

BY-LAW 44-2021

A BY-LAW OF THE CORPORATION OF THE TOWN OF CARLETON PLACE TO REGULATE THE KEEPING OF HENS WITHIN THE CORPORATION OF THE TOWN OF CARLETON PLACE

WHEREAS Section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that a municipal power shall be exercised by by-law; and

WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that or any other Act; and

WHEREAS Sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorize the municipality to pass by-laws necessary or desirable for municipal purposes, and in particular items 5 and 8 of Section 11 (2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality and the protection of persons and property; and animals; and item 9 of Section 11 (3) authorizes the passing of by-laws with respect to animals; and

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues; and

WHEREAS Section 8 (3) of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that a by-law passed under Section 11 of that Act respecting a matter may regulate or prohibit and, as part of the power to regulate or prohibit may require a person to do things, provide for a system of licences permits, approvals or registrations and impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration;

WHEREAS Section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended provides that Council may, by by-law, provide that the municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with certain specified matters, including by-laws passed under the *Municipal Act, 2001*, directions or orders made under the *Municipal Act, 2001* or under a by-law passed under its authority, conditions of a licence issued under the *Municipal Act, 2001* or orders made under Section 431 of the *Municipal Act, 2001*; and

WHEREAS Sections 446 (1), 446 (3) and 446 (4) of the *Municipal Act, 2001*, S.O. 2001, c.25, authorize the Town of Carleton Place, if it has authority by by-law or otherwise, to direct or require that a matter or thing be done, to direct in the same by-law that, in default of it being done by the person directed or required to do it, such matter or thing be done at the person's expense and to recover that expense by action or by adding it to the tax roll and collecting it in the same manner as taxes; and

WHEREAS Section 446 (2) of the *Municipal Act, 2001*, S.O. 2001, c.25, establishes that following failure to comply with an order directing or requiring the person that a matter or

thing be done, the municipality may enter upon the land at any reasonable time to perform the directed or required matter or thing be done at the person's expense; and

WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c.25, establishes that any person who contravenes any by-law of the Town of Carleton Place is guilty of an offence; and

WHEREAS Section 429 of the *Municipal Act, 2001*, S.O. 2001, c.25, establishes that a municipality may establish a system of fines for offences under a by-law of the municipality; and

WHEREAS Section 103 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that if a by-law is passed regulating or prohibiting with respect to the being at large of animals, the by-law may provide for the seizure and impounding of animals being at large and the sale of impounded animals; and

WHEREAS the *Municipal Act, 2001*, S.O. 2001 further authorizes the municipality, amongst other things, to delegate its authority, to impose fees or charges, to provide for inspections, and to make orders to discontinue activity or to do work; and

WHEREAS the Council of the Town of Carleton Place deems it advisable to enact this by-law for the purpose of permitting and regulating the keeping of backyard hens within the Town;

NOW THEREFORE the Council of the Corporation of the Town of Carleton Place hereby enacts as follows:

1. TITLE

1.1 The by-law shall be known and cited as the "Backyard Hens By-law".

2. SCOPE

2.1 This by-law shall regulate the location, size, number, living conditions, maintenance and disposal of backyard hens on residential properties of the Town of Carleton Place.

2.2 The schedule attached to this by-law form part of this by-law.

2.3 All hens and coops on private property shall be kept and erected in accordance with the provisions of this by-law.

3. INTENT

3.1 The purpose of this by-law is to permit, regulate and control the keeping of hens on residential properties, authorizing hens and coops that:

- a) Are appropriate in size, number, and location;
- b) Minimize adverse impacts on nearby public and private property; and
- c) Do not create a safety hazard or a nuisance to abutting properties, businesses, schools, and places of worship.

4 DEFINITIONS

- 4.1 **Abutting Property** means any parcel or lot that has a lot line or portion of a lot line in common with the subject property, including a shared intersection of lot lines.
- 4.2 **Animals** means any member of the animal kingdom, other than a human.
- 4.3 **Business** means any structure, whether publicly owned or privately owned, that is adapted for occupancy for transaction of business and does not include any home-based business.
- 4.4 **Clerk** means the Clerk of the Corporation of the Town of Carleton Place.
- 4.5 **Council** means the Council of the Corporation of the Town of Carleton Place.
- 4.6 **Designation** means a land use category as defined and regulated in the Town of Carleton Place's Development Permit By-law, as amended or replaced and renumbered
- 4.7 **Dwelling Unit** means a residential unit located in a building or structure, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.
- 4.8 **Easement** means a legal instrument registered on a property which permits the use of land by a third party or organization as specified on title.
- 4.9 **Exterior Side Yard** means the space abutting a public street that extends from the front yard to the rear yard between a side lot line and the nearest point of the main building, not including a permitted projection.
- 4.10 **Front Yard** means the space paralleling the front lot line extending across the full width of a lot between the front lot line and nearest part of any main building on the lot, not including a permitted projection.
- 4.11 **Hen** means a domestic female egg laying chicken (*Gallus gallus domesticus*) that is at least 4 months old.
- 4.12 **Hen Coop** means a hen house and hen run.

- 4.13 **Hen House** means a structure that houses the hens at night and includes places for laying.
- 4.14 **Hen Run** means a covered and secure enclosure that allows hens access to the outdoors.
- 4.15 **Interior Side Yard** means the space not abutting a public street that extends from the front yard to the rear yard between a side lot line and the nearest point of any main building, not including a permitted projection.
- 4.16 **Licence** means a licence issued by the Town of Carleton Place pursuant to this by-law.
- 4.17 **Licensee** means a person to whom a licence has been issued pursuant to this by-law.
- 4.18 **Officer** means a person appointed by the Town as a Municipal Law Enforcement Officer or Animal Control Officer to enforce the provisions of this by-law.
- 4.19 **Order** means an order made under this by-law;
- 4.20 **Owner** means, with reference to hens, any person who possesses, harbors or keeps an animal or hen and, where an owner is a minor, includes the person who is responsible for the custody of the minor; and means, with reference to property, the individual(s), entities or corporations holding title of a property or properties.
- 4.21 **Person** includes an individual, association, organization, partnership, public bodies, corporations, societies, inhabitants of counties, municipalities or other districts, and includes an agent or employee of any of them in relation to the acts and things that they are capable of doing and owning respectively;
- 4.22 **Place of Worship** means a building used for public worship.
- 4.23 **Property** means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections and includes vacant property thereon whether heretofore or hereafter erected, and is divided into:
- 4.23.1 **Non-residential property** means property which is not occupied, nor capable of being occupied in whole or in part for the purpose of human habitation.
- 4.23.2 **Residential property** means any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any land or buildings that are appurtenant to such establishment and all steps, walks,

driveways, parking spaces and fences or any fixtures or structures associated with the building or its yard.

- 4.24 **Rear Lot Line** shall mean that lot line furthest from and opposite the front lot line but if there is no such line, that point furthest from and opposite the front lot line. If there are two or more rear lot line segments at different distances from the front lot line, as in the case of an L-shaped lot, each segment shall be considered to be the rear lot line for that portion of the front lot line directly opposite.
- 4.25 **Rear Yard** shall mean the space paralleling the rear lot line that extends across the full width of the lot between a rear lot line and the nearest point of the principal building not including a permitted projection.
- 4.26 **Residential Property** means a property that is zoned for residential use in the Town's Development Permit By-law that applies to the property.
- 4.27 **Residential Tenants** means persons renting or leasing a property used or intended to be used for residential purposes only.
- 4.28 **Rooster** means a male domestic chicken.
- 4.29 **Setback** means with reference to a lot line, the shortest distance between a lot line (front, interior side, exterior side, or rear) and the nearest part of any building or structure on the lot. In cases where a road widening is taken, the required setback is calculated from the lot line.
- 4.30 **School** means a public, separate or private educational establishment operated by a Board of Education as defined in the *Education Act*.
- 4.31 **Town** means the Corporation of the Town of Carleton Place.
- 4.32 **Veterinarian** means a veterinarian who is a doctor of animal health, licenced and trained in Ontario to provide medical and surgical care for animals.

5 INTERPRETATION

- 5.1 This by-law includes the schedule annexed hereto, and the schedule is hereby declared to form part of this by-law.
- 5.2 In this by-law "may" shall be construed as permissive.
- 5.3 In this by-law "shall" shall be construed as imperative.

6 ADMINISTRATION AND ENFORCEMENT

- 6.1 The municipality may appoint officers and other staff to carry out the administration and enforcement of this by-law.

6.2 Interpretation and application of the terms and definitions of this by-law shall be determined at the discretion of the enforcing officer.

7 GENERAL PROVISIONS

7.1 No person shall keep hen(s) unless they hold a valid Licence issued by the Town in accordance with the provisions of this by-law.

7.2 A residential tenant must obtain permission from the property owner to keep hens on the owner's property.

7.3 The owner of the hens must reside on the property where the hens are kept.

7.4 No hen coop shall be located in any front or exterior side yard.

7.5 Hen coops and runs shall be a distance of at least 1.2 metres (4 feet) from the rear lot line and at least 1.2 metres (4 feet) from any side lot line of the dwelling lot on which the hen coop is located.

7.6 Hen coops and hen runs shall be located at least 15 metres (50 feet) from any school.

7.7 Hen coops and hen runs shall be located at least 7.5 metres (25 feet) from any church or business.

7.8 Hen coops and hen runs shall be a minimum distance of 3 metres (10 feet) from all windows and doors of dwellings that are located on an abutting property.

7.9 No person shall:

a) Keep a rooster; and

b) Keep an egg laying hen, other than the backyard hen(s) for which a valid licence has been issued.

7.10 Every person shall keep hens secured in their hen house between 9:00 p.m. and 6:00 a.m.

7.11 No person shall keep more than six (6) backyard hens at a residential property or a property used primarily for residential purposes which does not specifically permit a farm use pursuant to the Development Permit By-law provided the conditions and requirements contained in this by-law are met.

7.12 A hen coop and hen run shall not exceed 2 metres (6.5 feet) in height.

7.13 The following provisions apply to the use and storage of manure:

- a) No more than .08 cubic metres (3 cubic feet) of manure can be stored in an airtight container on the property. The manure storage and the hen house cannot exceed a total area of 10 square metres (353 square feet);
 - b) Small amounts of manure may be worked into the soil as soil amendments;
 - c) All other unused manure exceeding the maximum total area outlined in 7.13 a) must be removed according to the Town's Waste Collection By-law.
- 7.14 Home slaughter of hens is prohibited and any deceased hens shall be disposed of at a livestock disposal facility or through the services of a veterinarian.
- 7.15 Every licensee shall ensure the hen house and the run area are fully enclosed on all sides and from above (i.e. fencing, chicken wire, roof covering). All hen houses and runs are to be constructed to prevent the hens' escape and prevent entry by intruders / predators.
- 7.16 Hen coops are to be designed to provide hens with a draft-proof, dry, and insulated environment.
- 7.17 Every licensee shall ensure that hens are kept securely in a hen coop or run at all times.
- 7.18 No person shall allow their hen(s) to roam at large, or be on a public road or in a public place at any time.
- 7.19 No licence shall be issued to permit a hen house to be located within an easement.

8 LICENCES

- 8.1 No person shall operate a hen coop on any residential property within the Town unless they have first obtained a hen coop licence.
- 8.2 Hen coops shall only be permitted on legal residential properties with single family and semi-detached dwellings.
- 8.3 Hen coops shall only be permitted on residential properties with a lot size greater than 3,500 square feet (325 square metres).
- 8.4 Hen licence fees shall not be refunded or debated. The initial licence fee and subsequent annual licence fee shall be in accordance with the Town's annual Fees & Charges By-law.
- 8.5 A hen licence shall not be transferable from one person to another.
- 8.6 A hen licence shall not be transferable from one property to another.

- 8.7 A person to whom a hen licence has been issued must produce the licence upon the demand of a Municipal Law enforcement Officer.
- 8.8 A hen licence may be revoked or may not be renewed when:
- a) The applicant or licence holder does not meet or no longer meets the requirements for a hen licence as set out in this by-law;
 - b) The applicant or licence holder furnishes false information or misrepresents any fact or circumstance required pursuant to this by-law; and
 - c) The licensee fails to pay a fine imposed by a court for a contravention of this by-law.
- 8.9 As part of the application review, the agencies or individuals to whom the application is circulated may require an inspection of the yard and any hen coop on the applicant's property.

9 ENFORCEMENT AND PENALTIES

- 9.1 Where a coop is erected, or located, or hens are kept in contravention of this by-law, the designated official may immediately remove the hens or coop, that constitute a safety hazard or a concern in accordance with the provisions of this by-law, without notice or compensation.
- 9.2 Where a coop or licensee does not comply with this by-law or a licence issued under this by-law, the designated official may order the coop and licensee to remove or bring the coop and hens into compliance in the manner and within the time specified in the order.
- 9.3 The order mentioned in Section 9.2 may be served:
- 9.3.1 By personal service upon the licensee;
 - 9.3.2 By prepaid registered mail sent to the last address of the property owner, shown on the records of the Town of Carleton Place; or,
 - 9.3.3 By prominently posting a copy of the order either on the coop in respect to which the order is made, or on the property upon which the coop is erected, located, or displayed.
- 9.4 The written order shall contain the particulars of the non-compliance with this by-law, a specified time limit in which to effect compliance and either an order to comply with the by-law within the time limit specified in the order, or an order to remove the coop and/or animals within the time limit specified in the order.
- 9.5 Where the order is served in accordance with Section 9.3, it is deemed to have been received by the party being served upon the mailing or posting of the order.
- 9.6 Where a coop or hens are not removed or are not brought into conformity as required by an order under Section 9.2, the Municipal Law Enforcement Officer

may have the coop and/or animals removed without notice or compensation. For this purpose, the Municipal Law Enforcement Officer and their contractor or other agent may enter upon the property at any reasonable time.

- 9.7 The cost incurred by the Town of Carleton Place in removing a coop and/or hen(s) under this part of the by-law is deemed to be municipal taxes and may be added to the collector's roll and collected in the same manner as municipal taxes. Despite the foregoing, the cost incurred by the Town of Carleton Place in removing a coop and/or hen(s) under this part of the by-law is a debt payable to the Town of Carleton Place and may be recovered in any court of competent jurisdiction.
- 9.8 This by-law may be enforced by any of the following:
9.8.1 Municipal Law Enforcement Officer;
9.8.2 Animal Control Officer.
- 9.9 A Licensee shall allow, at any reasonable time, a Municipal Law Enforcement Officer, along with any other authorized employee or agent of the Town, to enter to investigate upon the Property to determine whether the requirements of this by-law are being complied with.

10 OFFENCES AND PENALTIES

- 10.1 Any person who contravenes or causes or permits any contraventions of any of the provisions of this by-law is guilty of an offence and upon conviction, is liable to a fine as provided for in the Provincial Offences Act or any successor legislation.
- 10.2 In addition to any penalty imposed and any other remedy, the court in which the conviction had been entered and any court of competent jurisdiction, thereafter, may make an order:
10.2.1 Prohibiting the continuation or repetition of the violation by the person convicted; and,
10.2.2 Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 10.3 Every person enforcing this by-law shall have the right of entry on any property for the purpose of carrying out an inspection to determine whether this by-law is being complied with and for the enforcement of this by-law pursuant to Section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time.

11 OBSTRUCTION

- 11.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.

11.2 Any person who has been alleged to have contravened any of the provisions of this by-law, shall identify themselves to the Municipal Law Enforcement Officer upon request; failure to do so shall be deemed to be an act which obstructs or hinders the Municipal Law Enforcement Officer in the execution of his/her duties.

12 VALIDITY

12.1 Where a provision of this by-law conflicts with the provisions of another by-law in force in the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public prevails.

12.2 Should any section, subsection, clause 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 this by-law as a whole or any part thereof, other than the part so declared to be invalid.

13 SHORT TITLE

13.1 This by-law may be cited as "The Backyard Hens By-law."

READ A FIRST TIME, SECOND TIME, THIRD TIME AND FINALLY PASSED THIS 23 DAY OF MARCH 2021.

Doug Black, Mayor

Stacey Blair, Clerk

