



CITY OF DAUPHIN

BY-LAW NUMBER 07/2006

Being A By-Law Of The City Of Dauphin For The Implementation And Provisions of A Curfew

WHEREAS Section 232(1) of the Municipal Act, L.M. 1997, c.58- Chap. M225, provides by-laws for:

- a) the safety, health, protection and well being of people and the safety and protection of property;
- b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centers, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
- c) activities or things in or on private property subject to Section 233;

AND WHEREAS a number of young people are on the streets and in public places late at night unsupervised by adults and this presents a danger to the health, safety, and welfare of such persons;

AND WHEREAS Council of the City of Dauphin deems it appropriate to protect the safety and health of Children and to enact a curfew by-law to accomplish those objectives;

AND WHEREAS a Curfew By-law will assist parents and Guardians in exercising authority over a minor under their care providing for public safety, and care;

AND WHEREAS Council wishes to pass a by-law for the preservation of public safety and protection of public and private property called a Loitering By-law;

AND WHEREAS the Council of the City of Dauphin deems it expedient and in the best interests of the municipality to provide for the safety, health, protection and well-being of its residents and ensure an environment free from vandalism or diminished quality of life;

AND WHEREAS, Council must make every effort possible to prevent youth crime and to support youth if they do become involved in crime to turn their lives around;

AND WHEREAS parents and victims have a constructive role to play in the youth justice system and should be kept informed and encouraged to participate;

AND WHEREAS Council's strategy focuses on preventing youth crime and ensuring that there are meaningful consequences that encourage accountability for non-violent offences committed by youth that involves communities in identifying and finding innovative solutions to their unique youth crime problems; expanding the role of victims; supporting improved rehabilitation; protecting the interests of the children while at the same time protecting public safety; involving the family; community and other agencies; reinforcing respect for social values and holding the offender accountable;

NOW THEREFORE, Council of the City of Dauphin, duly assembled, enacts as follows:

1. **THAT BY-LAW** No. 23/2003 be hereby repealed.

2. **DEFINITIONS:**

- a) **"Child"** means a person under the age of eighteen (18) years.
- b) **"Guardian"** means parent, legal guardian, foster parent, adult person standing in loco parentis, or an adult person who has been given prior permission by a Guardian to look after a Child for a specified period of time.
- b) **"Loiter"** means to stand idly around or move slowly about or to linger or spend time idly about or near the vicinity of a public place without any apparent purpose or reason or to impede the passage of other persons;
- c) **"Peace Officer"** means a member of the Royal Canadian Mounted Police; a By-law Enforcement Officer or a Special Constable.
- d) **"Public Place"** means a place to which the public have or are permitted to have access, including:
 - i) Provincially or municipally owned or leased real property, and without restricting the generality of the foregoing includes streets, sidewalks, lanes, parks and recreation areas, and;
 - ii) Privately owned or leased real property, to which the public has access by either express or implied invitation.

3. **CURFEW**

- a) Any Child **under the age of 18 years**, who is found loitering in a public place within the corporate limits of the City of Dauphin may be subject to the intervention measures contained herein:
- i) **Any Child up to the age of 15 years** after 10:00 P.M. and before 7:00 A.M. Sunday to Thursday inclusive and from 11:00 P.M. to 7:00 A.M. Friday and Saturday.
 - ii) **Any Child from 16 years to 18 years of age** after 12:00 P.M. and before 7:00 A.M. Sunday to Thursday inclusive and from 1:00 A.M. to 7:00 A.M. Friday and Saturday.
- b) No Child shall be found in contravention of this by-law if they are in the company of a Guardian or are found in a Public Place while acting in the interest of an employer; a volunteer organization or returning as soon as is reasonably practicable from an organized sporting or other event which has been supervised by an adult.
- c) Every Guardian of a Child, whether that Child is their own or that of any other person and while that Child is under their care and supervision shall attempt to ensure that such Child shall not be found in contravention of this by-law.
- d) The Peace Officer is hereby authorized to stop and question any person apparently in contravention of this by-law in order to determine such person's age and identity. Should said person refuse to provide such information, they may be detained by the Peace Officer for such reasonable time as is required for such information to be determined from other sources.
- e) In the event that the Peace Officer shall find any person in a public place within the City of Dauphin, in breach of this by-law, they **may**, at their discretion:
- i) warn said person return to their place of residence;
 - ii) convey said person to their place of residence;
 - iii) detain said person until such time as the Guardian of such person is located;
 - iv) release said person at their place of residence, either to the custody of their Guardian or on their own recognizance as the Peace Officer shall see fit;

- v) interview the Guardian of said person in order to inform them of the provisions of this by-law and/or to request that they assist the Peace Officer in the enforcement of this by-law by making their best efforts to ensure that such Child is not thereafter in a public place in contravention of this by-law;
- vi) in the event that it appears that said person is in need of protective custody, to refer the matter to the appropriate Provincial authority, and, if necessary, to detain such person and deliver him or her to the custody of the appropriate Provincial authority;
- vii) refer the matter to the appropriate school authority, if it appears that a matter of truancy may need to be addressed;
- viii) where such person appears, upon interview, in the discretion of the Peace Officer, to have a justifiable reason for being in breach of this by-law, to allow such person to proceed without further intervention;

4. LOITERING

- a) Any person including those 18 years and older with no particular place to go, and is found to be loitering between midnight and 5:00 a. m. during the week and from 1:00 a.m. to 5:00 a.m. on weekends may be subject to the intervention measures contained in Section 4 – Penalties herein.
- b) No person shall be allowed to stand in groups or to sit or lounge on chairs, benches or other things or to loiter in front of any business establishment or residence or in a street so as to use any obstruction to the free use of said street, or by any manner of conduct, commit any public annoyance by collecting, loitering, or standing as an idler on any of the streets or sidewalks of the City, or in any public place within the City or on the step of or approach to a house or other premises open to a street whereby a member or members of the public are liable to be subjected to disturbance or annoyance provided that nothing contained in this Section shall be construed to extend to any person taking part in any lawful procession or gathering.
- c) No person shall deface, damage or destroy municipal property in a public place, and in addition to any penalty upon a prosecution for contravention of this provision, the City of Dauphin may recover the expense incurred in remediating the damage together with costs and pre-judgment interest, by action in any court of competent jurisdiction.

5. PENALTIES:

a) FOR SECTION 2 – CURFEW:

In the event that any child is found to have contravened the provisions of this by-law, or a parent or guardian has allowed a child to contravene the provisions of this by-law, **the child**, parent or guardian is guilty of an offense and is liable, on summary conviction to the following penalties:

1st Offence - a fine of \$25.00

2nd Offence - a fine of \$50.00

3rd & Each Subsequent Offence – a fine of \$100

b) FOR SECTION 3 - LOITERING:

- i) Any person over the age of 18 found loitering and in contravention of this by-law shall upon issuance of a common offence notice be subject to a fine of not less than \$25.00 and not more than \$200.00.

6. Should any provision of this by-law be unenforceable by law, it shall be considered separate and severable from the remaining provisions of this by-law which shall continue in force, and shall be binding as though the said provision has not been included.

FURTHER THAT this By-law shall come into effect on the day after approval by Council.

DONE AND PASSED by the Council of the City of Dauphin in Regular Session assembled, this 17th day of April, A.D. 2006.

Alex Paul, Mayor

Brad D. Collett, Chief Administrative Officer

READ A FIRST TIME this 3rd day of April, A.D., 2006.

READ A SECOND TIME this 17th day of April A.D., 2006.

READ A THIRD TIME this 17th day of April A.D., 2006.