

THE CORPORATION OF THE MUNICIPALITY OF MARKSTAY WARREN

BY-LAW 2025-XX

BEING A BY-LAW TO REGULATE, CONTROL AND ALLOW FOR THE KEEPING OF BACKYARD HENS IN THE MUNICIPALITY OF MARKSTAY-WARREN

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, as amended, authorize a 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;

AND WHEREAS section 103 of the *Municipal Act, 2001*, as amended, provides that where a municipality has passed a by-law to regulate or prohibit with respect to the being at large or trespassing of animals, the municipality may provide for the seizure, impounding and sale of seized and impounded animals;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. c.25, as amended provides that a municipality 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 provides that a municipality 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*, as amended, provides that a municipality may pass bylaws imposing fees or charges for services or activities provided or done by or on behalf of the municipality;

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

AND WHEREAS Section 429 of the *Municipal Act, 2001*, S.O., as amended provides that a municipality may designate an offence as a continuing offence and provide for a minimum and maximum fine for each day or part of a day that the offence continues;

AND WHEREAS it is considered desirable to pass a by-law relating to the keeping of Backyard Hens within the Municipality of Markstay-Warren.

NOW THEREFORE the Council of the Municipality of Markstay-Warren enacts as follows:

1. SHORT TITLE:

1.1. The short title of this By-Law shall be the “Backyard Hens By-Law”.

2. DEFINITIONS

2.1 “**Approved Manure Container**” means an area used for the temporary storage of manure that can be conveniently accessed for the removal of manure from the property that does not exceed XXm on its longest dimension and does not exceed XXm in height. Such an area shall be setback an appropriate distance from any property line, well cap or the shoreline of a body of water I don’t think this is the correct requirement.

- 2.2 **“At Large”** means any hen outside of a hen coop or found in any place other than the premises of the owner of the hen within approved setbacks.
- 2.3 **“Advertise”** means to have a sign, billboard, poster or other such thing posted in a visible location on or in relation to a property or posted online by a resident of the property, expressing the sale of a product or service.
- 2.4 **“Control”** includes care and custody.
- 2.5 **“Council”** means the elected Council for the Municipality of Markstay-Warren.
- 2.6 **“Dispatch”** means to destroy, euthanize, or otherwise cause the death of a hen.
- 2.7 **“Dwelling Unit”** means one or more rooms connected together as a self-contained, separate unit in the same building comprising all or part of the building and constituting an independent housekeeping unit for residential occupancy by persons with facilities for persons to sleep, cook, and eat and including its own sanitary facilities.
- 2.8 **“Hen”** means a domesticated female chicken (*Gallus gallus domesticus*) that is at least four (4) months old and is kept for the purpose of egg laying. For the purposes of this by-law and the Noise By-Law of the Municipality, as amended, and Responsible Animal Ownership bylaw and Municipal Zoning By-law as amended a hen shall not be considered livestock.
- 2.9 **“Hen Coop”** means a structure which is completely enclosed and constructed in accordance with this By-Law, is built with sufficient materials and maintained in good repair so as to prevent any hens being kept from leaving the hen coop and is constructed to allow access to an enclosed area outdoors that is attached to the hen coop and deemed to be part of it.
- 2.10 **“Keep”** means to have temporary or permanent control or possession of a hen and the words “kept”, or “keeping” have a similar meaning.
- 2.11 **“Municipal Law Enforcement Officer”** means any person appointed by the Corporation of The Municipality of Markstay-Warren to enforce the provisions of this By-Law.
- 2.12 **“Municipality”** means the Corporation of the Municipality of Markstay-Warren.
- 2.13 **“Person”** means any individual or corporation that possesses or keeps a hen or any individual or corporation that owns any property where a hen resides and permits or allows hens or poultry to reside on that property.
- 2.14 **“Poultry”** means any single bird or flock of any domesticated avian species that is kept by a person for any purpose and shall not include any hen as defined.
- 2.15 **“Premises”** means the entire lot on which a single dwelling unit building, or a multi-dwelling unit building is situated and includes a vacant lot.
- 2.16 **“Rear Yard”** mean a yard extending across the full width of a lot between the rear lot line and the

nearest wall of any principal building or structure on the lot.

- 2.17 **“Rooster”** means a male chicken (*gallus gallus domesticus*)
- 2.18 **“Rural Property”** means any property zoned ‘Rural’ under the Municipal Zoning By-Law as amended.
- 2.19 **“Waterfront Property”** means any property zoned as ‘Waterfront Residential under the Zoning By-Law as amended.
- 2.20 **“Town Limits”** means the areas defined within Schedule ‘B’ of this By-Law and shall include any property with property line shared with a road indicated in Schedule ‘B’.

3. **GENERAL PROVISIONS**

- 3.1. This By-law shall apply to all parcels of land within the geographic limits of the Municipality of Markstay-Warren zoned Residential One (R1), Residential Two (R2), Waterfront Residential (WR), and Rural Residential (RR) in the Zoning By-law.
- 3.2. No provision of this By-Law shall be used to limit or regulate any rural property as it relates to the keeping of hens or poultry.
- 3.3. No Person shall keep or permit the keeping of any hens on a rental property without written permission from the property owner.
- 3.4. No person shall fail to remove hens from a rental property if such permission is removed by the property owner.
- 3.5. No Person shall keep or permit the keeping of more than five (5) hens on a property located within the town limits as described in Schedule B.
- 3.6. No Person shall keep or permit the keeping of more than ten (10) hens on any property outside of the town limits as described in Schedule B.
- 3.7. No Person shall keep or permit the keeping of a rooster.
- 3.8. No Person shall allow or permit a hen to run at large.
- 3.9. No Person shall allow or permit a hen to defecate outside of a hen coop or enclosed outdoor area within approved setbacks.
- 3.10. No Person shall sell or permit the sale of any eggs, manure, meat or other products derived from hens.
- 3.11. No Person shall advertise or permit the advertising of the sale of, eggs, manure, meat or other products derived from hens.
- 3.12. No Person shall dispatch or permit the dispatching of a hen within town limits.

- 3.13. No person shall keep or permit the keeping of hens on any part of a property other than a rear yard. Please note that on Waterfront Residential zones, the water side is considered the front yard.

4. PROVISIONS OF CARE AND WASTE DISPOSAL

- 4.1. Every person who keeps a hen within the Municipality shall ensure that such hen is provided with:
- a. clean and sanitary environment free from accumulation of fecal matter;
 - b. adequate and appropriate care, food, water, shelter and opportunity for physical activity;
 - c. an adequate number of nest boxes and perching structures for the number of hens;
 - d. necessary care when the animal exhibits signs of pain, illness or suffering;
 - e. Access to the outdoors by means of a fully enclosed run;
 - f. Provide appropriate temperature.
- 4.2. Every Person shall keep hens in a hen coop and shall ensure that such a hen coop is of adequate size and build for the number of hens.
- 4.3. Every Person shall ensure that any feed kept for such hens is stored in a container, secure from mice, rats, and other vermin.
- 4.4. Every Person shall ensure that all manure created in the keeping of hens is stored in an approved manure container or disposed of appropriately.
- 4.5. No Person shall allow or permit any hen coop or approved manure container to cause any unpleasant odour.
- 4.6. Every Person shall remove and dispose of any manure or manure kept in an approved manure container that has caused or is causing, any unpleasant odour
- 4.7. No Person shall place out for curbside collection any manure generated in the keeping of hens.
- 4.8. No Person shall dispose of any manure generated in the keeping of hens at a Waste Transfer Site.
- 4.9. Every Person shall ensure that excess manure is disposed of in an appropriate manner.

5. HEN COOPS

- 5.1. No Person shall build, or permit the use of, a hen coop that is within fifteen metres (15m) of any well or well cap, including the wells or well caps of neighbouring properties.
- 5.2. No Person No Person shall build, or permit the use of, a hen coop that is within 30 metres of the shoreline of any body of water
- 5.3. No Person shall build, or permit the use of, a hen coop that is within 5 m meters of any property line or within 10 m of any dwelling on a neighbouring property, whichever is more restrictive.
- 5.4. Every Person shall ensure that all infrastructure built or maintained for the keeping of backyard hens shall meet all MDS setback requirements.

5.5. Every hen coop shall:

- a. Not exceed 3 meters in height;
- b. Provide at least 0.37 square meters of floor area for every hen;
- c. Be enclosed on all sides and have a roof and door;
- d. provide a perch for each hen;
- e. provide a nest box for each hen;
- f. be maintained in good repair and in a clean, dry, odour free, and sanitary condition, free from vermin;
- g. be constructed and maintained to prevent any wildlife from harbouring underneath or within it or within its walls, and to prevent entrance by any other animal; and
- h. provide a fully enclosed outdoor run area;

6. ENFORCEMENT

- 6.1. Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction shall be liable to a fine prescribed and recoverable under the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, for each offence committed.
- 6.2. Every instance of offence committed under this By-law shall constitute a separate offence. Each day that a contravention of this By-law continues constitutes a separate and distinct offence.
- 6.3. The Administrative Monetary Penalty System By-law as amended applies to each administrative penalty issued pursuant to this Bylaw.
- 6.4. No person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, an employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-Law.
- 6.5. Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Monetary Penalty System By-law as amended, be liable to pay to the Municipality an administrative monetary penalty.
- 6.6. Before the Officer and other appointed officials takes any action as a result of a complaint, the complainant shall give to the investigative Officer involved a written statement describing the incident, stating his or her name, address, telephone number, and date and time of incident.
- 6.7. Upon registering a conviction for a contravention of any provision of this By-Law, the Provincial Offences Court may, in addition to any other remedy and to any penalty imposed by this By-Law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

7. SEVERABILITY

- 7.1. Should a court of competent jurisdiction declare a part or whole of any provision of this By-Law to be invalid or of no force and effect, the provision or part is deemed severable from this By-Law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

8. SCHEDULES

- 8.1. Schedules “A” and “B” shall be deemed to form part of this by-law.

9. AUTHORITY

- 9.1. This By-Law shall come into force and take effect on the day it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS XXth DAY OF MONTH, 20XX.**

MAYOR

CLERK

**SCHEDULE “A”
BACKYARD HENS BY-LAW BY-LAW 2025-XX
MUNICIPALITY OF MARKSTAY-WARREN**

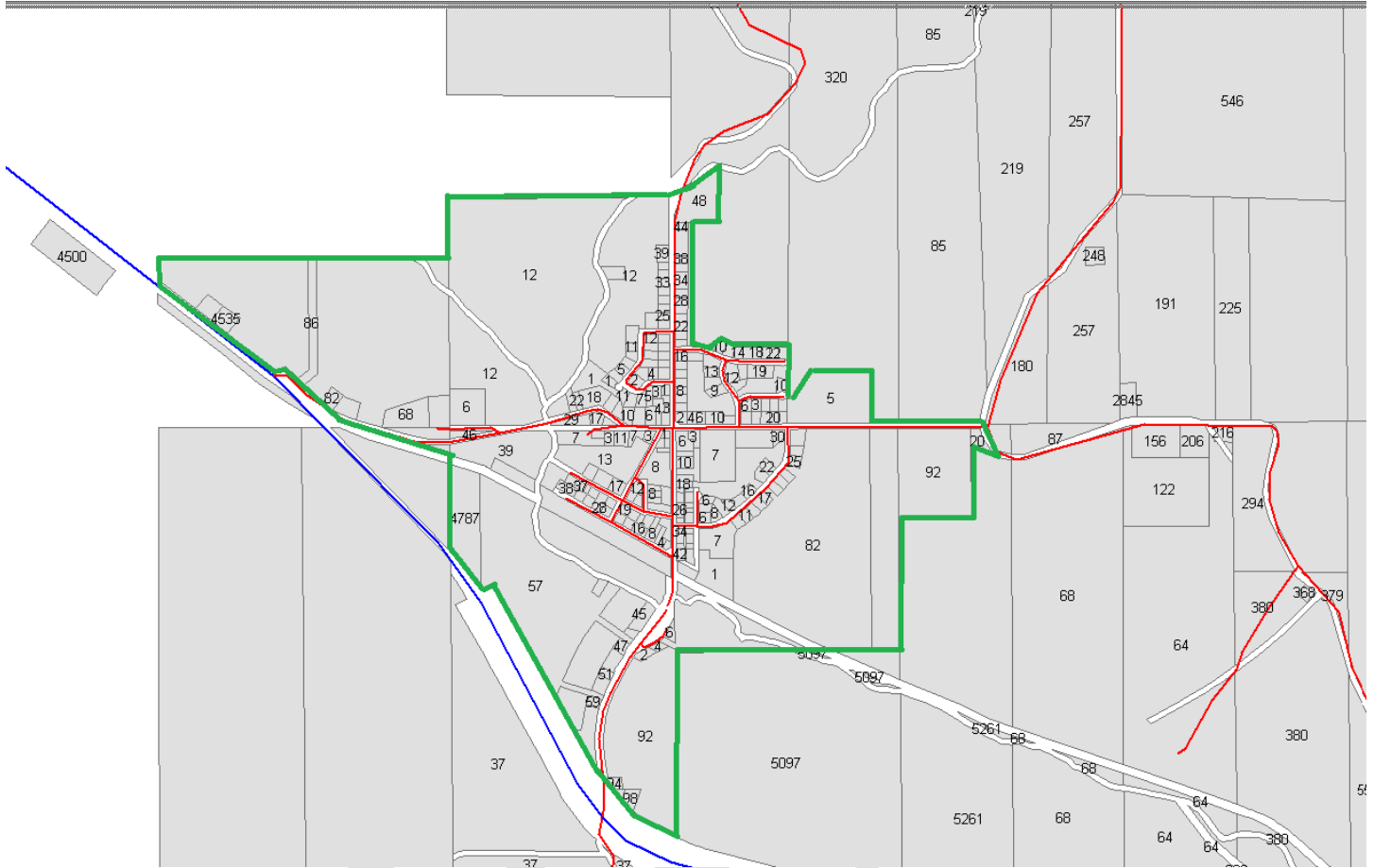
PART 1 – PROVINCIAL OFFENCE ACT FINES

ITEM	Column 1 SHORT FORM WORDING	Column 2 PROVISION CREATING OR DEFINING THE OFFENCE	Column 3 SET FINES
1	Keep a hen on a rental property without written permission	Section 3.3	100.00
2	Permit the keeping of a hen on a rental property without written permission	Section 3.3	100.00
3	Fail to remove hens.	Section 3.4	150.00
4	Keep more than five hens within town limits	Section 3.5	100.00
5	Keep more than ten hens outside town limits	Section 3.6	100.00
6	Keep a rooster	Section 3.7	250.00
7	Permit the keeping of a rooster	Section 3.7	250.00
8	Allow a hen to run at large	Section 3.8	100.00
9	Permit a hen to run at large	Section 3.8	100.00
10	Allow defecation outside of enclosure	Section 3.9	100.00
11	Permit defecation outside of enclosure	Section 3.9	100.00
12	Permit the sale of eggs, manure, meat or other products.	Section 3.10	200.00
13	Sell eggs, manure, meat or other products	Section 3.10	200.00
14	Advertising the sale of, eggs, manure, meat or other products	Section 3.11	200.00
15	Permit advertising for the sale of eggs, manure, meat or other products	Section 3.11	200.00
16	Dispatch a hen within town limits	Section 3.12	200.00
17	Permit the dispatching of a hen within town limits	Section 3.12	200.00
18	Keep a hen in any non permitted yard	Section 3.13	100.00
19	Permit the keeping of a hen in any non permitted yard	Section 3.13	100.00
20	Hinder or obstruct an officer	Section 6.4	500.00

NOTE: Penalty Provisions for the offences indicated above is Section 12 of the By-law 2025-XX, a certified copy of which has been filed.

Labine Road
St Jean Street
Noland Road

MARKSTAY



Main Street S
Mountain Street
Front Street
Church St
Hagar Street
Main Street North
Lucien Street
Millichamp street
McMaster Street
Pioneer street west
Pioneer Street East
Hill Street
Hawthorn street
Spruce Street
Birch Street
Rejean Street
Rita Street
Rollande Street
Legion Street

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