

Town of Digby

Public Places By-Law # 2018-03

A By-law of the Town of Digby in the Province of Nova Scotia for the purpose of regulating and controlling public places within the Town of Digby.

WHEREAS, Pursuant to the Municipal Government Act, 1998, C18, Section 172, and amendments thereto, the Town of Digby has the power to pass a By-Law within the Town;

AND WHEREAS, Pursuant to the Municipal Government Act, 1998, c18, Section 171, and amendments thereto, the Town of Digby has the power to pass a By-law, notwithstanding the Motor Vehicle Act, for municipal purposes to license, regulate, and prohibit the uses of Public Spaces within the Town;

AND WHEREAS, All properties belonging to the Town shall be under the direct control and management of the Town,

BE IT ENACTED This By-law shall be known as “Bylaw # 2018-03” and shall be cited as the “Public Places By-law”. It shall apply to all public places within the Town of Digby.

Nothing in this By-Law shall be construed as authorizing non-compliance with any other laws, regulations, by-laws, lawful orders or directives pursuant to any statute, regulation or statutory or regulatory authority respecting the use of particular public places or particular types of public places.

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Part 1 – Definitions

For the purpose of this By-law, all words shall carry their customary meaning except for those defined hereafter:

- a) **"abutter"** means the owner, lessee or occupier of any premises which abut a sidewalk;
- b) **"aggressive or persistent begging"** means any begging except passive begging as defined in this By-Law
- c) **"begging"** means soliciting or requesting a donation and includes providing a service without being expressly requested to do so in the expectation or hope of obtaining a donation or payment for that service; but shall not include efforts to solicit donations for minor sport organizations or school trips;
- d) **"crosswalk"** means that portion of a roadway ordinarily included within the prolongation or connection of curb lines or the edge of a roadway and property lines at intersections or any portion of a roadway clearly indicated for pedestrian crossings by lines or other markings on the road surface;
- e) **"loiter"** without limiting its ordinary meaning, shall include loafing, wandering, lingering, stand idly around either alone or in concert with others or to impede passage of other persons.
- f) **"mobile canteen"** means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;
- g) **"mobile vendor"** means a person who vends from a mobile canteen or a stand;
- h) **"passive begging"** means begging
 - i. in a non-threatening manner;
 - ii. by an individual, not in the company of other persons;
 - iii. when the begging individual is standing, sitting or lying in a stationary position, without physical approach towards or touching a person from whom a donation is sought;
 - iv. when the individual begging does not make more than one request or solicitation for a donation from any person;
 - v. in a place in which the begging individual can be circumnavigated by a pedestrian, without having to step into a roadway, with a clearance of not less than 1 meter from the begging individual; and
 - vi. if the begging individual is playing a musical instrument or otherwise performing a service, and a container is placed on the ground, not passed for donations.
- i) **"public places"** means

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- i. streets, sidewalks;
 - ii. public parks and trails, monuments (including any structure, statue, memorial, cenotaph, marker and surrounding area;
 - iii. property owned by the Town of Digby;
 - iv. recreation facilities funded or partially funded by the Town of Digby; and
 - v. places designated by Council resolution as a public place for purposes of this By-Law provided that such place is posted as a designated public place in accordance with this By-Law.
- j) **"roadway"** means that portion of a street between the curb lines or the travelled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- k) **"sidewalk"** means that portion of a street between the curb line and the adjacent property line or any pan of a street especially set aside for pedestrian travel and separated from the roadway;
- l) **"Special Event"** means a public gathering for any public purpose not contrary to any other By-Law of the Town of Digby, or any Federal or Provincial, statute, regulation or law, for the purpose of, but not necessarily limited to, entertainment, religious, cultural or community festivity, or any other peaceful and lawful activity, of a temporary nature which might interfere with the lawful use and enjoyment of a Public Place by other persons.
- m) **"Special Events Permit"** means a license or permit that may be issued subject to terms and conditions by either Council or the Chief Administration Officer (CAO) and is required in advance by any individual or group wishing to hold or conduct a Special Event.
- n) **"street"** means a public street, highway, roadways, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith and, without restricting the generality of the foregoing, includes the full right-of-way width and includes streets not owned by the Town of Digby;
- o) **"vending"** means the sale, or offering for sale, of
- i. food, beverages or other merchandise unless they are immediately delivered to a residence or shop by the person selling them; or
 - ii. services, unless they are provided in a building; and includes vending by a mobile vendor.

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Part 2 - Designation of Public Places

- 2.1 Upon application made by the owner of any property in the Town of Digby, Council may designate property or portion of a property as a Public Place for purposes of this By-Law if the property or portion of a property is in, on or near a place that is open to the public.
- 2.2 The owner of a property or portion of a property designated by Council as a Public Place under Part 2.1 shall keep posted at a prominent location thereon a sign bearing the words "This property has been designated a Public Place by the Town of Digby for purposes of the Public Places By-Law" in letters at least 2.5 cm. in height in a contrasting colour to the background of the sign, and containing such other information concerning this By-Law as the Clerk may authorize.
- 2.3 At the request of the owner, Council shall revoke the designation of a property or portion of a property designated as a public place pursuant to Part 2.1.
- 2.4 Council may, on its own initiative and in its own discretion, revoke a designation made pursuant to Part 2.1

Part 3 - Interfering with Use and Enjoyment

- 3.1 No person shall unreasonably interfere with the lawful use and enjoyment of a public place by other persons.
- 3.2 Without limiting the generality of Part 3.1:
 - a. no person shall use obscene language in a public place;
 - b. no person while in a public place shall eject saliva, mucus, or other bodily fluids;
 - c. no person shall light or have a fire in a public place;
 - d. no person shall camp or tent in a public place;
 - e. no person shall sleep in a public place after dark;
 - f. no person shall engage in aggressive or persistent begging in a public place;
 - g. no person shall skateboard, roller blade, scooter or roller-skate in or on any part of Digby Centre Parking Lot and/or the Farmer's Market Parking Lot, the Digby Tourist Bureau, the Digby Band Stand and the Digby Boardwalk and Promenade - including sidewalks and curbs.
 - h. no person shall bicycle, skateboard, in-line skate, roller-blade, roller-skate or scooter in or on any part of the Town of Digby sidewalks - including curbs - within the following designated area:

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- i. Water Street from Church Street - north to Birch Street at Prince William Street intersection.
 - ii. Montague Row from Water Street south to Warwick Street.
- i. no person shall bicycle on the Digby Waterfront Boardwalk and Promenade.
- j. no person shall bicycle on any sidewalk within the Town of Digby or in a public place except
- i. on a roadway in accordance with other applicable laws;
 - ii. in areas or upon trails posted by or on behalf of the Town of Digby or the owner as an authorized place in which to bicycle;
- k. no person shall bring into or possess in a public place any animal except:
- i. dogs kept under control by means of a harness or leash or otherwise complying with provisions in the Town of Digby's Dog By-Law;
 - ii. cats or other domestic pets kept under control by means of a harness or leash or carried in a cage;
 - iii. horses in trails or parks posted by or on behalf of the Town of Digby or the owner as an authorized place in which to ride horses, provided however, that the horse is under the continuous physical restraint and control of a rider or handler;
 - iv. horses being used for law enforcement purposes by or under the direction of a peace officer;
 - v. animals being transported in a vehicle; and
 - vi. other animals pursuant to a Special Events Permit;
- l. no person shall litter or deposit or leave waste in a public place except in a designated waste receptacle;
- m. no person shall use motorized vehicles or apparatuses in a public place except:
- i. wheelchairs or scooters for disabled persons;
 - ii. motorized vehicles or apparatuses otherwise lawfully in use on a roadway, driveway or parking lot; or
 - iii. off-highway vehicles lawfully in use in accordance with the Off-Highway Vehicles Act;

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- n. except in accordance with a Street Disturbance Permit issued under the Town of Digby Streets and Sidewalks By-Law or a Special Events Permit, no person shall obstruct the use by others of public places, including but not restricted to, causing or permitting an impediment to the traffic of pedestrians, infant strollers and wheelchairs on sidewalks, crosswalks or paths, and causing an impediment to vehicular traffic in roadways;
- o. no person shall carry on public entertainment events, exhibitions, parades or circuses except as expressly authorized by or pursuant to a Special Events Permit;
- p. 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 Town of Digby may recover the expense incurred in remediating the damage, together with costs and pre-judgment interest, by action in any court of competent jurisdiction.
- q. no person shall loiter in a public place.
- r. no person shall engage in vending in a public place except as expressly authorized by the Vending & Licensing By-Law.

Part 4 – Amusement Performance / Special Events

- 4.1 A person wishing to carry out an Amusement Performance/Special Event in a Public Place shall apply for an Amusement Performance/Special Events Permit a minimum of 45 days in advance of the proposed date for the Amusement Performance/Special Event.
- 4.2 Application for an Amusement Performance/Special Events Permit shall be made and processed pursuant to the Vending & Licensing By-law.

Part 5 – Penalties

- 5.1 Any person who contravenes any of the offenses outlined in Part 3 of this By-Law, and who is given notice of the contravention may pay on summary conviction by a fine of not less than one hundred (\$100.00) dollars and not more than \$1,000.00 and to imprisonment of not more than 90 (ninety) days in default of payment thereof.
- 5.2 Any person who contravenes Part 3 offences governed by Payment in Lieu of Prosecution Policy of this By-Law, and who is given notice of the contravention may pay to the Town of Digby, at the place specified in the notice, the sum of fifty (\$50.00) dollars and for Part 3.7 two hundred fifty (\$250.00) within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.

Part 6 – Repeal

- 6.1 The Town of Digby Public Places By-law # 2009-05 is hereby repealed.

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Clerk's Annotation for Official By-Law Book

Date of first reading: August 7, 2018

Date of advertisement of Notice of Intent to Consider: August 15, 2018

Date of second reading: September 4, 2018

*Date of advertisement of Passage of By-Law: September 12, 2018

Date of mailing to Minister a certified copy of By-Law: October 2, 2018

I certify that this TOWN OF DIGBY Public Places By-law was adopted by Council and published as indicated above.

CAO *Edwin J. Ossinger*

E. Thomas Ossinger

Date: October 2, 2018

* Effective Date of the By-Law unless otherwise specified in the text of the By-Law