

REPORT
PLANNING/BUILDING/ENVIRONMENTAL
COMMITTEE

DATE: February 12, 2024

REPORT NO: PD-11-2024

SUBJECT: **Backyard Chickens**

CONTACT: Brian Treble, Director of Planning & Building

OVERVIEW:

- On September 11th, 2023, a local resident of Smithville, Dora Pavlidis and her neighbour, Karen Sabatine, made a presentation to Planning Committee about permitting backyard chickens subject to limitations.
- At the November 13th, 2023 Planning, Building, Environmental Committee Meeting, Planning staff brought forward staff report PD-56-2023 requesting that the Township proceed with a public consultation process.
- On January 9th, 2024 a dedicated page on the Township website was published to provide background material as well as a survey for West Lincoln residents to fill out.
- Township staff have received multiple written public comments as well as just over 500 online surveys completed at the time of writing this report.
- Planning Staff will bring forward a report to a future Committee and Council meeting when a thorough review of all issues, comments and concerns have been completed.
- It is anticipated that should a positive recommendation be provided to allow backyard chickens, a second public meeting would then be held to consider draft proposed regulations.

RECOMMENDATION:

1. That, Technical Report PD-11-2024, regarding “Backyard Chickens”, dated February 12, 2024 be received; and,
2. That, a Recommendation Report be submitted to a future Planning/Building/Environmental Committee once all public and agency comments have been taken into account and a full staff and agency review has been completed.

ALIGNMENT TO STRATEGIC PLAN:

- **BUILD** a safe, connected, caring and active community.

- **ENRICH** our strong agricultural legacy

BACKGROUND:

Staff and members of Council have received several inquiries regarding the possibility of allowing backyard chickens on residential properties within the Township of West Lincoln, within the urban boundaries, the rural hamlets, and rural residential lots.

The purpose of this report is to provide information to Council regarding current regulations for ‘backyard chickens’ within the Township of West Lincoln and outline necessary steps to facilitate policy and regulation changes if Council were to consider permitting ‘backyard chickens’ on residential properties. Staff have outlined a number of issues and considerations related to permitting the residential use of backyard chickens, such as amendments of the current Animal Control and Zoning by-law.

CURRENT SITUATION:

While the keeping of livestock has generally been associated with agriculturally zoned properties and not residential properties in urban areas, hamlets or rural residential lots; some urban municipalities have recently established provisions for the keeping of backyard chickens (i.e. hens). Typically, this entails residents keeping several hens for the production of fresh eggs for their own use and not for resale.

Supporters of ‘backyard chickens’ have cited benefits related to sustainability, food quality, ethical animal treatment and alleviation of poverty. Those who oppose ‘backyard chickens’ have focused on concerns relating to disease, odour, noise and potential for attracting rodents/predators, most neighbouring municipalities are also opposed to backyard chickens for these cited reasons.

The Town of Pelham passed a by-law in 2023 (By-law 44-2023 “Backyard Hen By-law”) to allow for the keeping of hens (an application to obtain a license is needed) to regulate and govern the keeping of a maximum of 6 hens and applies to all areas within the Town on residential properties subject to meeting the minimum lot size and setback requirements and which are not considered to be agricultural properties (this report can be found at Schedule 4 to this report). The City of Niagara Falls, City of Toronto, and Township of Oro-Medonte also have adopted somewhat similar approaches to the keeping of hens on residential lots.

Currently, the Township’s Zoning By-law requires all new agricultural uses, including the raising or keeping of livestock/chickens to be located on properties zoned A (Agricultural).

As such, ‘backyard chickens’ as well as all types of livestock are currently classified as prohibited in urban areas in the Township’s zoning bylaw. The Township’s By-law Enforcement Department has received multiple complaints regarding ‘backyard chickens’ in the last 3-4 years.

Should Council wish to change the way in which ‘backyard chickens’ are regulated,

significant amendments to the Township's Zoning and Animal Control By-law's would be required. Appropriate rules and regulations would need to be reviewed and statutory requirements under the Planning Act would have to be addressed, including an additional statutory public meeting. A review of land use policy of the Township of West Lincoln Official Plan must also be considered.

Staff have prepared the following list of potential considerations/issues that a 'backyard chickens' policy should have regard for if permitted in the Township of West Lincoln:

- Rural lots vs Urban lots (settlement areas);
- Minimum lot area and frontage for 'backyard chickens';
- Maximum number of chickens permitted;
- Licensing, registration and fees for chickens;
- Clean yards and safe handling standards;
- Manure management;
- Minimum coop dimensions and setbacks;
- Minimum range size, nesting areas, etc.;
- Prohibition on slaughter;
- Prohibition on roosters;
- Prohibition on sale of products;
- Fencing requirements;
- Veterinary and health requirements; and,
- Source Water Protection considerations

The policies relevant to farm business operations (and the policy review exercise for this information report) are presented below. Typically, farm business operations are regulated through agricultural land use policies. The Province directs farm business operations on agricultural land designations within the Township of West Lincoln through the *Provincial Policy Statement (PPS) 2020* and the Niagara Official Plan.

Provincial Policy Statement (2020)

The updated Provincial Policy Statement (PPS) (2020) provides policy guidance on land use and development in Ontario. In the PPS (2020), rural areas and prime agricultural areas are the primary land types identified for farm business operations.

Section 1.1.4 policies target rural areas as a system that encompasses rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas, and other resource areas. These policies offer a comprehensive understanding of Ontario's rural areas, emphasizing the importance of sustainable and diversified economic development.

Key rural area policies for farm business operations include:

- Section 1.1.4.1 highlights rural areas should provide opportunities for a range of economic activities including agriculture, home-based businesses, and tourism.
- Section 1.1.4.2 focuses growth into rural settlement areas to help protect agricultural lands in surrounding rural areas from urban sprawl.
- Section 1.1.4.3 requires that rural characteristics, development scale, and

service levels are considered to ensure that development in rural areas is compatible with agricultural activities and does not hinder farming practices. Meanwhile, Section 1.1.5 specifically addresses rural lands. Rural land policies in Section 1.1.5 support and promote agricultural uses, diversification, and economic development while minimizing land use conflicts. Key rural land policies for farm business operations include:

- Section 1.1.5.2 outlines permitted uses on rural lands relevant to farm business operations, such as agricultural uses, agriculture-related uses, on-farm diversified uses, and normal farm practices. Additionally, rural lands should accommodate a suitable mix of land uses, including agricultural, residential, resource-related, and recreational uses, to foster a diverse and resilient rural economy.
- Section 1.1.5.3 encourages recreational, tourism, and economic opportunities in rural lands. Farm businesses can both benefit from and contribute to these prospects, diversifying income sources and fostering a dynamic rural economy.
- Section 1.1.5.4 and 1.1.5.5 ensure that development in rural lands is compatible with the landscape, supported by rural service levels, and appropriate to available or planned infrastructure, avoiding unjustified or uneconomical expansion. These policies maintain the viability of farm business operations by ensuring efficient use of services, resources, and infrastructure.
- Section 1.1.5.6 preserves opportunities for new land uses needing separation from others, such as farm businesses needing separation from incompatible activities.
- Section 1.1.5.7 promotes a diversified rural economy by protecting agricultural and resource-related uses and directing non-related development to areas with minimal constraints on these uses.
- Section 1.1.5.8 requires compliance with minimum distance separation formulae, reducing land use conflicts and protecting farm operations.

Section 2.3 outlines prime agricultural policies. Prime agricultural areas are regions with a predominance of prime agricultural lands (Specialty Crop Areas or Canada Land Inventory Class 1, 2, and 3), associated CLI Class 4-7 lands, and other areas with a local concentration of active farming. These areas may be defined by OMAFRA using provincial guidelines. Key policies pertaining to prime agricultural areas for farm business operations include:

- Section 2.3.1 requires that prime agricultural areas be identified and protected for long-term agricultural use.
- Section 2.3.3.1 sets the permitted uses in prime agricultural areas. These include agricultural uses, agriculture-related uses, and on-farm diversified uses that are compatible with, and do not hinder, surrounding agricultural operations.
- Section 2.3.3.2 requires new land uses, including the creation of lots and new or expanding livestock facilities, to comply with the MDS Formulae to prevent land use conflicts and mitigate potential impacts on agricultural operations.
- Section 2.3.4 sets out policies that restrict the creation of new lots in prime agricultural areas, except in specific circumstances.
- Section 2.3.5 seeks to minimize any negative impacts on agricultural operations resulting from non-agricultural development.

- Section 2.3.6 discourages the removal of land from prime agricultural areas for non-agricultural uses, except under limited and justifiable circumstances.

The Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas (2016) provides further clarification on agricultural uses, agricultural-related uses, and on-farm diversified uses (Ontario Ministry of Agriculture, Food and Rural Affairs, 2016). The definitions of these types of uses are as follows:

AGRICULTURAL USES: *“means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on- farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.”*

AGRICULTURAL-RELATED USES: *“means those farm- related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.”*

ON-FARM DIVERSIFIED USES: *“means uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products. Ground-mounted solar facilities are permitted in prime agricultural areas, including specialty crop areas, only as on-farm diversified uses.”*

The guidelines clarify that *agricultural uses* and *agricultural-related uses* are permitted in prime agricultural and rural designations without size restrictions provided they can be serviced; however, on-farm diversified uses are limited in size as they must be secondary to the primary farm uses.

Niagara Official Plan, 2022

The Niagara Official Plan primarily supports agricultural activities, including the raising of livestock within prime agricultural areas. The prime agricultural areas are to be protected for long term agricultural use in order to allow for a variety of agricultural activities, including livestock production.

The Niagara Official Plan also supports various forms of urban agriculture. Urban agriculture is defined as agricultural production of food and non-food products accessory to the principle use of a property. Examples of urban agriculture include community, school and rooftop gardens, ground-based outdoor community and urban market gardens, urban livestock and hydroponic farms.

Section 2.2.1.1 of the Niagara Official Plan states that development in urban areas will

integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support overall quality of life including affordable, locally grown food and other sources of urban agriculture.

Further in the Niagara Official Plan, in Section 6.3.11, there is policy which supports healthy communities by encouraging urban agriculture and community gardens.

Township of West Lincoln Official Plan

The Township Official Plan also provides strong support for the protection of agricultural areas for long term agricultural uses including the raising of livestock. Section 6 of the Township's Official Plan, Urban Settlement Area, and Section 7, Hamlet Settlement Area, do not speak to agricultural uses within the settlement areas of West Lincoln.

The Township of West Lincoln must use these policies as planning frameworks and ensure conformity to these policies when drafting Zoning By-law regulations.

FINANCIAL IMPLICATIONS:

Depending on the option chosen there may be more staff time required to enforce the appropriate protocols, regulations, and requirements given to the Backyard Chicken initiative.

INTER-DEPARTMENTAL COMMENTS:

Township staff have received multiple written public comments as well as just over 500 online surveys taken at the time of writing this report.

Regional staff have also provided preliminary comments as follows:

"We have a couple of NOP policies generally encouraging urban agriculture as well as a definition of urban agriculture. I've copied them below for your reference. Outside of settlement areas, MDS policies would apply.

If you would like to send me a copy of your public notice, I can take a closer look at it, but I don't suspect there would be any Regional NOP issues if it's within the settlement area.

2.2.1.1 Development in urban areas will integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support:

d. social equity, public health and safety, and the overall quality of life for people of all ages, abilities, and incomes by expanding convenient access to:

ii. Affordable, locally grown food and other sources of urban agriculture;

6.3.1.1 The Region shall support healthy communities by:

e. encouraging urban agriculture and community gardens;

Urban Agriculture:

Within urban areas, agricultural production of food and non-food products accessory to the principle use of a property. Examples of urban agriculture include community,

school, and rooftop gardens, ground-based outdoor community and urban market gardens, urban livestock, and hydroponic farms.”

CONCLUSION:

Planning staff will provide a fulsome review of all received written and oral public and agency comments as well as survey responses and public meeting comments before identifying any options for the proposed backyard chicken initiative in West Lincoln. Staff will bring forward a report to a future Committee and/or Council meeting when this review has been completed.

SCHEDULES:

1. Public and Agency Comments
2. Informational Fact Sheets
3. Town of Pelham – Report #2023-0152 and By-law 44-2023

Prepared & Submitted by:



Brian Treble
Director of Planning & Building

Approved by:



Donna DeFilippis
Interim CAO