

**THE CORPORATION OF THE TOWN OF MIDLAND**

**BY-LAW 2010-42**

A By-law to provide for the adoption of Rules of Procedure for Council and its' Committees and to repeal By-law 2007-74

**WHEREAS** Section 238 (2) of *The Municipal Act*, 2001, S.O. c. 25, provides that a Council shall adopt a procedure by-law governing the calling, place and proceedings of meetings;

**AND WHEREAS** Section 238 (2.1) of *The Municipal Act*, 2001, S.O. c. 25, provides that the Procedure By-law shall include public notice of meeting;

**AND WHEREAS** Council has reviewed By-law 2004-74, and now deems it expedient to establish new provisions to provide an updated by-law to reflect current practice;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:**

1. That Schedule "A" attached hereto and forming part of this by-law be adopted as the rules and regulations to govern the proceedings of Council and its' Committees, the conduct of its members, and the calling of meetings.
2. That notwithstanding the provisions of By-law 2007-74 and amendments thereto, all previous proceedings of Council as provided in the Council minutes adopted by Council resolution, be herein confirmed.
3. That if any section or part of this by-law is found to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.
4. That By-law 2007-74 is hereby repealed.
5. That this By-law shall come into force and effect on the final passage thereof.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 25<sup>TH</sup> DAY OF MAY, 2010.**

**THE CORPORATION OF THE TOWN OF MIDLAND**

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**MAYOR**

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**CLERK**

## SCHEDULE "A" TO BY-LAW 2010-42

### **RULES OF PROCEDURE FOR COUNCIL AND ITS' COMMITTEES**

#### **SECTION A - COUNCIL AND COMMITTEE MEETINGS**

##### **General:**

1. All regular meetings of Council including meetings of a Committee, shall be open to the public and no person shall be excluded therefrom except for improper conduct.
2. When the day for a meeting of Council is a public or civic holiday, unless the Council decides otherwise, the Council shall meet at the same hour and location on the next following day which is not a public or civic holiday. Notice of date change shall be provided through the provision of an agenda on the Town website.
3. The Mayor may cancel any meeting if in his/her opinion that weather conditions and/or emergency situation warrants such cancellation for public safety or other similar reasons. The Clerk and/or designate will take appropriate steps to communicate an emergency cancellation to members in a timely fashion, by way of phone and email.
4. If a member of Council wishes Staff to prepare a formal staff report on a particular matter, the majority of the members of Council must be in favour of same prior to having staff move forward with the report.
5. If a member of Council is aware they will be unable to attend a scheduled meeting, they are to provide notice of same to the Clerk prior to noon on the scheduled meeting date in order to ensure that a quorum will be present at the meeting.
6. A member of Council is not permitted to attend a meeting of council through alternative means such as skype, teleconference, etc.
7. Notice to members of Council regarding a special meeting or changing the date of a previously scheduled meeting shall be provided by email.
8. The Mayor shall be an ex-officio member of all Committees appointed by Council, but not included in the number of appointees for quorum and voting purposes.
9. All Department Heads or their designate shall attend regular meetings of Council. Department Heads shall notify the Chief Administrative Officer if unable to attend. Department Heads also reporting to a Board, i.e. Police Service, Library, shall attend from time to time as deemed necessary by the Chief Administrative Officer, Council or the relative Board as the case may be.

### **Regular Council Meetings:**

1. The Council shall meet in the Council Chambers, or in such other place as appointed, and the meeting shall take place on the fourth Monday of each month, unless otherwise ordered, at the hour of 7:00 p.m. Public notice of the meeting shall be provided through the provision of an agenda on the Town website.

### **General Committee Meetings:**

1. The Council shall meet in the Council Chambers, or in such other place as appointed, and the meeting shall take place on the second Monday of each month, unless otherwise ordered, at the hour of 7:00 p.m. Public notice of the meeting shall be provided through the provision of an agenda on the Town website.
2. That the General Committee Meetings in July and August be held at the call of the Chair.
3. The order of the General Committee Meeting shall be as follows, with the order of sections changing on a monthly basis. Modifications to the matters to be included or the order of business may be affected without requiring an amendment to the by-law.
  - a) Call to order
  - b) Declarations of Pecuniary Interest
  - c) Section A – Administrative Matters
  - d) Section B – Public Works Matters
  - e) Section C – Community Services Matters
  - f) Other Business
  - g) Adjournment

### **“Council in Closed Session”**

1. Council in closed session meetings shall be called by the Mayor on an as needed basis. Due to the potential urgent nature of these meetings, the Mayor will endeavour to provide as much notice as is practical given the circumstances. Where the matter is not considered to be of an urgent nature by the Mayor, at least 48 hours’ notice shall be provided.
2. Public notice of a Council in closed session meeting shall be provided through the provision of an agenda on the Town website on the day the meeting has been called.

Closed Session prior to a Regular General Committee Meeting:

3. a) Prior to a regularly scheduled 7:00 p.m. open Council meeting, Council may convene, in open session, and adopt a motion to move into closed session, if the subject matter being considered relates to:
  - i. the security of the property of the Town or local board;
  - ii. personal matters about an identifiable individual including municipal or local board employees;
  - iii. a proposed or pending acquisition or disposition of land by the municipality or local board;
  - iv. labour relations or employee negotiations;
  - v. litigation or potential litigation, including matters before administrative tribunals, affecting the Town or local board;
  - vi. the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.
  - vii. a matter in respect of which Council, a board, committee or other body has authorized a meeting to be closed under another Act.
- b) A meeting may be closed to the public if the following conditions are both satisfied:
  - i) the meeting is held for the purpose of educating or training the members.
  - ii) at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Council, local board or committee.
4. The motion to move into closed session, shall state:
  - a) the fact of the holding of the closed session
  - b) the general nature of the matter or matters to be considered at the closed session
5. Upon completion of the closed session, Council shall consider a motion to rise and report to open session.
6. The open portion of the Council meeting shall reconvene and matters discussed in closed session shall be reported out in the form of motions presented.
7. a) In the event discussion in closed session concludes prior to the 7:00 p.m. open session, Council shall adopt a motion to recess and reconvene at 7:00 p.m. to report out at the beginning of the regularly scheduled open meeting.
- b) If closed session items are not completed before 7:00 p.m., Council may:
  - i. consider a motion to defer the items not addressed to a future scheduled closed session meeting; or
  - ii. consider a motion to recess and reconvene at the end of the regularly scheduled open Council meeting to conclude discussion.

Upon conclusion of the reconvened closed session, Council shall consider a motion to rise and report to open session.

8. Minutes from the closed portion of the meeting shall become part of the Council meeting minutes. This portion of the minutes shall include:
  - time of going into closed session and time of going out
  - members and staff present
  - a listing of all matters considered
  - a motion to rise and report

Closed Session prior to a Regular General Committee Meeting:

9. Prior to a General Committee meeting, Council may convene in a Special Council meeting called for the purpose of going into closed session. Upon conclusion of the closed portion, Council shall consider a motion to rise and report to open session.
10. Depending upon the time constraints, Council may move immediately back to the open portion, or recess and reconvene in open session after the conclusion of the scheduled General Committee meeting.

Independently scheduled Closed Session:

11. Council may convene in a Special Council meeting, on a date other than a regularly scheduled Council or General Committee meeting date, for the purpose of going into closed session. Upon conclusion of the closed portion, members shall move to rise and report back to open Council. Council shall consider a motion to rise and report to open session.

General:

12. If, for any reason, Council is not in a position to report out the same evening, the minutes shall record that the closed session rose "without reporting." The reporting out motions shall then be presented to the next regularly scheduled or special meeting of Council.
13. The same reporting and minuting format shall be used if a closed meeting session is scheduled prior to or independent of a regularly scheduled Council or General Committee meeting date."

**Inaugural Council Meetings:**

1. The Inaugural meeting of Council after a regular election shall be held on the first Monday in December at the hour of 7:30 p.m.

### **Special General Committee and Council Meetings:**

1. The Mayor may, and upon receipt of the petition of the majority of the Members of Council, the Clerk shall, with a minimum of 48 hours' notice, summon a special meeting for the purpose and at the time as specified.
2. Insofar as is practical, every effort shall be made by the Clerk to provide public notice of the meeting through provision of an agenda on the Town website.

### **Midland Audit Committee Annual Meeting:**

1. All members of Council are welcome to attend the Meeting, should they so desire.
2. The annual meeting with the Town's Audit Firm shall be held pursuant to established audit standards. The meeting will include an agenda provision to give the Midland Audit Committee and any other members of Council in attendance the opportunity to meet with the Audit Firm representative(s), without staff or the public in attendance, to relay any knowledge regarding actual, suspected or alleged fraud affecting the Corporation of the Town of Midland. This portion of the meeting will be held in closed session.

### **Emergency Meeting:**

1. In accordance with Section 236 of *The Municipal Act*, an emergency meeting of Council may be called by the Mayor at any time and at any location as may be convenient. For the purposes of this section, an emergency meeting may be called for an emergency within the meaning of the Town's Emergency Response Plan or any other similar unforeseen circumstance.
2. No public notice is required for an emergency meeting.

### **SECTION B – COMMENCEMENT OF MEETINGS**

1. As soon after the hour of meeting as there shall be a quorum present, the Mayor shall take the chair and call the members present to order.
2. In the case of the Mayor not being in attendance within 15 minutes of the hour appointed for the meeting of the Council, or when the Mayor is absent or refuses to act or the office being vacant, the Clerk shall call the Council to order and the Deputy Mayor shall act in the place and stead of the Head, and, while so acting, the Deputy Mayor has and may exercise all the rights, powers and authority of the Mayor, until the arrival of the Mayor or, in the event of the continued absence or refusal to act by the Mayor, until the closing of the meeting.

3. In the case of the Mayor or Deputy Mayor not being in attendance within 15 minutes of the hour appointed for the meeting, or when they are absent or refuse to act or the offices being vacant, the Clerk shall call the meeting to order and a Chair shall be chosen by the members present who shall preside until the arrival of the Mayor or Deputy Mayor or, in the event of their continued absence or refusal to act, until the close of the meeting.

## **SECTION C - QUORUM**

1. A quorum of the Council shall consist of a majority of the members thereof, including the Mayor or Presiding Officer, subject to the provisions of the Municipal Conflict of Interest Act or any successive legislation and amendments thereto.
2. Where one or more members of the Council or Board have declared a Pecuniary Interest, and the remaining number of members do not constitute a quorum by their numbers, then, despite any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.
3. If at the hour of the meeting there shall be no quorum present, the Mayor, or Deputy Mayor in his absence, may take the Chair and adjourn with the consent of the majority of the Members then present, and if there is no quorum fifteen minutes later, the Council shall stand absolutely adjourned until the next meeting of the Council.
4. Whenever the Mayor or Presiding Officer is obliged to adjourn the Council for want of a quorum, the hour at which such adjournment is made and the names of the Members then present shall be inserted in the Minutes of the Council.

## **SECTION D - AGENDAS AND SUPPORTING MATERIAL**

1. The Clerk shall prepare agendas for General Committee and Council meetings.
2. Insofar as is practical, General Committee and Council agendas shall be prepared and made available to members and posted on the Town website on the Friday prior to a regular meeting.
3. A communication addressed to members of Council which is intended to be included on an agenda will become part of the public record unless the communication is specifically marked by the author as being "private and confidential" or words to that effect.
4. A communication addressed to members of Council which is intended to be included on an agenda but which has not been marked by the author as being "private and confidential" and which contains information and/or comments about an identifiable individual which, if published by the Town, may expose the Town to potential liability as a consequence of the publication thereof, will have such comments and/or information redacted therefrom and the redacted

version will become part of the public record. Should it be determined by the Clerk in consultation with the CAO that due to the nature of the communication a redaction would still identify an individual the communication shall be forwarded to a Closed Meeting for consideration.

5. Additionally, the author of the communication will be contacted by the Clerk and advised of the redaction and be invited to provide a new letter.
6. Under no circumstances will anonymous communications addressed to Council be included on an agenda or become part of the public record.
7. A communication addressed to members of Council which appears not to be intended to be included on an agenda (including, but not limited to, communications which contain profane, obscene, defamatory language or otherwise abusive language) shall be provided to the members of Council within 7 days of the communication being received by the Town, and Council shall then advise the Clerk as to whether such communications shall be added to the agenda of the next Council Meeting or directed to legal counsel for advice to be considered in a closed session of Council.
8. The Clerk shall prepare an "Addendum to Agenda" for Council which will contain any items that were received after the agenda deadline but are considered to be of an urgent nature. Said agenda shall be provided at the start of the meeting and will be considered part of the regular agenda for the named date.
9. If a member of Council wishes to comment on a specific agenda item and they are unable to attend the related meeting, they may provide their comments in writing to the Clerk prior to 3:00 pm on the meeting day. The comments would then be included in the "Addendum to Agenda".
10. The order of the Council meeting shall be as follows, but necessary modifications to the matters to be included or the order of business may be affected without requiring an amendment to this by-law.
  - a) Call to order
  - b) Moment of Silent Reflection
  - c) Declarations of Pecuniary Interest
  - d) Minutes
  - e) General Correspondence (consent)
  - f) Presentations, if any
  - g) Deputations, if any
  - h) Petitions, if any
  - i) Correspondence
  - j) Accounts
  - k) Reports
  - l) By-laws (consent)
  - m) General Business



- i) Deferred Business
- ii) Notices of Motion
- iii) Other business introduced by Members of Council or Staff
- n) Confirmatory By-law
- o) Adjournment

10. Meetings shall adjourn at 11:00 p.m. if still in session. Any unfinished business shall be adjourned to the next regular meeting unless a motion is passed permitting an extension to the meeting.

## **SECTION E – DUTIES OF THE MAYOR**

1. It shall be the duty of the Mayor:

- a) to preside at all meetings of the Council;
- b) to open the meeting by taking the Chair and calling the members to order;
- c) to receive and submit, in the proper manner, all written motions presented by the members;
- d) to designate the member who has the floor when two or more members wish to speak;
- e) to put to a vote all questions which are moved and seconded, or necessarily arise in the course of the proceedings, and to announce the result;
- f) to require a recorded vote to be taken on any question upon request of a member if such request is made prior to commencement of voting or immediately thereafter;
- g) to rule on matters of procedure which may be subject to appeal to Council;
- h) to preserve order and decorum and to order any individual or group in attendance at the meeting to cease and desist any behaviour which disrupts the order and decorum of the meeting and to order the individual or group to vacate the Council Chamber where such behaviour persists;
- i) to adjourn the meeting without question in the case of grave disorder arising in the Council Chambers.

## **SECTION F – CONDUCT OF MEMBERS**

1. No individual shall:

- a) use offensive words or unparliamentary language in or against the Council or against any members, staff or guest;
- b) disturb another, or the Council, staff, or guest by any disorderly conduct disconcerting to the speaker;
- c) speak on any subject other than the subject in debate;
- d) resist the rules of Council or disobey the decisions of the Mayor or Presiding Officer or of Council on questions of order or practice or upon the interpretation of the rules of Council;
- e) interrupt the member who has the floor except to raise a point of order;
- f) address Council in debate without recognition by the Mayor or Presiding

- Officer;
- g) speak for more than a total of ten minutes upon the matter under discussion except with the consent of the Mayor;
  - h) speak more than once to the same question, without leave of the Mayor, except in explanation of a material part of their speech which may have been interpreted incorrectly, and in doing so, the member is not to introduce a new matter;
  - i) engage in debate that is not germane to the issue or subject being discussed.

## **SECTION G – MOTIONS**

1. No motion shall be debated or put unless the same be in writing and seconded, excepting only a motion to defer, table, withdraw or adjourn which shall not be required to be in writing.
2. Every motion must be moved and seconded with the exception of a motion to adjourn which does not require a seconder.
3. A motion must be read out by the mover and then passed to the Mayor or Presiding Officer who may read the motion if requested, before any discussion on the matter takes place. The Mayor or Presiding Officer shall then call for discussion on the motion.
4. After a motion has been read by the Mayor or Presiding Officer, it shall be deemed to be in the possession of the Council but may be withdrawn by the mover and seconder at any time before decision or amendment with the permission of the majority of the Members present.
5. After discussion, a motion on the floor may be altered by friendly amendment with the approval of the mover and seconder and the agreement of the majority of the members present. If a majority do not indicate their support of a friendly amendment, a formal motion to amend may be brought forward.
6. When a motion is under debate, no motion shall be received unless to amend, withdraw or refer it to a committee.
7. A motion to refer to another Committee or Local Board shall be in writing and shall preclude all amendments and the main motion.
8. A motion to amend shall be directly related to the question to be received and shall not be received proposing a direct negative to the question. A motion to amend may be debated and shall be voted upon and, if affirmative, shall cause the main motion, as amended, to be put forth. If negative, the main motion shall be put forth but may be subject to further amendment.
9. In the event that the majority of members determine they have inadequate information to be able to vote on a particular issue, the Mayor or Presiding

Officer may mark the motion deferred and the said motion shall appear as an item of business on the agenda for the next and each subsequent regular meeting until a decision thereon has been reached.

10. Unless by leave of Council, a Member may not again introduce or revive any matter disposed of by the Council at the current sitting, except a motion to adjourn.
11. A motion to adjourn takes precedence and may be moved at any time, but this motion cannot be received after another motion is actually put, and while the Council is engaged in voting, nor can a second motion to adjourn be made until after some intermediate proceedings shall have occurred.

## **SECTION H – VOTING**

1. The Mayor or Presiding Officer shall first ask for those in favour of the motion and then ask for those opposed. Each member shall raise their hand to indicate their vote for or against the motion except where a recorded vote has been requested.
2. Every Member present, including the Mayor or Presiding Officer, when a motion is put in Council shall vote thereon, except where the Member is disqualified to vote by reason of conflict of interest or otherwise. Any motion on which there is an equality of votes shall be declared by the Mayor or Presiding Officer to be lost. Any Member, including the Mayor or Presiding Officer, refusing to vote will be considered to be voting in the negative.
3. Upon the completion of the vote, the Mayor or Presiding Officer shall declare whether the motion was carried or defeated. In the event that all members vote in a similar manner, the Mayor or Presiding Officer may, at their discretion, record the vote as unanimous.
4. The result of the vote on each motion shall be marked on the motion by the Mayor or Presiding Officer who then signs the motion.

### **Recorded Vote:**

1. Where a vote is taken for any purpose and a member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, each member present, except a member who is disqualified from voting by any Act, shall announce his vote openly, and any failure to vote by a member who is not disqualified shall be deemed to be a negative vote and the Clerk shall record each vote.
2. The order of voting for a recorded vote shall be in random order drawn by the Clerk.

## **SECTION I – BY-LAW PROCEDURES**

1. Every by-law shall be given three readings prior to passage by Council. These readings will be given by way of one inclusive motion. At the request of a member of Council, any by-law included in the motion may be withdrawn for a separate vote.
2. Every by-law enacted by Council shall be signed by the Mayor and Clerk, sealed with the Corporate seal and indexed for the By-law Registry.
3. By-laws may be referred to Committee, tabled, amended, confirmed or defeated as determined by vote of Council.
4. A confirmatory by-law shall be passed at every meeting to confirm the decisions of Council or any decisions delegated to a Committee by Council. A confirmatory by-law shall be listed separately on the Regular Agenda as the last item for Council consideration prior to Adjournment.

## **SECTION J - DEPUTATIONS**

1. Other than deputations considered by the Clerk to be of an urgent nature, deputations shall provide prior notice including their name and subject matter to the Clerk's office not later than 1:00 p.m. on the Thursday preceding the Council meeting, for inclusion on the Council meeting agenda.
2. Each deputation shall be limited to a maximum of ten minutes.
3. No more than three deputations shall be scheduled for any Council meeting, subject to the necessity to deal with matters of an urgent nature. The Clerk shall make a determination as to deferral of deputations to a subsequent meeting, such determination being reasonable.
4. Requests from deputants who have previously addressed the present Council on a topic shall not be granted unless they can provide that they have new information to present to Council.
5. Deputations shall not be received if the subject matter is of a personal and derogatory nature relating to Municipal Officials or personnel in the employ of the Municipality.
6. Where an individual in making a deputation to Council does not adhere to the rules as outlined within this section, the Mayor or Presiding Officer has the right to require the deputation to cease and has the authority to have the individual ejected from the Council Chambers. Council may require that future deputations from the individual be in a written format only for a period of time that Council may determine.

7. In the event of gross or repetitive misconduct, Council may by resolution suspend the privileges of attendance at Council Meetings for a specified time period.

#### **SECTION K – PECUNIARY INTEREST**

1. Every member shall declare to the meeting or a subsequent meeting, as the case may be, any pecuniary interest and the general nature thereof immediately upon establishing that such an interest exists. The declaration of any pecuniary interest shall be recorded in the minutes and the member declaring the interest may, at their discretion, leave the meeting until Council has dealt with the matter.
2. If the interest relates to an in-camera item, the member would be required to leave the meeting room until the item had been dealt with. In any event, the member declaring interest shall not participate in the discussion or in any voting on the issue with which they declared a pecuniary interest.

#### **SECTION L - MINUTES**

1. The Minutes of the preceding and any Special Council meetings, shall be presented for adoption, subject to any corrections, after which the said Minutes shall be confirmed and shall be signed by the Clerk.
2. The Minutes of In Camera Council or In Camera Committee meetings may be presented for consideration at the next Regular Council meeting subject to content and the provisions of the Municipal Freedom of Information and Protection of Privacy Act.

#### **SECTION M - STRIKING COMMITTEE**

1. That Council shall convene as a Striking Committee one month in advance of the expiration dates noted within the appointments by-law.

Notwithstanding the above in the year of an election a Striking Committee will meet as soon as practical following the inaugural meeting to consider appointments as recommend by the Mayor.

#### **SECTION N - GENERAL APPLICATION**

1. The procedures of this schedule shall also apply in general to the Committees of Council with necessary modifications as deemed appropriate for the functioning of the Committee.
2. For procedural matters that may arise from time to time and not covered under this by-law, reference may be made to Roberts' Rules of Order for guidance.