

Outdoor Patio and Municipal Property Usage Program Guidelines



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Purpose

To support local businesses, The Town of Midland has introduced an Outdoor Patio and Sidewalk Usage Program for existing, legal restaurants and business to take advantage of warmer weather by offering the ability to extend their business outdoors for dining and business enhancement. The duration of the patio season will run until October 15th of the approved year.

The Town will review all applications and design concepts from businesses to ensure:

- universal accessibility
- public safety (including Fire and separation from traffic)
- enhancement of the streetscape experience
- introduction of a patio does not negatively impact the streetscape but rather is an enhancement.

All applications are required to comply with the *Accessibility for Ontarians with Disabilities Act (AODA)*.



Guidelines for Outdoor Patios on Municipal Property

The process to establish a patio consists of these steps:

- a) Complete the application for a temporary Outdoor Patio by visiting www.midland.ca and selecting “Applications and Forms” under “Town Hall” then “Outdoor Patio Program 2022 & 2023”.
- b) Email the Application with the following documentation to dsmiley@midland.ca
 - Site Plan
 - Health Certificate of Inspection
 - Certificate of Insurance
 - Demonstration of an application for a Liquor License, if applicable
 - Letter from the property owner authorizing the proposed patio use
 - Copy of Current Liability Insurance
 - General Liability Insurance for \$2,000,000 per occurrence with an aggregate limit of no less than \$5,000,000 to the Corporation of the Town of Midland against any liability for property damage or personal injury, negligence including death which may arise from the applicant’s operations under this agreement. The Corporation of the Town of Midland must be included as an “Additional Named Insured”. The Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.
- c) Arrange for inspections by Town of Midland staff if applicable (MLEO, Fire, Building, etc.)
- d) Pay appropriate fees, dependant on site location, inspection, and permit requirements. These fees can be found in our Composite Fees & Charges By-law .

Patio Location Considerations

On Street Patios

Obstructions (Waste/Recycle Bins, Parking Pay & Display, Planters, Light poles etc.)

Town staff and utility companies need space to access, repair or maintain trees/plants, fire hydrants and connections, Midland PUC elements, natural gas connections, and other street assets for residents, businesses and visitors. Town streets must serve everyone including key services such as emergency services and public transit. Street features must be able to be used for their intended purpose, accessed and maintained. The Town and all public utility agencies retain the right of access to the approved Patio area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc., as necessary. In case of emergency, no notice will be given. For scheduled work, a minimum notice of forty-eight (48) hours will normally be given.

The Town retains a right of access over, to and upon a patio for emergency vehicle access.

Waste and Storage: Patio operators shall maintain the Patio area, and the immediately adjacent area, in a clean and safe condition at all times. Refuse containers are not permitted within the Patio area but portable service carts may be used for collection and transport to the associated restaurant. The storage of waste is not permitted.

Building-side Patio Design

Attached to the building (with the owner's consent). Patio Enclosure shall be weighted and not anchored into paving stones.

Curb Side Patio Design

Secondary Walkways required around Patio to be 1.75 m in width minimum.

Installation of patios on corner lots where sight lines may be impacted due to impaired vehicle and pedestrian sightlines may not be permitted.

Obstruction of underground utilities, drainage flows or fire department connections. Applications must be accompanied with a site plan that describes and depicts all underground and above grade utilities, drainage flows and municipal fixtures such as fire hydrants, parking meters, trees and grates, catch basins, manholes etc. Due to the circumstances, certain proposed patios may not be permitted due to required access to the utilities or their proximity. Applicants will be required to demonstrate that no municipal fixture or utility is being impacted and how the drainage flow is maintained. In the event

that a fixture or utility appears to be impacted, written approval is required from the agency or department responsible for the fixture.

Maintenance of a 1.75 m sidewalk (municipal or by temporary construction) for pedestrian movement. The minimum width for the Town sidewalk sweeper to maneuver is approximately 1.5 m. Therefore, all outdoor patios must maintain a sidewalk width of a minimum 1.75 m. Pedestrian movement should be considered first and foremost in all designs and in order to maintain maximum widths for pedestrians in the area in order to support visitor use.

Patio Design Details

Patios shall be comprised of structural, functional, and decorative features. To ensure public safety and general aesthetic continuity, the following design details provide the minimum requirements for various features within a patio. The Town encourages creativity and the development of unique outdoor dining spaces within the requirements provided.

The patio shall be constructed and maintained by the applicant as per the construction guidelines, and must be compliant with the *Accessibility for Ontarians with Disabilities Act* (AODA).

An entryway of at least 1.75 m must be provided to the patio, and where possible, should be aligned with the entrance to the corresponding establishment. When entrances cannot be aligned, they should be provided in close proximity to each other to ensure ease of movement and service between the establishment and the patio.

Patio furnishings, fences and other Patio improvements must be removable and not permanently fixed in place. All objects must be contained within the approved Patio area and removed at the end of business on October 15th. The street, sidewalk and municipal property (if used) must be restored to its original condition to the satisfaction of the Town.

The design of the patio structure should not inhibit the adequate positive drainage of storm water runoff to the street.

Patio designs must comply with the Zoning By-law. Notwithstanding the issuance of a permit, Town staff reserve the right to enforce the Zoning By-law and to cancel or alter the terms of the permit should a Zoning By-law violation be occurring.

Patio Enclosure Fencing

Fencing of a Patio must form a fully enclosed perimeter. The fencing should appear 'open'. Fencing shall meet the requirements of the Alcohol and Gaming Commission of Ontario (AGCO), if applicable. Fencing material must be shown on the site plan. Wrought iron style is the most desirable, however, any barrier that safely encloses will be considered. Patio fencing must be not less than 1.07 metres in height as per AGCO regulations. The fencing cannot be anchored into the paving stones or sidewalk. The

fencing must be weighted by either footplates or stable mass planter boxes. Metal foot plates shall not be designed to penetrate the surface of the sidewalks (i.e. no bolts/brackets).

Open guardrails are encouraged to reduce the risk of the patio structure moving due to high winds. Self-supporting plates that support the fence shall not have any parts that project in a way that creates a tripping hazard or extend beyond the limits of the permit area.

Fencing shall not extend past the permit area, or be attached to trees, street elements or utilities.

Fencing shall be curved or angled at street corners for unimpeded pedestrian movement and vehicle sightlines.

Minimum Clearance requirements from Patio Enclosure Limits

- All hydrants offset 1.5 metres
- Gas assets or meters 0.6 metres
- All parking pay-display units 1.0 metres
- All bollards defining secondary walkway 1.75 metres
- All waste receptacles 3.0 metres
- Mid-block Pedestrian Crossings 5.0 metres centered
- Utility vaults 1.5 metres

Electrical power cords or any devices that cross any travelled portion of the property are not permitted.

No signs or advertising within a Patio shall be permitted with the exception of a menu and no smoking sign(s). A single menu can be posted on the fencing but must be no larger than 40cm (16 inches) by 50 cm (20 inches) in size.

Permit holders shall ensure that all umbrellas are at least 0.8 metres from any curb face. All shade umbrellas may project into the pedestrian walkway to the lesser of half the umbrella's width or 1.5 metres. The lowest edge of any umbrella must be at least 2.1 metres above the sidewalk surface. No patio permit holder shall place umbrellas such that they overhang the pedestrian walkway at a height of less than 2.2 m, and such umbrellas must be closed during rain events and not cause water to drip onto the pedestrian walkway.

Patio Site Plan Required Information - Minimum Information Requirements

Patio Site Plan – Required Information

To assist with the Patio Site Plan design, the applicant is requested to provide a site plan, properly labelled with the following minimum information:

1. The location and dimension of the building establishment, the entrances & exits and washrooms;
2. The location and use of the adjacent buildings, the entrances and exits;
3. The location and dimension of the patio, the entrances & exits;
4. The area of the patio (in square meters);
5. Location and dimension of any enclosures, umbrellas/tents, awnings, etc.;
6. The location, height and construction material to be used for the boundary fence, gate location and width of gate(s);
7. Location of fire extinguishers;
8. Location of table, chairs, bars, stages, etc.;
9. Expected occupant load;
10. Location of ALL municipal services and/or assets within the Patio or close proximity (e.g. location of curbs, municipal parking spaces to be utilized, parking meters, sidewalk, hydrants, storm sewer grates, manholes, trees and diameter of trees etc.), all below grade and above grade utilities including below grade chambers/vaults and hydro poles fire hydrants, along with distances between the Patio and services/fixtures;
11. The construction and design shall consider the following matters to be addressed on the site plan:
 - a) Location of services such as hydro, water and gas;
 - b) Railing installation, height, construction;
 - c) Impact on public sidewalk if any;
 - d) Accessibility;
 - e) Installation of any other fixtures to premises or lands;
 - f) Maintenance of Town improvements, such as trees and shrubs, if applicable;
 - g) Liquor License requirements;
 - h) Road Right-of-Way requirements;
 - i) Proposed elements and their location and dimensions (e.g., tables, chairs, umbrellas, fencing/railings, hanging fence planters, standing planters, to be located in the permit area);
 - j) Pedestrian sidewalk measurements: distance between outer edge of proposed permit area to nearest object or back of the curb;
 - k) Amount of parking provided on site, including the amount of parking spaces being occupied by the proposed patio; and,
 - l) Setbacks from the property lines to the proposed patio.

Minimum Information Requirements for Outdoor Patios

This information is included for the applicant's consideration in order that information requirements and responsibility are fully understood.

Proposed patios at-grade or ones that are not structurally supported are not subject to the Building Code. However, proposed outdoor patios that are elevated and require structural support are subject to review by the Building and Planning Department and applicable fees.

Temporary Sidewalk (if applicable)

Professional Engineer must certify the design of the Extension of the Temporary Sidewalk for safety and load bearing design, if applicable. (Note: The applicant must certify that the at-grade Patio or Sidewalk by-pass walkway is constructed in accordance with the Town's standard.)

Guidelines for Outdoor Patios on Private Property

Town staff are available to assist if needed. Email dsmiley@midland.ca for assistance.

The process to establish a patio consists of these steps:

- a) Email the following documentation to dsmiley@midland.ca
 - Site Plan
 - Health Certificate of Inspection
 - Letter from the property owner authorizing the proposed patio use
- b) Arrange for inspections by Town of Midland staff if applicable (MLEO, Fire, Building, etc.)

Patio Design Details

Patios must be adjacent to the place of business. Patios shall be comprised of structural, functional, and decorative features. To ensure public safety and general aesthetic continuity, the following design details provide the minimum requirements for various features within a patio. The Town encourages creativity and the development of unique outdoor dining spaces within the requirements provided.

The patio shall be constructed and maintained by the applicant as per the construction guidelines and must be compliant with the *Accessibility for Ontarians with Disabilities Act* (AODA).

An entryway of at least 1.75 m must be provided to the patio, and where possible, should be aligned with the entrance to the corresponding establishment. When entrances cannot be aligned, they should be provided in close proximity to each other to ensure ease of movement and service between the establishment and the patio.

The design of the patio structure should not inhibit the adequate positive drainage of storm water runoff to the street.

All patio designs must be in compliance with the Zoning By-law. Notwithstanding the issuance of a permit, where a Zoning By-law violation may be occurring, Town staff reserve the right to enforce the Zoning By-law and to cancel or alter the terms of the permit.

Patio Enclosure Fencing

Fencing of a Patio must form a fully enclosed perimeter. The fencing should appear 'open'. Fencing shall meet the requirements of the Alcohol and Gaming Commission of Ontario (AGCO) if applicable. Fencing material must be shown on the site plan. Wrought iron style is the most desirable, however given the circumstance, any barrier that safely encloses will be considered. Patio fencing must be not less than 1.07 metres in height as per AGCO regulations. The fencing must be weighted either by footplates or stable mass planter boxes.

Open guardrails are encouraged to reduce the risk of high winds using the guardrail to move the patio structure. Self-supporting plates shall have no parts of the fence create a trip hazard and do not project beyond the limits of the permit area.

Electrical power cords or any device that cross any travelled portion of the property are not permitted.

Patio Site Plan Required Information - Minimum Information Requirements

Patio Site Plan – Required Information

To assist with the Patio Site Plan design, the applicant is requested to provide a site plan, properly labelled with the following minimum information:

1. The location and dimension of the building establishment, the entrances & exits and washrooms.
2. The location and use of the adjacent buildings, the entrances and exits.
3. The location and dimension of the patio, the entrances & exits.
4. The area of the patio (in square meters).
5. Location and dimension of any enclosures, umbrellas/tents, awnings, etc.
6. The location, height, and construction material to be used for the boundary fence, gate location and width of gate(s).
7. Location of fire extinguishers.
8. Location of table, chairs, bars, stages, etc.
9. Expected occupant load.
10. The construction and design shall consider the following matters to be addressed on the site plan:
 - m) Location of services such as hydro, water and gas.
 - n) Railing installation, height, construction.
 - o) Impact on public sidewalk if any.
 - p) Accessibility.
 - q) Installation of any other fixtures to premises or lands.
 - r) Maintenance of Town improvements, such as trees and shrubs, if applicable.

- s) Liquor License requirements.
- t) Road Right-of-Way requirements.
- u) Proposed elements and their location and dimensions (e.g., tables, chairs, umbrellas, fencing/railings, hanging fence planters, standing planters, to be in the permit area).
- v) Pedestrian sidewalk measurements: distance between outer edge of proposed permit area to nearest object or back of the curb.
- w) Amount of parking provided on site, including the amount of parking spaces being occupied by the proposed patio; and,
- x) Setbacks from the property lines to the proposed patio.

Minimum Information Requirements for Outdoor Patios

This information is included for applicant's consideration in order that information requirements and responsibility are fully understood.

Proposed patios at-grade or ones that are not structurally supported are not subject to the Building Code. However, proposed outdoor patios that are elevated and require structural support are subject to the Building and Zoning Department review and applicable fees.

Requirements applicable to both Municipal and Private Property

Tents on Municipal and Private Property

Tents less than 60 m² (645 ft²) in area that are not attached to another structure and are not less than 3 meters (9.8 ft) away from other structures:

- No building permit is required.

Tents between 61 m² (646 ft²) - 225 m² (2,422 ft²) in area:

- Building permit is required,
- Application must include a completed Application Form (available on the Town of Midland website), site plan indicating the location of the tent with setbacks to other buildings and property lines,
- Must maintain 3 meters (9.8 ft) to property lines and other structures,
- Ground enclosed by the tent must be clear of flammable material (grass cut short is acceptable),
- Copy of Flame Resistance Certification must accompany application – must state compliance with either NFPA 701 or CAN/ULC-S109,
- Access must be provided for firefighting (must be easily approachable by emergency personnel) and will be reviewed by Midland Fire Department.

Tents greater than 225 m² (2,422 ft²) in area:

All requirements for tents between 61 m² -225 m² shall apply, in addition to the following:

- Professional Engineer must design the supporting framing structure and anchorage system, sign a Commitment to Review form and inspect the tent after it is erected but before it is put in use,
- A copy of the Engineer's report is to be submitted to the Building Department prior to the event,
- Sanitary facilities must be provided in compliance with the Building Code, (Guidelines from the SMDHU are also attached).

General requirements:

- If more than one tent is used and they are placed within 3m of each other, the total area of all such tents is considered as if they are a single tent,
- Building permit application must be submitted a minimum of 10 days prior to erection,
- The addition of bleachers or side walls automatically puts the tent into the greater than 225 m² category regardless of size.

An inspection by the Building Department is required prior to the tent being put into use where a permit is required. Fire Department staff will accompany the Building Inspector to perform a joint inspection scheduled through the Building Department where a permit has been issued.

Questions? Please contact the Building Department at 705-526-4275 ext. 2252.

Waste Pick Up

Patios should not interfere with waste pick up for the property.

Liquor License

Applicants must follow all Alcohol and Gaming Commission of Ontario (AGCO) regulations and guidelines.

Noise

No person shall permit or allow any sound contrary to the provisions of the Town's Noise By-law. No person shall operate any amusement device or game within any outdoor patio area.

Alcohol Gaming Commission of Ontario (AGCO)

Capacity

Requirements respecting the capacity of any new patio, or extended patio space where the licensee has an existing licensed patio that does not exceed 1.11 square metres per person.

Any extended patio space *should allow for a minimum of 1.11 square metres per person*. For example, the maximum capacity of a new 100 square metre patio would be 90 people ($100 \text{ sq/m} \div 1.11 \text{ sq/m/person} = 90$). On an existing patio space, the capacity as stated on the licence continues to apply.

All licensees are expected to comply with all public health guidelines or orders issued by the Ontario Government or by any other applicable level of government.

Patrons carrying liquor across unlicensed areas

Only the licensee or its employees are permitted to carry liquor between two licensed areas across an unlicensed area (e.g. from the establishment and across the sidewalk, in the case where the patio extension is on a roadway and does not extend to the sidewalk).

MUNICIPAL PROPERTY/SIDEWALK USAGE

All businesses wishing to extend outdoors and onto municipal sidewalks or property are required to comply with the process established in this Program document.

The process to establish usage of municipal sidewalks under this program consists of these steps:

- a) Complete the application for the temporary use of municipal property (sidewalk) by visiting www.midland.ca and selecting “Applications and Forms” under “Town Hall” then “Outdoor Patio and Sidewalk Usage Program”.
- b) Email the Application with the following documentation to dsmiley@midland.ca
 - Certificate of Insurance/Copy of Current Liability Insurance
 - General Liability Insurance in the amount of \$2,000,000 per occurrence to the Corporation of the Town of Midland against any liability for property damage or personal injury, negligence including death which may arise from the applicant’s operations under this agreement. The Corporation of the Town of Midland must be included as an “Additional Named Insured”.

The Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.

- c) Pay appropriate fees. These fees can be found in our Composite Fees & Charges By-law.