



CORPORATE SERVICES – LEGISLATIVE SERVICES – CLERK'S
TOWN OF NEWMARKET
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January 21, 2016

CORPORATE SERVICES – LEGISLATIVE SERVICES REPORT – 2016-04

TO: Committee of the Whole
SUBJECT: Ward 2 Egg Laying Hens Pilot Project
ORIGIN: Andrew Brouwer, Director, Legislative Services/Town Clerk & Licensing Officer

RECOMMENDATIONS

THAT Corporate Services Report – Legislative Services 2016-04 dated January 21, 2016 regarding “Keeping of Hens” be received and the following recommendation be adopted:

That Council endorse a 12 month pilot project in Ward 2 for up to five (5) residential properties regarding the keeping of egg laying hens in backyards commencing March 1, 2016;

AND THAT regulations for the keeping of backyard hens and coops be put in place, (attached as Appendix “A”) to come into effect on March 1, 2016;

AND THAT Schedule “A” of the Animal Control By-law 2008-61 prohibiting chickens be waived for the duration of the pilot project;

AND THAT staff report back to Council regarding the outcome of the Ward 2 egg laying hens pilot project.

COMMENTS

Purpose

The purpose of this report is for the implementation of a 12 month pilot project to allow up to 20 residential properties in Ward 2 to have backyard laying hens with regulations.

Background

On October 9, 2012 Committee of the Whole received a PowerPoint presentation from Mr. Mantha regarding egg laying hens in the Town. Mr. Mantha's presentation included a guide to create a supporting by-law allowing households to keep three egg laying hens. Mr. Mantha prepared a follow-up presentation at the March 26, 2013 Committee of the Whole meeting.

On September 23, 2013 Committee of the Whole received Corporate Services – Legislative Services Report 2013-38 Keeping of Egg Laying Hens and referred the matter to the 2014-2018 term of Council.

On June 15, 2015 Committee of the Whole received Mr. Marc Mantha's deputation regarding implementation of a pilot project in Ward 2 to allow egg laying hens. Council directed staff to bring back a report on the implementation of a 12 month pilot project in Ward 2 for up to 20 residential properties. Following a review of staff resources and as a result of the public consultation, it is recommended that the pilot project be limited to five (5) residential properties.

The Town's Animal Control By-law (By-law 2008-61) prohibits the keeping of some types of birds either on a temporary or permanent basis, including pheasants, grouse, guinea fowls, turkeys, chickens, and pea fowls.

A number of municipalities in Ontario have recently considered allowing a small number of egg laying hens in residential areas. The municipalities of Hamilton, St. Catharines, Toronto and Waterloo decided against permitting residents to keep egg laying hens in residential areas. Other Canadian municipalities including Brampton, Guelph, Kingston, Nelson, BC, Niagara Falls, Quinte-West, ON, Saanich, BC, Surrey, BC, Vancouver, BC and Victoria, BC decided to allow egg laying hens in residential areas. Attached as Appendix "B" is the staff report 2013-38 which provides further background information.

Staff have developed regulations based on the experiences of other municipalities. These regulations will be evaluated at the conclusion of the pilot project.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report relates to the Well-equipped and Managed link of the Town's Community Vision – implementing policy and processes that reflect sound and accountable governance.

CONSULTATION

On October 28, 2015 a public information centre was held to provide an overview of the draft regulations regarding the keeping of backyard hens. There were 11 residents in attendance, including 3 from Ward 1, 3 from Ward 2, 3 from Ward 3 and 2 from Ward 5. Attached as Appendix "C" is written submissions provided to the Town from various residents.

Staff have consulted with various municipalities, York Region Community and Health Services Public Health Branch, the York Region Food Network and the Town's Environment Advisory Committee. Staff also referred to the materials provided by Mr. Mantha in his deputations to Committee of the Whole. It should be noted that the 2010 – 2014 term Environmental Advisory Committee did not take a position on the matter.

HUMAN RESOURCE CONSIDERATIONS

Staff estimate the following activities required to support a pilot project.

- Preparation of application materials, education and website content: 14 hours
- Review of completed application materials (per applicant): up to 1 hour
- Inspection required to confirm setback, coop and run regulations (per applicant): up to 30 minutes
- Compliance inspection for approval, following installation: up to 30 minutes

It is unknown how many calls/complaints will result following the installation of the coop and run. Given that all abutting neighbours are required to give their permission to allow backyard hens, the potential for enforcement complaints/concerns may be less.

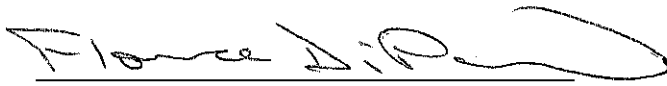
The short term nature of the pilot project will allow staff to access the human resources input of potentially expanding the pilot Town wide.

BUDGET IMPACT


The pilot project costs, including education and enforcement will be accommodated with the 2016 budget and existing staff levels.

CONTACT

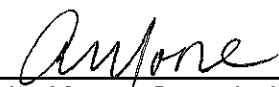
For more information on this report, contact Florence DiPassio, Licensing Officer, 905-953-5300, extension 2206 or via email at fdipassio@newmarket.ca.



Florence DiPassio, Licensing Officer



Andrew Brouwer, Director, Legislative Services/ Town Clerk



Anita Moore, Commissioner of Corporate Services

Appendix "A"

Regulations for the keeping of backyard hens and coops

Application must be submitted to the Town for approval with required documentation.

A limit of 5 residential properties.

A maximum of 3 hens per lot is permitted on any residential property (excludes Multi-Residential).

All hens must be at least 4 months old.

The keeping of roosters is prohibited.

A Tenant must obtain permission from the property owner to keep hens on the owner's property.

Permission from all abutting property owners.

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

Hens must be kept in their coops from 9:00 p.m. to 6:00 a.m.

A minimum enclosure size of 10 square feet per hen.

Hens must be kept in an enclosed hen run when not in their coop.

Hen coops and runs shall be a distance of 1.2m from the rear lot line and 1.2m from any side lot line of the dwelling lot on which the hen coop is located.

Hen coops and hen runs shall be a minimum distance of 3m from all windows and doors of dwellings that are located on an abutting property.

Hen coops shall be less than 2.4m in height.

A minimum enclosure of 10 square feet per hen.

Hen coops are not permitted in any front yard.

Hen coops and hen runs shall be maintained in a clean condition and the coop shall be kept free of obnoxious odours, substances and vermin.

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.



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September 11, 2013

CORPORATE SERVICES – LEGISLATIVE SERVICES REPORT – 2013-38

TO: Committee of the Whole

SUBJECT: Keeping of Egg Laying Hens

ORIGIN: Andrew Brouwer, Director, Legislative Services/Town Clerk & Licensing Officer

RECOMMENDATIONS

THAT Corporate Services Report – Legislative Services 2013-38 dated September 11, 2013 regarding “Keeping of Hens” be received and that Council adopt either Option A or B as outlined in the report:

Option A

1. That the Town of Newmarket continue to prohibit the keeping of chickens (including egg laying hens) as provided for in the Animal Control By-law (By-law 2008-61).

Option B

2. That staff be directed to prepare the appropriate best practice regulations to allow for and regulate the keeping of egg laying hens in the Town of Newmarket for a trial period of one (1) year, following input by the public for consideration at a future Committee of the Whole meeting.

COMMENTS

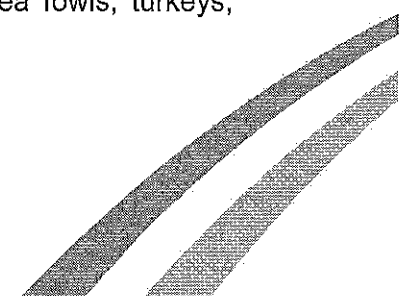
Purpose

The purpose of this report is to provide background information about the keeping of chickens (including hens) and to seek direction with respect to the regulating hens in the Town of Newmarket.

Background

On October 9, 2012 Committee of the Whole received a PowerPoint presentation from Mr. Marc Mantha regarding egg laying hens in the Town (see Appendix A). Mr. Mantha's presentation included a guide to create a supporting by-law allowing households to keep three egg laying hens. Mr. Mantha prepared a follow-up presentation at the March 26, 2013 Committee of the Whole meeting (see Appendix B).

The Town's Animal Control By-law (By-law 2008-61) prohibits the keeping of some types of birds either on a temporary or permanent basis, including pheasants, grouse, guinea fowls, turkeys, chickens, and pea fowls.



A number of municipalities in Ontario have recently considered allowing a small number of egg laying hens in residential areas. The municipalities of Hamilton, St. Catharines, Toronto and Waterloo decided against permitting residents to keep egg laying hens in residential areas. Other Canadian municipalities including Brampton, Guelph, Kingston, Nelson, BC, Niagara Falls, Quinte-West, ON, Saanich, BC, Surrey, BC, Vancouver, BC and Victoria, BC decided to allow egg laying hens in residential areas.

As requested by Council, staff have undertaken background research, including information gathered from other municipalities, literature prepared by public health authorities and information provided by Mr. Mantha in his deputations. Staff also consulted with the Environmental Advisory Committee, which did not take a position on the issue.

Although not exhaustive, the following sections highlight key considerations related to the keeping of hens in residential areas.

Potential Benefits

- Access to fresh eggs;
- Control of hen diet and upkeep;
- Provides for an alternative to farm produced eggs;
- Supports a local food diet. The Town has received correspondence from the York Region Food Network indicating support for allowing/regulating egg laying hens;
- Reduced carbon emissions associated with transporting eggs and hens;
- Possible reduction of municipal solid waste through consumption of table scraps and other organic waste by hens; and
- Companionship.

Potential Concerns

- Public health;
- Nuisance, including odour, pests and noise; and,
- Animal welfare.

Public Health

Research suggests that public health concerns associated with backyard chickens are similar to those resulting from the keeping of domestic animals such as dogs and cats. Proper hygiene including hand washing, maintaining and regularly cleaning chicken coops have shown to significantly mitigate the risk of transmitting and acquiring diseases commonly found in chickens.

Chicken-keeping public health concerns often result from:

- Improper disposal of dead birds (especially if a bird has a contagious disease);
- Improper management of bird feces, litter disposal and general backyard operations; and,
- Improper food safety including egg handling or home slaughtering techniques.

Common bacteria present with improper chicken and egg handling, care and disposal include salmonella, campylobacter, yersinia and listeria. The risk of infections from exposure to these bacteria, particularly salmonella, is especially high for young children, the elderly, pregnant women and people with weakened immune systems. Chickens can be infected through contact with livestock, waterfowl and wild/domestic animals and may not show symptoms of disease.

Risk of pathogen transmission is present, but can be mitigated with proper housing and hygiene when handling chickens and eggs. According to research, the risk of avian influenza development is not appreciably increased by backyard hens.

Some protocols recommended by B.C. Interior Health's Public Health sectors include:

- Mandatory chicken enclosures and construction standards;
- Limiting the number of birds per household;
- Prohibiting the mix of commercial poultry and egg laying hens;
- Establishing minimum feed control practices and enclosure cleaning practices;
- Outlining safe disposal of waste (feed, feces and chicken carcasses);
- Limiting egg distribution to personal use;
- Prohibiting home-based slaughter of chickens; and,
- Prohibiting sale of chicken meat.

The Ontario Ministry of Agriculture and Food and the Canadian Food Inspection Agency have prepared recommendations related to preventing and detecting disease in chickens kept in residential areas:

1. Prevent contact with wild birds and other animals;
2. Eliminating the risk of disease spread by routinely cleaning coops, gardening tools, and water and feed containers;
3. Contacting a veterinarian or a local office of the Canadian Food Inspection Agency where illness is suspected;
4. Limit exposure to visitors; and,
5. New chickens should be physically segregated and monitored for at least thirty days before being introduced to other chickens.

Nuisances

Noise

Residents have raised concerns that chickens introduced into residential areas may create noise nuisances. Research indicated that it is unlikely that hens (female chickens) will become a significant nuisance as noise is relatively quiet and sporadic. Egg laying hens produce a variety of vocalizations, none of which are very loud. In an investigation conducted by staff from the City of Pleasanton, California noise readings of a "squawking" hen registered at 63 decibels at two feet away and would not register at nine feet away. The average human conversation registers at about 60 decibels, and a barking dog can be as loud as 100 decibels. A crowing rooster (male chicken) can reach decibel levels of 85-90, and for this reason some municipalities prohibit the keeping of roosters.

Guidelines that provide setbacks and other measures to ensure sufficient separation between hen enclosures and neighbouring properties may also assist to mitigate the risk of creating a noise nuisance.

Odour

Unpleasant odours from accumulation of manure and/or food scraps can result if chicken enclosures are infrequently cleaned and food is left in pens. While chickens produce only a few tablespoons of manure per day, accumulations of manure can produce ammonia, which is both harmful for chickens and unpleasant for others.

It is recommended that manure and scraps be removed at least weekly, and preferably daily. Requiring enclosures to be maintained in sanitary condition and free from offensive smells should diminish the possibility that odour will become a nuisance.

Pests

Hen enclosures can attract unwanted animals, including rodents seeking food scraps, and larger animals, such as raccoons, foxes, skunks, and coyotes, seeking eggs or a chicken for consumption.

The risk of attracting pests can be addressed by taking necessary precautions.

- Rodents are not attracted to chickens; they are attracted to chicken feed and other food scraps. Ensuring that all chicken feed is stored in a closed container inaccessible to other animals is an effective means to address the potential problem of rodents.
- Hen enclosures should be constructed to prevent access to the enclosure by any other bird or animal. Owners should be required to keep hens, as well as their food and water, in the coop between sunset and sunrise, and that the coop remains locked during that time.

Animal Welfare

Hens need shelter, food, water, adequate space, environmental conditions conducive to good health and the opportunity to socialize and engage in fundamental behaviours. There are several animal welfare concerns that can be addressed through appropriate guidelines for care.

Housing requirements

- City of Vancouver recommended a minimum space requirement of 0.37m² (4ft²) of coops space and 0.92² (10 ft²) of outdoor enclosure in order to provide adequate space for hens; and,
- A nest box, to provide for the need for seclusion during egg-laying, and one (greater than 15cm²) perch per bird, to allow for hens to engage in roosting.

Euthanasia

- Urban backyard hens typically live up to 4 of 5 years;
- The municipalities of St. John, NB and Vancouver, BC both provide restrictions for euthanizing backyard hens. At the end of their lives, hens may be euthanized by a veterinarian, or taken to a farm or abattoir for slaughtering;
- The City of Niagara Falls, ON specifies that chicken carcasses must be disposed of within 24 hours; and
- Slaughtering or attempts at euthanasia by those who keep hens should be prohibited as slaughtering by untrained individuals can result in unnecessary suffering.

Abandonment

- Inexperienced hen owners may not anticipate the large responsibility that may be involved in raising hens. Concerns have been raised that this may result in an influx of abandoned hens at animal shelters; and,
- A restriction on hens younger than four months is intended to reduce the impulse purchasing of chicks and subsequent abandoning of “no-longer-cute” hens.

Many municipalities permitting egg laying hens have only done so within recent years, so staff were unable to identify a documented history of abandoned hens at animal shelters. Currently, the Town's

contract with the Town of Georgina for animal shelter services does not include provisions addressing abandoned chickens; however, the shelter indicated that it does not have the facilities to provide for upkeep of abandoned chickens. The Town of Georgina animal shelter would be required to contract care of abandoned chickens to a third party (likely a local farm or other facility). Costs for such upkeep would be charged to the Town of Newmarket. The Town of Georgina was unable to determine a cost for contracted services associated with abandoned chickens at the present time.

Town of Newmarket Enforcement History

Over the past year, the Town's Customer Service Center received four complaints regarding backyard chickens at four separate addresses. Complaints were investigated and Orders were issued to remove the chickens in accordance with the Animal Control By-law. Compliance was achieved with all four Orders issued.

Complaint history reveals that concerns raised by complainants related to the presence of chickens generally, as well as odour.

Regulatory Options

Staff propose that the Town has two practical options for the regulation of egg laying hens:

Option A: Prohibit Chickens (Hens and Roosters)

Option A provides that the Town continue to prohibit chickens (both hens and roosters) in the Town of Newmarket. No changes are required to the Animal Control By-law (By-law 2008-61).

Option B: Regulate Egg Laying Hens

Option B provides that egg laying hens (female, egg bearing chickens) would be permitted and regulated in the Town of Newmarket through By-law 2008-61 and/or a separate regulatory by-law. Male chickens (roosters) and the remaining species of birds currently prohibited through By-law 2008-61 would continue to be prohibited.

Staff will be required to develop regulations which provide for best-practice standards for the keeping of egg laying hens, including the number of hens permitted to be kept, care and control standards for hens and their eggs over their lifetime and enclosure construction and placement standards among other things.

Some municipalities have created a registry system whereby owners of egg laying hens register their property as having egg laying hens annually or bi-annually. Staff do not recommend this model given the additional administrative burden associated with managing a registry.

Should Council wish to proceed with Option B, staff recommend that public consultation be undertaken to seek input on applicable regulations prior to consideration at a future Committee of the Whole meeting. A consultation plan has not been developed, but could take the form of online input, a public information meeting and input from the public at the Farmer's Market. Staff would be required to further examine impacts related to the Town's contract with the Town of Georgina animal shelter.

It is also recommended that should Council wish to allow for and regulate egg laying hens, it do so on a trial basis of one year, to allow for staff to evaluate the effectiveness of the regulations and enforcement model. Following the passage of the regulations, outreach and education would be required to inform the public about the Town's standards established for egg laying hens.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report relates to the Well-equipped and Managed link of the Town's Community Vision – implementing policy and processes that reflect sound and accountable governance.

CONSULTATION

Staff have consulted with York Region Community and Health Services Public Health Branch, the York Region Food Network and the Town's Environment Advisory Committee. Staff have also referred to the materials provided by Mr. Mantha in his deputations to Committee of the Whole.

HUMAN RESOURCE CONSIDERATIONS

It is unknown how the introduction of new regulations related to egg laying hens will impact on enforcement-specific activity as this may depend on the number of residents who currently or plan to keep egg laying hens. Any new regulatory by-law would require additional staff time above and beyond existing priorities, which have recently included an enhanced focus on accessory dwelling unit enforcement and a comprehensive review of the Town's sign by-law. A year long trial period would assist to assess the effectiveness of a regulatory by-law and evaluate the impact on enforcement resources.

Existing staff resources would be required to provide initial and then periodic outreach and education related to the regulations, which could be undertaken in partnership with community organizations and ratepayer groups.

BUDGET IMPACT

Staff will be required to further review and advise Council on any budget impacts related to the Town's current contract with the Town of Georgina animal shelter to address the potential of abandoned hens, which is anticipated to be the most substantive budget impact. Outreach and education required as part of the implementation of the regulations has not been currently accounted for in the 2014 Budget, and would require further review, although such costs are expected to be nominal.

CONTACT

For more information on this report, contact Florence DiPassio, Licensing Officer, 905-953-5300, extension 2206 or via email at fdipassio@newmarket.ca.

Florence DiPassio, Licensing Officer

Andrew Brouwer, Director, Legislative Services/ Town Clerk

Anita Moore, Commissioner of Corporate Services

Appendix 'C' to Corporate Service – Legislative Services Report 2016-04 regarding Ward 2 Egg Laying Hens Pilot Project.

Hi Florence,

I'm very excited that Newmarket is planning an urban hen pilot project. I think there is a lot of unfounded fear so actually testing to see what happens is a great idea. I'm a bit disappointed to be a resident of Ward 3 rather than Ward 2...but chances are, I wouldn't get my own hens. I do think that people that want hens should be allowed to have them.

Backyard hens are a great source of healthy food and we should be encouraging people to eat healthier. They are also an effective way to use organic waste, diverting it from the expensive green bin waste stream.

One question I had about the proposed rules was the requirement for 4 month old hens. I know where to get chicks but not 4 month old birds...at 4 months you miss the cutest stage if you're involving kids in the activity.

I'm looking forward to hearing about a successful pilot project!

Joan Stonehocker

Hello,

Thank you for holding the PIC earlier this week in relation to the proposed trial for raising hens in residential areas of Newmarket. As a person who grew up raising chicken in an urban environment I am continually surprised as to why raising chickens in Newmarket is prohibited in the first place. If conducting a trial is the only way that the prohibition may eventually be changed, then I am in support of the trial. My preference however is to amend the bylaw without wasting time and effort on a trial.

At the PIC it was evident that staff had a clear understanding of the benefits and issues associated with raising chicken and provided rational rules that residents would need to follow e.g. limiting the number of hens, pen location on a property, no roosters etc. One further consideration that I did not see at the PIC was the potential for chicken manure washing into local waterways potentially elevating phosphorus levels. For the rare instance where residents are in close proximity to watercourses e.g. yard backs onto a stream, then residents could be required to provide a buffer perhaps a 2-3 meters, between pens and the watercourse.

Cheers,

Ben Longstaff

I have the following comments:

What is the purpose of the Pilot is not defined in the information. There should be objectives set out and there should be ways of measuring the findings. Without that, what purpose will be pilot serve?

The pilot project should be extended to the whole town with up to 20 properties – First qualified – first selected. I doubt there will be 20 properties interested in Ward 2 and as a result the pilot will be inconclusive. I think there should be a minimum of 10 properties involved in the pilot in order to be able to determine findings. If 10 interested parties cannot be found in Newmarket, then there is not sufficient interest in the community to warrant a pilot and the raising of hens should be prohibited. The concept of a pilot should remain so that if in future enough interest is demonstrated, the pilot could go ahead and the decision to prohibit hens could be revisited.

Hen coops should be permitted in Side Yards for properties that do not have back yards. The set backs should still apply. Dog houses/runs and other residential accessory structures are prohibited from front yards only. Same should apply here.

The limit of 3 hens should be removed. The number of hens should be determined by space on the property while respecting set backs. 10 square feet per hen enclosure and coop. If a limit is required, it should be higher than 3.

The home slaughter of hens prohibition is unenforceable and should be removed. There are other laws relating to cruelty of animals that should be used with regards to deliberate cruelty. Since it is possible to purchase live poultry for consumption and since this poultry must somehow be slaughtered, The slaughtering should not be prohibited.

The requirement to dispose of deceased hens at a livestock disposal facility or through a vet should also be removed. Meats and pet waste can be disposed of in the green bin for recycling. Any pathogens in the carcass will also be present in the waste and the waste can be disposed of in the green bin.

Let me know if you have any questions.

Richard Poulin