

**THE CORPORATION OF THE
TOWNSHIP OF RUSSELL**

BY-LAW NO. 2020-

**BEING A BY-LAW TO PROVIDE FOR THE LICENSING
AND CONTROL OF BACKYARD HENS IN THE TOWNSHIP
OF RUSSELL**

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipal power shall be exercised by by-law;

WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that or any other Act;

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, S.O., authorize the municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 8 and 9 of subsection 10(2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality; the protection of persons and property; and animals;

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

WHEREAS subsection 8(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a by-law under section 11 of that Act respecting a matter may regulate or prohibit and, as part of the power to regulate or prohibit may require a person to do things, provide for a system of licenses permits, approvals or registrations and impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration;

WHEREAS section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended provides that Council may, by by-law, provide that the municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with certain specified matters, including by-laws passed under the *Municipal Act, 2001*, directions or orders made under the *Municipal Act, 2001* or under a by-law passed under its authority, conditions of a licence issued under the *Municipal Act, 2001* or orders made under section 431 of the *Municipal Act, 2001*;

WHEREAS subsections 446(1), 446(3) and 446(4) of *Municipal Act, 2001*, S.O. 2001, c. 25, authorize the Township of Russell, if it has authority by by-law or otherwise, to direct

or require that a matter or thing be done, to direct in the same by-law that, in default of it being done by the person directed or required to do it, such matter or thing be done at the person's expense and to recover that expense by action or by adding it to the tax roll and collecting it in the same manner as taxes;

WHEREAS section 446 (2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, establishes that following failure to comply with an order directing or requiring the person that a matter or thing be done the municipality may enter upon the land at any reasonable time to perform the directed or required matter or thing be done at the persons expense;

WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, establishes that any person who contravenes any by-law of the Township of Russell is guilty of an offence;

WHEREAS section 429 of the *Municipal Act, 2001*, S.O. 2001, c. 25, establishes that a municipality may establish a system of fines for offences under a by-law of the municipality;

WHEREAS subsection 103(1) of the *Municipal Act, 2001*, S.O provides that if a by-law is passed regulating or prohibiting with respect to the being at large of animals, the by-law may provide for the seizure and impounding of animals being at large and the sale of impounded animals;

WHEREAS the *Municipal Act, 2001*, S.O further authorizes the municipality, amongst other things, to delegate its authority, to impose fees or charges, to provide for inspections, and to make orders to discontinue activity or to do work;

WHEREAS the Council of the Township of Russell deems it advisable to enact this by-Law for the purpose of permitting and regulating the keeping of backyard hens in the Township; and

NOTWITHSTANDING Any other Town by-laws or regulations enacted by Council.

BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF RUSSELL ENACTS AS FOLLOWS:

1. TITLE

1.1 The by-law shall be known and cited as the "Backyard Hen By-law".

2. SCOPE

2.1 This by-law shall regulate the location, size, number, living conditions, maintenance and disposal of backyard hens in residential zones of the Township of Russell .2.2 All schedules attached to this by-law form part of this by-law

- 2.4 All hens and coops on public and private property shall be kept and erected in accordance with the provisions of this by-law.
- 2.3 This by-law does not apply to hens and coops located within Agricultural zones or on hobby farms in the Rural Residential zone which permit the raising of livestock as per the provisions in the Township of Russell zoning by-law, as amended.

3. INTENT

- 3.1 The purpose of this by-law is to permit, regulate and control the keeping of hens in residential zones, authorizing hens and coops that:
- a. Are appropriate in size, number, and location;
 - b. Are compatible with their surroundings;
 - c. Protect and enhance the aesthetic qualities and visual character of the Township of Russell;
 - d. Are consistent with the Township of Russell's planning, urban design, and heritage;
 - e. Minimize adverse impacts on nearby public and private property; and
 - f. Do not create a safety hazard or a nuisance to abutting properties, businesses, schools, and places of worship.

4. DEFINITIONS

In this By-law:

ABUTTING PROPERTY	means any parcel or lot that has a lot line or portion of a lot line in common with the subject property, including a shared intersection of lot lines
AGRICULTURAL ZONES	means any property, lot or parcel that is zoned Restricted Agricultural zone (A1) or General Agricultural zone (A2), including any special exception zones within these zones, within the Township of Russell zoning by-law
ANIMALS	means any member of the animal kingdom, other than a human.
APPEALS COMMITTEE	means the Property Standards Committee as established by the Township of Russell by-law 2015-036, as amended or replaced, and includes any successor committee designated by Council.
BACKYARD HENS	means the accessory use of land or a structure used to raise hens (excluding roosters) located within the rear yard.
BUSINESS	means any structure, whether publicly owned or privately owned that is adapted for occupancy for transaction of business, this does not include any home based

business, home based business rural or home industry as defined in the zoning by-law.

CLERK	means the Clerk of the Township of Russell.
DWELLING UNIT	means a residential unit located in a building or structure, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.
TOWNSHIP	means the Township of Russell.
COUNCIL	means the Council of the Township of Russell.
EXTERIOR SIDE YARD	means the space abutting a public street that extends from the front yard to the rear yard between a side lot line and the nearest point of the main building, not including a permitted projection.
FRONT YARD	means the space paralleling the front lot line extending across the full width of a lot between the front lot line and nearest part of any main building on the lot, not including a permitted projection.
HABITABLE ROOM	means a room commonly used for cooking, living, dining or sleeping purposes and shall include an enclosed sunroom but shall not include any garage, carport, porch, veranda, unfinished attic, unfinished basement or unfinished cellar.
HEN	means a female egg laying chicken that is at least 4 months old.
HEN COOP	means a hen house and hen run
HEN HOUSE	means a means a structure that houses the hens at night and includes places for laying
HEN RUN	means a covered and secure enclosure that allows hens access to the outdoors.
HOBBY FARM	shall mean a lot used principally for residential use and where accessory uses may include small scale market gardening for retail. Livestock, including chickens, will be limited to a maximum of 4 nutrient units as defined by the Nutrient Management Act, and be able to meet the Minimum Distance Separation formula.
INTERIOR SIDE YARD	means the space not abutting a public street that extends from the front yard to the rear yard between a side lot line

and the nearest point of any main building, not including a permitted projection.

LICENSE

means a license issues pursuant to this by-Law.

LICENSEE

means a person to whom a license has been issued pursuant to this by-Law.

**MUNICIPAL LAW
ENFORCEMENT OFFICER**

means an, a By- law Enforcement or Municipal Law Enforcement Officer of the Township of Russell, or anyone working under his/her authority.

OWNER

- i. means, with reference to hens any person who possesses, harbors or keeps an animal or hen and, where an owner is a minor, includes the person who is responsible for the custody of the minor.
- ii. means, with reference to property, the individual(s), entities or corporations holding title of a property or properties

PLACE OF WORSHIP

A building used for public worship.

PROPERTY

means a parcel of land and any buildings or other structures on the land.

REAR LOT LINE

shall mean that lot line furthest from and opposite the front lot line but if there is no such line, that point furthest from and opposite the front lot line. If there are two or more rear lot line segments at different distances from the front lot line, as in the case of an L-shaped lot, each segment shall be considered to be the rear lot line for that portion of the front lot line directly opposite.

REAR YARD

shall mean the space paralleling the rear lot line that extends across the full width of the lot between a rear lot line and the nearest point of the principal building not including a permitted projection

RESIDENTIAL PROPERTY

means a property that is zoned for residential use in the Township Zoning by-Law that applies to the property.

ROOSTER

means a domestic male chicken.

SETBACK

means with reference to a lot line, the shortest distance between a lot line (front, interior side, exterior side, or rear) and the nearest part of any building or structure on the lot. In cases where a road widening is taken, the required setback is calculated from the lot line.

SCHOOL means a public educational establishment operated by a Board of Education as defined in the Education Act.

VETERINARIAN A veterinarian is a doctor of animal health who has trained to provide medical and surgical care for animals.

ZONE mean a land use category as defined and regulated in the Township of Russell zoning by-law, as amended or replaced.

ZONING BY-LAW means any of the zoning by-laws of the Township of Russell, as amended.

5. GENERAL PROVISIONS FOR ALL PROPERTIES

- 5.1 No person shall operate a hen coop in any residential zone, except as otherwise permitted on a hobby farm, within the Township unless he or she has first obtained a hen coop license in accordance with Section 7.
- 5.2 The owner of the hens must reside on the property where the hens are kept. Residential tenants residing on a property must first obtain written permission from the property owner to keep hens on the owner's property.
- 5.3 In any residential zone, except as otherwise permitted on a hobby farm, no person shall:
 1. Keep a rooster; or
 2. Keep meat hens.
- 5.4 A person is not eligible for a hen coop license unless:
 1. There have been no property standards violations, under the Property Standards By-law on the subject property in the last year; and
 2. The property conforms with all applicable law, including the Health Protection and Promotion Act, the Ontario Society for the Prevention of Cruelty to Animals Act, and the Fire Protection and Prevention Act.
- 5.5 Hens shall be kept in the henhouse between 9:00 p.m. and 6:00 a.m.
- 5.6 No more than three (3) cubic feet of manure shall be stored.
 - a. Small amounts of manure, not exceeding xx, can be bagged and thrown in the garbage.
 - b. Small amounts of manure may be worked into the soil as soil amendments.
 - c. All other manure not used must be removed accordingly.
- 5.7 Hens cannot be slaughtered or disposed of on a residential property. Hens at their end of life or must be delivered to a pound keeper, farm, veterinarian, abattoir or other facility with the legal ability to dispose of them.

- 5.8 The selling of eggs or other products derived from hens is prohibited.
- 5.9 Both the henhouse and the run area are required to be fully enclosed on all sides and above (i.e. fencing, chicken wire, roof covering).
- 5.10 All hens must be kept securely in a hen coop, including a hen henhouse or hen run, at all times.
- 5.11 Hens coops will only be permitted on lots with detached dwelling units and semi-detached dwelling units.
- 5.12 Every person who keeps hen(s) shall ensure that such hen(s) is provided with:
- a. a clean and sanitary environment free from an accumulation of fecal matter;
 - b. adequate and appropriate care, food, water, shelter, shade and opportunity for physical activity.
 - c. Uneaten feed must be removed in a timely manner
 - d. All stored manure shall be covered by a fully enclosed structure.
 - e. All other manure not used for composting must be removed.

SPECIFIC REGULATIONS ON PARCELS OF LAND 3000 SQ. M. AND GREATER

- 5.13 Backyard hens, coops and associated manure storage on any residential property 3000 sq. m. and greater must be kept and or constructed in accordance with the provisions in table 5.1 below, except as permitted on a hobby farm in accordance with the zoning by-law.

TABLE 5.1: BACKYARD HENS ON LOTS 3000 SQ. M. AND GREATER

Residential Lot size		3000 sq. m and greater
i	Number of backyard hens permitted	5
ii	Permit type	Permanent
iii	Size of the coop (henhouse, runs and manure storage) – (maximum)	10 sq. m.
iv	Height (maximum)	2 m, or not more than the height of the rear yard fence, whichever is less

v	Front yard setback (minimum)	May not be located in any front yard
vi	Exterior side yard setback (minimum)	May not be located in any exterior side yard
vii	Interior side yard setback and rear yard setback (minimum)	10 m
viii	Setback from habitable room windows and/or doors (minimum)	3 m
ix	Setback from a school, place of worship and/or business (minimum)	15 m
x	Setback from an easement and/or septic tank	3 m
xi	Written consent required from abutting property owners	None
xii	Fencing of the rear yard	None required

5.14 Township staff has the authority to remove a participant from the pilot project with 30 days' written notice if a complaint is received and if following an inspection it is determine the coop or hens are in contravention of this by-law; or if the coop and hens are not kept in compliance with this by-law, at which time the participant's hens and structures may be required to be removed from their property.

PILOT PROJECT

6. SPECIFIC REGULATIONS ON PARCELS OF LAND BETWEEN 500 SQ. M. AND 2,999 SQ. M.

6.1 The pilot project is approved on a 12 month trial basis beginning from the day this by-law is approved by Council. All pilot project hencoop license shall expire one year after the passing of this by-law regardless of date of issuance.

6.2 Below are a set of provisions that allow hens on smaller residential lots. A total of 20 households (in detached dwellings or semi-detached dwellings) on residential lots between 500 sq. m. and 2,999 sq. m. will be allowed to participate on a first come, first serve basis based on when a complete application, including any required consent forms from neighbours, is received. The 20 households will be divided by location as followed:

- 5 applicants within the Embrun area;
- 5 applicants within the Russell area;
- 5 applicants within the Marionville area; and
- 5 Applicants within the Limoges area.

6.3 Backyard hens, coops and associated manure storage on any residential property between 500 sq. m. and 2,999 sq. m. must be kept and or constructed in accordance with the provisions in table 6.1 below.

TABLE 6.1: BACKYARD HENS – PILOT PROJECT

Residential Lot size		500 sq. m. to 2,999 sq. m.
i	Number of backyard hens permitted	3
ii	Permit type	Temporary - Pilot project permit (see pilot project details in section 7)
iii	Size of the coop (henhouse, runs and manure storage)	10 sq. m.
iv	Height (maximum)	2 m, or not more than the height of the rear yard fence, whichever is less
v	Front yard setback (minimum)	May not be located in any front yard
vi	Exterior side yard setback (minimum)	May not be located in any exterior side yard
vii	Interior side yard setback (minimum)	3 m
viii	Setback from habitable room windows and/or doors (minimum)	3 m
ix	Setback from a school, place of worship and/or business (minimum)	15 m
x	Setback from an easement and/or septic tank	3 m
xi	Written consent required from abutting property owners	Written permission required from all abutting property owners through the backyard hen neighbour consent form
xii	Fencing of the rear yard	If the coop and/or manure storage is less than 10 m from a lot line the rear yard, or portion of the rear yard used for the

chicken coop and manure storage must be fenced- minimum height 1.8 m

- 6.1 The pilot project may be extended and/or new regulation proposed at the end of the one-year pilot project period.
- 6.2 If the pilot project is renewed and/or extended all pilot project hen coop licenses will be deemed to continue until such time as the pilot project is ended
- 6.3 If the permanent provisions matching those of the pilot project are later approved all temporary pilot project licenses issued will be commuted to permanent licenses
- 6.4 Council has the authority to cancel the pilot project with 30 days' written notice to licensees, at which time all hens and structures may be required to be removed from properties.
- 6.5 Township staff has the authority to remove a participant from the pilot project with 30 days' written notice if a complaint is received and if following an inspection it is determine the coop or hens are in contravention of this by-law; or if the coop and hens are not kept in compliance with this by-law, at which time the participant's hens and structures may be required to be removed from their property. If a pilot project license is revoked based on non-compliance they would not be eligible to reapply for the pilot program.

7. RESPONSIBILITIES OF THE OWNER

- 7.1 No owner shall permit their hen(s) to trespass on private property.
- 7.2 No owner shall allow their hen(s) to be on a public road or in a public place at any time.
- 7.3 No owner shall permit any hen(s), owned or in their care, to make excessive or any unnecessary noise that is likely to disturb any inhabitant.

8 LICENSES

- 8.1 No Person shall Keep hen(s) unless they hold a valid License issued in accordance with the provisions of this by-Law.
- 8.2 Backyard hen license fees shall not be refunded or debated.
- 8.3 A backyard hen license is not transferable from one person to another.
- 8.4 A backyard hen license is not transferable from one property to another.
- 8.5 A person to whom an urban hen license has been issued must produce the license upon the demand of a Municipal Law enforcement Officer.
- 8.6 A backyard hen license may be revoked when:
 1. The applicant or license holder does not meet or no longer meets the requirements for an backyard hen license as set out in this by-law as per an initial inspection of the property or upon receipt of a complaint where an investigation confirms the hens, coop or manure storage are in contravention of this by-law;
 2. The applicant or license holder furnished false information or misrepresents any fact or circumstance required pursuant to this Bylaw; and
 3. The applicant or license holder fails to pay a fine imposed by a court for a contravention of this by-law.

8.7 As part of the application review, the agencies or individuals to whom the application is circulated may require an inspection of the yard and any Hen Coop on the applicant's property.

9. ENFORCEMENT, OFFENCES & PENALTIES

- 9.1 Where written consent of abutting property owners is required, if at a later time a neighbor wishes to withdraw their consent of the Neighbor Consent Form, they may do so by making an official complaint to by-law. Withdrawal of written consent will result in an inspection of the subject property, coop, hens and manure storage for compliance with this by-law but will not result in the automatic removal of the license.
- 9.2 Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a penalty as provided for in the Provincial Offences Act and to any other applicable penalties.
- 9.3 Every owner of a hen who contravenes any provision of this by-law or whose hen contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a penalty as provided for in the Provincial Offences Act and to any other applicable penalties.
- 9.4 In addition to any penalty imposed and any other remedy, the court in which the conviction had been entered and any court of competent jurisdiction thereafter, may make an order
- (a) prohibiting the continuation or repetition of the violation by the person convicted; and,
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 9.5 Where a coop is erected, or located, or animals are kept in contravention of this by-law, the designated official may immediately remove any animals or coop that this by-law determines constitutes a safety hazard or a concern without notice or compensation.
- 9.6 Where a coop or hens are does not comply with this by-law or a permit issued under this by-law, the designated official may order the coop and animals owner to remove or bring the coop and animals into compliance in the manner and within the time specified in the order.
- 9.7 The order mentioned in section 9.2 may be served:
- a) by personal service upon the hen or coop owner;
 - b) by prepaid registered mail sent to the last address of the sign owner, shown on the records of the Township of Russell; or,
 - c) by prominently posting a copy of the order either on the coop in respect of which the order is made, or on the property upon which the coop is erected, located, or displayed.
- 9.8 The written order shall contain the particulars of the non-compliance with this by-law, a specified time limit in which to effect compliance and either an order to comply with the by-law within the time limit specified in the order, or an order to remove the coop and/or animals within the time limit specified in the order.
- 9.9 Where the order is served in accordance with section 9.3, it is deemed to have been received by the party being served upon the mailing or posting of the order.
- 9.10 Where a coop or animals are not removed or are not brought into conformity as required by an order under section 9.2, the designated official may have the coop and/or animals removed without notice or compensation. For this purpose, the

designated official, an inspector and their contractor or other agent may enter upon the property at any reasonable time.

- 9.11 The cost incurred by the Township of Russell in removing a coop and/or animals under this part of the bylaw is deemed to be municipal taxes and may be added to the collector's roll and collected in the same manner as municipal taxes. Despite the foregoing, the cost incurred by the Township of Russell in removing a coop and/or animals under this part of the by-law is a debt payable to the Township of Russell and may be recovered in any court of competent jurisdiction.
- 9.12 This by-law may be enforced by any of the following:
1. Municipal Law enforcement Officer
- 9.9 A Licensee shall allow, at any reasonable time, a by-Law Officer, along with any other authorized employee or agent of the Township, to enter upon the Property, determine whether the requirements of this by-Law are being complied with.

10. RIGHT OF ENTRY

- 10.1 Every person enforcing this by-law shall have the right of entry on any property for the purpose of carrying out an inspection to determine whether this by-law is being complied with and for the enforcement of this by-law pursuant to section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time.

11. OBSTRUCTION

- 11.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.
- 11.2 Any person who has been alleged to have contravened any of the provisions of this by-law, shall identify themselves to the by-law Enforcement Officer upon request, failure to do so shall be deemed to have obstructed or hindered the By-Law Enforcement Officer in the execution of his/her duties.

12. VALIDITY AND SEVERABILITY

- 12.1 Every provision of this by-law is severable and if any provisions of this by-law should for any reason be declared invalid by any court, it is the intention and desire of this Council that the remaining provisions shall remain in full force and effect.
- 12.2 Where provisions in the zoning by-law of the Township of Russell do not permit backyard hens in residential zones, and where these provisions conflict with the provisions of this by-law. This by-law shall prevail.
- 12.3 Where a provision of this by-law conflicts with the provision of another by-law in force within the Township of Russell, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.
- 12.4 Nothing in this by-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other by-law of the Township of Russell.

13. LIABILITY

13.1. This by-law is not to be constructed at any time in such fashion as to hold the Township of Russell or its officers liable for failing to ensure that persons comply with the provisions of the by-law.

14. ENACTMENT

14.1 This by-law shall come into force and effect upon final reading thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS XX DAY OF XX, 2020.

Pierre Leroux
Mayor

Joanne Camiré Laflamme
Clerk