

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2012-52

A By-law to Regulate the selling of goods, wares and merchandise commonly known as 'garage sales' within the Town of Midland and to repeal By-law 81- 49 as amended.

WHEREAS Section 151, of the Municipal Act, 2001 S.O. 2001 c. 25, provides authority for municipalities to provide a system of licenses with respect to businesses;

AND WHEREAS the Town provided notice pursuant to by-law 2009-20;

AND WHEREAS The Council of the Corporation of the Town of Midland deems it necessary to regulate garage sales within the Town of Midland;

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

1. DEFINITIONS:

For the purpose of this by-law, the following definitions shall apply:

- (a) **"Council"** means the Council of the Corporation of the Town of Midland.
- (b) **"Garage sale"** means any general sale to the public of personal property from any zone as defined in the Town's Zoning By-law 2004-90 as amended, including but not limited to all sales entitled 'garage', 'lawn', 'yard', 'attic', porch', 'driveway', 'room', 'patio', 'backyard' or 'rummage' sale.
- (c) **"Municipal Law Enforcement Officer"** means a person appointed under the authority of a by-law and the Police Services Act for the purpose of enforcing Town by-laws.
- (d) **"Officer"** means a Municipal Law Enforcement Officer, a Police Officer or any other person designated by Council as responsible for the administration of this by-law from time to time.
- (e) **"Personal property"** means any property which is owned, used and maintained by any person or member(s) of his or her residence and acquired in the normal course of living in, or maintaining a residence, but does not include merchandise which was purchased for resale, or obtained on consignment.
- (f) **"Person"** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply, according to law.
- (g) **"Town"** means the Corporation of the Town of Midland.

2. GENERAL REGULATIONS:

- (a) No person shall sell, or offer for sale under authority granted by this by-law, property other than personal property.
- (b) No person shall hold a garage sale within the Town unless a permit is issued to do so, in accordance with the provisions of this by-law.
- (c) Every person wishing to conduct a garage sale, shall first make application to the Municipal Law Enforcement Officer or his designate, for the issuance of the necessary license.
- (d) The fee for a license to hold a garage sale shall be determined by the Town's Composite Fee By-law.
- (e) Such license shall limit the garage sale to one location and shall further limit the sale over a period of two consecutive days to be set out in the said application.
- (f) Such license shall further limit the hours of sale on the said two consecutive days from 7:00 am to 9:00 pm on each of the two consecutive days.
- (g) Said license shall be further limited so as to provide that the location of the sale shall be at the address of the applicant, or in the situation described in 2(h) of this by-law, hereafter at the address of the principal applicant in the application.
- (h) A joint application for a garage sale may be made by up to four (4) applicants provided that the sale takes place at the address of the principal applicant in the application.
- (i) No person at a given address shall be entitled to a license for more than two garage sales per calendar year, and in the case of a joint applicant aforesaid, this provision shall apply notwithstanding the fact that the garage sale took place at another joint applicant's address.
- (j) The license issued pursuant to this by-law shall be displayed at the location of the sale, and shall be subject to inspection on demand of an Officer who, as a condition of this permit, may attend on, and enter the property at any time during the sale.
- (k) No person shall hold a garage sale contrary to the conditions of the license.
- (l) Any license issued under this by-law may be revoked, or any application for a license may be refused by the Municipal Law Enforcement Officer or his designate if the application submitted by

the applicant or license holder contains a false, fraudulent or misleading statement.

3. SEVERABILITY:

That every provision of this by-law is declared to be severable from the remainder of the by-law and if any provision of this by-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder thereof.

4. PENALTY:

- (a) Every person who contravenes any of the provisions of this By-law and every Director or Officer of a Corporation, who knowingly concurs in the contravention by the Corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- (b) Every person who contravenes the provisions of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not be less than \$500 and the maximum shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- (c) For the purpose of continuous offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
 - (i) Despite section 4(c) and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- (d) For the purpose of multiple offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

- (i) Despite section 4(d) and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.

5. SHORT FORM TITLE:

That this by-law shall be referred to as the “Garage Sale By-law”.

6. REPEAL:

That by-laws 81-49 as amended is hereby repealed.

7. EFFECTIVE DATE:

That this by-law shall come into force and effect upon approval of the set fines appended hereto, from the Ontario Court of Justice (Provincial Division).

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 27TH, DAY OF AUGUST, 2012.

THE CORPORATION OF THE TOWN OF MIDLAND

MAYOR

CLERK

THE CORPORATION OF THE TOWN OF MIDLAND

Part 1 Provincial Offences Act

By-Law 2012-52 being a by-law to Regulate the selling of goods, wares and merchandise, which is commonly known as 'garage sales' within the Town of Midland.

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set fine
1.	Sell or offer for sale property other than personal property.	2 (a)	\$100.00
2.	Hold garage sale without valid license.	2(b)	\$100.00
3.	Hold garage sale for greater than two consecutive days.	2(k)	\$100.00
4.	Hold garage sale before 7:00 am or after 9:00 pm.	2(k)	\$100.00

Note: The penalty provision(s) for the offences indicated above is Section 4 of By-law 2012-52, a certified copy of which has been filed.