

BYLAW 3-2024

A Bylaw to amend Land Use Bylaw 3-2013 for the Keeping of Backyard Chickens within the Village of Holden Boundaries

PURSUANT to Part 2 Division 7 Section 63.1 of the Municipal Government Act R.S.A 2000, Chapter M-26, Council may by bylaw revise any of its bylaws.

WHEREAS, pursuant to Section 7 of the Municipal Government Act R.S.A 2000, Chapter M-26 (the MGA), a Council may pass bylaws for the municipal purposes respecting: the safety, health and welfare of people and the protection of people and property; wild and domestic animals, and activities in relation to them; and the enforcement of bylaws.

WHEREAS, it is deemed desirable by Council that Council allow the opportunity for residents to raise backyard chickens within the boundaries of the Village of Holden.

WHEREAS, Council wishes to allow the backyard chicken program through the development permit application process and needs to revise the Village of Holden Land Use Bylaw to amend the Land Use Bylaw for guidelines and regulations for raising backyard chicken as per the Province of Alberta's Raising chickens in Alberta; a guide for small flock owners.

NOW THEREFORE the Village of Holden in the Province of Alberta, in Council duly assembled hereby enacts the following:

PURPOSE

1. The purpose of this Bylaw is to regulate and control the keeping of backyard chickens within the Village of Holden.

SHORT TITLE

2. This Bylaw may be cited as the "Backyard Chicken Bylaw."

DEFINITIONS AND INTERPRETATION

3. For the purpose of administering the provisions of this Bylaw, the following definitions shall apply:
 - (a) "Adjoining Neighbour" means an owner or occupant of a property that is contiguous to a parcel along a common property line and where the parcel is a corner lot, includes an owner or occupant of a property that is adjacent to the parcel across a rear lane, but not across a street;
 - (b) "Bylaw Enforcement Officer" means a Bylaw or Peace Officer as defined in the Provincial Offences Procedure Act and includes any person appointed by the Municipality pursuant to section 555 of the Municipal Government Act; R.S.A 2000, Chapter M-26;
 - (c) "Chicken" for the purpose of this bylaw, means any female chicken regardless of age;
 - (d) "CAO" means the Chief Administrative Officer as per Section 205 (1) of the Municipal Government Act R.S.A 2000, Chapter M-26; and appointed by the Village of Holden Council;
 - (e) "Coop" means a hen house and attached outdoor enclosure used for the keeping of backyard chickens that has a floor area no greater than 10.0 square metres is no more than 2.4 metres in height;
 - (f) "Coop Approval" means an approval issued by the Development Officer of the Village of Holden, that allows a person to have a Coop on a Parcel of Land;
 - (g) "Council" means the Village of Holden Council as prescribed in the Municipal Government Act;

- (h) "Hen" or "backyard hen" means a domesticated female chicken which is 16 weeks of age or older that is kept for non-commercial egg laying for the household;
- (i) "Hen house" means a fully enclosed weather-proof building forming part of a Coop;
- (j) "Land Use Bylaw" mean the Village of Holden Land Use Bylaw 3-2013 as amended or replaced;
- (k) "Licence" means a valid licence, issued pursuant to this Bylaw by the Village of Holden to a person that allows the person to keep chickens on a parcel;
- (l) "Licence Holder" means a person who has been issued a Licence from the Village of Holden;
- (m) "Licencing Authority" means the Chief Administrative Officer of the Village of Holden or their delegate;
- (n) "Maximum number of Chicken" means there will not be more than 4 chickens per license.
- (o) "Maximum number of Back Yard Chicken Licences" means there will be no more than 10 licences issued within the Village of Holden boundaries.
- (p) "Municipality" means the Village of Holden;
- (q) "Notice of Appeal" means a Notice of Appeal pursuant to the Land Use Bylaw 3-2013, as amended or replaced;
- (r) "Outdoor Enclosure" means a secure, enclosed, and roofed outdoor structure attached to and forming part of a Coop;
- (s) "Owner" means one or more persons:
 - a. Who has care, charge or custody possession or control of a chicken, including but not limited to a Hen or Rooster;
 - b. Who owns or who claims any proprietary interest in a chicken, including but not limited to a Hen or Rooster;
 - c. Who harbors, suffers or permits a chicken, included but not limited to a Hen or Rooster, to be present on any property owned, or occupied or leased by them, or which is otherwise under their control; or
 - d. To whom a Licence is issued for the chicken;
- (t) "Parcel" means a description of land as identified on a certificate of title as registered at the Alberta Land Titles Office;
- (u) "Principal Building" means a building which, in the opinion of the Development Authority, is the primary dwelling (house) associated with the approved use on a Parcel;
- (v) "Privacy Fence" means a solid enclosed fence with a continuous height of no less than 6 feet or the maximum height permitted by the Land Use Bylaw, whichever is lesser, that creates a visual barrier, and which conceals view of the enclosed Parcel and prevents entry by predators;
- (w) "Rooster" means a male chicken and is prohibited within the Village boundaries;
- (x) "Semi-Detached Dwelling" has the meaning prescribed in the Land Use Bylaw; and
- (y) "Single Detached Dwelling" has the meaning prescribed in the Land Use Bylaw.

PART2 – PROHIBITIONS

- 4. No person shall:
 - a. Keep a male chicken within the Village of Holden boundaries;
 - b. Keep a chicken unless it is:
 - i. A chicken kept pursuant to a Licence; or
 - ii. kept on a Parcel that has been approved for extensive agriculture, intensive agriculture, or a separate land use designation which expressly allows for the keeping of chickens through the Land Use Bylaw;
 - c. Sell eggs, manure, meat, or other products derived from a chicken;
 - d. Keep more than 4 chickens;
 - e. Slaughter a chicken;

- f. Allow a chicken to roam outside a Coop;
- g. Dispose of a live chicken except by delivering it to an operation that is lawfully permitted to dispose of chickens, such as a farm, abattoir, or veterinarian;
- h. Dispose of a deceased chicken except through regular waste collection; or
- i. Keep a chicken in a building, dwelling, cage, kennel, shelter or any structure other than a Coop; or
- j. Keep a chicken without a Premises Identification under the Alberta Health Act, SA 2007 c A-40.2

PART 3 – BACKYARD CHICKEN LICENCE

5. The keeping of chickens is a development under the Land Use Bylaw but does not require a development permit under the Land Use Bylaw if the chicken keeping complies with and is licenced under this Bylaw.

6. An application for a Licences shall be made by:
 - a. Submitting a completed application using the forms provided by and as otherwise directed by the Licensing Authority; and
 - b. Paying the non-refundable Licence fee in the amount prescribed by the Village Council.

7. To be eligible for a Licence, an applicant must:
 - a. Satisfy the Licensing Authority that the Parcel on which the chickens will be kept:
 - i. Is owned by the applicant or where the applicant is not the Parcel owner, the Parcel owner has provided written consent to the applicant in the form prescribed by the Licensing Authority;
 - ii. Occupies at least 400 square metres; and
 - iii. Contains a Principal Building that is either a Single-detached dwelling or a Semi-detached dwelling;
 - b. Satisfy the Licensing Authority that the applicant:
 - i. Resides on the Parcel where the chickens will be kept;
 - ii. Has completed a chicken training course to the satisfaction of the Licencing Authority;
 - iii. Will implement biosecurity measures that are adequate, in the sole discretion of the Licensing Authority, to reduce the risk of exposing the chickens to infectious disease; and
 - iv. Has obtain a Premises Identification under the Alberta Animal Health Act, SA 2007 c A-40.2;
 - c. Obtain a Coop Approval from the Licensing authority by:
 - i. Paying the Coop Approval fee; and
 - ii. Submitting building plans for the Coop to the Licensing Authority demonstrating that for each chicken to be housed in the Coop:
 1. The chicken house has a floor area of 0.50 square metres and the Outdoor enclosure has a minimum floor area of 1 square metres; and
 2. The Coop contains one nest box and one perch at least 15 centimetres long per chicken; and
 - d. Provide any other information requested by the Licensing Authority.

8. An Applicant shall not be required to obtain a new Coop Approval where the applicant satisfies the Licensing Authority that a Coop Approval has already been granted to the applicant in relation to the same Parcel and the Coop complies with the building plans for the Coop Approval.

9. The Licensing Authority may revoke a Licence or refuse to issue or renew a Licence, without refund or compensation to the applicant or Licence Holder, for any of the following reasons:

- a. The applicant does not meet the requirements of this Bylaw;
 - b. The Licence Holder has, in the opinion of the Licensing Authority based on reasonable grounds, contravened this Bylaw or the License whether or not the contravention has been prosecuted;
 - c. The Licence was issued based on incorrect information or a misrepresentation by the Licence Holder; or
 - d. In the opinion of the Licensing Authority on reasonable grounds, it is in the public interest to do so.
10. The Licensing Authority may refuse to accept an application or refuse to issue or renew a Licence when the maximum number of Licences under the Bylaw has been reached.
11. The Licensing Authority may issue a Licence subject to conditions.
12. The Licensing Authority will notify an Adjoining Neighbour when a Licence has been issued.
13. A Licence is non-transferrable and is only approved for the Licence Holder and the Parcel identified on the Licence.
14. A Licence shall expire 1 year following the date of issuance and must be renewed annually.
15. A Licence does not take effect until:
- a. The 14-day appeal period has expired, if no appeal was received during the appeal period; or
 - b. The Licensing Authority has made a decision on any appeal and that decision upholds the issuance of the Licence.
16. Where there is a chicken on a parcel without an approved Licence, the owner of the parcel is guilty of an offence unless there is a different or separate lawful authority authorizing the keep of the chickens on the parcel.
17. Any person who provides the Licensing Authority with false or misleading information on an applicant for a Licence is guilty of an offence.

PART 4 – KEEPING OF BACKYARD CHICKENS

18. Each chicken must be provided with food, water, shelter, light, ventilation, care, and opportunities for essential behaviours such as scratching, dust-bathing, and roosting necessary to maintain the chicken in good health.
19. Each chicken must be kept in the Coop at all times.
20. An Owner must:
- a. Comply with all conditions of the Licence and this Bylaw;
 - b. Maintain the Coop in good repair and sanitary condition, free from pests and noxious or offensive smells and substances as determined by a Bylaw Enforcement Officer;
 - c. Construct and maintain the Coop to prevent any animal or rodent from harbouring underneath, within, or inside the Coop's perimeter;
 - d. Keep the chickens secured in the Hen house from 10:00 pm to 8:00 am;
 - e. Immediately remove any feed, trash or manure from the parcel upon notice from a Bylaw Enforcement Officer or CAO;
 - f. Store feed within a fully enclosed, animal proof container with an air-tight seal;
 - g. Store manure within a fully enclosed, animal proof container with an air-tight seal for composting only;
 - h. Immediately remove all manure from the parcel that is not intended for use in composting or fertilizing; and
 - i. Disposal of any manure must be bagged prior to placing it in the dumpster.
21. A Coop must be located in the rear yard of a parcel.
22. A Coop shall not be located within:
- a. 1 metre of the side or rear property lines of a parcel; or
 - b. 3 metres of a dwelling.
23. The rear yard of a parcel containing a Coop must be enclosed by a Privacy fence.

24. A Coop shall comply with the building plans for the Coop Approval and shall not be modified unless in accordance with a new Coop Approval.

PART 5 – APPEALS

25. An Applicant or Licence Holder may appeal a decision to refuse a Licence, revoke a Licence or issue a Licence subject to conditions within 14 days of the decision by submitting a Notice of Appeal to the Development Officer.
26. An Adjoining Neighbour may appeal a decision to issue a Licence within 14 days of the decision by submitting a Notice of Appeal to the Development Officer only where the grounds of the appeal is:
- That the keeping of chickens on the parcel is likely to have a materially adverse effect on the health of the Adjoining Neighbour or of a person living in the premises of the Adjoining Neighbour; or
 - A reason or factor listed in clauses 9 (a) or (c) of this Bylaw.
27. Upon receiving a Notice of Appeal under sections 25 or 26, the Development Officer shall meet with the appellant to hear their appeal and may either:
- Confirm the decision to refuse or revoke a Licence;
 - Issue a Licence, with or without conditions; or
 - Or reinstate a Licence, and where it directs a Licence be reinstated, the Development Authority may vary any condition provided however that it shall not vary the expiry date of the Licence.
 - If the Appellant is not satisfied with the decision of the Development Officer, they may appeal the decision with Council.

PART 6 - ENFORCEMENT

28. This Bylaw may be enforced by a Bylaw Enforcement Officer, Peace Officer or the Development Authority.
29. Pursuant to this Bylaw, an Owner or a Licence Holder shall make themselves and their Coop available for inspection upon a reasonable request by the Bylaw Enforcement Officer, Peace Officer or the Development Officer.
30. The Licensing Authority may require an Owner or a Licence Holder to take any disease mitigation measures or environmental mitigation measures determined necessary in the sole discretion of the Licensing Authority at any time.
31. A Bylaw Enforcement Officer or Peace Officer may capture and impound any chicken:
- Found at large;
 - Where the Officer has reasonable grounds to believe an Owner has contravened any provision of this bylaw; or
 - An Officer is authorized to enter any lands or premises (excluding a dwelling house) within the Municipality in accordance with section 542 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, or repealed and replaced from time to time, to inspect for conditions which may contravene any provision of this Bylaw.

Obstruction and interference

32. No person shall:
- Interfere with, hinder or impede a Bylaw Enforcement Officer in the performance of any duty authorized by this or other municipal bylaw.

PART 7 – CONTRAVENTION OF BYLAW AND PENALTIES

General Penalty Provisions

33. The owner of their chicken is guilty of an offence, if their chicken is involved in an activity in contravention of this bylaw.
34. An owner who contravenes any of the provisions of this bylaw by:
- Doing any act or thing which the person is prohibited from doing, or

- b. Failing to do any act or thing the person is required to do; is guilty of an offence.
35. A person who is convicted of an offence pursuant to this bylaw is liable on summary conviction to a penalty of \$200.
36. Despite section 37, where a person has been convicted of contravening the same provision of this Bylaw:
- a. 2 times within a 12-calendar month period, is liable on summary conviction to a penalty of \$400; and
 - b. 3 or more times within a 12-calendar month period, is liable on summary conviction to a penalty of \$600.
37. Despite sections 37 and 38, where a long form information is issued or a violation ticket is issued under Part 2 or the Provincial Offences Procedure Act and the Bylaw Enforcement Officer as elected not to specify a penalty on the violation ticket, a person who is convicted of an offence under this bylaw is liable on summary conviction to:
- a. A penalty not exceeding \$2,000; and
 - b. The Court is not bound by the specified penalty amount in sections 38 or 39 of this Bylaw, provided that the fine amount ordered by the Court shall not be less than the amount specified in sections 38 or 39.

Municipal Tag

38. A municipal tag may be issued to any person where a Bylaw Enforcement Officer believes the person has contravened any provision of this Bylaw.
39. If a municipal tag is issued in respect of an offence, the municipal tag must specify:
- a. The name of the person;
 - b. The offence;
 - c. The fine amount as established by this Bylaw;
 - d. That the fine amount shall be paid within 14 days from the issuance of the municipal tag; and
 - e. Any other information as may be required.

Violation Tickets

40. If a municipal tag has been issued and if the specified penalty has not been paid within the prescribed time, a Bylaw Enforcement Officer may commence proceedings by issuing a long form information or violation ticket under either Part 2 or Part 3 of the Provincial Offences Procedures Act.
41. Despite sections 40 and 42, where a Bylaw Enforcement Officer believes that a person has contravened any provision of this Bylaw, they may commence proceedings by issuing a long form information or violation ticket under either Part 2 or Part 3 of the Provincial Offences Procedures Act.

Payment in Lieu of Prosecution

42. If a municipal tag is issued in respect to a non-compliance, and if the municipal tag specifies the fine amount established by this Bylaw for the non-compliance, the person to whom the municipal tag is issued may make a voluntary payment equal to the specified fine, in lieu of prosecution.
43. Where the voluntary payment referred to in section 44 is received within 7 days of the day of issuance of the municipal tag, the prescribed penalty shall be reduced by 20% and such reduced payment shall be accepted in lieu of prosecution.

Continuous Offences

44. In the case of an offence that is of a continuing nature, each contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues and any person guilty of such offence is liable to fine in an amount not less than the amount specified in sections 37 and 38 for each day.

Liability for Fees

45. The levying and payment of any fine or term of imprisonment imposed by the Court shall not relieve a person from paying any fees, charges or costs from which the person is liable under the provision of this Bylaw and the Fees Bylaw.
46. The fees and charges payable under this Bylaw shall be as prescribed in the Schedule of Rates Policy.


PART 8 – REPEAL AND COMING INTO EFFECT

47. Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
48. Any reference to an enactment or bylaw is a reference to such enactment or bylaw as amended or replaced from time to time.
49. This Bylaw comes into effect upon third and final reading of the Bylaw.

Read a first time this 20th of February, 2024

Read a second time this 18th of March, 2024

Read a third and final time this 15th of April, 2024



Mayor



Chief Administrative Officer