

DATE: November 3, 2020

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TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Backyard Chickens in the Electoral Areas

Purpose

To provide information on the possibility of reducing the minimum lot size for keeping backyard chickens in the rural areas of the Comox Valley Regional District.

Recommendation from the Chief Administrative Officer:

For information purposes only.

Executive Summary

- At its meeting on September 14, 2020, the Electoral Areas Services Committee passed the following resolution: *“D. Arbour/ A. Hamir: THAT staff be directed to bring forward a staff report on the possibility of reducing the minimum lot size for keeping backyard chickens in the Comox Valley Regional District. Carried*
- The Rural Comox Valley Zoning Bylaw permits the keeping of chickens as a “domestic agriculture use” on residential zoned lots between 0.2 and 0.4 hectares subject to several conditions regarding size of flock, setbacks, and other features. Over 0.4 hectares “agriculture use” is permitted without these conditions.
- The purpose of those conditions is to mitigate the most common concerns and nuisance factors associated with the use. They were drafted based on best practice guides and models from other neighbouring municipalities and regional districts.
- Lowering or eliminating the minimum lot area for the keeping of chickens would allow for that use in communities with higher residential densities.
- There are no permits or licensing required for the keeping of chickens. Inspections and enforcement are only conducted upon the receipt of a written complaint in accordance with the Comox Valley Regional Districts (CVRD’s) Bylaw Enforcement Policy.

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Government Partners and Stakeholder Distribution (Upon Agenda Publication)

None	
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Background/Current Situation

At its meeting on September 14, 2020, the Electoral Areas Services Committee passed the following resolution:

“D. Arbour/ A. Hamir: THAT staff be directed to bring forward a staff report on the possibility of reducing the minimum lot size for keeping backyard chickens in the Comox Valley Regional District.

Carried”

The keeping of backyard chickens refers to raising hens, typically for the purposes of harvesting eggs for personal consumption, within residential areas where lots are less than 0.4 hectares. Chickens do not require much space but do have health and nuisance implications when being sited within small lot residential communities. Because backyard chickens are not part of a farm business, they are beyond the scope of the Ministry of Agriculture to respond to complaints regarding farm practises, so the ability of local Bylaw Compliance and Animal Control Officers is considered when drafting regulations. Relative to chickens living in small lot communities, health and nuisance factors that are considered include:

- Odours, noise, dust
- Unsightliness
- Pests
- Predators (including domestic animals and wildlife)
- Spread of disease
- Biosecurity
- Animal welfare

Regulating setbacks, flock size and roosters can mitigate the effects of odours, noise, dust and prohibiting enclosures in a front yard can mitigate unsightliness, though these nuisance factors (as well as animal welfare factors) will be more influenced by the ability of the resident to sustain proper maintenance and care relative to their proximity to neighbouring houses and other features (e.g. sources of water). Cleanliness, such as managing manure, bedding and food sources, is important in limiting odours, pests and disease, but cannot be enforced through a zoning bylaw. The prohibition on roosters is implemented for noise considerations but their absence makes flocks more susceptible to predators (making enclosures necessary). Concerning biosecurity measures, zoning can prohibit the destruction or disposal of chickens on the residential lot and the province operates a voluntary Premises ID program for handling animal outbreak events, but otherwise preventing the spread of animal diseases requires proper access management, owners to be aware of animal health issues and be able to consult veterinarians when appropriate. In considering the spread of disease (e.g. salmonella) backyard chicken regulations and best practices consider prohibitions of the sale of chicken products, such as eggs, meat, manure, etc. as the chickens are intended for domestic consumption only (e.g. not a commercial use).

Zoning Analysis

Zoning Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”, currently permits backyard chickens as a “domestic agriculture use” on residential zoned lots (ie. Residential One, Country Residential One, Residential Rural) between 0.2 and 0.4 hectares subject to the following conditions:

“The keeping of chickens (hen) as a domestic agriculture use is subject to the following requirements:

- i) A maximum of six (6) chickens are permitted per lot.*
- ii) No roosters are permitted.*
- iii) A chicken enclosure is not an accessory building for the purposes of this Bylaw.*
- iv) A chicken enclosure shall be set back from the lot lines as follows:*
 - a) A minimum distance of 1.5 metres from side lot line.*

- b) *A minimum distance of 1.2 metres from a rear lot line.*
- c) *A minimum distance of 4.5 metres from lot lines fronting a highway.*
- v) *A chicken enclosure shall not be sited within 3.0 metres of any dwelling unit.*
- vi) *A chicken enclosure is not permitted within any front yard.*
- vii) *A chicken enclosure shall have a maximum height of 2.0 metres.*
- viii) *A chicken enclosure shall have a minimum floor area of 0.4 square metres per chicken to a total maximum floor area of 9.0 square metres, and at least 1 square metre of outdoor chicken run per chicken.*
- ix) *Meat from the chicken must not be sold from the property.*
- x) *The destruction or disposal of chickens on the lot is prohibited”*

Lots over 0.4 hectares are permitted “agricultural use” which is broadly defined with no zoning limit to the number or type of animals permitted, though “intensive agricultural use” is not permitted (Figure 1). Similarly, rural zoned lots (e.g. Rural Eight, Rural Twenty and Rural ALR) allow for “agricultural use” regardless of the size of the lot, though these are predominantly already in very low density areas with lots typically over 2 hectares.

The domestic agriculture use only recently came into effect with the October 2019 adoption of Zoning Bylaw No. 520, which included extensive consultation with the public, advisory committees and other agencies. Prior to that date, the Zoning Bylaw did not allow for any agricultural use on residential zoned lots (e.g. Country Residential One and Residential Rural) under 0.4 hectares and did not allow for any agricultural use at all in the Residential One zone.

Regional Context

For regional context, the Village of Cumberland allows for “urban agriculture”, including the keeping of hens, in several residential zones regardless of lot area with conditions similar to the above, including setbacks, a maximum of six hens, minimum areas for enclosures and runs, and prohibitions on roosters and on-site slaughter. The City of Courtenay allows “agricultural use” in several residential zones but only on lots over 0.4 hectares. The Town of Comox does not permit backyard chickens in any residential zones.

The Strathcona Regional District does not make provisions for domestic agriculture. The City of Campbell River permits up to six hens but regulated under their Animal Control Bylaw rather than the Zoning Bylaw, so that owners must be licenced and the Animal Control Officer may respond to violations through fines, revocation of a licence or impoundment of the chickens. The City of Nanaimo and other municipalities similarly supplement backyard chicken provisions with animal control bylaws.

Guidelines and Recommendations from External Agencies

In consultation with the Ministry of Agriculture, it was noted that backyard chicken are not under the purview of the Farm Industry Review Board (FIRB) which would accept nuisance complaints (e.g. odour, noise, dust, and other disturbances) in connection with alleged violations of normal farm practices. FIRB’s mandate is limited to farm businesses and the keeping of chickens on residential lots is considered domestic (non-commercial). It would be for the local government’s bylaw compliance or animal control officers to respond to complaints.

The Interior Health Authority (Cariboo, Okanagan, Kootenay) published a guide for local governments considering bylaws related to backyard chickens. Their considerations include the increased risk of salmonella with improper handling of chicken products and the importance on proper maintenance in addressing waste disposal to deter pests, disease and odours, as they affect the occupants of the lot and neighbouring lots, and the local government’s ability to address bylaw

infractions. They recommend bylaws limit the number chickens, prohibit home-based slaughter, prohibit the sale of meat and eggs, require mandatory enclosure and cleaning standards, and provide education on waste disposal, animal welfare, and hygiene practices.

The BC SPCA cautions against the keeping of backyard chickens and recommends that eggs and meat be obtained from farmers with the capacity and expertise to raise chickens. The BC SPCA is concerned with the abandonment of roosters, spent hens (hens live between 5 to 11 years but only lay eggs for 2 to 4 years), and hens from those that were insufficiently prepared or committed to raising chickens. They also note the vulnerability of chickens to other animals, such as dogs, cats, and wildlife predators.

The federal Canadian Food Inspection Agency publishes guidelines for the care of backyard flocks from a biosecurity perspective (e.g. preventing incidents of avian influenza). Their guidelines are based around the practices of cleanliness, prompt consultations with a veterinarians and limiting visitor access.

Examples from other Local Governments

There are other local governments in BC that permit backyard chickens on lots less than 0.2 hectares. The Regional District of Nanaimo allows “household poultry” in several residential zones regardless of size, limited to five hens, a prohibition of the sale of eggs or meat, and with minimum setbacks and enclosure standards. The City of Nanaimo permits up to four hens but also includes the impoundment of chickens (and associated fees and fines) within their Animal Control Bylaw. Similarly, the City of Campbell River allows up to six hens on residential lots but subject to a more prescriptive bylaws, including their animal control and ticketing bylaws under which the owners must be licenced and the hens subject to impoundment. The Cowichan Valley Regional District allows keeping of chickens in one residential zone (Cobble Hill) on lots to a minimum of 900 square metres.

Minimum Lot Area

For context, in the rural area, lots under 0.2 hectares exist in older communities, such as Union Bay, Ships Peninsula and Royston, and in miscellaneous older subdivisions across the region, such as Seaview Road, Henderson/ McLarey Avenue, Virginia Drive, Wilkinson/Astra Road, Spindrift/Kilmarnock Drive, among others.

In terms of structures and space, chickens only require a coop for shelter and at least 1 square metre of bare earth per chicken. The minimum lot area regulation for the keeping of chickens is for mitigating nuisance and land use conflicts in higher density subdivisions. In such areas, improper care or lack of maintenance can impact a greater number of residents, relative to the lower density areas. A lower minimum lot area would likely lead to additional bylaw complaints being filed and responded to, particularly around odour and cleanliness. However, a lower minimum lot area could also be accompanied by a lower number of permitted chickens which may help to mitigate some nuisance.

Policy Analysis

Lowering or eliminating the minimum lot area for the keeping of chickens would require a zoning amendment which would involve public notification. The lots under 0.2 hectares are predominately located in the Official Community Plan’s Settlement Nodes and Settlement Expansion Areas. The policies of these designations do not speak to agricultural uses but maintaining a rural character, is among their objectives.

Options

The Comox Valley Regional District Board may:

1. Retain the existing regulations and contemplate lower minimum lot areas for the keeping of chickens in future Zoning Bylaw updates;
2. Direct staff to include the proposal to lower or eliminate minimum lot areas for the keeping of chickens in the upcoming general amendments to the Zoning Bylaw.

Staff recommends retaining the existing regulations and reviewing the topic again in future agricultural-related plans and bylaw updates.

Financial Factors

Key costs have pertained to staff time. Zoning regulations are financed under the Planning function while compliance and enforcement is financed through the Bylaw Enforcement function.

Legal Factors

The *Local Government Act* (RSBC, 2015, c. 1) enables a Regional District, through a zoning bylaw, to regulate the use of land, buildings and other structures, including the density, location, siting, size and dimensions of those uses, buildings and other structures.

Regional Growth Strategy Implications

Policy 6E-1 of the Regional Growth Strategy, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” supports the development of a coordinated regional food security strategy, including consideration of urban gardening, community orchards and community supported agriculture programs.

Intergovernmental Factors

Intergovernmental factors have been incorporated into this report.

Interdepartmental Involvement

The keeping of chickens on lots less than 0.4 hectares is subject to nuisance bylaws and the bylaw compliance department responds to several of these nuisance complaints every year. Should a lower lot area be contemplated, the bylaw compliance department recommends also contemplating a lower number of permitted chickens on lots less than 0.2 hectares.

Citizen/Public Relations

Should the CVRD Board opt to amend the Zoning Bylaw to lower or eliminate the minimum lot area applicable to the keeping of chickens, a public notification process will be implemented.

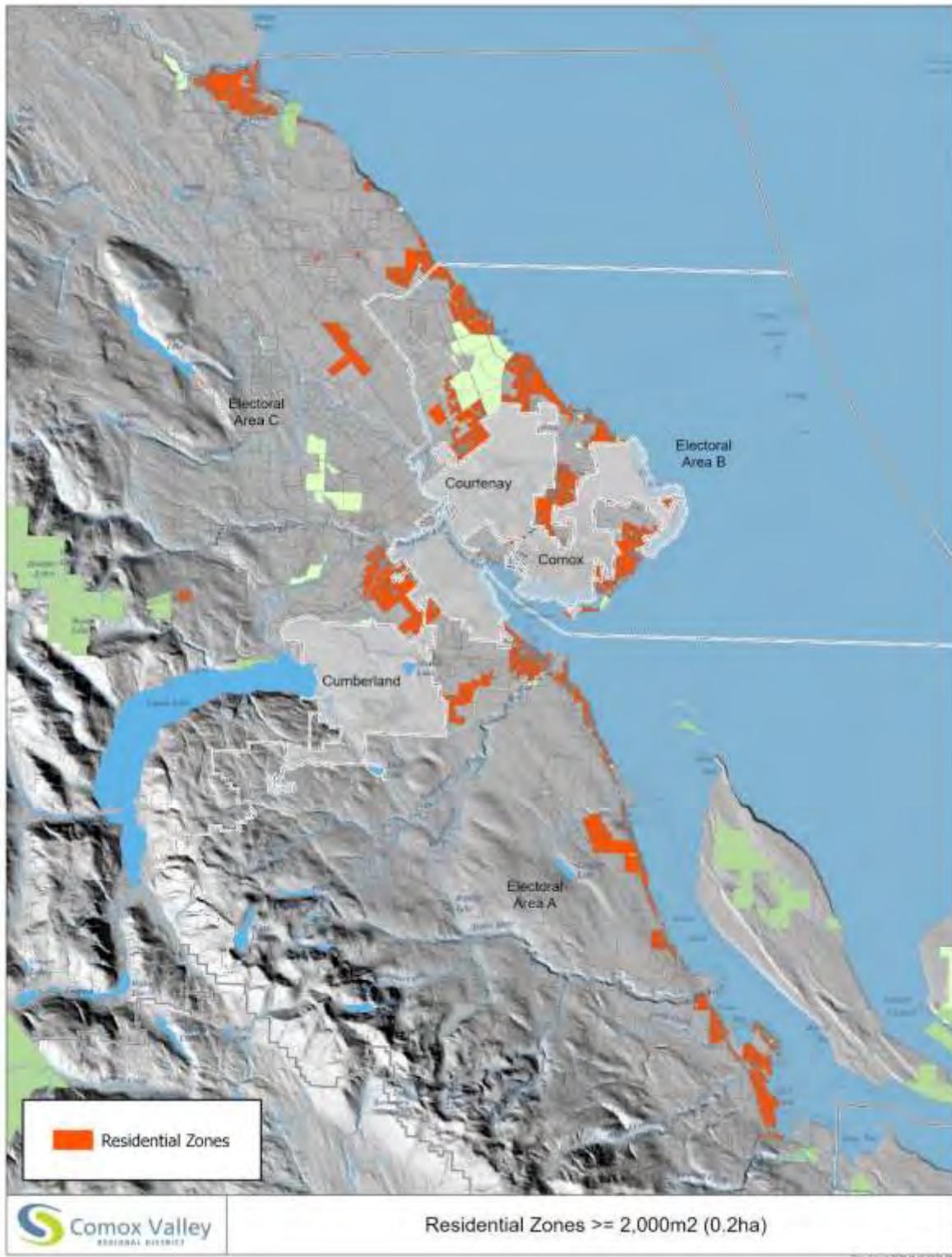


Figure 1: Lots over 0.2 Hectares in a Residential Zone (highlighted in orange); Either Agricultural Use or Domestic Agricultural Use are Permitted on These Lots