**Authority:** Item 8, Hearings Sub-Committee
Report 02-016 (FCS02028)
CM: May 15, 2002

**Bill No. 136**

**CITY OF HAMILTON**

**BY-LAW NO. 02-136**

**To Regulate Pigeon Pests**

**WHEREAS** Council deems it necessary to prevent public nuisances when pigeons spoil or roost on property without the occupiers or owners consent, caused when persons feed or attract pigeons to their private property but fail to limit or control them from neighbouring properties, and through regulation and prohibition Council wishes to promote the use and enjoyment of property in a healthy and sanitary manner free from unwanted pigeon pests;

**AND WHEREAS** Paragraph 1 of section 210 of the Municipal Act, R.S.0.1990 c. M.45 provides that by-laws may be passed to prohibit or regulate the keeping of animals, including birds, of any class;

**AND WHEREAS** Paragraph 140 of section 210 of the Municipal Act, permits by-laws for prohibiting and regulating public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

**AND WHEREAS** on the 15th day of May, 2002, the Council of the City of Hamilton did approve Item 8 of the 16th Report of the Hearings Sub-Committee recommending that the feeding of Pigeons be regulated as a public nuisance;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

**DEFINITIONS**

1. In this By-law:

   (a) "City" means the City of Hamilton;

   (b) "feeding" or "feed" includes regular or intermittent supply of food, or allowing the placing or maintenance of a supply of food on a regular or intermittent basis, which food is accessible to or accessed by pigeons;

   (c) "Municipal Law Enforcement Officer" means a person designated as a municipal law enforcement officer pursuant to Section 15(1) of the Police Services Act, R.S.O. 1990, Chapter P.15, as amended, and appointed for the purpose of enforcing the provisions of City By-laws;

   (d) "Other Property" does not include a property which is more than 75 metres from the property line of the property where feed being consumed by pigeons is located or property which is more than 75 meters from the property line where the feeding or otherwise attracting of pigeons occurs;

(e) "Police Officer" means an officer of the Hamilton Police Service and includes a special constable;

(f) "public nuisance" in the absence of evidence to the contrary is deemed to include;

(i) pigeons that defecate on property, things or persons located there;

(ii) pigeons roosting, landing or nesting on property; or

(iii) pigeons which cause any interference with the normal use or enjoyment of a property; and

(f) "their property" in regards to a person, means property which the person owns, occupies or has control over, but does not include property owned or occupied by the governments of Canada, Ontario, a municipality or local board thereof.

**PROHIBITIONS**

**2.** No person shall on their property feed or otherwise attract pigeons or allow, cause or permit the feeding or attraction of pigeons, such that the pigeons cause a public nuisance on other property.

**ENFORCEMENT**

**3.** It shall be the duty of the Police Officers of the Hamilton Police Service and Municipal Law Enforcement Officers to enforce the provisions of this By-law.

**4.** Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to the penalties specified in Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

5. This By-law shall come into force and take effect on the date of its passing and enactment.

**PASSED and ENACTED** this 15th day of May, 2002.

MAYOR

Acting CLERK