

**The Corporation of the City of North Bay**

**By-Law No. 2023-xx**

**Being a By-Law to Prohibit the Feeding of Pigeons in the City of North Bay**

**Whereas** section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that Act or any other Act;

**And Whereas** section 10(1) of the *Municipal Act, 2001* provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**And Whereas** section 10(2) of the *Municipal Act, 2001* provides that a single-tier municipality may pass by-laws respecting: in paragraph 5, economic, social and environmental well-being of the municipality; in paragraph 6, health, safety and well-being of persons; in paragraph 8, protection of persons and property; in paragraph 9, regarding animals;

**And Whereas** Section 128 of the *Municipal Act, 2001* provided that a municipality may 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** Resolution No. 2023-xx was passed by Council at its Regular Meeting held on Tuesday February 14th, 2023, to enact a by-law to prohibit the feeding of pigeons in the City of North Bay;

**Now Therefore The Council of The Corporation of the City of North Bay hereby enacts as follows:**

**1. Definitions**

1.1 In this By-Law, the following definitions shall apply:

**"City"** means The Corporation of the City of North Bay or the area within the geographical limits of the City of North Bay, as the context requires.

**"Officer"** means any person designated as a Municipal By-Law Enforcement Officer, a City of North Bay contract By-law Enforcement Officer, or any Provincial Offences Officer.

**"Feed or Feeding"** means providing regular or intermittent supplies of food or allowing or placing or maintaining the supply of food on a regular or intermittent basis, where the food is accessible to pigeons or is being accessed by pigeons.

**"Occupant"** means any person or persons over the age of 18 years occupying a property.

**"Owner"** means the registered owner of a property.

**2. Regulations**

2.1 This By-Law shall apply to all properties in the City.

2.2 No person shall feed pigeons.

2.3 No person shall deposit food on any grounds, surface or device that is likely to attract pigeons.

2.4 Section 2.3 does not apply to a licensed trapper, an employee of a licensed wildlife or pest control company, a Municipal By-Law Enforcement Officer, a City of North Bay contract By-law Enforcement Officer, or any Provincial Offences Officer.

2.5 Section 2.3 does not apply to the feeding of songbirds providing all of the following conditions are met:

- a) seed is placed in a bird feeding device that is sufficiently above grade so as to not allow pigeons to feed from the feeder, and
- b) the bird feeding device is constructed in such a way as to prevent pigeons from roosting and feeding from the device, and
- c) the bird feeding device does not attract pigeons to the device, and
- d) any spillage of seed upon the ground is completely removed forthwith so that the spilled seeds do not attract pigeons.

### **3. Enforcement**

#### **3.1 Authority to Enforce**

3.1.1 Any Officer can enforce any and all provisions of this By-law.

#### **3.2 Obstruction**

3.2.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the lawful exercise of a power or the performance of a duty under this By-law.

3.2.2 Any person who is alleged to have contravened any provision of this By-law shall identify themselves to the Officer upon request. Any failure to do so shall be deemed to be an obstruction or hindrance to the Officer in the execution of the Officer's duties.

3.2.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, the City or any of its officers, contractors, agents, servants, or workers in the exercise of any power conferred by this By-Law.

#### **3.3 Powers of Entry**

3.3.1 An Officer or any person acting under their instruction may, upon producing proper identification, enter upon a property at any reasonable time without a warrant for the purpose of inspecting the property to determine:  
(a) whether the property conforms to this By-law; or,  
(b) whether an Order made under this By-law has been complied with.

#### **3.4 Orders**

3.4.1 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the Owner and/or Occupant to discontinue the contravening activity and to do any work necessary to correct the contravention.

3.4.2 An Order under section 3.4.1 shall set out:  
(a) the municipal address or legal description of the property;  
(b) a description of the nature of the contravention;  
(c) the reasonable particulars of the work to be done;  
(d) the time for complying with the terms and conditions of the Order;  
and  
(e) notice that, if the work is not carried out within that time, the municipality may carry out the work at the owner's expense.

#### **3.5 Failure to Comply with an Order**

3.5.1 If an Order is not complied with within the time indicated on the Order, the City may do the work or cause the work to be done at the expense of the Owner to whom the Order is directed.

3.5.1.1 Every Owner shall pay the fees imposed pursuant to the City of North Bay User Fees By-law which become due and payable upon issuance of an invoice by the City.

3.5.2 For the purposes of section 3.5.1, employees or agents of the City may enter upon the land at any reasonable time, without a warrant.

3.5.3 If the City takes action under section 3.5.1 of this By-law to correct a contravention of this By-law, the City may recover the costs, including fees, of doing the work by action of adding the costs to the tax roll and

collecting them in the same manner as municipal property taxes, pursuant to section 446(3) of the *Municipal Act, 2001*.

- 3.5.4 The City shall not be liable for any loss or damage to property or otherwise, which may arise from the work carried out by the City, its employees or its agents in accordance with this Part.

### **3.6 Offences**

- 3.6.1 A person who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended.
- 3.6.2 A person who fails to comply with an Order made by an Officer or by a Court of competent jurisdiction under this By-law is guilty of an offence.
- 3.6.3 If any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the Court in which the conviction has been entered and any Court of competent jurisdiction thereafter may make an Order prohibiting the continuation or repetition of the offence by the person convicted.

## **4. Coming into Force**

- 4.1 This By-law shall come into force and effect upon passing.

Read a First Time in Open Council this      day of February 2023.

Read a Second Time in Open Council this    day of February 2023.

Read a Third Time in Open Council and Enacted and Passed this day of February 2023.

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Mayor Peter Chirico

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City Clerk Karen McIsaac