

# Draft of the Commercial Dog Care and Kennel Facility Bylaw

## Summary Page

### **Scope:**

The purpose of this Bylaw is to establish standards for:

1. the siting of commercial dog care & kennel facilities to ensure they are compatible with adjacent land uses;
2. the design of outdoor enclosures and runs to moderate noise from barking dogs; and
3. to encourage responsible operation of dog care and kennel facilities for the well-being of dogs and neighbouring property owners.

### **What the Commercial Dog Care and Kennel Facility Bylaw will do:**

- Help commercial dog care and kennel facilities establish and/or grow in a way that can service community needs while ensuring neighborhood quality and residents' property enjoyment rights are protected.
- Manage the impacts of noise that may result from commercial dog care and kennel facilities on nearby properties through locational siting requirements, building standards and acoustical buffering options.
- The dog breeding and care industry has evolved considerably since 1998 when the Municipality's original bylaw requirements were put in place. This bylaw, together with changes to the Land Use Bylaw will balance the current interests, needs and trends of this industry with the preferences of the community.
- Addresses a gap that exists in the Municipality's Animal Control Bylaw which is not capable of addressing noise from commercial dog care and kennel facilities by the incorporation of fines or permit suspensions for facilities that do not manage persistent and unreasonable barking.

### **What the Bylaw is NOT about:**

- Dog grooming businesses with no unattended care or outdoor enclosures and Veterinary clinics will be exempt under this Bylaw. Also, hobby or occasional breeders where no more than 2 litters are bred per year and training facilities with no boarding capacity and where each dog is handled at all times by either the owner or trainer are exempt.
- The Bylaw will not limit personal dog ownership or the ability to foster dogs.
- Any locational requirements address new or expanding commercial dog care and kennel facilities only; they are not intended to be retroactive to businesses as they exist today.
- Issues around animal welfare are rightly addressed through provincial legislation and are not part of this bylaw.
- The Municipality does not wish to intrude on any commercial dog care or kennel facility and will only do so where there are concerns about noise disrupting nearby residents.

**Chapter 36**  
**Commercial Dog Care and Kennel Facility Bylaw**

**March 2019**  
**Municipality of the County of Colchester**

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**Chapter 36**

**Commercial Dog Care and Kennel Facility Bylaw**

**1. Title, Purpose and Scope:**

- 1.1 This Bylaw is enacted pursuant to Section 172 of the Municipal Government Act S.N.S 1998, c. 18 as amended from time to time and shall be known and may be cited as the “Commercial Dog Care and Kennel Facility Bylaw” of the Municipality of Colchester and shall apply to all lands within the Municipality of the County of Colchester.
- 1.2 The purpose of this Bylaw is to establish standards for the siting of commercial dog care and kennel facilities to ensure compatibility with adjacent land uses and to establish design standards for outdoor dog enclosures and runs to moderate noise from barking dogs.
- 1.3 This Bylaw does not exempt any person from complying with the requirements of other bylaws or regulations in force within the Municipality of the County of Colchester and from obtaining any licence, permission, permit, authority or approval required by the Municipality, the Province of Nova Scotia, and/or the Government of Canada.
- 1.4 This Bylaw shall apply to all Facilities existing before the coming into force of this Bylaw except as exempted herein. For greater certainty, the requirements of paragraphs 4.1 to 4.4 inclusive shall not apply to existing Facilities.

**2. Definitions:**

For the purposes of this Bylaw:

- 2.1 “Adjacent Dwelling” means any dwelling unit not on the property on which a Commercial Dog Care and/or Kennel Facility is located.
- 2.2 “Animal Control Officer” means the Municipality’s Dog Control Officer or Animal Control Officer appointed by the Chief Administrative Officer or Council.
- 2.3 “Commercial Dog Care and Kennel Facility”, “Facility” or “Facilities” means any land, building, structure, outdoor enclosure or other facility where dogs are kept, boarded or bred for commercial purposes. A commercial dog care facility may include daily and overnight boarding, breeding facilities, kennels and dog daycares or combination thereof. For greater certainty, activities exempt from this Bylaw include:
  - 2.3.1 Veterinary clinics;
  - 2.3.2 Grooming businesses that do not provide any form of unattended care and do not have an outdoor dog enclosure or run;
  - 2.3.3 Training facilities where each attending dog is handled at all times by either the owner or trainer and in which the facility has no boarding capacity;

- 2.3.4 Hobby or occasional breeding where no more than two litters are bred per calendar year on the premises, regardless of the number of mating pairs that may reside on the premises;
- 2.3.5 Personal ownership or fostering through a recognized animal welfare organization of any number of dogs for which there is no financial remuneration made for any care or services provided.

2.4 **“Committee”** means the Standing Committee designated under this Bylaw.

2.5 **“Development Officer”** shall mean the Development Officer appointed by the Council of Municipality of the County of Colchester.

2.6 **“Permit”** means a Commercial Dog Care and Kennel Facility Permit issued pursuant to this Bylaw.

2.7 **“Municipality”** means the Municipality of the County of Colchester.

2.8 **“Outdoor Dog Enclosure”** or **“Run”** means an area of land that is fenced in accordance with the requirements of this Bylaw and is intended to provide a secure outdoor area for dogs to socialize, exercise and/or relieve themselves.

2.9 **“Owner”** and **“Operator”** mean respectively any owner or operator of a commercial dog care and kennel facility for which a Permit is required under this Bylaw.

### **3. Administration:**

3.1 No person shall establish, alter, expand or modify a commercial dog care or kennel facility in the Municipality of the County of Colchester without first having obtained a Commercial Dog Care and Kennel Facility Permit from the Development Officer.

3.2 Notwithstanding 3.1 above, a commercial dog care or kennel facility lawfully existing on the effective date of this Bylaw shall be deemed to be permitted under Section 3.1 above and may continue to exist without being required to meet the locational requirements and conditions of paragraphs 4.1 to 4.4 inclusive. Any expansion, alteration or modification to such a facility after the effective date of this Bylaw will, however, be subject to such locational requirements and conditions and these shall apply only to the expansion, alteration or modification.

3.3 A Permit for a commercial dog care or kennel facility shall be issued by the Development Officer subject to the following requirements:

3.3.1 The owner and/or operator shall submit a completed application form hereto attached as Schedule “A”;

3.3.2 The Application shall be co-signed by the registered property owner if the premises are not owned by the owner and/or operator.

- 3.3.3 A completed application form is accompanied with an application fee of twenty-five dollars (\$25.00) in a form deemed acceptable by the Municipality.
- 3.3.4 The requirements contained in Section 4 of this Bylaw have been met.
- 3.3.5 Any additional requirements prescribed under the Municipality's Land Use Bylaws have been met.

**3.4 Duration of Permit:**

- 3.4.1 A Permit issued or deemed pursuant to 3.2 under this Bylaw shall remain in effect during the continuous operation of the commercial dog care and kennel facility;
- 3.4.2 Should a commercial dog care and kennel facility cease to operate for a period of six (6) months or more, the facility owner and/or operator may reapply for a Permit to re-establish the facility provided all requirements of this Bylaw, including Section 4, can be satisfied.
- 3.4.3 A Permit issued or deemed pursuant to 3.2 under this Bylaw shall automatically lapse and become null and void if the commercial dog care and kennel facility has not been established within one (1) year of the issuance of the Permit.

**3.5 Notice of Decision:**

- 3.5.1 Within a reasonable amount of time of receiving a completed application for a Commercial Dog Care and Kennel Facility Permit, the Development Officer shall either issue the Permit or notify the Applicant of a decision to refuse the issuance of the Permit;
- 3.5.2 A decision to refuse an application for a Commercial Dog Care and Kennel Facility Permit shall be served to the Applicant in writing by ordinary mail and shall include the reasons for not issuing the permit.

**4. Locational Requirements and Conditions:**

- 4.1 An application for a Commercial Dog Care and Kennel Facility Permit shall meet the following requirements:
  - 4.1.1 Any proposed outdoor dog enclosure shall be located a minimum of 250 meters from an adjacent dwelling unit existing on the date the application for a Permit was made; and,
  - 4.1.2 Any proposed building or outdoor dog enclosure shall be located a minimum of 15 meters from any property line.
- 4.2 The perimeter of an outdoor dog enclosure shall be screened with an opaque material such as a solid board fence to a height of 2 meters;
- 4.3 Notwithstanding 4.1.1 above, an outdoor dog enclosure may be located a minimum of 150 meters from a dwelling unit existing on the effective date of this Bylaw provided a 2.5-meter-wide acoustical buffer is provided and maintained around the perimeter of an

outdoor dog enclosure at a distance of 3 meters and no more than 5 meters from the fence. The acoustical buffer shall comprise the following:

- 4.3.1 coniferous trees having a minimum height of 2 meters and planted at a rate of 1.5 meters on center in a staggered arrangement for the entire depth and area; or,
  - 4.3.2 an earthen berm having a minimum height of 2 meters; or,
  - 4.3.3 notwithstanding the required distances above, a synthetic acoustical treatment attached to the fence and designed for such purposes which is installed in accordance with the manufacturer's specifications.
- 4.4 Buildings devoted to the commercial dog care and kennel facility shall be constructed in accordance with the Municipality's Building Bylaw and have a minimum insulating value of R-12 for walls and R-20 for ceilings.
- 4.5 Noise Control:
- 4.5.1 The owner and/or operator of a commercial dog care and kennel facility shall take all reasonable efforts to control the behaviour and barking of dogs kept in an outdoor enclosure or run in order to minimize disruption to the surrounding neighborhood.
  - 4.5.2 If in the opinion of the Animal Control Officer, the owner and / or operator of the Facility is not meeting its obligations of 4.5.1 above, the Animal Control Officer has the discretion to suspend or revoke the Permit, including any Facility deemed to be permitted under paragraph 3.2 above.

**5. Enforcement:**

**5.1 Right of Inspection:**

Subject to any restrictions or limitations contained in valid and applicable constitutional, federal or provincial law, the Development Officer and any employees of the Municipality authorized by the Development Officer, including the Animal Control Officer, to assist in the administration of this Bylaw may, for purposes of inspection, maintenance and enforcement, including attempting to determine whether this Bylaw is being or has been contravened, gathering evidence of a possible contravention, or attempting to prevent a contravention or a continuation of a contravention of the Bylaw, with a warrant or other legal process where required by law, but otherwise without a warrant enter upon or into private property, take photographs, video tape or otherwise record or preserve evidence, and disturb or interfere with people or properties to the extent reasonably necessary therefore.

**5.2 Offence:**

It shall be an offence to:

- 5.2.1 contravene any provision of this Bylaw, including any permit requirement, location condition or condition of operation;
- 5.2.2 contravene any condition specified on a Commercial Dog Care and Kennel Facility Permit;
- 5.2.3 fail to comply with any representations contained within an application in respect of which a permit has been issued.

**5.3 Punishment:**

Offences pursuant to subsection 5.2 are punishable on summary conviction by a fine of not less than \$1,000 and not more than \$10,000 and to imprisonment of not more than two months in default of payment thereof.

**5.4 Appeals:**

Any person who, upon application, is refused a Commercial Dog Care and Kennel Facility Permit or whose commercial dog care and kennel facility permit is suspended or revoked may, by written notice to the Development Officer, within 14 days of receiving written notification of the refusal, suspension or revocation, file an appeal to the Committee and the Committee shall hear the appeal at a hearing within 60 days of the filing of the appeal and Council may allow the appeal, dismiss the appeal or vary the decision under appeal.

**6. Severability:**

It is hereby declared that each and every of the foregoing Sections of this Bylaw is severable and that if any provision of this Bylaw should for any reason be declared invalid by any court, it is the intention and desire of the Council of the Municipality of the County of Colchester that each and every of the then remaining provisions hereof should remain in full force and effect.