

BY-LAW NUMBER 67-2021

A BY-LAW TO REGULATE FEEDING OF WILD ANIMALS

Passed the 3rd day of May, 2021.

WHEREAS sections 8, 9, and 10 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the "*Municipal Act, 2001*") authorize the Corporation of the City of Windsor (the "City") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, 8 and 9 of subsection 10 (2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and animals;

AND WHEREAS section 127 of the *Municipal Act, 2001* authorizes the City to require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings and to regulate when and how such matters shall be done, for prohibiting the disposal of refuse or debris on land without the consent of the owner or occupant of land and for defining "refuse";

AND WHEREAS section 128 of the *Municipal Act, 2001* authorizes the City to prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS section 425 of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS section 427 of the *Municipal Act, 2001* permits a municipality to pass by-laws directing or requiring that a matter or thing be done and that in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and that a municipality may enter upon land and into structures at any reasonable time for the above purpose and further that a municipality may recover the cost of doing a thing or matter required above and may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. Definitions

1.1 When found in this by-law the following terms shall have the corresponding meanings:

"By-law Enforcement Officer" means a person appointed by by-law as a provincial offences officer for the City of Windsor;

"City" means The Corporation of the City of Windsor;

"Council" means the Council of the Corporation of the City of Windsor;

"feed or feeding" means leaving food on property or permitting food to be left on property but does not include:

- (a) compost kept in accordance with this or any other City By-law, or
- (b) food or pet food kept in a bird feeder in compliance with this by-law, or
- (c) water provided to a domestic animal;

"feeding device" means any instrument, tool, appliance or thing meant or intended to hold food or pet food;

"food" means any substance or food which could reasonably be expected to be consumed by a wild animal, but does not include:

- i) compost kept in accordance with all applicable by-laws, statutes or regulations; or
- ii) landscaping materials used for landscaping purposes; or
- iii) ornamental plants; or
- iv) food being grown for human consumption; or
- v) water for domestic animals
- vi) vegetation or insects that are part of the natural environment;

"Notice" means the notice referred to in Section 5.1 herein;

"noxious weed" means a noxious weed designated by or under the *Weed Control Act*, R.S.O. 1990, c. W.5, as amended;

"ornamental plants" means plants or flowers that are either purposefully planted or left to grow naturally, but that are maintained on the property and shall include wildflowers, pussy willows, typha (cattails), wild or ornamental grasses and does not include noxious weeds or ground cover;

"occupant" or **"occupier"** means a person having care and control over Property under consideration and includes a lessee, licensee or a mortgagee in possession;

"owner" means the registered owner of property and includes a lessee, a mortgagee in possession, and any person having care and control over any portion of the property under consideration;

"person" means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or agency;

"pest" means any animal that is defined as wildlife or a wild animal in this by-law that also destroys crops, landscaping, ornamental plants or other animals;

"pet food" means any food that is intended to be given to domestic animals or an animal that is not defined as wildlife or as a wild animal in this by-law and for greater certainty, includes food that is meant or intended to be given to birds or feral cats;

"property" means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all structures and erections thereon, whether heretofore or hereafter erected and includes vacant

land and properties listed under Part IV or Part V of the *Ontario Heritage Act* R.S.O. 1990, c. 0. 18, as amended, but excludes public property;

"public property" means property that is owned by the City or any of its boards and agencies, the Crown in Right of Ontario or any of its agencies or property of the Crown in Right of Canada or any of its agencies;

"song bird" means any bird belonging to the oscine division in ornithology;

"wildlife" or **"wild animal"** means an animal that belongs to a species that is wild by nature, but does not include;

- i) an animal that is kept in accordance with the City's Keeping of Animals By-law 8156, as amended; or
- ii) an animal that is kept for research undertaken by a university, college or similar provincially or federally recognized research institution; or
- iii) a song bird.

2. FEEDING OF WILDLIFE and WILD ANIMALS

2.1 No person shall feed any wildlife or wild animal on property or public property except in accordance with this by-law.

2.2 No person shall place any food, pet food or feeding device on any property in a manner that attracts wildlife or a wild animal.

2.3 No owner or occupier of land shall place or allow any feeding device or other material to be placed outdoors or on any public or private property for the purpose of attracting or feeding wildlife or a wild animal.

2.4 No person shall feed any bird other than a song bird. No person shall feed a song bird unless the following feeding requirements are met by the person:

- (a) The person has the permission of the owner or occupant of the property where the feeding takes place; and
- (b) The food or pet food intended for the song bird is placed in a bird feeding device that is sufficiently above grade as to not attract or be accessible by wildlife or wild animals; and
- (c) bird feeding practices do not attract large flocks of homing birds such as wild, feral or domestic pigeons; and
- (d) spillage of food or pet food upon the ground is removed by the person or property owner or occupier forthwith and disposed of in such a manner that it does not attract wildlife, wild animals, feral or stray domestic animals; and
- (e) the process of feeding does not interfere with the normal use or enjoyment of any other property.

2.5 Sections 2.1, 2.2 and 2.3 do not apply in the following situations:

- (a) the leaving of food as bait in a trap by property owner to capture a nuisance animal inhabiting or habituating their property; or
- (b) the leaving of food as bait by a licensed trapper, and employee of a licensed wildlife or pest control agency, Municipal By-law Enforcement Officer, an Ontario Society for the Prevention of Cruelty to Animals Inspector, or a Police Officer, in the performance of their duties; or
- (c) the feeding of feral cats if part of a spaying or neutering and release program approved by the City; or
- (d) the feeding is part of a research program undertaken by a university, college or similarly provincially or federally recognized research institution.

2.6 Every property owner or occupier shall promptly remove any feeding device, food or pet food placed on the owner's or occupier's property in violation of this By-Law.

2.7 Every property owner or occupier shall promptly remove any device placed on the owner's or occupier's property to which wildlife or wild animals are attracted or from which wildlife or wild animals actually feed.

3. PEST PREVENTION

3.1 Every property shall be kept free of rodents, vermin, insects and other pests.

3.2 No owner or occupier of property shall permit or allow offensive odours that have as their source compost, pet food or food to be emitted or escape from the property and which odour attracts or could attract wildlife, wild animals, rodents, vermin, insects or other pests to the property.

4. EXEMPTIONS

4.1 This By-Law shall not apply to:

- (a) Any natural product that is growing on a particular land owned or occupied where wildlife or a wild animal is feeding;
- (b) vegetable gardens, flower beds and compost maintained in accordance with this or any other applicable City by-law.

5. ENFORCEMENT

5.1 A By-law Enforcement Officer who finds property which does not comply with the requirements of this by-law or any person, owner or occupier feeding wildlife or wild animals in contravention of this by-law may order the person, owner or occupier, by way of issuing a notice, to comply with the provisions of this by-law and the notice shall specify the time allowed for compliance.

5.2 A Notice shall be served:

- (a) upon the person, owner or occupier of the property by personal service, or
 - (b) by mailing a copy of the Notice by prepaid mail to the last known address noted on the tax assessment roll of the property and it may also be sent to the municipal address of the property alleged to be non-compliant or where the feeding in contravention of this by-law is taking place and notice sent in this manner shall be deemed to have been served 5 days after it is mailed, or
 - (c) by publication once in a local newspaper of general circulation, or
 - (d) by posting the notice in a conspicuous place on the property; or
 - (e) by any combination of the above as the By-law Enforcement Officer deems appropriate to bring the Notice to the attention of the property owner or occupier.
- 5.3 Administrative Fees will be charged in accordance with By-law 392-2002.
- 5.4 Every notice delivered, sent, posted or published shall identify the property by street number and name, and/or legal description.
- 5.5 Every notice delivered, sent, posted or published shall specify that if the person, owner or occupier defaults in doing the thing(s) required to be done under this by-law by the timeline specified in the notice, the City, or anyone acting on its behalf, may take action to do the thing(s) required to be done as specified in the notice and that the City may recover the costs of doing the thing(s) required to be done from the owner or occupier, or both, and that the City may recover the costs by action or by adding the costs to the tax roll and collect them in the same manner as taxes.
- 5.6 If a person, owner or occupier, as the case may be, fails to comply with a notice issued under section 5.1, the City may take action to do the thing(s) required to be done as specified in the notice.
- 5.7 If the City takes action to do the thing(s) required to be done as specified in the notice, the costs of such action may be added to the tax roll and collected in the same manner as taxes.
- 5.8 For the purposes of determining compliance with the terms of this by-law, a By-law Enforcement Officer may enter onto any public or private property.
- 5.9 Where the City proceeds with action under s. 5.6 of this by-law, the By-law Enforcement Officer or an agent appointed by the City may enter onto the property accompanied by any person(s) under his or her direction and with the appropriate equipment as required to bring the property into compliance with this by-law.
- 5.10 No person shall hinder or obstruct a By-law Enforcement Officer or any person employed to enforce this by-law from carrying out an inspection of

lands nor shall any person obstruct any employee or agent authorized by the City to carry out any work under authority of this by-law.

5.11 Where an owner or occupier who has been served with a Notice fails to comply with the Notice, a By-law Enforcement Officer or the City's employees or any authorized agent on behalf of the City may enter on the property at any reasonable time and complete the work required to bring the property into compliance with the provisions of this by-law as set out in the Notice.

5.12 Where the work required to bring the property into compliance with the by-law has been performed by or for the City, the expenses incurred in doing the work may be collected by action or the costs may be added to the tax roll for the property and collected in the same manner as taxes.

5.13 A By-law Enforcement Officer, or any person acting under his or her direction; may enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine whether:

(a) the property or activity on the property conforms with this by-law; or

(b) a notice made under this by-law has been complied with.

6. OFFENCES

6.1 Every person who contravenes any of the provisions of this by-law or who obstructs or attempts to obstruct a By-law Enforcement Officer in carrying out his or her duties under this by-law is guilty of an offence and is liable, upon conviction, to maximum fines as established pursuant to the *Provincial Offences Act*. R.S.O. 1990, c.P.33, as amended.

7. SEVERABILITY


7.1 Where a court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

8. SHORT TITLE

8.1 This by-law may be referred to as the "Feeding of Wildlife By-law."

9. **EFFECTIVE DATE**

9.1 This by-law shall come into force and take effect on try day of the final passing thereof.



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First Reading - May 3, 2021
Second Reading- May 3, 2021
Third Reading - May 3, 2021