

THE CORPORATION OF THE TOWNSHIP OF PERRY

BY-LAW NO. 2023-51

BEING A BY-LAW TO ALLOW THE RAISING OF CHICKENS OR DUCKS ON A RESIDENTIAL PROPERTY OF LESS THAN TWO (2) HECTARES

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, confers broad authority on municipalities to enable them to govern their affairs as they consider appropriate;

WHEREAS Section 10 (2) of the Municipal Act, 2001, S.O. c.25 as amended, permits the Township to pass by-laws respecting the health, safety and well-being of persons, the keeping of animals and erecting structures, including fences;

AND WHEREAS Section 103 of the Municipal Act, 2001, S.O. c.25 as amended, states that if a municipality passes a By-law regulating or prohibiting animals being at large that it may provide for the seizure, impounding, or sale of such animals in such By-law;

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O. c.25 as amended, the Township is authorized to pass a By-law to prohibit and regulate public nuisances;

AND WHEREAS Section 129 of the Municipal Act, 2001, S.O. c.25 as amended, the Township is authorized to pass a By-law to prohibit and regulate noise, vibration, odour, dust and outdoor illumination;

AND WHEREAS Section 391 of the Municipal Act, 2001, S.O. c.25 as amended, provides that a By-law passed for this purpose may include the imposition of a fee or charge;

AND WHEREAS Section 425 of the Municipal Act, 2001, S.O. c.25 as amended, the Council is authorized to pass By-laws providing that a person who contravenes a by-law of the Township passed under that Act is guilty of an offence;

AND WHEREAS Section 436, of the Municipal Act, 2001, S.O. c.25 as amended, a municipality has the power to enter onto lands at any reasonable time for the purpose of carrying out an inspection to determine compliance with this by-law;

AND WHEREAS Section 438, of the Municipal Act, 2001, S.O. 2001, c.25 as amended, a municipality has the power to pass by-laws providing that the municipality may, in the circumstances set out in the by-laws, undertake inspections pursuant to orders under this section. 2006, c. 32, Sched. A, s. 184;

AND WHEREAS Section 444 (1) of the Municipal Act, 2001, S.O. c.25 as amended, provides that the Township has the authority under this or any other Act or under a By-law under this or any other Act to direct or require a person to do a matter or thing;

AND WHEREAS Section 446, of the Municipal Act, 2001, S.O. c.25, as amended, if a municipality has the authority under this or any other Act

or under a by-law under this or any other Act 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 or thing shall be done at the person's expense. 2006, c. 32, Sched. A, s. 184;

AND WHEREAS it is desirable to regulate the keeping of poultry on residential lots in the Township of Perry.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PERRY ENACTS AS FOLLOWS:

1.0 SHORT TITLE

This by-Law may be cited as the "Poultry By-law"

2.0 DEFINITIONS

In this By-Law:

- a) **"Act"** means the Municipal Act, 2001, S.O. c.25 as amended.
- b) **"At large"** means being outside a coop, run or enclosure.
- c) **"Approved coop, run or enclosure"** means a coop, run or enclosure constructed accordingly to contain poultry and provide protect from weather & predators and shall be located in the rear or side yard of a residential lot only.
- d) **"By-law Enforcement Officer"** means the Township's By-law Enforcement Officer, and/or designate, as appointed by the Council of the Township of Perry.
- e) **"Chicken"** means a domesticated female chicken kept for the purpose of production of eggs.
- f) **"Duck"** means a domestic female duck kept for the purpose of production of eggs.
- g) **"Free Range"** means a method of farming husbandry whereby the chickens or ducks are allowed to range freely on a property without being confined to a coop, run or enclosure.
- h) **"Owner"** means any person who keeps or harbors a chicken or duck and, where an owner is a minor, includes the person who is responsible for the custody of the minor.
- i) **"Poultry"** means any domestic female chicken or duck commonly kept for the production of eggs.
- j) **"Poultry Shelter"** means a fully enclosed weatherproof shelter where female chickens or female ducks are kept, which the interior of includes nest boxes for egg laying, perches to sleep on and food and water containers' and shall be located in the rear or side yard of a residential lot only."
- k) **"Residential Lot"** means any property less than 2 hectares in size which contains an occupied residential dwelling and does not have any water body or watercourse adjacent to or through the lot.
- l) **"Run"** means a secure enclosure that allows female chickens or

female ducks access to outdoors and shall be located in the rear or side yard of a residential lot only.

- m) **"Yard"** On a residential lot, yard means the land around or adjoining the whole or any part of a residential dwelling; and for residential lots, it generally refers to the front, back and side yard portions of a property.

3.0 GENERAL DUTIES AND OBLIGATIONS

- a) Any person wanting to keep or raise female chickens or female ducks for the personal production of eggs on any property of less than 2 hectares in size shall abide by this By-law.
- b) A person may keep a maximum of 7 domestic female chickens or female ducks or combination of the two for the purpose of obtaining eggs for personal consumption.
- c) The keeping of Roosters, Geese, Turkeys, or any other birds of the order Galliformes, except domestic female chickens or female ducks, is prohibited on any property of less than 2 hectares in size.
- d) A tenant must obtain written permission from the property owner to keep female chickens or female ducks on the owner's property.
- e) The owner of female chickens or female ducks must reside on the property where they are kept.
- f) Female chickens or female ducks must be confined to a coop, shelter, run or enclosure at all times, chickens or ducks are not permitted to be at large or "free range". Any chicken or duck found off the owner's property outside of the coop, shelter, run or enclosure shall be considered to be "at large" and may be seized/impounded by the By-Law Enforcement Officer or designate.
- g) Female chickens or female ducks must be secured and confined inside their coops or shelters from 9:00 p.m. to 7:00 a.m.
- h) Coop, shelters, runs or enclosures shall be a distance of at least:
- (i) 1 m from the side or rear lot line,
 - (ii) 15 m from any school, and
 - (iii) 7.5 m from any church or business.
- i) Coops, shelters, runs or enclosures shall be a minimum distance of 3 m from all windows and doors of any dwellings that are located on any abutting residential property.
- j) Coops, shelters, runs or enclosures are not permitted in any front yard. Coops, shelters, runs or enclosures are not permitted in any side yard except, where due to the layout of the rear yard placement of the coop, shelter, run or enclosure is impractical and permission to place the coop or run in the side yard has been approved by the municipality.

- k) Coops, shelters, runs or enclosures shall be:
 - (i) Constructed in such a fashion to be compatible to the area and finished in such a manner as to be aesthetically pleasing so as not to offend, to the satisfaction of the By-law Enforcement Officer or designate,
 - (ii) maintained in a clean condition and the coop, shelter, run or enclosure shall be kept free of obnoxious odors, substances and vermin,
 - (iii) cleaned of manure or bedding weekly (or as required) and disposed of properly by the owner. No person shall dispose of manure on a residential lot within the Township of Perry, in a water course or body, by composting, or at the Municipal Transfer Station.

- l) Home slaughter of chickens or ducks is prohibited and any deceased animals shall be disposed of immediately.

- m) Sales of eggs, manure and other products associated with the keeping of chickens or ducks from a residential property is prohibited.

4.0 FENCES

- a) Every residential property permitted to keep poultry shall have or erect a fence around that section of the property where the coop, shelter, run, or enclosure is located and,

- b) Constructed in such a fashion as to deter predators from entering that section of the property where the female chickens or female ducks are kept and,

- c) Maintained:
 - (i) in good repair, in a safe and structurally sound condition free from hazards, and
 - (ii) Unsightly markings, stains or other defacements on the exterior surfaces of fences shall be removed and the surface shall be refinished when necessary.

5.0 ADMINISTRATION, ENFORCEMENT & APPEAL

- a) This By-Law shall be administered by the By-law Enforcement Officer, or designate, or any other person appointed by Council to enforce such regulations.

- b) Where an inspection of the property where the female chickens or female ducks are kept reveals that the standards as set in this By-law are not being maintained the Township shall give verbal notice to the owner of the female chickens or female ducks and shall follow such verbal warning with a written Order to any owner/occupant of the property ordering that the owner/occupant comply with this By-law.

- c) An Order issued under this By-law shall set out:
 - (i) The owner's/occupant's name, address and location of the contravention,
 - (ii) Sufficient particulars of the contravention to adequately

identify the contravention and the location on the property of the contravention,

- (iii) An Order to remedy the contravention within 7 days of the issue of the Order, indicating the particulars of what must be remedied, which may include removing any material, chickens or ducks or repairs to the coops, runs, enclosures or fences,
 - (iv) The date by which the contravention must be remedied,
 - (v) A statement that if the contravention is not remedied within the period of time stipulated in the Order, the Township at its discretion shall remove any chickens or ducks from the property at the owner's expense, and
 - (vi) Any Order given by the Township in accordance with any section of this bylaw may be served personally or by registered mail.
- d) Where at the end of the 7 day period referred to above, the Township may dispose of any items removed from property and retain any proceeds from the disposal.
- e) All costs incurred by the Township to remove and dispose of any chickens or ducks removed in accordance with the provisions of this By-law shall be the responsibility of the owner.
- f) Despite any actions taken in respect to this By-law, the Township shall not be liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Township in the reasonable exercise of its powers under this By-law.
- g) Any person wishing to appeal any Order issued under this By-law shall:
- (1) Within 2 business days of receipt of the Order file a notice of appeal in writing to the Clerk/Administrator of the Township of Perry, who shall schedule the appeal at the next regularly scheduled meeting of Council.
 - (2) The notice of appeal shall contain:
 - (i) A copy of the Order that was issued and
 - (ii) A brief statement as to why the appellant is contesting the Order.
- h) The Clerk/Administrator, on receiving the request for an appeal to an Order, shall issue a temporary reprieve on the Order issued until such time as the appeal has been heard and ruled on by Council.
- i) Council may approve the order, rescind the Order or modify the Order on any terms that it deems reasonable in all of the circumstances.

6.0 INSPECTIONS/ POWER OF ENTRY

- a) The By-law Enforcement Officer, or designate, may enter onto a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (i) The provisions of this By-law,
 - (ii) An Order issued under this By-law, or
 - (iii) An Order made under Section 444 of the Municipal Act.
- b) Where an inspection is conducted by the By-law Enforcement Officer, designate, or any other person appointed by Council to enforce this By-law may:
- i) Require the production for inspection of documents or things relevant to the inspection;
 - ii) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - iii) Require information from any person concerning a matter related to the inspection including their name, address, phone number, email address and identification; and
 - iv) Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- c) The Township may undertake an inspection pursuant to an Order issued under section 438 of the Municipal Act.
- d) The Township's power of entry may be exercised by the By-law Enforcement Officer, designate or any other person appointed by Council to enforce by-laws for the Township of Perry.
- e) Every person who hinders or obstructs the By-law Enforcement Officer, designate or any other person appointed by Council to enforce such regulations lawfully carrying out the enforcement of this By-law is guilty of an offence.

7.0 OFFENCES

- a) Any person who fails to comply with an Order issued under this By-Law is guilty of an offence.
- b) Any person who breaches any provision of this By-law is guilty of an offence.
- c) If this By-law is contravened and a conviction is entered, the court in which the conviction was entered or any Court of competent jurisdiction may, in addition to any other remedy and to any other penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8.0 Obstruction

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.

Every 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, or their designate(s) upon request. Failure to do so shall be deemed to have hindered or obstructed the By-law Enforcement Officer or their designate(s).

9.0 Penalties

Every Person who contravenes any of the provisions of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended*.

Every Person guilty of an offence under this By-law may, if permitted under the *Provincial Offences Act R.S.O. 1990, Chapter P.33, as amended*, pay a set fine and the Chief Judge of the Ontario Court Provincial division, shall be requested to establish set fines in accordance with Schedule "A" attached to this By-law.

10.0 Severability

If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

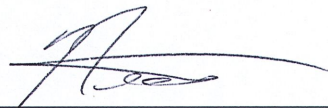
11.0 Schedules

Schedule "A" as attached shall form part of this By-law.

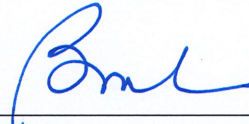
12.0 Enactment

That By-law 2023-51 shall come into force and effect upon passage.

READ a First, Second, and Third Time and Finally Passed and Enacted in Open Council this 18th day of October, 2023.



Norm Hofstetter, Mayor



Beth Morton, Clerk-Administrator

CORPORATION OF THE TOWNSHIP OF PERRY

**Part I Provincial Offences Act
By-law #2023-51: Poultry By-law**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Keep or raise more than 7 chickens or ducks	3.0 b)	\$100.00
2	Keep or raise prohibited bird(s)	3.0 c)	\$100.00
3	Allow chicken(s) or duck(s) to be at large	3.0 f)	\$100.00
4	Chicken(s) or duck(s) not confined at night	3.0 g)	\$100.00
5	Coop, shelter, run or enclosure not meeting required setbacks	3.0 h)	\$100.00
6	Coop, shelter or run constructed in an offensive manner	3.0 k)(i)	\$100.00
7	Coop, Shelter or run not maintained in a clean condition	3.0 k)(ii)	\$100.00
8	Coop, shelter or run not cleaned of manure, bedding or waste	3.0 k)(iii)	\$100.00
9	Sale of Eggs, Meat or Manure from residential property	3.0 m)	\$100.00
10	Fence not erected	4.0 a)	\$100.00
11	Fence not erected/constructed accordingly	4.0 b)	\$100.00
12	Fence not maintained	4.0 c)	\$100.00
13	Fail to comply with Order	7.0 a)	\$200.00
14	Obstruct By-law Enforcement Officer or designate	8.0	\$200.00

NOTE: The general penalty provisions for the offences listed above is section 9 of By-law #2023-51, a certified copy of which has been filed.