



Department: Planning and Development

Report Number: 2014-69

Date: November 10, 2014

SUBJECT: Request for Keeping of Chickens within the Urban Area

1) PURPOSE:

The purpose of the report is in response to Council's August 11th direction regarding the keeping of chickens within the Urban Area in response to an email from Matthew Sorge and Leslie Butt.

2) HISTORY, BACKGROUND, COUNCIL POLICY, PRACTICES

On August 11, 2014, Council received the following email correspondence from Matthew Sorge and Leslie Butt:

To Whom It Mat Concern:

Hello, my name is Matthew Sorge and I live at 231 Charlotte Street, Port Colborne. We have been visited by the By-Law Officer with regards to our 4 chickens on our property. We have emailed both of our Ward Councillors (Bill Steele and Dave Elliott) with regards to this visit and request to have our chickens removed from our property.

My wife and I are willing to abide to the By-Law Officers request, but we would like to start the process of trying to amend the by-law that states that we cannot have chickens within the city limits. What steps should we take to amend this by-law? I am aware that Niagara Falls allows up to 10 chickens and Brampton allows up to 5. Both cities are far larger in mass and population, but have changed with the times much more progressively than Port Colborne, a town of 19,000 people and of which is surrounded by farm land.

Please let me know the steps to start the process of amending the by-law.

Thank you in advance,

Matthew Sorge & Leslie Butt

On August 11, 2014, Council also received a memorandum from Shannon Larocque, Planner, regarding chickens in the Urban Area and referred the matter to the Director of Planning and Development for a report.

3) STAFF COMMENTS AND DISCUSSIONS

The matter was brought forward to Council as a result of a complaint and resulting action from By-law Enforcement for compliance.

As Council is aware from Mrs. Larocque's memo (attached as Appendix C), keeping of chickens in the Urban Area is not permitted as per the Zoning By-law. In 2010, Council

did put in place a policy to allow farm animals on property not zoned agricultural in the Keeping of Animals' By-law provided many factors are complied with and did so to allow a horse and pony on Killaly Street East property (within the Urban Area) following application for a Minor Variance to the Committee of Adjustment.

The policy contains several requirements to be met (outlined in Appendix C). Some requirements are that a property needs to be a minimum of one acre in size, to have approval of all property owners within 500', an agreement, documentation of animals being kept and provisions on covering costs associated with keeping the animals.

Urban farming has become a bit of a trend in people wanting to produce and eat their own food on their own property. Backyard chickens in urban areas has been at the forefront along with community gardens. There have been lobbying groups formed pushing for backyard chickens approval. Upon research, municipalities across North America are split on keeping backyard chickens in the Urban Area. Some have allowed them with specific provisions to be met and others are not in favour of them for various reasons when debating the matter. Locally, the City of Niagara Falls allows them subject to provisions while the City of St. Catharines decided not to allow them at all.

In discussions with the City of Niagara Falls, they have stated allowing them was related to the fact they have a large immigrant population that live there and a number had kept chickens in their backyards. Their approved 2002 By-law allows a maximum of 10 chickens subject to setback requirements and it prohibits roosters. They indicate that the provisions have worked and generally receive one complaint a year, more so inquiring if their neighbour is allowed to keep chickens. The Niagara Falls By-law for backyard chickens is attached as Appendix A.

On the other hand, information from the City of St. Catharines and their decision not to allow them in 2011 were based on rat/rodent infestations, fly breeding ground due to improper disposal of chicken droppings and odour complaints, the fact that chicken waste was not acceptable for residential garbage collection and enforcement resources to handle complaints. St. Catharines also cited concerns from Niagara Region Public Health with the transmission of bird diseases such as Histoplasmosis, Cryptococcus and Cryptosporidia, transmission of Avian influenza and West Nile virus, transmission of enteric bacteria, such as E.coli and Salmonella.

Proponents however raise that backyard chickens kept properly and looked after do not pose any health or nuisance concerns and are an affordable choice for food. Others also say that permitted household pets such as a dog create far more nuisance related complaints.

Vancouver for example allows only 4 egg laying hens while Buffalo, New York allows 5 and Brampton 10. One thing that seems consistent with municipalities that allow them are setback provisions, minimum lot size and enclosure requirements, rooster and slaughter prohibition, owner registration, and some are required to pay a licensing fee. Toronto, Halifax and Ottawa are some that have banned them citing the same reasons generally as St. Catharines. The City of Edmonton is currently doing a pilot project on keeping of backyard chickens before they take a final position on them. The Egg Farmers Association of Ontario provided an information sheet to the Mayor's Office regarding the concerns of raising backyard hens in urban environments (See Appendix B).

In recent months, upon complaints received, By-law Enforcement has had to deal with chickens and a rooster running at large and crowing within Ward 3. Multiple complaints were related to noise and property damage. The matter required assistance from the Welland Humane Society for their capture. If Council directs a change to allow backyard chickens with conditions, By-law Enforcement time and resources will be increased to react accordingly for inspections and compliance.

The keeping of chickens in the City is defined as an agricultural use and permitted in the agricultural/rural area in the Zoning By-law. Depending on the size of the structure and number of chickens kept would be subject to setback requirements through Minimum Distance Separation (MDS) calculations. Presumably, structures that would house chickens for personal use would not be subject to MDS due to their limited sizes. Some municipalities that have allowed them have properly amended their zoning by-law in order to do so. Of note, and surprisingly, Niagara Falls staff were unsure when the by-law was created if zoning was taken into consideration as it is silent on the matter.

People that choose to live in agricultural/rural areas expect farming practices to be allowed and raising of chickens, sheep, horses or any other livestock is common practice. Introducing agricultural uses into urban residential areas create compatibility issues and why the two don't mix and are not presently allowed.

Those that choose to live in urban neighbourhoods do not expect agricultural type uses would be next door and create possible nuisances. Rhetorically, if chickens are allowed, why not a lamb for wool or rabbit farming for eating? In my opinion, if people would like to raise chickens for producing eggs, they have the option of moving to the rural/agricultural areas of the City to do so where they would be able to comply with City By-laws. Some municipalities that have allowed them are not afforded with agricultural lands as Port Colborne has while some municipalities that have do in fact have agricultural lands (Guelph). As evident, keeping of backyard chickens is split politically across North America.

Land use planning is in place to avoid conflicts and provide compatibility in any area. While allowing backyard chickens may create a convenient and efficient environment for some, others may find such as being unattractive, unhealthy and an inconvenience due to the issues that may arise with their location in a residential neighbourhood.

4) OPTIONS AND FINANCIAL CONSIDERATIONS:

a) Do nothing.

This report is for information purposes and doing such would continue to not allow backyard chickens in the urban area.

Other Options

Option 1 - Council can direct that an amendment to the Keeping of Animals By-law or a change in the Farm Animal Policy and Procedure be made that would allow backyard chickens and put in place whatever controls they would like. If Council does directs so, a Zoning By-law amendment is required that would allow chickens in the urban area and a public meeting would be held that would gauge the public's interest on the matter

before any changes are made. If Council directs a change, then a subsequent report can be brought forward with control option provisions similar to municipalities that have permitted them.

Option 2 - Council can direct changes to the Keeping of Animals By-law, and depending on what requirements are put in place, require a successful minor variance application and all property owners within 60m would be notified and can voice their support or objection for consideration by the Committee of Adjustment. The property owner would also be required to meet all other requirements in the Farm Animal Policy and Procedure for whatever they may be. If Council directs a change, then a subsequent report can be brought forward with control option provisions similar to municipalities that have permitted them.

5) COMPLIANCE WITH STRATEGIC PLAN INITIATIVES

N/A

6) ATTACHMENTS

Appendix A – City of Niagara Falls By-law on keeping of backyard chickens
Appendix B – Information Sheet from the Egg Farmers of Ontario
Appendix C – Memo from Mrs. Shannon Larocque with the City’s Farm Animal Policy and Procedure.

7) RECOMMENDATION

- 1. That Council receives this report for information purposes and that no further action be taken.**

Prepared on October 21, 2014 by:

Reviewed and Respectfully Submitted:



Dan Aquilina, MCIP, RPP, CPT
Director of Planning and Development



Robert J. Heil
Chief Administrative Officer

APPENDIX A – City of Niagara Falls Backyard Chicken By-law

SCHEDULE “C” CHICKENS

1. In this Schedule: "being at large" means to be found in any place other than the property of the owner of the chicken and "be at large" has a corresponding meaning.
2. No owner shall allow or permit his or her chicken to be at large.
3. No person shall keep a rooster are not permitted within the Urban Boundary.
4. The total number of chickens permitted within the Urban Boundary shall be as follows;
 - (a) On and after July 15, 2002: maximum 20 chickens
 - (b) On and after July 15, 2005: maximum 10 chickens
5. All chicken coops shall be located only in the rear yard and must fully enclose the chickens and prevent them from escaping.
6. The chicken coop shall be designed and constructed to ensure proper ventilation and sufficient space for the chickens and maintained in accordance with good animal husbandry practices and shall keep all vermin out.
7. All dead chickens must be disposed of immediately and in any event, within 24 hours.
8. There must be hygienic storage of and prompt removal of chicken feces.
9. The chicken's food supply must be protected against vermin.
10. All lots housing chickens must have:
 - (1) detached dwellings on them;
 - (2) a frontage of at least 40 feet; and,
 - (3) a depth of at least 100 feet.
11.
 - (1) The chicken coop shall be located at least 25 feet from the rear lot line of the lot on which the chicken coop is located.
 - (2) The chicken coop shall be located at least 15 feet from any side lot line of the lot on which the chicken coop is located.

Urban Egg Farmer:

Top Ten List of Chores

There has been a growing interest in raising egg-laying hens in urban environments. Properly taking care of chickens requires some physical adaptations to a typical backyard, a daily time commitment to caring for the flock, a lot of preparation, and a great deal of expertise. If you are considering having a backyard flock of your own, here is an example of a chore list you should expect.

1. Chicken feed must be purchased from a specialized supplier. Pet food stores are not known to carry the feed hens need.
2. To be comfortable, hens need shade for hot days and a shelter with a heat source for cold days.
3. Be sure to lock up the chickens at night to keep them safe from skunks, rats, raccoons and neighbourhood pets who will prey on the hens and eat their feed.
4. Failing to provide fresh water and feed, a clean environment and proper lighting every day, can lead to hen infections, illness and poor production.
5. Eggs shells are porous and can absorb harmful bacteria if not handled properly.
6. Educate yourself on the warning signs that indicate a hen is ill. Hens require vaccinations and health care from a qualified veterinarian.
7. It is not appropriate to compost chicken manure due to the high level of minerals (especially phosphorus) in the manure, which can stop the composting process in typical backyard composters. Develop a plan for how to dispose of your chicken manure.
8. All livestock, including chickens, can be carriers of diseases which can be transmitted to humans who are in close contact with them including children. It is important to learn how to handle and care for hens without accidentally exposing yourself to an animal disease such as Avian Influenza, Salmonella or Campylobacter.
9. Hens can live to be 7 to 10 years old. An older hen needs to take a break from egg production periodically. Going out of production is termed "molting." It occurs naturally and is necessary for old hens to remain healthy.
10. Any area where animals live will become increasingly contaminated the longer animals are housed there. Plan to have 'down time' when no poultry live in the yard, which will give you a chance to decontaminate the area, and break the life cycle of the bacteria, intestinal roundworms and viruses.

DID YOU KNOW:

- ▶ A hen excretes approximately 2 lbs of manure per week.
- ▶ A hen may appear healthy, but can be laying eggs to the detriment of their own health if not properly cared for.
- ▶ Laying hens need feed that is especially high in protein and calcium. The high calcium level that a hen needs in her diet would be toxic to household pets such as cats and dogs.

Being an Urban Egg Farmer can be a rewarding experience and a great source of pride. However, failing to do these daily chores can severely compromise hen health, hen welfare, egg quality, and consequently, human and environmental health.

MEMORANDUM

TO: City Council

FROM: Shannon Larocque, Planner

DATE: August 1, 2014

RE: Chickens in the Urban Area

At the request of the Chief Administrative Officer, this memo outlines the current restrictions relating to keeping chickens within the City's urban area.

According to the City of Port Colborne Zoning By-law 1150/97/81, as amended, the keeping of livestock is considered an agricultural use and is only permitted in an A (Agricultural) or RU (Rural) zone.

According to Section 31 of Zoning By-law 1150/97/81, as amended:

“Livestock means farm animals including, but not so as to limit the generality of the foregoing, dairy and beef cattle, horses, swine, sheep, poultry, goats, fowl, mink, rabbits, fur bearing animals.”

and:

“Agricultural use means a use of land, building or structure for the purpose of animal husbandry, keeping of livestock, bee-keeping, dairying, fallow, field crops, forestry, fruit farming, horticulture, market gardening, pasturage, nursery, poultry-keeping, farm greenhouses or any other farming use, and includes the growing, raising, packing, treating, storing and sale of produce and other similar uses customarily carried on in the field of general agriculture and which are not obnoxious.”

In addition to the restrictions in the Zoning By-law, Council also adopted Keeping of Animals By-law 4086/81/01 which regulates animals in the City of Port Colborne. Under this By-law, the City has established a policy to be followed for keeping farm animals on property zoned other than A – Agricultural (attached). The policy requires an application be made to the City to enter in to an agreement to permit farm animals on non-agricultural properties, notification and obtaining permission of neighbours, documentation of animals being kept on property and includes provisions on covering costs associated with keeping the animals.

A quick internet search indicates that municipalities have taken different approaches when addressing the issue of chickens within their urban areas. Toronto and Halifax have banned them while Vancouver, Victoria, London, Waterloo, Guelph and Niagara Falls have permitted them with restrictions.

Sincerely,

A handwritten signature in black ink that reads "S. Larocque". The signature is written in a cursive style with a large, stylized initial "S".

Shannon Larocque, RPP, MCIP
Planner

SECTION: Farm Animal Policy and Procedure
SUBJECT: Keeping of Animals By-law, Temporary Exemption from the Provisions of By-law 4086/81/01.

PURPOSE: The purpose of this policy and procedure is to establish consistent guidelines when residents wish to house farm animals on property that is zoned other than Agricultural within the City of Port Colborne.

SCOPE: The City Of Port Colborne Keeping of Animals By-law 4086/81/01.

POLICY STATEMENT The Keeping of Animals By-law provides for prohibiting and regulating animals within the City of Port Colborne

. The By-law addresses concerns such as:

- ◆ Care of Animals
- ◆ Prohibited or Dangerous Animals
- ◆ Domesticated and Farm Animals
- ◆ Seizing, Impounding and Sale or Killing of Animals
- ◆ Registration and Licensing of Animals

PROCEDURE: The following conditions and caveats must apply in respect of an application to Council to amend by-law number 4086/81/01 on a temporary basis, to permit the keeping of certain animals generally excluded in non-agricultural lands and includes a list of rules that must be adhered to if any owner of a property wishes to house farm animals on property not zoned Agricultural.

- ◆ Minimum lot size 1 acre or 0.39 ha
- ◆ Only an owner of a property can apply for this exemption.
- ◆ Only the animals listed in Schedule "F" of the Keeping of Animals By-law 4086/81/01 as amended qualifies for an exemption under this policy.
- ◆ All costs associated with an application and subsequent temporary exemption from by-law 4086/81/01 are the sole responsibility of the owner of the property and the owner shall enter into an agreement with the City that any and all costs incurred by the city shall be paid forthwith by the owner to the City and failing the payment of any costs, the amount unpaid shall be added to the tax roll and be collected as taxes. The following is a list of the types of costs to be paid by the owner as a condition of an exemption to by-law 4086/81/01:
 - ◆ costs incurred for legal fees, both those of the owner and all legal fees incurred by the City,
 - ◆ cost for production of and registration of easements or agreements,
 - ◆ costs incurred for subsequent removal and disposal of animals by the owner or by the City or its agents,

- ◆ fencing, screening or similar appurtenances despite the provisions of the Line Fences Act,
- ◆ special features or facilities required as identified during the application stage to qualify for the temporary keeping of animals and exemption from the stated by-law, and
- ◆ any incidentals or additional costs required by the City in order that the owner may have the privilege of having an exemption to the said by-law.
- ◆ The owner of the property must provide original written approvals of the application to the City, in wording described below, from all neighbours (both owners and tenants if not owner occupied) within 500 feet (152 metres) of the boundary of the applicant's property or lot lines. Written approval must include the date, neighbour's name (owner and tenant as the case may be), mailing address, telephone number and signatures. Wording to be agreed to by both owners and tenants, if tenant occupied:

"I (insert names of the owners here) do hereby notify the City of Port Colborne, that I (we) are not opposed to the amendment of City By-law 4086/81/01 to permit (insert the name of the applicant) to keep the following farm animals: (list type/kind of animal including any names, markings or other identifiable features including photo(s) of the animal(s)) on their property located at (insert applicant's municipal address here) and further I grant this consent with the knowledge that I may withdraw such consent for any reason whatsoever and at any time by filing notice with the City of Port Colborne delivered to its corporate office at 66 Charlotte Street, Port Colborne, L3K 3C8."
- ◆ In the event an owner of land within 500 feet of the subject property sells the property, the applicant for exemption must obtain a new and revised letter of approval from the new owner/tenant and file same with the City.
- ◆ The owner must provide complete and thorough details of the animal(s) which are the subject of the temporary exemption including name, photos, breed, sex, and any identifying marks or tattoos that would identify the animal from another.
- ◆ Animals for consumption (resale) transfer/storage for or on behalf of any other person do not qualify for exemption from by-law number 4086/81/01. The intention of this policy is to temporarily provide for an exemption from the prohibition as set out in Schedule "F" to by-law 4086/81/01 for farm animals that the owner/applicant considers as pet(s).
- ◆ For the purposes of this policy a copy of Schedule "F" to By-law 4086/81/01 is attached to this policy to specifically identify the types of animals that may be temporarily exempted from the by-law. Schedule "F" to By-law 4086/81/01 may be amended from time to time and shall be deemed to form part of this policy for illustrative purposes in a revised or amended form.

AGREEMENT:

An agreement between the owner/applicant and the City of Port Colborne is condition precedent to an amendment to the by-law 4086/81/01. The following minimum provisions must be included in an agreement:

- ◆ The owner must provide for unrestricted access to the City or its agents and accordingly will register on title an easement in favour of the City to access the property at any time. A copy of the registered/deposited easement shall be attached to the agreement and shall remain in force as long as the exemption to by-law 4086/81/01 remains in force.
 - ◆ The agreement shall provide that the owner grants irrevocable permission to the City or its agents authorizing the City or its agents complete and unfettered access at any time to enter onto the property for the purpose of inspecting or removing the farm animals identified in this agreement.
 - ◆ The owner must irrevocable indemnify the City or its agents from any damage or injury whatsoever claimed against the city or its agents in the exercise of any action arising from the application of this policy including the disposal of any animals, the cost of which is agreed that if unpaid by the owner will be added to the property taxes and collected as taxes.
 - ◆ The agreement must provide that once the permitted animals as described in the application and exempted from by-law 4086/81/01 are deceased or cease for any reason whatsoever from remaining on the property, that the City be notified and the exemption to by-law 4086/81/01 will be revoked, and the owner/applicant may prepare appropriate documentation for the city's consideration to release the easement and cancel the agreement under this policy.
 - ◆ On written notice mailed/served by the City on the owner/applicant based on the removal or withdrawal of any one or more letters of consent originally granted by any person within 500 feet (152 metres) of the boundary of the owner/applicant's property or lot lines in accordance with this policy, the owner/applicant shall within sixty (60) days remove the animals exempted from the provisions of by-law 4086/81/01
 - ◆ In lieu of a letter of credit the owner must provide that any and all costs incurred by the City must be paid within 30days of notice from the city failing which the amount shall be added to the tax roll and collected as taxes.
 - ◆ Annually, the owner/applicant shall supply a report on the condition and health of the animal(s) exempted from by-law 4086/81/01 or sooner should the condition of the animals change or should the animal(s) die or be removed from the property.
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