

**THE CORPORATION OF THE CITY OF WELLAND**

**BY-LAW NUMBER 2021-157**

**BEING A BY-LAW TO PROHIBIT THE FEEDING OF WILDLIFE  
WITHIN THE BOUNDARIES OF THE CITY OF WELLAND**

WHEREAS citizens in the City of Welland have expressed concern that feeding of wildlife contributes to the destruction of private property and increases the potential for contact and spread of infectious diseases.

AND WHEREAS Council deems the feeding of wildlife to cause a threat to public health, safety and welfare to the inhabitants of Welland.

AND WHEREAS under section 11(3) subsection 9 of the Municipal Act, 2001 a Municipality may pass by-laws respecting animals;

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

**SECTION 1 – SHORT TITLE**

1.1 This By-law may be referred to as the Feeding of Wildlife By-law.

**SECTION 2 – DEFINITIONS**

The following words, terms and phrases when used within this by-law, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

- 2.1 “Act” means the Municipal Act, 2001 (S.C. 2001, c.25);
- 2.2 “Feed” means the intentional act of furnishing, or otherwise making available, food which is likely to be consumed by wildlife.
- 2.3 “Food” means anything that can be consumed by wildlife for sustenance, but does not include:
- a) Vegetation or animals that are part of the natural environment such as grasses or insects; or
  - b) Compost kept in accordance with all applicable by-laws, statutes or regulations;
  - c) Food being grown for human consumption.
- 2.4 “Officer” means the Niagara SPCA and Humane Society, or any employee or agent of the Niagara SPCA and Humane Society authorized for the purpose of enforcing and carrying out the provisions of this By-law and means a person appointed by the Corporation of the City of Welland for the purposes of enforcement of its By-laws;
- 2.5 “Owner” means the registered owner(s) of the property and includes a corporation or other entity;
- 2.6 “Person” means an owner, individual, corporation or other entity;

- 2.7 “SPCA” means the Niagara SPCA and Humane Society which is the local affiliated society of the OSPCA that provides animal shelters and pounds at 60 Provincial Street, Welland, Ontario, L3B5W7
- 2.8 “Wildlife” means any animal which is wild by nature and not normally domesticated in Ontario, including birds, squirrels and chipmunks.

### **SECTION 3 – PROHIBITIONS OF FEEDING**

- 3.1 No person shall feed or permit or cause the feeding of wildlife.
- 3.2 No person shall throw or place, or permit to be thrown or placed, any type of food, in a yard for the purposes of feeding any birds or wildlife.
- 3.3 No person shall be permitted to have more than three (3) bird feeders located on any property, excluding hummingbird feeders containing nectar.
- 3.4 Each property owner shall have the duty to remove any food placed on the owner’s property in violation of this By-law.
- 3.5 Every owner shall maintain the ground underneath the bird feeder by regularly removing and disposing of the bird food/ birdseeds.

### **SECTION 4 – EXEMPTIONS**

- 4.1 This by-law shall not apply to:
- (i) Persons who are legal owners of wildlife and the wildlife is kept under a valid certificate or permit and are in compliance with all Provincial or Federal legislation regarding the owning of wildlife.
  - (ii) Bird feeders that are suspended off the ground, dispense commercially available bird food such as seeds and nectars.

### **SECTION 5 – ADMINISTRATION, ENFORCEMENT AND RIGHT OF ACCESS**

- 5.1 This By-law shall be administered and enforced by the SPCA and the City of Welland By-law Enforcement Division.
- 5.2 It is hereby declared that notwithstanding that any part of this By-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of Council to enact such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent there from and enacted as such.
- 5.3 Pursuant to the provisions of Sections 23.1 to 23.5 of the Municipal Act, 2001 the Clerk of the City of Welland is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this By-law as may be necessary after the passage of this By-law.
- 5.4 An Officer designated to perform inspections pursuant to this by-law may at all reasonable times, enter upon any land for the purpose of carrying out an inspection to determine whether or not this By-law is being contravened and/ or to determine if an order has been complied with.

- 5.5 Any Officer shall have the inspection powers described in Section 436 of the Act.
- 5.6 No person shall obstruct or hinder, or attempt to obstruct or hinder, an Officer, in the exercise of a power or the performance of a duty under this by-law.
- 5.7 No person shall knowingly furnish false information in any form to any Officer with respect to this by-law.
- 5.8 Where a person fails to comply with the requirements of this By-law, the Officer may give the person notice and direction to comply.
- 5.9 Every person who contravenes a notice or direction to comply is guilty of an offence.
- 5.10 Where the owner is in default of an order, the Officer may, without notice and in addition to any other action, cause the work to be done at the owners expense. Without limitation, the City, its employees, agent or contractor may enter upon the land and remove such things or carry out the work required to make the property comply with this Bylaw. The City's rights pursuant to this section are in addition to the penalty provisions contained in section 6 and the City shall have the option to exercise the rights contained herein as well as the rights contained in section 6.
- 5.11 Any thing removed may be immediately disposed of or deposited elsewhere on the property on which it is located, or may be stored by the City, its employees, agent or contractor. Where a thing has been removed and stored, the owner or person may reclaim such thing upon payment to the City any costs incurred by the City, its employees, agent or contractor in the removal of such thing. Where the thing has not been reclaimed within thirty (30) days of its removal, such thing may be forthwith destroyed or otherwise disposed of by the City, its employees, agent or contractor.
- 5.12 Where any of the matters or things are done in accordance with Subsection 5.10, the expense of having the thing done shall be recovered in a like manner as municipal taxes, in accordance with Section 446 of the Act.

## **SECTION 6 – PENALTY**

- 6.1 Any person who contravenes any provision of this By-law is guilty of an offence.
- 6.2 A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part III of the Provincial Offences Act, R.S.O. 1990, c. P. 33, is liable to a fine of no more than Ten Thousand Dollars (\$10,000.00)
- 6.3 Administrative Penalty By-law 2019-134 applies to each administrative penalty issued pursuant to this By-law
- 6.4 Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty By-law 2019-134, be liable to pay to the City an administrative penalty in accordance with the penalties set out in Schedule "A" attached.

**SECTION 7 – FORCE AND EFFECT OF BY-LAW**

7.1 This By-law shall come into full force and effect upon approval of the set fines by order of the Chief Justice of Ontario.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS  
5<sup>th</sup> DAY OF **OCTOBER, 2021.**

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MAYOR

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CITY CLERK

**SCHEDULE "A"****THE CORPORATION OF THE CITY OF WELLAND****SET FINE SCHEDULE****BY-LAW 2021-157, BEING A BY-LAW TO PROHIBIT THE FEEDING OF WILD LIFE WITHIN THE BOUNDARIES OF THE CITY OF WELLAND**

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1	Feed/ permit/ cause the feeding of wildlife	Sec 3.1	\$300.00
2	Throw any type of food, on a property for the purposes of feeding any birds or wildlife	Sec 3.2	\$300.00
3	Fail to remove a bird feeder	Sec 3.3	\$300.00
4	Fail to remove any food placed on the ground	Sec 3.5	\$300.00
5	Fail to maintain the ground underneath a bird feeder	Sec 3.6	\$300.00
6	Obstruction	Sec 5.6	\$300.00
7	Fail to comply with a notice or direction to comply	Sec 5.9	\$300.00
8	Furnish false information to an Officer	Sec 5.11	\$400.00