

Authority: Item 10, Planning Committee
Report 12-009 (PED12097)
CM: June 13, 2012

Bill No. 130

CITY OF HAMILTON

BY-LAW NO. 12-130

To Regulate the Feeding of Wildlife and to Repeal By-law No. 02-136

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize the City of Hamilton 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 425 of the *Municipal Act, 2001* authorizes the City of Hamilton to pass by-laws providing that a person who contravenes a by-law of the City of Hamilton passed under that Act is guilty of an offence;

AND WHEREAS the *Municipal Act, 2001* further authorizes the City of Hamilton, amongst other things, to delegate its authority;

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

DEFINITIONS

1. In this By-law:

“**animal**” means any member of the animal kingdom, other than a human;

“**City**” means the municipality the City of Hamilton or the geographic area of the City of Hamilton as the context requires;

“**feed**”, in all of its forms, includes the regular or intermittent supply of food, but does not include baiting during lawful activities;

“**food**” means anything that can be consumed by an animal for sustenance, but does not include:

- (a) vegetation or animals that are part of natural environment such as grasses or insects; or

- (b) compost kept in accordance with all applicable by-laws, statutes or regulations;

“**Officer**” means a person appointed by the City of Hamilton or assigned by the Manager of Animal Services to enforce this By-law;

“**premises**” means a building or a part of a building and any land appurtenant to the building or part of the building and does not include a vacant lot or any premises owned or occupied by the governments of Canada, Ontario, a municipality or by an agency, board or commission of these governments;

“**wildlife**” means an animal that belongs to a species that is wild by nature, but does not include:

- (a) an animal being kept in accordance with the Hamilton Responsible Animal Ownership By-law;
- (b) an animal exempted from the Hamilton Responsible Animal Ownership By-law under section 3.2 of that By-law; or
- (c) an animal being fed in accordance with:
 - (i) any by-law, statute or regulation; or
 - (ii) research undertaken by a university, college or similar provincially or federally recognized research institution.

PROHIBITION

- 2. No person shall feed or permit the feeding of wildlife.
- 3.(1) For the purposes of paragraph 3(2)(a) “**bird**” does not include waterfowl that are wildlife.
 - (2) Despite section 2, a person may feed or permit the feeding of:
 - (a) a bird, if:
 - (i) the bird is fed on premises owned or occupied by the person;
 - (ii) there is no accumulation of bird feces;
 - (iii) there is no interference with the normal use or enjoyment of any other premises; or
 - (b) a feral cat, if the feral cat belongs to a colony of stray or feral cats identified for the purposes of trap, neuter or spay and release programs

approved by the Hamilton / Burlington Society for the Prevention of Cruelty to Animals.

ADMINISTRATION AND ENFORCEMENT

4. The Manager of Animal Services is authorized to administer and enforce this By-law.
5. The Manager of Animal Services may assign Officers to enforce this By-law and Officers so assigned or appointed by City Council to enforce this By-law shall have the authority to carry out inspections.
6. The Manager of Animal Services or an Officer may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not this By-law is being complied with.
7. The Manager of Animal Services or an Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001* where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 6.
8. Every person who fails to comply with section 2 is guilty of an offence and is liable:
 - (a) on a first conviction, to a maximum fine of not more than \$10,000; and
 - (b) on any subsequent conviction, to a maximum fine of not more than \$25,000.
9. Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter 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.
10. This By-law may be referred to as the Hamilton Wildlife Feeding By-law or the Wildlife Feeding By-law.

11. If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of City Council that the remainder of the By-law shall continue to be in force.

REPEAL AND ENACTMENT

12. City By-law No. 02-136 to regulate pigeon pests is repealed.
13. This By-Law shall come into force on the date of its passing.

PASSED this 13th day of June, 2012



R. Bratina
Mayor



R. Caterini
City Clerk