

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



Report to:	Mayor and Council Members	Priority:	<input type="checkbox"/> High <input checked="" type="checkbox"/> Low
Submitted by:	Kevin Feagan Manager, By-Law Enforcement/Licensing Legislative Services Division kfeagan@cobourg.ca	Meeting Type:	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
Meeting Date:	July 11, 2022		
Report No.:	Legislative Services		
Submit comments to Council			

Subject/Title: Staff Report concerning a Complaint about Backyard Chickens

RECOMMENDATION:

THAT Council receive the Staff Report for information purposes; and

FURTHER THAT Council review the three (3) options presented and provide direction to staff for action accordingly:

OPTION 1- THAT Council direct Staff to suspend enforcement of the Zoning By-law in this particular instance or grant a longer extension of the Notice;

Or

OPTION 2 - Council permit backyard chickens and authorize Staff to introduce regulation through amendment to the Zoning By-law and Animal Control By-law;

Or

OPTION 3 - Status Quo – THAT Council continues to support that resident's must comply with existing municipal standards established by the Town's by-laws (Zoning By-law) and applicable provincial legislation employing the most efficient and effective means.

1. STRATEGIC PLAN

Not Applicable

2. PUBLIC ENGAGEMENT

3. PURPOSE

The purpose of this report is to provide Council with an overview of the enforcement response related to a complaint involving backyard chickens, applicable by-law provisions and options for Council's consideration.

4. ORIGIN AND LEGISLATION

Minutes of the Committee of the Whole dated June 20th, 2022, Zoning by-law # 85-2003, Animal Control By-law 021-2014.

5. BACKGROUND

On May 25th, 2022 the By-law Department received a complaint with respect to the premises at #304 Tweed Street, in the Town of Cobourg. The complaint alleged that chickens were being kept at the premises contrary to the Zoning By-law in the rear yard housed in a plywood structure with dozens of rats under the structure. It was alleged by the complainant that rats were being observed in the daytime and were starting to colonize the complainant's yard.

Subsequent inspection by an Officer on May 31st, 2022 confirmed a violation of the Zoning By-law and a Notice of Violation was sent requiring the resident to discontinue the unlawful use of the property and to remove the chickens. Compliance with the Notice was required by June 18th, 2022.

On June 07th, 2022 there was dialogue with the property owner and they were granted a 30 day extension to the Notice to comply with removing the birds. Staff further provided advice for finding alternate homing via Kijiji posts, or dispersal of the hens at livestock auction barns.

At the regular meeting of the Committee of the Whole on June 20th 2022, a delegation by the owner of the chickens was heard requesting an exemption, exception or variance to the by-law.

Staff were subsequently directed to prepare a report providing context and outlining options for Council's consideration.

6. ANALYSIS

Land Use and rearing of Livestock are regulated pursuant to the Town of Cobourg Zoning By-law # 85-2003 and the definition of Agricultural Use and Livestock are applicable;

AGRICULTURAL USE shall mean general farming and, without limiting the generality of the foregoing, shall include such uses as the cultivation of land and associated production, conditioning, processing and storing of field crops, vegetables, fruit, horticultural crops and nursery stock and the selling of such produce on the premises and may include the raising, breeding and care of

livestock, fowl and fur-bearing animals. Agricultural uses also includes one farm dwelling and accessory buildings, structures and uses. However, such a use does not include such industrial uses as a cannery or an abattoir

LIVESTOCK shall mean poultry, cattle, hogs, horses, mink, rabbits, sheep, goats or any other domestic animal used for consumption

The property located on Tweed Street is zoned Residential (R3) and Residential Zones R1 through R5 do not provide for agricultural uses, more specifically it does not permit the raising, breeding and care of livestock to which poultry is included.

The rearing of backyard chickens is in contravention of the Towns Zoning By-law except in those zones in which agricultural uses are specifically permitted (Rural, Light Industrial, Environmental Constraint).

Historically, the Town's By-law Division has responded in these instances with enforcement of the Zoning By-law provisions citing zoning restrictions and requiring removal of the animals from the premises.

The Town's Animal Control By-law does not prohibit/restrict certain species defined as exotics or farm animals (except those which are used for exhibitions, performances or shows and regulated under a separate by-law).

Many communities have Responsible Pet Owner By-laws which have either a permitted or prohibited list to address the keeping of animals which may create a nuisance, pose a safety risk to the public, contravene zoning restrictions etc., of which chickens are often prohibited. As in this instance, and the concerns regarding proliferation of rats resulting from the keeping of chickens, the keeping of backyard chickens and similar agricultural practices should at the very least be regulated if not prohibited in urban environments/residential zones. Agencies responsible for public health and welfare, municipal law enforcement and humane animal welfare often support prohibiting backyard chickens.

The Town of Cobourg By-law Enforcement Division administers, enforces and prosecutes alleged contraventions of Town by-laws and other applicable provincial legislation within its mandate ensuring a transparent, consistent, fair, unbiased, and effective process for the enforcement and prosecution of alleged contraventions of municipal standards. Under the *Municipal Act, 2001*, municipalities may specify when a contravention of a by-law is an offence, and the goal of the Town's enforcement activities is compliance with standards established by the Town's by-laws and applicable provincial legislation employing the most efficient and effective means.

Options & Recommended Action:

Option 1: Council could direct staff to suspend enforcement of the Zoning By-law in this particular instance or grant a longer extension of the Notice.

- It should however be noted that a zoning bylaw;
 - implements the objectives and policies of a municipality's official plan
 - provides a legal and precise way of managing land use and future development
 - In addition to the official plan, protects the Town from conflicting and possibly dangerous land uses in the community

- Since this could not be considered a minor variance the Committee of Adjustment process is not applicable and if a resident wants to use or develop their property in a way that is not allowed by the zoning bylaw, they may apply for a zoning change, also known as a zoning bylaw amendment or a rezoning.
 - Council can consider a change only if the new use is allowed by the official plan.
 - If Council refuses the resident's zoning application, or if it does not make a decision within 90 days of the receipt of the complete application and fee, the resident may be able to appeal to the Ontario Land Tribunal (OLT).

Option 2: Council may consider permitting backyard chickens by regulating them through the Zoning By-law and Animal Control By-law.

- There are several municipalities which do permit backyard chickens.
 - Livestock and poultry can be sources of diseases that are passed to humans.
 - These animals require health management and veterinary care, as well as basic biosecurity measures, to minimize the occurrence and spread of diseases. If backyard poultry are permitted, it is important to follow good biosecurity practices to prevent the transmission of diseases like avian influenza.
 - Poultry can be noisy, so by-laws should restrict roosters and opt for quieter species of birds.
 - Odour and flies need to be addressed with proper manure management. Manure must be disposed of in a safe and environmentally responsible manner.
 - Rearing livestock inevitably coincides with the prospect of deadstock/mortality due to various reasons (disease, environment, predation) and disposal of deadstock is regulated pursuant to Ontario Regulation 105/09 under the Food Safety and Quality Act 2001.
 - Feed should be stored securely to avoid infestations of rats and mice.
 - Poultry are often a prey species for foxes, skunks, raccoons, cats, dogs and rats, so proper penning and housing is required.

- Option 3:** Status Quo - Council continues to support that resident's must comply with existing municipal standards established by the Town's by-laws (Zoning By-law) and applicable provincial legislation employing the most efficient and effective means.
- Council would inform the resident that the matter is to be dealt with through the By-law Enforcement process and encourage compliance subject to the officer's discretion for any further extension of time required by the specified date.
 - Officers will continue to work with the resident to gain compliance in the most effective and efficient means.
 - If compliance is not achieved, prosecution may be necessary

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

Not Applicable

8. CONCLUSION

The issue before Council involves a by-law complaint and service request for enforcement of the Zoning By-law in relation to agricultural practices (the keeping of chickens). The complainant was negatively impacted by the presence of rats drawn to the keeping of the chickens.

Currently, the rearing of backyard chickens is in contravention of the Town's Zoning By-law except in those zones in which agricultural uses are specifically permitted (Rural, Light Industrial, Environmental Constraint).

The resident in violation of the Town's Zoning By-law has requested Council to reconsider enforcement of the by-law and provide an exemption, exception or variance to the by-law.

Three (3) options have been provided for Council's consideration:

- Staff recommend a hybrid approach with elements of both Option 1 and Option 3. This would involve granting a longer extension of the notice (90 days) to provide time for the resident to investigate and consider an application for a zoning change or to relocate the birds.
- If an application for a zoning by-law amendment or rezoning is not received or the birds are not relocated during the extension period compliance would subsequently be required through the by-law enforcement process.
- Officers will continue to work with the resident to gain compliance in the most effective and efficient means.
- If compliance is not achieved, prosecution may be necessary.

