



The Corporation of the Town of Pelham

By-law No. 44-2023

**Being a By-law to license, regulate and govern the keeping of hens in the Town of Pelham.**

**WHEREAS** section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*" or "the statute") provides that the powers of a municipality under the statute or any other Act shall be interpreted broadly so as to confer broad authority to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** section 8 of the *Municipal Act, 2001* further provides that a by-law under section 11 of the statute may provide for a system of licences;

**AND WHEREAS** section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the statute or any other Act;

**AND WHEREAS** section 11 of the *Municipal Act, 2001* provides that a lower-tier municipality has the authority to pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons and the protection of persons and property, and by-laws respecting animals;

**AND WHEREAS** section 128 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that any person who contravenes any by-law of the municipality passed under the statute is guilty of an offence;

**AND WHEREAS** section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under its by-laws;

**AND WHEREAS** section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws;

**AND WHEREAS** section 444 of the *Municipal Act, 2001* provides that a municipality, if satisfied that a contravention of a by-law of the municipality has occurred, may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

**AND WHEREAS** section 445 of the *Municipal Act, 2001* provides that a



municipality, if satisfied that a contravention of a by-law of the municipality has occurred, may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention;

**AND WHEREAS** section 446 of the *Municipal Act, 2001* provides that if a municipality has authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter of thing shall be done at the person's expense;

**AND WHEREAS** the Council of The Corporation of the Town of Pelham deems it necessary and desirable to regulate the keeping of hens on certain properties in the Town where they are currently not permitted and to enact this By-law for that purpose;

**NOW THEREFORE** the Council of The Corporation of the Town of Pelham enacts as follows:

## 1. Purpose

- 1.1. The purpose of this By-law is to regulate the keeping of hens on properties where such use of the properties would otherwise be prohibited by the Zoning By-law of the Town of Pelham, as enacted and amended from time to time.

## 2. Definitions

- 2.1. In this By-law:

**"Administrative Monetary Penalty"** means a monetary penalty issued pursuant to Town By-law #4353(2022), as amended from time to time.

**"Applicant"** means a Person applying for a Licence under this By-law.

**"By-law Enforcement Officer"** means a By-law Enforcement Officer of the Town.

**"Enforcement Authority"** means a By-law Enforcement Officer, the Licence Administrator and any Person appointed or otherwise delegated the authority of administration and enforcement of this By-law.

**"Fees and Charges By-law"** means a by-law passed by the Town to establish fees and charges to be collected by the Town, as enacted and amended from time to time.

**"Free Roaming"** means a Hen that is outside of a Hen Coop or Hen Run.

**"Hen"** means a domesticated female chicken that is at least four (4) months old.

**"Hen Coop"** means a fully enclosed, locking, weatherproof structure where Hens are kept and the interior of which contains nest boxes for egg laying, roosts for Hens to sleep on and containers for food and water.



**"Hen Run"** means a covered, fully fenced and secure enclosure that allows Hens access to the outdoors.

**"Licence"** means a licence issued under this By-law for the keeping of Hens.

**"Licence Administrator"** means the By-law Enforcement Officer authorized by the Town to administer this By-law or his/her designate.

**"Licensee"** means a Person who holds a valid Licence issued under this By-law.

**"Occupant"** means a Person that lawfully occupies a Property and includes Owners and lessees.

**"Order"** means any notice of non-compliance issued under this By-law.

**"Owner"** means the registered owner of a Property.

**"Person"** means an individual, corporation, partnership or association.

**"Property"** means any land or premises within the Town and includes all buildings and accessory structures on the said land or premises.

**"Rooster"** means a domesticated male chicken.

**"Town"** means the Corporation of the Town of Pelham.

**"Zoning By-law"** means the Zoning By-law of the Town of Pelham, as enacted and amended from time to time.

### **3. General Provisions**

- 3.1. No Person shall keep Hens except in accordance with this By-law and Schedule "A", which is appended hereto and is part of this By-law.
- 3.2. No Person shall keep Free Roaming Hens.
- 3.3. No Person shall keep Roosters.
- 3.4. No Person shall keep Hens without holding a valid Licence under this By-law.
- 3.5. No Person shall contravene or fail to comply with a term or condition of a Licence issued in accordance with this By-law.
- 3.6. Where a Person holds a valid Licence, the provisions of Town By-law #3448(2013) that prohibit the keeping of Hens do not apply to the Licencee and/or the Property that is the subject of the Licence.

### **4. Administration**

- 4.1. Any Owner or Occupant of a Property may apply to the Town for a Licence.



- 4.2. An application under section 4.1 shall be made in writing to the Licence Administrator, in the form determined by the Town and/or the Licence Administrator from time to time.
- 4.3. An application for a new Licence under section 4.1 shall be accompanied by the applicable fee as established by the Fees and Charges By-law. An application for a renewal of a Licence does not require the payment of a fee.
- 4.4. An application under section 4.1 for a new Licence or a renewal of a Licence shall contain the following:
  - (a) the name, address, telephone number and address of the Applicant;
  - (b) in the case that the applicant is not the legal owner of the Property, a written approval letter from the registered owner of the property acknowledging their support of the application;
  - (c) the address of the Property that is the subject of the application;
  - (d) the number of Hens to be kept on the Property;
  - (e) a site plan of the Property that identifies the size and location of all buildings and accessory structures on the Property, including the proposed locations, dimensions and setback measurements for the Hen Coop and Hen Run;
  - (f) a signed declaration confirming that the Applicant has received, reviewed and understood the contents of an education package provided by the Town regarding rules and regulations for the safe and secure keeping of Hens in accordance with this By-law;
  - (g) an acknowledgment that the Town and/or the Licence Administrator may update the education package from time to time and may require a Licensee to provide a signed declaration confirming that the Licensee has read, reviewed and understood its contents; and
  - (h) any other information required by the Licence Administrator to evaluate the application.
- 4.5. The Licence Administrator may grant or refuse a Licence and may impose such terms and conditions on a Licence as he or she considers appropriate.
- 4.6. The Licence Administrator shall refuse a Licence where the application and/or the Property that is the subject of the application does not comply with the provisions of this By-law and the requirements in Schedule "A".
- 4.7. The Licence Administrator may revoke a Licence where:
  - (a) the Licence was issued or renewed in error;
  - (b) the Licensee contravenes the provisions of this By-law; or
  - (c) the Licensee fails to comply with the provisions of this By-law, the requirements in Schedule "A" and/or any of terms or conditions imposed on the Licence.
- 4.8. A Licence issued pursuant to this By-law is not transferable to any



other Person or Property.

## 5. Enforcement

- 5.1. This By-law shall be administered and enforced by the Town and Enforcement Authorities.
- 5.2. An Enforcement Authority may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the Town pursuant to the *Municipal Act, 2001*.
- 5.3. An Enforcement Authority may, at all reasonable times, enter upon and inspect any land to determine if this By-law is being complied with.
- 5.4. For the purposes of an inspection under section 5.3 of this By-law, an Enforcement Authority may require the production for inspection of documents or things relevant to the inspection, inspect and remove relevant documents or things for the purpose of making copies or extracts, and/or require information from a Person concerning a matter related to the inspection.
- 5.5. An Enforcement Authority who is satisfied that there has been a contravention of this By-law may make an Order requiring the Person who contravened the By-law or caused or permitted the contravention and/or the Owner and/or Occupant of a Property where the contravention occurred to bring it into compliance with this By-law.
- 5.6. An Order made under section 5.5 shall set out the municipal address and/or legal description of the Property, reasonable particulars of the non-compliance and the date(s) by which there must be compliance with the Order.
- 5.7. An Order made under section 5.5 may be served by regular mail, registered mail or hand delivered to the last known address of the Person to whom it is issued, by email to the last known email address of the Person to whom it is issued, or by posting the Order at the Property where the contravention occurred.
- 5.8. Where any Person fails to comply with an Order made under section 5.5 by the prescribed date(s), the Town may do any matter or thing necessary to bring the Property into compliance with this By-law at the expense of the Person in default of the Order.
- 5.9. The Town may recover the cost of any matter or thing done pursuant to section 5.8 of this By-law by adding the cost to the tax roll and collecting it in the same manner and with the same priority as municipal taxes.
- 5.10. No Person shall obstruct or hinder, or attempt to obstruct or hinder, an Enforcement Authority in the exercise of a power or the performance of a duty under this By-law.

## 6. Penalty

- 6.1. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to such penalties as are provided for in the *Municipal Act, 2001* and the *Provincial Offences*



Act.

- 6.2. Administrative Penalty Process By-law #4352(2022), as amended, applies to each Administrative Monetary Penalty issued pursuant to this By-law.
- 6.3. Every Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law #4352(2022), be liable to pay to the Town an Administrative Monetary Penalty in accordance with that By-law.

## **7. General**

- 7.1. The short title of this By-law is the "Backyard Hens By-law".
- 7.2. If any provision of this By-law is found by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the By-law shall not be affected and shall remain in full force and effect.
- 7.3. If there is a conflict between a provision of this By-law and a provision of any other By-law of the Town, the provision that establishes the higher standard shall prevail.
- 7.4. This By-law shall be read with all changes in number or gender as are required by context.
- 7.5. Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.
- 7.6. The Town Clerk is hereby authorized to effect any minor modifications or corrections solely of an administrative, clerical, numerical, grammatical, semantical or descriptive nature or kind to this By-law as are determined to be necessary.

## **8. Exceptions**

- 8.1. This By-law is not applicable to any Property where agricultural uses are legally permitted by the Town of Pelham Zoning By-law 4481(2022).

## **9. Effective Date**

- 9.1. This By-law shall come into force on the date that it is enacted.

Read, enacted, signed and sealed this 07 day of July, 2023.

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Marvin Junkin, Mayor

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William Tigert, Town Clerk