides, except for screening, clear glass or lower skirting or bottom panels

and is intended or used for additional living area but is not intended or used for the purpose of cooking or sleeping accommodation.

- 3.42 **"Person"** means a member of the public, an association, firm, partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.
- 3.43 **"Planning Act"** means the Planning Act R.S.O. 1990, c.P13, as amended from time to time.
- 3.44 **"Police Officer"** means officer who is a member of the Ontario Provincial Police or such other police force as may be contracted from time to time to service the Township.
- 3.45 **"Premise"** means land and includes any and all buildings or other structures thereon and includes any vehicle or conveyance used in the operation of the business and premise shall have the same meaning.
- 3.46 **"Purebred"** means any dog that is registered or eligible for registration with an association incorporated under the Animal Pedigree Act (Canada) or any other similar National Association;
- 3.47 **"Recreational Facility"** means an indoor or outdoor recreational facility used for a commercial operation.
- 3.48 **"Refreshment Vehicle"** means a motorized vehicle from which refreshments are sold, which may be on construction sites to sell food and drink to workers on site, and which does not solicit business in commercial or residential areas but not limited to french fries, hot dogs, hamburgers, sausage, fish, chicken, ice cream, beverages and similar items are sold or offered for sale, and without limiting the foregoing, are commonly known as a chip wagon/fry truck, coffee truck, hot dog cart or any other food trailer, including a mobile barbeque facility.
- 3.49 **"Refreshments"** means, but shall not be limited to, such items as french fries, hot dogs, hamburgers, sausage, fish, ice cream, beverages and similar items which can be sold from a vehicle which conforms with the requirements of this By-law and any other regulations that any other agency or Ministry may impose.
- 3.50 **"Restaurant"** means a building or part of a building where food is offered for sale or sold to the public for immediate consumption on the premises.
- 3.51 **"Renewal"** means the issuance of the same class of license to the same person for the subsequent licensing period.
- 3.52 **"Service"** means to provide or perform work done and benefit conferred upon another for a fee and profit.

- 3.53 **“Settlement Area”** means urban or rural settlement areas within the municipality that are built up areas where development is concentrated and which have a mix of land uses; and lands which have been designated for development in an Official Plan. In cases where growth areas have not been designated by the Provincial or County Planning Policies, the settlement area may be no larger than the area where development is concentrated.
- 3.54 **"Shareholder"** and any words referring to the holding of shares includes all persons having a beneficial interest of any kind in the shares of the corporation.
- 3.55 **"Springwater"** means The Corporation of the Township of Springwater.
- 3.56 **“Structure”** means anything constructed or erected, the use of which requires location on the ground, or which is attached to something having location on or in the ground.
- 3.57 **“Temporary Event License”** means a license to operate a refreshment vehicle at an event for a period of not more than 72 hours for one time only in any licensing period, in the same location.
- 3.58 **"To Provide"** means to sell, offer to sell or display for sale, by retail or otherwise including renting or barter for trade any good or service.
- 3.59 **"Township"** means The Corporation of the Township of Springwater.
- 3.60 **“Transient Trader”** means a person operating a business or conducting any commerce or trade, or offering for sale of any good or service on a temporary, intermittent or one time basis on any road allowance, municipally owned property, private property, or other public space.
- 3.61 **“Travel Trailer”** means a recreational trailer, other than a Park Model Trailer, intended as temporary seasonal living accommodations, including structures commonly referred to as travel trailers, motor homes, slide in campers, chassis mounted campers and tent trailers having the following features: an overall length not exceeding 12.5 m (41.01 ft.); and an overall width not exceeding 2.6 m (8.53 ft.). Width shall mean the sum of the distance from the vehicle centre line to the outer most projections on each side when the vehicle is folded or condensed for transit.
- 3.62 **“Vehicle”** means a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car.
- 3.63 **“Zoning Administrator”** means a person or delegate appointed by Council from time to time for the purposes of administering the Township’s Zoning By-law(s).

3.64 **“Zoning By-law”** means the most current comprehensive zoning by-law in force in the Township or portions thereof, as amended and passed, pursuant to the *Planning Act*, R.S.O. 1990, c. P. 13 (the “*Planning Act*”).

4. INTERPRETATION

4.1 Sections 1 through 14 of the By-law are intended to be the general sections applicable to all businesses which are licensed by the municipality. Each Schedule contains specific regulations which apply to named categories of businesses. The provisions set out in the schedules relating to a specific business category shall form part of this by-law and shall be deemed to be in addition to the provisions set out in sections 1 through 14.

4.2 Words used in the singular shall have corresponding meanings when used in the plural.

4.3 "May" shall be construed as permissive.

4.4 "Shall" shall be construed as imperative.

4.5 Unless the contrary intention appears in this by-law, words importing the masculine gender only shall include females as well as males and the converse.

4.6 Where any expression of time occurs or where any hour or other period of time is stated, the time referred to shall be standard time, provided however, if what is known as "daylight saving time" has been generally adopted in the regional area for any period of the year such time shall be the time referred to during such period in any reference to time in this by-law.

5. GENERAL PROVISIONS

5.1 Licenses

No person shall carry on, conduct, operate, maintain, keep or engage in any business set forth in this by-law, without first having obtained a license from the Issuer of Licenses.

5.2 Application for License

a. Any person wishing to obtain a license shall submit the following to the Issuer of Licenses:

- i. A completed application in the form set out as Appendix "A" of this by-law, titled Business License Application;
- ii. The required license fee as shown in Appendix "B" of this by-law; and

- iii. Proof of valid insurance and any other documentation which may be listed on the License Application form.
 - b. If the applicant is a corporation, partnership or association, the applicant shall file with the application the full name of every director, officer, partner, shareholder or other person having an interest in the shares of the corporation. As a condition of the license, the applicant shall inform the Township of any changes to the shareholder information to ensure that the Township's files are current at all times.
 - c. The Issuer of Licenses shall not issue a license until the application and license fees have been paid and all inspections and requirements have been met.
 - d. The Township retains the right to review all license fees on an annual basis.
 - e. If one applicant operates more than one business at the same location he shall submit one application form for each business to be conducted at the location. Upon review of the application, the Issuer of Licenses shall determine whether more than one license fee must be paid, and what the most applicable fee is in a "multi-business" situation.
 - f. Upon receipt of an application the Issuer of Licenses shall undertake any investigations that, in their opinion, are necessary to assess the application. All costs incurred in such investigations shall be at the applicant's expense.
 - g. The applicant shall be responsible for obtaining all necessary inspections and approvals as set out in this by-law, at their own expense, in addition to the licensing fee.
 - h. The Township may refuse to issue or renew a license if the property taxes or utility accounts for the premises at which the licensed business is located are unpaid, or if any outstanding monies are owing to the Township for services provided to or on the subject property.
 - i. The Township retains the right to refuse to issue or renew a license, or suspend or revoke an existing license if the owner or applicant is in contravention of any other municipal by-law. The license may be issued or reinstated once compliance has been met.
- 5.3 Upon receipt of a completed application and the appropriate fees for a license, the Issuer of Licenses shall:
- a. Make any enquiries with any municipal official or employee who has conducted inspections relative to the business under application;
 - b. Receive reports from such municipal officials and employees as may be deemed necessary;

- c. Inquire into all relevant matters in order to ascertain if the applicant is entitled to a license under the provisions of this by-law;
- d. Ensure that all other provisions of this by-law have been complied with by the applicant prior to the issuance of any such license.

5.4 **Accessibility**

The Township may refuse to issue a license unless the proposed business complies with the Township's Accessibility Plan.

5.5 **Insurance**

No application for a license shall be approved until the applicant provides proof of current and valid liability insurance for the term of the license in the amount set out in the appropriate Schedule to this by-law. *The Certificate of Insurance shall name Springwater as additionally insured.*

- a. Notwithstanding certain sections of the Schedules to this by-law, the Issuer of Licenses may, at their discretion, require or permit a business to obtain an amount of liability insurance other than the amount set out.

5.6 **Application for License Renewal**

Each business requiring a license shall be required to obtain a new license each year. No business license shall be extended beyond one year from the date of issue.

Annual renewal of a license issued in a previous year is not guaranteed, and each licensed business shall submit the following to the Issuer of Licenses annually:

- a. A renewal application set in the form in Appendix "A" of this by-law;
- b. A site plan showing any changes that have been made to the business or the property since issuance of the last license;
- c. The required license fee shown in Appendix "B".

5.7 If the Issuer of Licenses receives an application for renewal of a license previously granted under this by-law and the appropriate license fee, he shall:

- a. Ensure that all required inspections and approvals have been obtained;

- b. Make inquiries into all relevant matters in order to ascertain if the applicant is entitled to obtain a renewed license under the provisions of this by-law;
- c. Inquire into any and all relevant changes in circumstances since the previous license was issued to the applicant;
- d. Make any inquiries of any municipal official, employee or other agency who has carried out inspections or investigations relative to the business under application;
- e. Receive reports from such municipal officials, employees or other agencies as may be deemed necessary, prior to the issuance of any such renewal license;
- f. Ensure that neither the applicant nor licensee has any unpaid fines imposed under the *Provincial Offences Act* for the contravention of the section of this by-law under which the license was granted;
- g. Ensure that all property tax and utility payments are up to date on the premises at which the licensed business will be located; and
- h. Receive evidence that the applicant has obtained liability insurance in the amount set out in the appropriate schedule to this by-law and ensure that the Certificate of Insurance shall name Springwater as additionally insured.

5.8 If all necessary inspections and approvals have been obtained and if the Issuer of Licenses is satisfied that the applicant is entitled to the renewal of a license, the Issuer of Licenses shall prepare and issue a renewed license to the applicant.

5.9 **Form of License**

Every license shall contain the following:

- a. The operating name of the business or person to whom the license is issued;
- b. The operating address of the premises or location for which the license is issued;
- c. The category of license granted;
- d. The date of issuance;
- e. The date of expiration;
- f. The signature of the Issuer of Licenses or designate.

5.10 Lost or Destroyed

In the event that a license issued under this by-law is lost or destroyed the applicant shall:

- a. Submit proof of such loss or destruction to the satisfaction of the Issuer of Licenses;
- b. Submit payment of the replacement fee of five dollars (\$5.00); and
- c. Upon receipt of the aforementioned, the Issuer of Licenses shall issue a duplicate license with the word "duplicate" stamped or marked on it.

5.11 Change of Name, Ownership or Location

Upon change of ownership of the licensed business every licensee shall return and surrender his current license to the Issuer of Licenses. The new owner shall make application for a new license as outlined in Section 5.2 of this by-law. For the purpose of this section, a change in beneficial ownership of a licensed business that is a corporation shall be deemed to have occurred if a majority of the shares of the corporation are transferred.

A license is not transferable to a new location even if there is no change in the business or the owner. The applicant must apply for a new business license pursuant to Section 5.2 and shall surrender the license issued to the business at the previous location, to the Issuer of Licenses.

5.12 Licenses Personal

No person shall have a vested interest or property right in any license or the continuance of any license. All licenses remain the property of the Township.

5.13 Nuisance Abatement

In addition to any other provisions or requirements of this by-law every licensee shall:

- a. At all times maintain and keep safe, clean and in good condition and repair any object, amusement, vehicle, place or premises for which the license is issued;
- b. Not cause, suffer, or permit any breach of any by-law of the corporation or of any local board thereof, or of any statute, order-in-council, or regulation of the legislature of the Province of Ontario or the Parliament of Canada or of any agency, board or commission of either of them, in, upon, or in connection with the object, amusement, place or premises for, or in relation to which such license was issued;

- c. Not cause, suffer or commit any nuisance to arise in, on, or in connection with the object, amusement, vehicle, place or premises for which the license was issued;
- d. Not cause or permit any shouting, noise or other disturbance on, in, or in connection with the object, amusement, vehicle, place or premises for which the license was issued, which is, in the opinion of the Township, unnecessary, unreasonable or contrary to any municipal by-law prohibiting the same;
- e. Not cause or permit any obstruction on any highway, lane or public place near or adjoining the place or premises for which the license was issued; and
- f. Not cause or permit any profane, offensive or abusive language or disorderly conduct in, on, or in connection with any vehicle, place or premises for which the license was issued.
- g. Not obstruct the flow of vehicular traffic or obstruct any site lines of vehicular traffic.

5.14 Every person who acquires a license that is issued under this by-law is responsible for the due performance and observance of all the provisions of this by-law by himself and by his employees and all other persons in, or upon the licensed premises.

5.15 **Inspection**

- a. The Issuer of Licenses or designate, including but not limited to, the Fire Official, Health Officials, Conservation Officers, Fire Fighters, Provincial Offences Officers, Municipal Law Enforcement Officers, Police Inspectors or Police Officers, Tobacco Enforcement Officers, or any agent, servant or employee of such servants as designated by Council, may at all reasonable times, inspect or cause to be inspected the premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the carrying on of a licensed business or a business being carried on without a license, contrary to this by-law.
- b. If a license issued under this by-law applies to an occupation every person obtaining a license shall carry the license with him when engaged in the occupation for which the license is issued, and every person so licensed shall, produce the license for inspection when so requested by any person authorized to do so.
- c. Every person obtaining a license where the license applies to the premises, shall keep his license posted in a conspicuous place on the premises in respect of which the license is issued and every person so

licensed shall, when requested by any person authorized by the Township, produce the license for inspection.

5.16 Suspension or Refusal to Grant a License

- a. The Issuer of Licenses may refuse to issue a license to any applicant who, in the Issuer's opinion, should not be granted a license because of past breaches of this by-law or a failure to comply with the requirements of this by-law or other applicable by-laws of the Township, or of any local board thereof, or of any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, Board or Commission thereof, in, upon or in connection with the business of the premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the business.
- b. The Township of Springwater retains the right to suspend a license issued under this By-law if the municipality is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person, animal, or to any property. The municipality may, for the time and on such condition as it considers appropriate, without a hearing, suspend a license subject to providing the licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them. Such suspension shall not exceed 14 calendar days.
- c. Notice of suspension or revocation of any license may be given by registered letter mailed to the address on the license. Receipt of such notice is deemed to occur at the time of mailing the notice and the license shall terminate two business days after receipt of notice.
- d. Upon revocation and/or suspension of a license the licensee shall:
 - i. Return all certificates issued with reference to such license;
 - ii. Permit any officer to enter the premises, vehicle or other property of the licensee for the purpose of receiving or taking the certificates; and
 - iii. In no way hinder, prevent or obstruct an officer from carrying out his duties.
 - iv. Cease operation of the business immediately.

5.17 Notice and Appeal

- a. If the Issuer of Licenses refuses to issue, or revokes a license, the said Issuer of Licenses shall notify the applicant and/or owner of the property in writing of the decision. The notice shall set out the grounds for the refusal

and shall state that the applicant or licensee may appeal the decision by filing an appeal with the Clerk of the Township within ten (10) business days of receiving the notice.

- b. Upon receipt of an appeal from the applicant the Clerk and Council shall follow the hearing procedure set out in this by-law.
- c. After conducting the hearing the Council may grant a license, refuse to grant, revoke or suspend a license, and may make any suspension of license subject to such terms or conditions as Council may prescribe. The decision of Council is final and binding upon the applicant or any license.
- d. In making its determination, Council may have regard for the following:
 - i. Whether the applicant or licensee and the premises, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business comply with all requirements of this by-law;
 - ii. Whether the applicant or licensee has failed to promptly remedy any concern with regard to those matters set out in this by-law or has committed past breaches of this by-law;
 - iii. Whether the applicant or licensee has failed to comply with any requirements of any other applicable by-law of the Township or any local board thereof or of any statute, order-in-council or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, Board or Commission thereof, in, upon or in connection with the business or the premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the business;
 - iv. Whether the applicant or licensee has any fines (due and unpaid for fifteen days or more) imposed under the *Provincial Offences Act* for the contravention of the applicable section of this by-law under which the license was granted;
 - v. Whether all property taxes due on the premises used in connection with the business or owned by the applicant have been paid; and
 - vi. Whether all water and/or sewer accounts due on any premises used in connection with the business or owned by the applicant have been paid have been paid.
 - vii. Whether the applicant or property owner has any outstanding fines or fees owing to the Township.

- viii Whether the owner or applicant is currently in contravention of any other municipal by-law.
- ix. Whether there is reason to believe that the conduct of the Licensee affords reasonable grounds for belief that the person will not carry on or engage in the business in accordance with the law, or with honesty or integrity.

5.18 Hearing Procedure

The Clerk shall fix a date and time for such matter to be considered by Council and shall mail a Notice of Hearing to the licensee (at the last address as shown in the records of the Issuer of Licenses or the current year's assessment roll) and to any other person who has applied to be heard with regard to the matter.

- a. Notice shall be mailed at least fifteen (15) days prior to the date and time fixed for the hearing.
- b. At the hearing Council shall receive a report, either verbally or in writing, from the Issuer of Licenses and from such other officers and employees of the Township as required by Council.
- c. At the hearing the licensee, either personally or through an agent or solicitor, shall be afforded an opportunity to present material and evidence relevant to the issue before Council, and may ask questions of any person presenting evidence or a report to Council relevant to the issue.
- d. Council may afford any other person who applied to be heard and who, at the discretion of Council, has an interest in the matter under discussion, may be granted an opportunity to present material and evidence relevant to the issue before Council and to ask questions of any person presenting evidence or a report to Council relevant to the issues.
- e. A quorum of Council shall be a majority of the whole number of the members of Council. A decision by a majority of Council shall be final.
- f. After having heard all of the evidence and submissions made by the applicant/licensee and the Issuer of Licenses, Council may resolve into Closed Session to debate the matter and make a decision.
- g. The decision made by Council in Closed Session shall be confirmed in open Council by Resolution immediately following the Closed Session, and a certified copy of such resolution shall be mailed to the licensee, to any person who has appeared before Council and requested that a copy of the resolution be provided to them, and to the Issuer of Licenses.

5.19 General

- a. No person shall engage in, or continue to conduct, or permit any person to engage in or continue to conduct, a business for which a license is required under this by-law while such license is suspended, revoked or expired.
- b. Every person engaging in any business for which they are required to be licensed by the provisions of this by-law shall be responsible to comply with all the terms of this by-law.
- c. For the purposes of this by-law, a business shall be deemed to be carried on within the municipality if any part of the business occurs within the municipality, even if the business is carried on from a location outside the municipality.
- d. In addition to the authority provided in the *Municipal Act*, and subject to the *Theatres Act* and the *Retail Business Holidays Act*, the Council of a local municipality may pass by-laws for the licensing, regulating and governing any business carried on within the municipality.

7. **ADMINISTRATION**

This by-law shall be administered by the Clerk as the Issuer of Licenses, or their duly authorized representative

8. **VALIDITY**

Should any section, subsection, clause, paragraph, schedule or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole.

9. **ENFORCEMENT**

This by-law shall be enforced by Township's By-Law Enforcement Officers and the Huronia West Detachment of the Ontario Provincial Police.

10. **OFFENCES AND PENALTIES**

10.1 Any person who contravenes any provision of this by-law unless otherwise provided herein is guilty of an offence.

- 10.2 Each day that a breach of this by-law continues shall constitute a separate offence.
- 10.3 Where an owner is convicted of knowingly carrying on or engaging in a trade, calling, business or occupation on, in, or in respect of any premises or part thereof without a license required by a by-law passed under the Municipal Act, 2001, the Court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.
- 10.4 Where a person is convicted of a contravention of a by-law passed under Sections 15 through 165 of the Municipal Act, 2001, the Court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

11. **FORCE AND EFFECT**

- 11.1 This by-law shall come into force and take effect on and from the day it is finally passed by Council and unless earlier revoked.
- 11.2 Any license already issued for 2008 shall remain in effect under the by-law under which it was issued.
- 11.3 Any new license issued between the date of the passing of this by-law and the end of 2008 shall be subject to the provisions contained within this by-law.
- 11.4 Every license issued under this by-law shall expire at 12:00 midnight on December 31 of the year for which the business license was issued.

12. **APPLICATIONS**

- 12.1 Any person providing false information in any application pursuant to this by-law is guilty of an offence.
- 12.2 Any person who is issued a license pursuant to this by-law shall report any change in information to the Issuer of Licenses within fifteen (15) business days of such change.
- 12.3 The granting of a license shall not in any way, be deemed to be a waiver by the Township of compliance with any other applicable by-laws of the Township or any other legislation.

13. **EXISTING BY-LAWS**

- 13.1 Nothing in this by-law shall override the provision of The Township of Springwater Zoning By-law.

13.2 By-laws 2001-005, 2001-025, 2005-072, 2006-002 and 2006-031 are hereby repealed and replaced.

14. **EFFECTIVE DATE**

This by-law shall come into force upon the final passing thereof.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME and finally passed this First day of December 2008.

Tony Guergis, Mayor

Carol O. Trainor, Clerk

SCHEDULE "1"

KENNEL & BOARDING KENNEL LICENSES

1. APPLICATION REQUIREMENTS

1.1 Commercial Breeding Kennel

Every Owner applying for a License for a Commercial Breeding kennel shall submit the following documentation to the Issuer of Licenses:

- a) Proof of active membership in the Canadian Kennel Club or any other Association incorporated under the Animal Pedigree Act (Canada) or any other similar National Association; proof of registration with a recognized Canadian breeding organization; or licenses issued by a Government agency; and
- b) Written clearance from the Ontario Society for Protection of Cruelty to Animals (O.S.P.C.A.) or a Veterinarian assuring compliance with Section 4 of this Schedule, with any associated costs borne by the applicant; and
- c) A site plan drawn to scale showing the location of all buildings or structures on the subject property, including the location of all buildings or structures to be used for Kennel purposes. The site plan must also specify the distance which separates the Kennel buildings, structures, dog runs and facilities from all property lines and all buildings, including any residential buildings situated on the adjacent properties. In addition to the foregoing, new Commercial Breeding Kennels require Site Plan Approval under the Planning Act; and
- d) A list of all dogs to be kept at the subject property, including both purebreds and non-purebreds, and valid verification of current rabies vaccination in compliance with the *Health and Protection Act*, Rabies Immunization, Regulation 567 R.R.O. 1990, as amended for each dog on the premises; and
- e) As applicable, the Commercial Breeding Kennel License Fee as set out in Appendix "B" of this by-law; and
- f) Sworn Declaration by the Owner that they have never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty; and
- g) Proof of insurance by way of a Certificate of Insurance showing a minimum limit of \$2,000,000 (Two Million Dollars) in General Liability naming the Township as additionally insured; and
- h) In the case of an application by a new owner, clearance from the Department or agency responsible for septic system approvals that the waste will be handled

with a Class 1 septic system in accordance with the Ontario Building Code or an approved alternative. Such clearance is not required for any annual renewal thereafter.

1.2 *Hobby or Domestic Animal Boarding Kennel*

Every Owner applying for a License for a Hobby or Boarding Kennel shall submit the following documentation:

- a) A site plan drawn to scale showing the location of all buildings or structures, on the subject property, including the location of all buildings, structures, dog runs or facilities to be used for a Hobby or Boarding Kennel. The site plan must also specify the distance which separates the Kennel from all property lines and all buildings, including any residential buildings situated on the adjacent properties. All Boarding Kennels require Site Plan Approval under the Planning Act; and
- b) Written clearance from the O.S.P.C.A. or a Veterinarian assuring compliance with Section 4 of this Schedule and including concurrence with the proposed site plan, with any associated costs borne by the applicant; and
- c) Hobby or Boarding Kennel License Fee as set out in Appendix “B” of this by-law; and
- d) Sworn declaration by the Owner that he has never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty; and
- e) Proof of insurance by way of a Certificate of Insurance showing a minimum limit of \$2,000,000 (Two Million Dollars) in General Liability naming the Township additionally insured; and
- f) Clearance from the Department or agency responsible for septic system approvals that the waste will be handled with a Class 1 septic system in accordance with the Ontario Building Code or an approved alternative. Such clearance is not required for any annual renewal thereafter.
- g) A list of all dogs to be kept at the subject property, including both purebreds and non-purebreds, and valid verification of current rabies vaccination in compliance with the Health and Protection Act, Rabies Immunization, Regulation 567 R.R.O. 1990, as amended for each dog on the premises.

2. Processing of Applications

2.1 Prior to the issuance of any License, the Issuer of Licenses shall obtain municipal clearance from:

- a) the M.L.E.O. that there are no outstanding by-law infractions; and

- b) that a site inspection has been conducted to verify the information on the site plan and, in the case of a Kennel, the number of dogs at the subject Kennel.
- 2.2 The Zoning Administrator that the site plan and type of Kennel meets the applicable zoning requirements and is in compliance with the approved Site Plan under the Planning Act where applicable.

3 Changes to Site Plan

- 3.1 After the issuance of a License, the Owner shall apply in writing to the Issuer of Licenses for approval of any changes which would alter the Site Plan filed with the License application. Said application for changes shall include a revised site plan and where applicable, an application under the Planning Act.
- 3.2 Upon receipt of a revised site plan, the Issuer of Licenses shall obtain the municipal clearances as set out Section 1 of this Schedule and may consult with the Humane Society or Veterinarian if deemed appropriate.
- 3.3 Upon receipt of a revised site plan, the Issuer of Licenses may consult with the from the Department or agency responsible for septic system approvals to ensure that the waste will be handled with a Class 1 septic system in accordance with the Ontario Building Code or an approved alternative, if deemed appropriate.
- 3.4 Upon receipt of a revised site plan, the Issuer of Licenses shall consult with the Zoning Administrator, if the plan is amended under the Planning Act.
- 3.5 Notice of approval or refusal of a site plan change shall be given by the Issuer of Licenses in writing by registered mail or personal delivery. In the event that the site plan is under the Planning Act, notice shall also be given to the Zoning Administrator.
- 3.6 In the event that the revised site plan is refused, the Owner may apply for a hearing before Council following the procedures set out in this By-law. In the event that the site plan is under the Planning Act, the Applicant's right to appeal is set out under that Act.

4. Minimum Standards

- 4.1 All Kennels and Boarding Kennels shall comply with the following minimum standards:
 - a) Every Kennel or Boarding Kennels shall be of sufficient space to allow the dogs or domestic animals kept therein to stand erect and be comfortable, and shall have no less than 2.3 square metres (25 sq. ft.) of floor area per dog or domestic animal which may be increased in accordance with the size of the dog or

decreased in accordance with the size of any other domestic animal using reasonable judgement and approved by the Humane Society or Veterinarian; and

- b) Each dog run shall have a minimum floor area of 3.0. square metres (32 sq. ft.). In the case of runs for domestic animals, the minimum floor area may be decreased in accordance with the size of the intended domestic animal using reasonable judgement and approved by the Humane Society or Veterinarian; and
- c) Every Kennel or Boarding Kennel shall provide an adequate constant supply of potable water for each animal's consumption; and
- d) Every Kennel or Boarding Kennel shall be kept in a sanitary, well-ventilated condition and free from offensive odours, disease and vermin. Animal faeces shall be removed daily; and
- e) The Owner of a Kennel or Boarding Kennel shall maintain at all times compliance with the Township Waste Control By-law, the Health Protection and Promotion Act and/or other applicable legislation governing waste disposal; and
- f) No owner of a Hobby Kennel shall own, harbour or possess more than 7 dogs on the Licensed property; and
- g) No owner of a Commercial Breeding Kennel shall own, harbour or possess more than 30 dogs on the Licensed property.

5. Confinement and Control of Domestic Animals

5.1 All dogs or domestic animals shall be confined inside the Kennel or Boarding Kennel building during the hours of 10:00 p.m. to 7:00 a.m.

5.2 The Owner of a Kennel or Boarding Kennel shall maintain control of all dogs or domestic animals under his care at all times.

5.3 The Owner of a Kennel or Boarding Kennel shall maintain compliance with the Township By-laws at all times.

6. Restrictions on Dwelling Units

- 6.1 No person shall attach a Commercial Breeding Kennel or Boarding Kennel to any dwelling unit
- 6.2 No person shall locate a Commercial Breeding Kennel or Boarding Kennel within any part of any dwelling unit.

6.3 No person shall use part of any building or structure enclosing a Commercial Breeding Kennel or Boarding Kennel for human habitation.

7. Complaints

7.1 In the event that a complaint is received by the Issuer of Licenses that the Owner is not in compliance with the Minimum Standards set out in Section 4 of this Schedule:

- a) The Animal Control Officer shall be directed to investigate the matter and report to the Issuer of Licenses; and
- b) Upon receipt of the Animal Control Officer's Report, the Issuer of Licenses may, at the Owner's expense request that the Humane Society or Veterinarian reinspect and provide a current/valid approval; and
- c) Upon receipt of the Animal Control Officer's Report, the Issuer of Licenses may, at the Owner's expense, request that the Department or other agency responsible for public health and/or septic system approvals provide current/valid approval; and
- d) In the event that the Owner is found in contravention of the Township Waste Control By-law, the *Health Protection and Promotion Act*, or other applicable legislation governing waste disposal, the governing agency may take whatever action is deemed appropriate under the provisions of the applicable Act; and
- e) In the event that the Owner is unable or unwilling to obtain a current/ valid approval from the Humane Society or Veterinarian, or Department or other agency or department responsible for public health and/or septic system approvals, where applicable, the Issuer of Licenses shall revoke the License under this By-law.

7.2 In the event that a complaint is received by the Issuer of Licenses that the Owner is not in compliance with the Confinement and Control provisions set out in Section 5 of this Schedule:

- a) the Animal Control Officer shall be directed to investigate the matter and report to the Issuer of Licenses; and
- b) In the event that the Owner is found in contravention of the Dog Control By-law, the Animal Control Officer may take whatever action is deemed appropriate under the provisions of the applicable by-law; and

- c) In the event that the Owner is unable or unwilling to comply with the provisions of Section 5, the Issuer of Licenses shall retain the right to revoke the License under this By-law.

7.3 An Animal Control Officer:

- a) Has the power to enter upon and examine any building, structure, run or facility, or part thereof, used for Kennel or Boarding Kennel purposes at reasonable time or times without notice; and
- b) Shall, in the case of a Hobby Kennel located within or as part of a residential unit, obtain the Owner's permission, such permission not to be unreasonably withheld; and
- c) May be accompanied by such other person or persons as they deem necessary to properly carry out their duties under this By-law; and
- d) Shall request proof of CKC membership at any time if deemed necessary; and
- e) Shall request the OSPCA to inspect the kennel at the expense of the owner if deemed necessary.

7.4 In the event that a complaint is processed under Section 7, the owner shall, in addition to the License Fee, pay the following:

- a) For the first complaint in a licensing year, no additional fee; and
- b) For the second or subsequent complaint in a licensing year where the first complaint was determined to be valid, a user fee of \$120 per complaint for administrative and inspection services plus a \$60 re inspection fee; and
- c) For the second or subsequent complaint in a licensing year where the first complaint was determined to be invalid, no additional fee and the user fee of \$120 per complaint shall be paid in advance by the complainant.

7.5 In addition to the offense provisions of this By-law, the Township will be seeking any costs associated with the prosecution of a complaint or breach of this By-law and Schedule.

8. Refund of License Fee

8.1 Upon receipt of a written request by the applicant the Issuer of Licenses may issue a refund of all or a portion of the License Fee on the following basis:

- a) In the event that an application for a Kennel or Boarding Kennel License is refused, the refund shall equal the enforcement portion of the License Fee; and

- b) In the event that the Zoning application is refused for a new Hobby Kennel, Breeding Kennel or Boarding Kennel, the refund shall equal the Total License Fee; and
- c) In the event that an application for a new Hobby Kennel does not meet the zoning requirements, the refund shall equal 50% of the Total License Fee; and
- d) In the event that an application for a new Commercial Kennel or Boarding Kennel is withdrawn together with the applications for both zoning and site plan, the refund shall equal 50% of the Total License Fee; and
- e) In the event that a License has been issued or the application is for a renewal, no refund will be given.

9. General

9.1 Exemption from Dog Tags and 3 Dog Limit

Upon the issuance of a License under this By-law, the Owner shall be exempt from the purchase of dog tags under the Dog Licensing and Control By-law for all dogs in a Kennel or dogs in a Boarding Kennel. Notwithstanding the foregoing, the Owner of a Boarding Facility shall not be exempt from the purchase of dog tags or the 3 dog limit in respect of any dogs owned by the Owner unless the Owner holds a valid Kennel License for the subject property. The three dog limit shall apply where the boarding of one (1) domestic animal is permitted and no Boarding Kennel License is required.

9.2 Pit Bulls Banned

No license shall be issued for the breeding of Pit Bulls or any associated breeds as defined in the *Dog Owners' Liability Act, R.S.O. 1990* as amended.



The Corporation of The Township of Springwater
1110 Highway 26
Simcoe County Administration Centre
Midhurst, ON L0L 1X0

Appendix "A" to Schedule 1 Hobby, Boarding or Commercial Breeding Kennel License Application

This application is for: New Application Renewal
Hobby Kennel Boarding Kennel Commercial Breeding Kennel

Section 1:

Owner: _____
Owner's Mailing Address: _____
_____ Postal Code: _____
Name of Kennel: _____
Mailing Address of Kennel (if different): _____
Business Telephone No: _____ Home Telephone No: _____
Fax No: _____ Email or website _____

Section 2: Complete the following if more than one registered owner with a different address. Attach separate sheet if necessary.

Owner 2: _____
Owner Address: _____
Business Telephone No: _____ Home Telephone No: _____
Fax No: _____
Email or website: _____

Section 3:

Legal Description of Property on which Kennel/Boarding Facility is to be operated on:
Lot: _____ Concession: _____
Plan: _____ Zoning: _____

Section 4: Site Plan Required for New Applications or for Renewal with changes

Site Plan Attached to Application: Yes No
No changes, site plan previously submitted

*If NO, please note that under the licensing by-law a site plan drawn to scale must be submitted showing the location of all buildings and structures on the subject property, including the location of all fencing, dog runs or facilities to be used for kennel/ boarding purposes. The site plan must also specify the distance separating the kennel buildings, structures, dog runs and facilities from all property lines and all buildings, including residential buildings situated on adjacent properties and any roadways. In addition, all new Boarding Kennels or new Commercial Breeding Kennels require Site Plan approval under the Planning Act.

Section 5: Professional Affiliation of Owner (or Operator)

Canadian Kennel Club: Yes No C.K.C. No. _____

Other (specify): _____

In the case of a kennel for purebred dogs, proof of active membership in the Canadian Kennel Club or any other Association incorporated under the Animal Pedigree Act (Canada) or any similar National Association must be submitted to the Issuer of Licenses at the time of application.

Section 7: Proof of Insurance

Certificate of Insurance Attached Yes No ****

**** Proof of Insurance by way of a valid and up to date Certificate of Insurance showing a minimum limit of \$2,000,000 (Two Million Dollars) in General Liability adding the Township of Springwater as additional insured must be submitted with all applications

Section 8: Clearance for License by O.S.P.C.A. or Veterinarian

I _____ have inspected the subject property and facilities (or acceptable approval letter) and hereby certify that the application meets the Minimum Standards as set out in Schedule 1 of the Business Licensing By-law.

Ontario S.P.C.A. or Veterinarian

Date

Section 9: Fee

Applicable License Fee attached: Yes No

Licenses will not be issued until the applicable license is paid in full.

Section 10: Applicant's Signature Required

Every License issued pursuant to this Schedule shall expire on the 31st day of December in the year issued.

Applicant's Signature: _____ Date: _____

Received by: _____ Date: _____

License Fees

Every application shall be accompanied by the applicable license fee as follows:

HOBBY KENNEL	\$200.00
BOARDING	\$200.00
COMMERCIAL BREEDING KENNEL	\$300.00

Section 6: COMPLETE THE LIST BELOW FOR ALL DOGS BEING KEPT ON YOUR PROPERTY

	Name	Breed	Age	CKC or other Registration	Proof of Current Rabies Vaccination
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
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22					
23					
24					

25					
26					
27					
28					
29					
30					

Section 11: Administrative Use Only

Municipal Clearance Received from:

1. _____
Zoning Administrator _____ Date _____

2. _____
M.L.E.O. _____ Date _____

3. _____
Treasurer _____ Date _____

Kennel License No. _____ **issued by:**

_____ Date _____
Issuer of Licenses

Section 12: Administrative Use Only – Refusal or Revocation of License

Kennel License No. _____ has been refused/revoked/suspended due to the following reasons:

_____ Date _____
Issuer of Licenses

This application may contain "Personal Information" as defined under the Municipal Freedom of Information and Protection of Privacy Act. This information is collected pursuant to the Municipal Act, 2001 as amended. It will be used by the Township of Springwater to process this application to determine whether to issue a license, for administration of such license and for law enforcement purposes to ensure compliance with all applicable statutes, regulation and by-laws. Questions about his collection should be directed to the Issuer of Licenses, 1110 Highway 26, Midhurst, ON L0L 1X0 T705-728-4784, Ext. 2015

APPENDIX "B"
To By-law 2008 - 118

SCHEDULE OF FEES

CATEGORY	SCHEDULE	FEE
Hobby or Boarding Kennel	1	\$200.00
Commercial Breeding Kennel (Require proof of certification & Papers)	1	\$300.00
Seasonal Recreational Campground	2	\$200.00
Seasonal Park Model Trailer Campground	2	\$200.00
Annual Refreshment Vehicle License	3	\$300.00
Temporary Event Refreshment Vehicle License	3	\$50.00
Auctioneer	4	\$100.00
Reinstatement following revocation		\$50.00
Replacement for lost or destroyed license		\$15.00