

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2026-20

A By-law regulating Temporary Outdoor Patios within the Town of Midland and to repeal By-law 2024-23.

WHEREAS pursuant to section 9 of the *Municipal Act*, 2001 S.O. 2001, c. 25 a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to section 10(2) of the *Municipal Act*, S.O. 2001, c.25 a municipality may pass by-laws pertaining to the health, safety and well-being of persons;

AND WHEREAS pursuant to section 10(2) of the *Municipal Act*, S.O. 2001, c.25 a municipality may pass by-laws pertaining to the protection of persons and property, including consumer protections;

AND WHEREAS pursuant to section 23.1 of the *Municipal Act*, S.O. 2001, c.25 a municipality may designate its powers and duties;

AND WHEREAS Section 391 of the *Municipal Act*, 2001, S.O. 2001, c. 25, provides that a municipality and a local board may pass by-laws imposing fees or charges for services or activities provided or done by or on behalf of it, or for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board;

AND WHEREAS as of January 1, 2023 licensed establishments, as a condition of being permitted to create a licensed Temporary Patio adjacent to their premises and/or to extend the size of their licensed Temporary Patio must ensure that they have municipal approval and meet all other applicable requirements;

AND WHEREAS Council deems it appropriate to permit the Owner/Operator of a commercial establishment that serves food and beverages to apply to establish and use a Temporary Patio or create a Temporary extension of an existing Patio on municipal property as an accessory use to the commercial establishment provided the commercial establishment has obtained municipal approval and meets all other applicable requirements;

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

This By-law shall be known as the “**Outdoor Patio Program By-law**”.

1.0 DEFINITIONS

“**AGCO**” means the Alcohol and Gaming Commission of Ontario.

“**Application**” means an application submitted pursuant to Section 3 of this By-law.

“**Applicant**” means a **Person** who is required to obtain a **Permit** pursuant to this By-law or who has made an **Application** for a **Permit** to the **Approval Manager** or designate.

“**Application Premise**” means the location or property in which the **Applicant** conducts **Business** on or within.

“**Approval Manager**” means as and where appropriate, the Manager of Municipal Law Enforcement or their designate of the Corporation of the Town of Midland.

“**Council**” means the Council of the Corporation of the Town of Midland.

“**Fees and Charges By-law**” means the current version of the Town of Midland’s Fees and Charges By-law, as amended from time to time.

“**Town**” means the Town of Midland.

“**Officer**” means a Municipal Law Enforcement Officer or any other person appointed by the **Town** to enforce the provisions of By-laws and shall include a building inspector, fire prevention officer, Chief Building Official or a Public Health Inspector.

“**Order**” means an Order to Remedy or Order to Comply issued under this By-law.

“**Owner**” means an Owner and/or operator of a business or property within the Town of Midland.

“**Person**” includes a corporation and its heirs, executors, administrators, or other representatives of a person to whom the context can apply according to law.

“**Permit**” means a permission or authorization given in writing by the Municipality for a **Temporary Outdoor Patio** issued under this By-law.

“**Permit Holder**” means the **Person** or business who has obtained a Permit for a **Temporary Outdoor Patio**.

“**Temporary Outdoor Patio**” means a clearly delineated area upon municipal lands that is designated for a group of tables and chairs and other accessories for the use and consumption of food and beverages sold to the public from, or in, an eligible business in the Town of Midland and includes a temporary extension of an existing patio.

“**Zoning By-law**” means the current version of the Town of Midland Zoning By-law as amended or replaced from time to time.

2.0 GENERAL PROVISIONS

2.1 No **Person** shall construct, permit or operate a **Temporary Outdoor Patio** without a permit.

2.2 No **Person** shall operate a **Temporary Outdoor Patio** in contravention of this By-law or any other **Town** By-law.

- 2.3 No **Person** shall operate a **Temporary Outdoor Patio** in contravention of the terms of a Permit granted or agreement executed pursuant to this By-law.
- 2.4 No **Person** shall operate a Temporary Patio in contravention of any requirements as set out in the Town of Midland **Temporary Outdoor Patio** Guidelines as set out in Schedule “B” of this By-law.
- 2.5 Every **Permit** shall only be valid for a period of 8 months per calendar year in accordance with the provisions as set out by the **AGCO**.
- 2.6 No **Person** shall hinder or obstruct or attempt to hinder or obstruct an **Officer** who is exercising a power or performing a duty under this By-law.

3.0 APPLICATION REQUIREMENTS

- 3.1 For any **Permit**, an **Applicant** shall submit the following to the **Approval Manager**:
- (a) A complete **Application** in the form prescribed by the **Approval Manager**, which shall include:
- i. The **Applicant’s** name;
 - ii. The **Applicant’s** phone number and email address;
 - iii. The registered name and operating name of the business;
 - iv. The street address of the business
 - v. An after hours contact person complete with the name, phone number and email of the contact person.
- (b) The applicable fees as set out in the **Town’s Fees and Charges By-law**;
- (c) Proof of a minimum of five million dollars (\$5,000,000) insurance as described within the **Temporary Outdoor Patio** Guideline document;
- (d) Simcoe Muskoka District Health Unit (SMDHU) approval issued within last six (6) months from the date of the **Application**;
- (e) A copy of an **AGCO** Liquor License, if applicable;
- (f) If not the registered property owner, a letter from the registered property owner authorizing the proposed **Temporary Outdoor Patio**;
- (g) A site plan as described within the **Temporary Outdoor Patio** Guideline document; and
- (h) Any other document as deemed appropriate by the **Approval Manager** that may be required on a case by case basis.
- 3.2 Upon completed construction of the **Temporary Outdoor Patio**, the **Approval Manager** shall attend the location of the **Temporary Outdoor Patio** to confirm the indicated size on the associated site plan is the same as what has been constructed.

3.3 Every **Permit Holder** shall:

- (a) Post the **Permit** in a conspicuous location at the business in which the **Temporary Outdoor Patio** is located;
- (b) Produce the **Permit** for inspection and otherwise permit any **Officer**, or any persons authorized to enforce this By-law, to enter the **Temporary Outdoor Patio** to conduct an inspection as may be deemed necessary in order to ascertain whether or not the provisions of this By-law, Statute, Regulation or any other By-law are being complied with.
- (c) Comply with the provisions of this By-law and all attached Schedules, all applicable laws, including but not limited to, the Zoning By-law, Ontario Fire Code, Ontario Building Code and the Liquor Licence and Control Act.

4.0 ISSUANCE OF PERMITS AND GROUNDS FOR REFUSAL

4.1 The **Approval Manager** shall receive and process all complete **Applications** for a **Temporary Outdoor Patio**.

4.2 The **Approval Manager** shall issue a **Permit** to any **Applicant** who meets the requirements of this By-law except where:

- (a) The past or present conduct of the **Applicant** affords the **Approval Manager** reasonable grounds to believe that the **Applicant** has not or will not carry on their business in accordance with the applicable law or with integrity and honesty;
- (b) The **Approval Manager** reasonably believes that the carrying on of the business may be adverse to the public interest;
- (c) The **Applicant** or **Application Premise** is subject to an **Order**, or **Orders**, made pursuant to or by:
 - i. The **Town's** Property Standards By-law
 - ii. The Building Code Act, 1992, S.O. 1992, c. 23, or any regulations made thereunder;
 - iii. The Fire Protection and Prevention Act, 1997, or any regulations made thereunder, including the Ontario Fire Code; or,
 - iv. The Medical Officer of Health.
- (d) The **Application Premise** that the **Applicant** wishes to operate a **Temporary Outdoor Patio** is not in compliance with the **Town's Zoning By-law**;
- (e) The **Applicant** or the **Application Premise** is indebted to the **Town** by way of fines, penalties, judgements, outstanding property taxes, or any other amounts owing;
- (f) There are reasonable concerns that false or misleading information, documents or statements were provided to the **Approval Manager** or any **Officer** by, or on behalf of, an **Applicant**;

- (g) Any information that has been provided to the **Town**, whether orally or in writing, as part of an **Application** for a **Permit** is no longer accurate and the **Approval Manager** has not been notified of the change, or where a **Person** fails to provide updated accurate information;
- (h) The **Applicant** fails to maintain appropriate and valid insurance as required within this By-law;
- (i) All required **Application** criteria for a **Permit** has not been fulfilled;
- (j) A valid Provincial or Federal license, or other authorization, which is required to operate a business has not been obtained;
- (k) The **Applicant** has failed to comply with any **Order** issued pursuant to this By-law or any other applicable law, regulation or statute;
- (l) The **Applicant** has failed to comply with any conditions of a **Permit** imposed pursuant to this By-law; or
- (m) Two or more substantiated complaints have been received by the **Approval Manager** in a two-year period regarding the **Applicant**.

5.0 REVOCATION AND SUSPENSION OF PERMIT

5.1 The **Approval Manager** may revoke or suspend a **Permit** at any time where:

- (a) the **Approval Manager** is of the opinion that the **Temporary Outdoor Patio** carried on by the **Permit Holder** poses a threat to the health and safety of the public;
- (b) the **Permit Holder** has violated any of the provisions of this By-law or any other applicable laws;
- (c) The **Permit** was issued because false or misleading information was provided to the **Town**;
- (d) a **Permit** was issued in error; or
- (e) as otherwise authorized in accordance with this By-law.

5.2 If the **Approval Manager** is satisfied that the carrying on of the **Temporary Outdoor Patio** poses an immediate danger to the health or safety of any **Person** or to any property, the **Approval Manager** may, for the time and on such conditions as they consider appropriate, without a hearing, suspend a **Permit** subject to the following:

- (a) before suspending the **Permit**, the **Approval Manager** shall provide the **Permit Holder** with the reasons for the suspension either orally or in writing, and an opportunity to respond to them; and

- (b) The suspension shall not exceed thirty (30) days unless the matter that caused the suspension has not been remedied after thirty (30) days or if an additional contravention under this By-law has been confirmed, the suspension shall continue to be in effect until the matter has been resolved to the satisfaction of the **Approval Manager**.

5.3 The **Approval Manager** shall provide a notice of intention to revoke or suspend a **Permit** and shall advise the **Permit Holder** of their right to appeal along with the final date for giving notice of appeal.

6.0 APPEAL

6.1 Any **Person** who has been denied a **Permit**, or has had their **Permit** suspended or revoked, or has had terms or conditions imposed on a **Permit** may appeal the decision of the **Approval Manager** to **Council**.

6.2 Section 6.1 of this By-law does not apply to **Permit** suspensions or revocations under Section 5.2 of this By-law.

6.3 All appeals shall be submitted:

- (a) Within fourteen (14) days of the decision of the **Approval Manager** to deny issuing a **Permit** or suspending or revoking a **Permit** or imposing terms or conditions on a **Permit**;

- (b) In writing to the **Approval Manager**;

- (c) Setting out in detail, the grounds for the appeal; and

- (d) Along with the applicable fee as outlined in the **Town's Fees and Charges By-law**.

6.4 Where an appeal is not submitted within the time set out within Section 6.3 (a), the decision of the **Approval Manager** shall be deemed to be confirmed and no appeal shall be allowed.

6.5 Upon receipt of an appeal in accordance with Section 6.3, the **Approval Manager** shall endeavour to schedule a hearing within thirty (30) working days of the receipt of the request for an appeal hearing or as soon thereafter as possible. Notice of the hearing shall be issued a minimum of fourteen (14) days prior to the hearing date unless exigent circumstances apply.

6.6 **Council** shall hear all appeals.

6.7 On an appeal, **Council** has all the powers and functions of the **Approval Manager** who made the decision; and **Council** may do any of the following things if, in **Council's** opinion, doing so would maintain the general intent and purpose of the By-law:

- (a) Confirm, modify or rescind the decision of the **Approval Manager** to deny issuing a **Permit** or suspending or revoking a **Permit** or to impose terms or conditions on a **Permit**.

7.0 NOTICES AND ORDERS

- 7.1 If the **Approval Manager** is satisfied that a contravention of this By-law has occurred, the **Approval Manager** may make a notice or **Order** requiring the **Person** who contravened the By-law or who caused or permitted the contravention or the **Owner** or **Permit Holder** of the **Temporary Outdoor Patio** on which the contravention occurred to do work to correct the contravention.
- 7.2 The notice or **Order** shall include:
 - (a) Reasonable particulars of the contravention adequate to identify the contravention and the location of the land or **Temporary Outdoor Patio** on which the contravention occurred;
 - (b) The work required to correct the contravention;
 - (c) The date by which the work shall be completed.
- 7.3 A notice or **Order** issued under this By-law may be served personally and/or served by sending it via regular mail, registered mail and/or email to the last known address of:
 - (a) The **Permit Holder** as listed on the **Application** submitted to the **Approval Manager**;
or
 - (b) The **Owner** of the **Property** at the address shown on the municipal tax roll of which property the **Temporary Outdoor Patio** is associated with; or
 - (c) The **Person** identified as contravening this By-law;
 - (d) If sent via email, the notice or **Order** shall be sent to the last known email address of the **Permit Holder** as listed on the most recent **Application**.
- 7.4 Where service of a notice or **Order** is made by regular mail or registered mail, the notice or **Order** shall be deemed served on the fifth (5th) day after the notice or **Order** is mailed.
- 7.5 Where service of a notice or **Order** is made by email, the notice or **Order** shall be deemed served on the same day after the notice or **Order** was emailed.
- 7.6 In addition to service under section 7.4 and 7.5, a notice or **Order** may also be posted at the business in which the **Temporary Outdoor Patio** is associated with, in a location visible to the public. If an **Order** is posted under authority of this By-law, it shall be deemed served on the same day that the notice or **Order** is posted.

7.7 No **Person** shall fail to comply with a notice or **Order** issued under the authority of this By-law.

8.0 REMEDIAL ACTION

8.1 If a **Person** fails to do a matter or thing, including comply with an **Order** under this By-law, as directed or required by this By-law, the **Town** may, in default of it being done by the **Person** directed or required to do it, do the matter or thing at the **Person's** expense.

8.2 The **Town** may recover the costs of doing a matter or thing from the **Person** directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

8.3 The costs outlined in Section 8.2 of this By-law shall include interest calculated at a rate of 15 percent, calculated for the period commencing on the day the **Town** incurs the costs and ending on the day the costs, including interest, are paid in full.

9.0 ENFORCEMENT

9.1 This By-law may be enforced by an **Officer**, or the Medical Officer of Health.

9.2 Every **Person** shall, upon request by an **Officer**, or the Medical Officer of Health for the purpose of commencing a proceeding pursuant to this By-law, provide identification, including their full name and address.

9.3 No **Person** shall hinder or obstruct or attempt to hinder or obstruct an **Officer** who is exercising a power or performing a duty under this By-law. Failure to identify themselves pursuant to Section 9.2 shall be deemed an example of obstruction or hindering an **Officer**.

10.0 PENALTY

10.1 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 this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33.

10.2 Each day on which a person contravenes any provisions of this By-law shall be deemed to constitute a separate offence under this By-law as provided for in section 429(2) of the *Municipal Act, S.O. 2001, c. 25*.

10.3 Every person who contravenes the provisions of any section of this By-law, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the maximum fine shall not exceed \$50,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

10.4 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25

as amended and is liable on conviction to a penalty where the maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

- 10.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected.
- 10.6 For the purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is deemed a multiple offence.
- 10.7 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 this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 10.8 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 this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 10.9 Notwithstanding Section 10.7 and 10.8, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for continuous offences or multiple offences is not limited to \$100,000.
- 10.10 Every person or owner who contravenes any section of this By-law shall, upon issuance of a penalty notice in accordance with the **Town's** Administrative Monetary Penalty System By-law, be liable to pay the **Town** an Administrative Monetary Penalty.

11.0 INDEMNIFICATION

- 11.1 The **Owner** shall indemnify and save harmless the **Town**, **Council** and municipal employees from all claims of any kind including, but not limited to, personal injury or property damage suffered by any **Person** which the **Town** may suffer, incur or be held liable for resulting directly or indirectly from the issuance of **Application** approval under this By-law or from the actions or performance of the **Owner**, or that of their employees, directors or agents, under this By-law whether with or without negligence on the part of the **Owner** or their employees, directors and agents.

12.0 VALIDITY AND SEVERABILITY

- 12.1 If any section, subsection, paragraph, sentence, clause, or provision of this By-Law be declared by a Court of competent jurisdiction to be invalid, illegal or ultra vires for any reason, all other provisions of this By-Law shall remain and continue in full force and effect and shall remain valid and binding.

13.0 REPEAL

13.1 That By-law 2024-23 and all amendments thereto are hereby repealed and replaced with this By-law.

14.0 EFFECTIVE DATE

14.1 This By-law shall come into force and effect on the final passage thereof.

BY-LAW PASSED AND ENACTED THIS 8TH DAY OF APRIL, 2026.

THE CORPORATION OF THE TOWN OF MIDLAND

BILL GORDON - MAYOR

JAMYE TRIEMSTRA – DEPUTY CLERK

Written approval of this By-law was given by Mayoral Decision MDE-2026-7 dated, April 8, 2026

SCHEDULE "A"

**THE CORPORATION OF THE TOWN OF MIDLAND
PART I Provincial Offences Act
By-law 2026-20: Outdoor Patio Program By-law
Set Fines**

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Construct, permit or operate Temporary Outdoor Patio without a permit	2.1	\$500.00
2	Operate Temporary Outdoor Patio in contravention of By-law	2.2	\$300.00
3	Operate Temporary Outdoor Patio in contravention of terms of permit or agreement	2.3	\$300.00
4	Operate Temporary Outdoor Patio in contravention of Guidelines	2.4	\$300.00
5	Failure to post permit	3.3 (a)	\$200.00
6	Failure to produce permit upon request	3.3 (b)	\$200.00
7	Fail to comply with notice or order	7.7	\$350.00
8	Hinder or Obstruct an Officer	9.3	\$500.00

Note: The penalty provision(s) for the offences indicated above is Section 10.1 of By-law 2026-20, a certified copy of which has been filed.

SCHEDULE "B"

Temporary Outdoor Patio Program Guidelines

Seasonal Commercial Outdoor Patio Guidelines



Introduction

The Town of Midland is committed to supporting local businesses in innovative and efficient ways that align with the best practices of comparator municipalities. Since 2020, the Town has supported the creation of temporary commercial patios, in varying capacities, on both municipal property to support downtown area businesses.

The duration of the patio season will run from May 1 until October 15 each year. No patio on King Street is permitted 5 days preceding the weekend (the Monday prior) of the Ontario's Best Butter Tart Festival.

This document provides guidelines for Town of Midland (TOM) Patios on municipal property. The information included within this document ensures that safety, functionality and design standards are explained, which are the minimum requirements expected that downtown area businesses must meet to operate a TOM Patio. Please be sure to review these guidelines carefully and plan ahead to ensure full compliance.

Terms and Conditions

Included in this section is an overview of the Terms and Conditions of the TOM Patio Program. More detail on each of the items included in this section can be found throughout this document.



Guidelines for Outdoor Patios on Municipal Property

The following guidelines will apply to TOM Patios on Municipal Property:

1. TOM Patios on municipal property shall only be permitted within the existing on-street parking spaces within the Downtown area, where appropriate.
2. Applications for TOM Patio are to be submitted to the Municipal Law Enforcement Department on an annual basis. Applications will be circulated for cross-department review and approval.
3. The duration of the patio season will run from May 1 until October 15 each year. No patio on King Street is permitted 5 days preceding (the Monday prior to) the weekend of the Ontario's Best Butter Tart Festival.
4. TOM Patios will not be permitted to operate more than 8 months out of the calendar year, as per AGCO requirements.
5. TOM Patios are required to follow all applicable public health requirements and all County By-laws, Municipal By-laws and Provincial Regulations.
6. The TOM Patio shall not obstruct or interfere with pedestrian safety, accessibility, emergency services, public transit, access to surrounding businesses, deliveries, pick-ups, Town and public utility infrastructure or maintenance work.
7. Applicants are solely responsible for the management and operation of approved TOM Patio.
8. The process to establish a patio consists of these steps:

Email a **complete** Application with the following documentation to bylaw@midland.ca

- a) Site Plan (showing patio location, and size);
 - b) Simcoe Muskoka District Health Unit Certificate of Inspection;
 - c) Copy of the Liquor License for the business from the AGCO, if applicable;
 - d) If not the registered property owner, a letter from the registered property owner authorizing the proposed patio use;
 - e) General Liability Insurance for \$5,000,000 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;
 - f) Arrange for inspections by Town of Midland staff if applicable (MLEO, Fire, Building, etc.); and
 - g) Pay appropriate fees, dependent on site location, inspection, and permit requirements. These fees can be found in our Fees & Charges By-law.
9. If the establishment has a valid liquor license issued by the AGCO. The physical extension of the TOM Patio serving alcohol must be adjacent to the premises to which

the license to sell liquor applies unless a letter of authorization has been signed by the adjacent property owner.

10. All TOM Patios are required to comply with the *Accessibility for Ontarians with Disabilities Act (AODA)*.
11. Lighting, other than that affixed to the building must be removable, and shall not cause any undue glare or interference with use of the abutting properties or the public thoroughfare.
12. Electrical power cords or any other devices are not permitted to cross the travelled portion of the right of way. Nor are they allowed to be suspended from municipal infrastructure such as street lights or street trees.
13. Lighting shall not be connected to Town outlets or power sources unless approved by the Town in writing.

Patio Design Details

Patios shall only be permitted within on-street parking spaces to a maximum of the overall size of two regular, whole parking spaces, where applicable. No TOM Patio shall occupy more than one half parking space. On King Street, a parking space is delineated by black paving stones with grey paving stones in between. For the purposes of this document, a parking space is the distance between the inner most edge of the nearest adjacent black paving stone for length and the distance between the inner edge of the curblineline of King Street to the curblineline where the parking space meets the sidewalk. An example of this is depicted below:



For all side streets (Dominion Avenue, Hugel Avenue, Elizabeth Street etc.), a parking space is the area of pavement that is delineated by white lines indicating a parking stall.

All 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 of the *Ontario Building Code Act* and shall 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 the business day on or before October 15. 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 shall not inhibit the adequate positive drainage of storm water runoff to the street.

Patio designs must comply with the parking standards within the current Town of Midland 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 occur.

The patio must be directly adjacent to the applicant business. Extensions to neighbouring properties or in units may be permitted with the submission of a letter of authorization of the neighbouring business owner/operator.

Patios must not be placed in front of a fire hydrant or within 1m (3 ft.) of a hydrant or fire connection, designated loading zone, or in designated accessible parking spaces.

Obstructions (Waste/Recycle Bins, Planters, Light poles etc.)

Town staff and utility companies need space to access, repair or maintain trees/plants, fire hydrants and connections, 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 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.

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 (but not stored), for collection and transport to the associated restaurant. The storage of waste is not permitted.

Patio Enclosure

The perimeter of a patio must form a fully enclosed area or have at least three sides with one side, being the side that faces the business, able to be open. The enclosure shall meet the requirements of the Alcohol and Gaming Commission of Ontario (AGCO), if applicable. Enclosure material must be shown on the site plan. The limits of a licensed patio must be

distinguishable. Suitable boundaries include solid barriers such as decorative fencing, panels, planters, metal railing or other options that may be reviewed and approved by staff. Perimeter fencing is to be portable, to ensure for easy removal for the “off” season and is to be stored off-site when not in use. The enclosure cannot be anchored into the paving stones or sidewalk. The enclosure must be weighted by either footplates or stable mass planter boxes unless the enclosure is heavy enough to not alter its location due to wind or other events that may occur. Metal foot plates shall not be designed to penetrate the surface of the sidewalks (i.e. no bolts/brackets). The plates shall not extend beyond the perimeter of the fence or pose any hazard to pedestrians.

Perimeter fencing shall be placed so as not to obstruct adequate pedestrian access and public passage between the patio area and any street or laneway, or any physical obstructions such as trees, utility poles, fire hydrants, bus shelters, waste receptacles, street furniture, and the like.

The enclosure shall not extend past the permitted patio area, or be attached to trees, street elements or utilities.

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

Construction

The patio must have modular construction so that it can be easily installed and removed. It should be constructed of wood, composite decking or steel (or any combination of these materials).

If a patio is located on municipal roadways or in on-street parking spaces and requires a platform, it shall be flush with the sidewalk or curbside sidewalk patio as much as possible, while maintaining wheelchair access.

Platforms shall be designed and signed off by a licensed architect or engineer, who will confirm that the platform and fence are sturdy and will be able to withstand the anticipated lateral loads. This requirement applies to parking lanes or patios on a municipal roadway only.

Posts, signs and other features may not be secured to the Town sidewalk by use of screws, nails, or other fasteners that pierce or damage the surface of the concrete, unless approved by Municipal staff.

The platform shall be designed so as not to obstruct surface drainage and will include maintenance hatches to any catch basins or other services underneath the platform. The applicant must demonstrate deck and/or ramp supports that provide for a minimum separation of 0.45 m from the curb face.

The designer shall utilize only high quality, durable and attractive materials, which will substantially enhance the quality and attractiveness of the street.

The Town may require additional road safety measures to be installed. This will be at the expense of the approved applicant.

Minimum Clearance requirements from Patio Enclosure Limits

- All hydrants offset 1.5 metres
- Gas assets or meters 0.6 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, no smoking sign(s) or artwork as approved by the municipality in partnership with the BIA in the Downtown Midland BIA determined area. A single menu can be posted on the enclosure 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. Such umbrellas must be closed during rain events and not cause water to drip onto the pedestrian walkway.

Heaters

If considering the use of portable heaters on a patio, review the [Patio Heater Safety Checklist for Restaurant Owners](#) document prior to any operation.

Portable heating devices, including fueled heating appliances like propane patio heaters, are permitted as long as they:

- Meet federal and provincial safety requirements
- Are installed and stored in accordance with the manufacturer's instructions
- Are removed from public property (i.e. sidewalks or on-street parking spaces) when the patio is not in use

For more information, refer to the [Technical Standards and Safety Authority Guidelines](#) for safe use of heaters on outdoor patios.

Portable Heating Device

If installing a portable heating device, it must:

- Be certified by CSA / ULC
- Meet the requirements of TSSA Act 2000
- Only be for outdoor use
- Have an anti-tilt feature that automatically shuts off the heater
- Be free-standing, with a minimum height of 160 cm
- Table-top heating appliances are not permitted

Portable heaters can be installed in the following locations on the temporary patio:

- On a non-combustible solid surface (i.e. not on grass or uneven sidewalk)
- Out of the wind
- Must maintain at least a three metre (10 foot) clearance from combustible materials and building openings.

Portable heaters shall not be installed in the following locations:

- Under fire escapes
- Within a means of egress or adjacent to any exit, including fire exits
- Underneath a combustible structure (i.e. canopies, awnings, tents, wood framework)
- Beside or obstructing firefighting equipment like fire hydrants or Siamese connections
- Near or attached to trees, utilities or other street elements

Fueled Heating Appliance

If installing a fueled heating appliance:

- It shall never be stored indoors or in a garage; they shall be stored upright in a secure, ventilated outdoor cage or other similar enclosure
- Have a maximum of one day's supply of propane on site
- Have a propane tank that does not exceed a single nine-kilogram tank (approximately 10 hours of operation)
- Do not move it while the flame is open; ensure the gas supply is properly shut off and the unit is cool before relocating
- Follow all manufacturer safety requirements for the safe transportation, operation and storage of fuel.

Open Air Burning and Cooking

Open air fires and open-air cooking fires are prohibited on temporary commercial patios. This includes fire pits, wood fired appliances or any similar device.

Natural gas or propane cooking appliances can be used and must meet the following regulations:

- Appliance must be listed for use in Canada, outdoor cooking and for commercial cooking
- Designed for outdoor use and must meet all applicable requirements of the Technical Standards and Safety Authority
- If under a tent, the tent must be a rated canopy/tent that must use flameproofing/fire resistance and will require documentation from the tent supplier and approved by the Fire and Emergency Services Department.
- Must have a minimum 3.0 metres clearance from combustibles and building openings
- One fire extinguisher with a minimum of a 2A10BC rating must be provided
- Propane tanks shall not be stored inside a building, on a roof, under, on, or within 3.0 metres of any window, air intake, fire-escape, stairway, ramp, or door used as a means of egress from a building.
- All fire safety requirements are subject to inspection and approval from the Town of Midland Fire and Emergency Services Department.
- Any TOM Patio that uses heaters, propane fueled appliances, fire pits, open air burning and cooking, etc. must comply with all TSSA requirements.

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, , sidewalk, hydrants, storm sewer grates, manholes, trees and diameter of trees etc.), above grade ,hydro poles fire hydrants, along with distances between the Patio and services/fixtures;

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 Services Departments 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.)

Tents on Municipal 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 are permitted to be erected for a maximum temporary period of four (4) weeks (unless exempted by Executive Director, Community & Growth, or designate).

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

- Building permit and Zoning Certificate is required
- Tents are permitted to be erected for a maximum temporary period of four (4) weeks

- (unless exempted by Executive Director, Community & Growth, or designate).
- 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 and Emergency Services 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:

- Building Permit and Zoning Certificate is required,
- Tents are permitted to be erected for a maximum temporary period of four (4) weeks (unless exempted by Executive Director, Community & Growth, or designate).
- 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 Services Department is required prior to the tent being put into use where a permit is required. Fire Department staff will accompany the Building Services staff to perform a joint inspection scheduled through the Building Services Department where a permit has been issued.

Questions? Please contact the Building Services 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).