



**Subject:** Hen Registration By-law – Trial Program

**Department:** Corporate Services

**Division:** Clerks

**Report #:** CPS-CL-2020-014

**Meeting Date:** June 8, 2020

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**Orangeville Forward – Strategic Plan**

**Priority Area:** Strong Governance

**Objective:** Transparent and fair decision-making processes

**Sustainable Neighbourhood Action Plan**

**Theme:** Social Well-being

**Strategy:** Increase equitable access to and affordability of healthy food options (local when possible)

## Recommendations

That report CPS-CL-2020-014 Hen Registration By-law - Trial Program be received;

And that a public meeting be held on September 14, 2020 and an on line survey be made available during the month of September on the Town's website to receive feedback and comments on the proposed Hen Registration By-law;

And that staff report back to Council on October 19, 2020 on the comments and feedback received.

## Background and Analysis

At the November 18, 2019 Council meeting, Council directed staff to investigate the potential for residents to keep backyard chickens and work in partnership with Sustainable Orangeville to create a pilot program that could potentially begin in May of 2020.

Staff have conducted a review of best practices from the City of Brampton, City of Guelph, City of Kitchener, Town of Newmarket, City of Orillia and the Township of Centre Wellington in relation to backyard hens and below is a summary of the key findings:

- several municipalities have embarked on pilot programs for a specified duration and have limited the number of applicants to assess the effectiveness of the regulations and the program;
- municipalities tend to limit the number of hens kept in the range of 2 – 10;
- roosters are prohibited;
- regulations prescribe minimum areas devoted to a hen coop and its outdoor run based upon an area per hen (i.e. 0.37 m<sup>2</sup> and 0.92 m<sup>2</sup> respectively) with location in the rear yard of the lot only;
- regulations in relation to the size and set back provisions for a hen coop typically mirror regulations for accessory buildings on a residential lot;
- some municipalities specify minimum lot area eligibility criteria;
- the sale of eggs and slaughtering of hens is prohibited;
- registration and inspection fees range from \$50 - \$125;
- guidelines/educational documents are produced to inform residents on best practices on raising and managing backyard hens.

The draft By-law contains the following key provisions:

- the keeping and registration of a hen be for a three (3) year trial period;
- limits the maximum number of registrations to thirty (30), issued on a first come, first serve basis;
- limits the maximum number of hens on a lot at two (2);
- establishes lot eligibility criteria as follows:
  - residential zoning designation; and
  - contains a single detached dwelling or a semi-detached dwelling; and
  - is not located within a Wellhead Protection Area where the vulnerability score is 10, as delineated in vulnerable area mapping presented in the Source Protection Plan, or where the keeping of hens would be identified as a significant drinking water threat activity under the Clean Water Act, 2006.

(Refer to Schedule A for a map depicting the eligible lots)

- prohibits the keeping of a rooster;
- requires the hen coop to be:
  - located in the rear yard;
  - set back 3 m from any lot line;
  - set back 5 m from any catch basin;
  - maximum size of 9 m<sup>2</sup> and maximum height of 2.1 m;
  - minimum floor area of 0.37 m<sup>2</sup> per hen and outdoor run area of 0.92 m<sup>2</sup> per hen;
  - maintained in a clean condition and free from the accumulation of feces, offensive odours, insect or rodent infestations;
- feed to be stored in rodent proof containers and secured at all times to prevent entry of rodents or other animals;
- hens to be kept in the hen coop at all times and are prohibited from being at large;
- prohibits the sale of eggs, manure, meat or other products associated with keeping of a hen and slaughtering;
- an applicant must reside at property where a hen is kept.

Initial registration and annual renewal requires the following:

- submission of a complete application;
- site plan detailing proposed location of hen coop would include: (lot dimensions, size of hen coop and setback measurements of hen coop from all lot lines, location of any catch basins and the dwelling);
- Electrical Safety Authority inspection, if required
- \$110 annual fee.

Staff consulted with Sustainable Orangeville Chair Councillor Peters regarding the development of the draft by-law. Sustainable Orangeville at its next meeting will review the draft by-law and provide any additional comments.

Sustainable Orangeville will also work with staff to develop an educational package to be distributed and available through the Town's website.

Wellington Dufferin Guelph Public Health upon reviewing the proposed by-law requested the inclusion of the following provision:

“That a permit not be issued where the lot is located within 15 metres of a lot with a church or school.”

The above provision has been included in the by-law.

Prior to the conclusion of the three (3) year trial, staff will report back to Council and complete an evaluation of the program that considers the level of participation, complaints and any other feedback received. Council can then make a determination on whether to amend the current by-law provisions including whether to implement the program on a permanent basis.

## **Financial Impact**

An annual registration fee of \$110.00 is recommended to recover costs of delivering the program:

- Acceptance and processing of an application (intake, payment processing and circulation)
- Review of the application (zoning, source protection and plans)
- Inspection of the hen coop
- Issuing of registration document
- Database entry and tracking
- Education and enforcement

Respectfully submitted by

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Attachments:

- Schedule A Map depicting eligible properties
- Schedule B Draft Hen Registration By-law

## Schedule A

# Backyard Hens – Permitted Properties



Total Single Family Dwellings

• **6,500**

Total Semi-Detached Dwellings

▪ **1,223**

Total properties that would subsequently be prohibited due to their proximity to the following:

Well Head Protection

▪ **82**

Education Facility

▪ **190**

Place of Worship

▪ **56**

Schedule B



**The Corporation of the Town of Orangeville**

**By-law Number xx-2020**

**A by-law for the Registration and Keeping of Hens  
in the Town of Orangeville**

**Whereas** section 11(2) paragraph 8 and section 11(3) of the *Municipal Act*, S.O. 2001, c. 25, as amended authorizes a municipality to pass by-laws respecting animals and the protection of persons and property;

**And Whereas** section 11 (2), paragraph 6 of the *Municipal Act* authorizes a municipality to pass a by-law respecting the health, safety and well-being of persons;

**And Whereas** section 8 (3) of the *Municipal Act* authorizes a municipality to provide for a system of licences and a licence includes a permit;

**And Whereas** section 23.1 of the *Municipal Act* authorizes a municipality to delegate its powers and duties;

**And Whereas** section 391 (1) of the *Municipal Act* authorizes a municipality to impose fees or charges;

**And Whereas** the Council of the Town of Orangeville deems it expedient to register and regulate the keeping of hens;

**Now therefore be it resolved** that Council of the Corporation of the Town of Orangeville hereby enacts as follows:

**1 Short Title**

1.1 This by-law may be cited as the "Hen Permit By-law".

**2 Definitions**

2.1 In this by-law:

**"At Large"** means a **hen** being outside of its **hen coop**;

“**Clerk**” means the Clerk for the **Town** or any other **person** designated by the **Clerk**;

“**Hen**” means a female chicken that is at least 4 months old;

“**Hen coop**” means a structure used to house a **hen** and includes the covered outdoor enclosure area;

“**Keep**” or “**Kept**” or “**Keeping**” includes harbouring or possessing for any period of time, whether temporary or not;

“**Lot**” means a parcel of land which is capable of being legally conveyed;

“**Officer**” means a Municipal By-law Enforcement Officer, a Police Officer, Medical Officer of Health or other person appointed by by-law to enforce the provisions of this by-law;

“**Owner**” means any **person** who **keeps** a **hen**, and where an owner is a minor, includes the **person** who is responsible for the custody of the minor;

“**Person**” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

“**Rear yard**” means a yard extending the full width of the **lot** between the rear **lot** line and the main building on a **lot**;

“**Permit**” means a current valid permit issued pursuant to this By-law;

“**Rooster**” means a male chicken;

“**Town**” means the Corporation of the Town of Orangeville or the land within the geographical limits of the Town of Orangeville as the context requires;

“**Zoning By-law**” means any by-law administered by the **Town** passed pursuant to Section 34 of the *Planning Act, R.S.O. 1990, c. P. 13*, as amended or any successor legislation thereof.

### **3 General Provisions**

3.1 No **person** shall **keep** or permit to be **kept** in the **Town**:

- (a) more than two (2) **hens** on a **lot**;
- (b) more than one (1) **hen coop** on a **lot**;
- (c) a **rooster**.

3.2 No **person** shall permit a **hen** to be **at large**.

3.3 No **person** shall **keep** a **hen** other than in accordance with a **permit**, the approved plans, the terms and conditions of a **permit**, and this By-law.

#### **4 Permit**

4.1 The **Clerk** is hereby delegated authority to issue a **permit** for the **keeping** of a **hen** in accordance with the provisions of this by-law.

4.2 A **permit** is valid for the current calendar year in which it is issued.

4.3 A **permit** may only be issued for a **lot** that:

(a) is zoned residential in accordance with the **Town's Zoning By-law** and contains a single detached dwelling or a semi-detached dwelling;

(b) is not located within a Wellhead Protection Area where the vulnerability score is 10, as delineated in vulnerable area mapping presented in the Source Protection Plan, or where the keeping of hens would be identified as a significant drinking water threat activity under the Clean Water Act, 2006;

(c) is not located within 15 metres of a **lot** with a church or school.

4.4 No more than thirty (30) **permits** annually shall be issued.

4.5 The **owner** of a **hen** making an application for a **permit** shall submit:

(a) a complete application in the form provided by the **Town**;

(b) a plan showing the proposed location of the **hen coop** on the **lot** that illustrates how all setback requirements of this By-law are met and identifies the dwelling, catch basins and any other features as may be required by the **Town**;

(c) the **permit** fee of \$110.00;

(d) if applicable, an Electrical Safety Authority Certificate of Inspection stating that the electrical wiring and electrical devices serving the **hen coop** are in compliance with the *Electricity Act, 1998, S.O. 1998, c. 15*, as amended.

4.6 A **permit** shall be issued by the **Clerk**:

(a) upon the requirements of this By-law being met;

(b) subject to the completion of an inspection by the **Town** to its satisfaction.

- 4.7 An application for the renewal of a **permit** will be given priority over a new application.
- 4.8 A **permit** is non-transferable and the **permit** fee is non-refundable.
- 4.9 A **permit** automatically expires and becomes null and void upon the sale, transfer or death of the **hens**.
- 4.10 A **permit** shall not be issued for a period beyond December 31, 2023.

## **5 Keeping of Hens – Terms, Conditions and Standards**

### **5.1 A hen coop shall:**

- (a) be located in the **rear yard**;
- (b) be located a minimum of 3 metres from the side or rear **lot** line;
- (c) be located a minimum of 5 metres from any catch basin;
- (d) be a maximum size of 9 m<sup>2</sup>;
- (e) be a maximum height of 2.1 metres;
- (f) provide a minimum floor area of 0.37 m<sup>2</sup> per **hen**;
- (g) provide a covered outdoor enclosure area of a minimum 0.92 m<sup>2</sup> per **hen**;
- (h) provide a perch area sufficient to accommodate all **hens**;
- (i) be constructed:
  - i. to fully enclose a **hen** to prevent it from escaping;
  - ii. to prevent other animals from entering the **hen coop**;
  - iii. with a lockable roof and door;
- (j) in the case of a floor, it shall be made of material resistant to moisture and mould, and lined with shavings, straw, or other appropriate materials to absorb manure and facilitate cleaning;
- (k) provide a nest box and an accessible dust bath area;
- (l) not interfere with any **lot** grading drainage or drainage swales.

### **5.2 Every person who owns, or keeps a hen on a lot shall:**

- (a) reside on the **lot** where a **hen** is **kept**;
- (b) maintain the **hen coop** in a clean condition and free from the accumulation of feces, offensive odours, insect or rodent infestations;
- (c) remove feces daily from the **hen coop** and deposit in a secured waste receptacle or composter;
- (d) ensure the waste receptacle or composter is:
  - i. stored in the **rear yard**;
  - ii. located a minimum of 3 metres from any **lot** line;
  - iii. maintained to prevent offensive odours; and
  - iv. emptied on a regular basis;
- (e) **keep** the **hen** in the **hen coop** at all times and lock the **hen coop** roof and door between 9:00 p.m. one day and 6:00 a.m. of the following day;
- (f) feed a **hen** in a manner that minimizes the attraction of rodents or other animals;
- (g) store feed in a rodent proof secured container and secure it at all times to prevent entry of rodents or other animals;
- (h) not sell from the **lot**, eggs, manure, meat or other products associated with the **keeping** of a **hen**;
- (i) not slaughter or butcher a **hen** on the **lot**;
- (j) dispose of a dead **hen** immediately through:
  - i. a livestock disposal facility;
  - ii. veterinarian services; or
  - iii. a facility approved by the applicable provincial Ministry;
- (m) notify the **Town** within 15 days upon the sale, transfer or death of the **hens** and remove the **hen coop** within 30 days of the sale, transfer or death of the **hens**.
- (n) **keep** a **hen** in accordance with all other applicable laws.

5.3 No **person** shall keep a **hen** in the **Town** beyond December 31, 2023.

## 6.0 Orders and Remedial Action

- 6.1 Where an **Officer** has reasonable grounds to believe that a contravention of this By-law has occurred, the **Officer** may issue an Order requiring the **Person** who contravened this By-law, or who has caused or permitted the contravention, to discontinue the contravening activity or to do work to correct the contravention.
- 6.2 An Order under section 6.1 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention;
  - (b) the location of the **lot** on which the contravention occurred; and
  - (c) the date by which there must be compliance with the Order
- 6.3 An Order to discontinue a contravening activity made under this section may be served personally, registered mail to the last known address or by email transmission to:
- (a) the **person** the **Officer** believes contravened this By-law; and
  - (b) such other **persons** affected by the Order as the **Officer** making the Order determines.
- 6.4 The Order shall be deemed to have been served on the seventh (7<sup>th</sup>) day after the date of mailing or on the date of personal delivery or email transmission.
- 6.5 An **Officer** who is unable to effect service of an Order pursuant to this By-law shall place a placard containing the Order in a conspicuous place on the **lot** and the placing of the placard shall be deemed to be sufficient service. The placing of the placard contained the Order shall be deemed to be served on the date of placing the placard.

## 7 Enforcement and Penalty Provisions

- 7.1 The enforcement of this by-law shall be conducted by an **Officer**.
- 7.2 An **Officer** may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the by-law is complied with.
- 7.3 Every **person** who contravenes any provision of this by-law or an Order issued pursuant to this By-law or every director or officer of a corporation who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended.
- 7.4 Every **person** shall comply with any notice issued under the authority of this by-law.

- 7.5 Upon conviction any penalty imposed under this by-law may be collected under the authority of the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.
- 7.6 If a **person** is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the **person** convicted.

## **8 Hinder or Obstruct**

- 8.1 No **person** shall hinder or obstruct, or attempt to hinder or obstruct, any **Officer** exercising a power or performing a duty under this by-law.
- 8.2 Every **person** who is alleged to have contravened any of the provisions of this by-law, shall identify themselves to an **Officer** upon request, failure to do so shall be deemed to have hindered or obstructed an **Officer** in the execution of his or her duties.

## **9 Severability**

- 9.1 If any section, subsection, paragraph, sentence, clause, or provision of this by-law be declared by a court of competent jurisdiction to be invalid, illegal or ultra vires for any reason, all other provisions of this by-law shall remain and continue in full force and effect and shall remain valid and binding.

## **10 Singular and Plural Use**

- 10.1 In this by-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

Read a first, second, and third time and passed in open Council on the        day of  
, 2020.