

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2025-65

A By-law to regulate and govern the use of and activities permitted on Town land, environmentally protected land and open space and repeal By-law 70-2969.

WHEREAS Section 9 and 11 of the Municipal Act, 2001, S.O., c. 25, as amended provides that 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 Section 10 and 11 of the Municipal Act, 2001, S.O., c. 25, as amended, provides the authority for a municipality to enact by-laws for the health, safety and well-being of persons and economic, social and environmental well-being of the municipality;

AND WHEREAS Section 127 of the Municipal Act, 2001, S.O., c. 25, as amended, provides the authority for a municipality to prohibit the depositing of refuse on land without the consent of the owner or occupant of the land;

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O., c. 25, as amended, provides the authority for a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS the Trespass to Property Act, R.S.O. 1990, c. T.21, allows the Town of Midland as “occupier” to prohibit entry by notice to that effect;

AND WHEREAS the Trespass to Property Act, R.S.O. 1990, c. T.21, provides a broad authority to the municipality to post signs prohibiting activities within an area, as is deemed appropriate by the Town of Midland;

AND WHEREAS Section 2 of the Trespass to Property Act, R.S.O. 1990, c. T.21, makes it an offence for every person who is not acting under right or authority conferred by law and who, without the express permission of the occupier, the proof of which rests on the defendant, enters on premises when entry is prohibited under the Act or further engages in an activity on the premises when the entry or activity is prohibited under the Act;

AND WHEREAS it is deemed expedient that the Council of the Corporation of the Town of Midland enact a Public Nuisance By-law;

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

This By-law shall be known as the “**Public Nuisance By-law**”.

1.0 DEFINITIONS

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

“Busk” or **“Busking”** means and includes performances by street singers or other itinerant entertainers regardless if they are accepting donations, money or other forms of payment or not.

“Deposit” along with the common definition of deposit shall also mean to dump, throw, place, leave, store permanently or temporarily.

“Foul” or **“Fouling”** means and includes spitting, urinating, vomiting, defecating or any other act of defacing property.

“Graffiti” means images or lettering scratch, scrawled, painted or any form of marking on property that does not belong to the artist.

“Infrastructure” means but is not limited to any **Town** owned building, feature, fixture, light standard, fence, chair, bench, highway, or any other basic system or service that the **Town** provides.

“Loiter” means to linger on the way or travelling indolently with frequent pauses without any apparent destination.

“Manager” means the Manager of Municipal Law Enforcement or their designate.

“Mobility Device” means a device that is primarily designed for use by people with a mobility limitation.

“Motorized Vehicle” means and includes and automobile, motorcycle, motor assisted bicycle, or any other vehicle propelled or driven otherwise than by muscular power but does not include a **Mobility Device**.

“Officer” means a Municipal Law Enforcement Officer, Police Officer or any other person appointed by the **Town** to enforce the provisions of by-laws.

“Owner” includes:

- (a) The registered owner of the property;
- (b) The **Person** for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the **Person’s** own account or as agent or trustee of any other **Person**, or who would receive the rent if the land and premises were let; and

- (c) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the provisions of this by-law.

“Panhandle” or “Panhandling” means but is not limited to accosting, begging, asking or demanding another individual for money, food or other items by way of voice, a sign or other means of communication.

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

“Private Property” means real property owned by a person(s) or corporation(s) other than a municipal corporation and within the Town of Midland.

“Public Place” means:

- (a) A place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, shall include highways, sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, conservation areas, parks, and playgrounds;
- (b) School grounds;
- (c) Land, premises, or buildings owned, managed, or maintained by the Town;
- (d) Yards appurtenant to a building or dwelling or vacant lands; and
- (e) Privately owned land which is visible from any public or private property.

“Refuse” means any article, thing, matter, substance or effluent that has been cast aside, discharged or abandoned or is discarded from its usual and intended use or is used up, in whole or in part, or expended or worn out in whole or in part.

“Sidewalk” means the portion of the **Town’s** right of way that is intended or used by the general public for the passage of persons and includes a boulevard.

“Solicit” means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using spoken, written or printed word, a gesture or other means.

“Tent” means a shelter, covering or structure supported by poles or other items to create distance above ground level allowing or designed for the entry of persons, storage of items or protection from the elements.

“Temporary Structure” has the same meaning as **Tent**.

“Town” Means the Corporation of the Town of Midland or the land within the geographic limits of the Corporation of the Town of Midland as the context requires.

2.0 GENERAL PROVISIONS

2.1 No Person shall:

- (a) **Deposit** or permit or aid in the **Depositing** of any **Refuse** on **Private Property** unless authorized by the **Owner** or lawful occupant of such property;
- (b) **Deposit** or permit or aid in the **Depositing** of any **Refuse** on **Town** property unless authorized by the **Town**;
- (c) leave, allow or permit to remain, permanently or temporarily, any **Refuse** on **Private Property** or **Town** property without authority from the **Owner** or lawful occupant of such property;
- (d) block any access to municipal **Infrastructure** or fire hydrant;
- (e) erect, set up, stand or otherwise place a **Tent** or other **Temporary Structure** on any **Town** property unless authorized by the **Town**;
- (f) **Foul** or permit the **Fouling** of any **Town** property;
- (g) sell, or offer for sale, any product or service from any **Town** property, unless authorized by the **Town**;
- (h) give away or otherwise provide at no charge, items, products, samples of items or products, or any other similar item to members of the public from any **Town** property, unless authorized by the **Town**;
- (i) **Busk** on any **Town** property, unless authorized by the **Town**;
- (j) block, interfere with or otherwise impede the passage of any pedestrian or vehicular traffic on any **Town** property, highway, or portion thereof, unless authorized by the **Town**;
- (k) ride or otherwise operate any **Motorized Vehicle** on or over any **Sidewalk** or pedestrian way with the **Town** unless for the purpose of maintaining such sidewalk or pedestrian way and as authorized by the **Town** or other Provincial legislation as may be applicable to such **Motorized Vehicle**;
 - (i) Notwithstanding the provisions of this section, the operation of a **Mobility Device** shall not be restricted when such device is operated for the purpose of aiding individuals with mobility limitations.

- (l) engage in boisterous or aggressive behaviour including but not limited to yelling, screaming, fighting, wrestling or similar activities on any **Town** property;
- (m) engage in any activity or action which is likely to be intimidating to, or otherwise interfere with, any individual on **Town** property;
- (n) **Loiter, Panhandle, or Solicit** in any manner on any **Town** property or **Private Property**;
- (o) emit, or cause to be emitted, an excessive amount of smoke, dust or airborne particulate matter on any **Town** property, unless authorized by the **Town**;
- (p) emit, or cause to be emitted, an odour that, in the opinion of an **Officer**, is objectionable, in a **Public Place**, unless authorized by the **Town**;
- (q) knock over or attempt to knock over a Canada Post mailbox or Canada Post relay box;
- (r) knock over or attempt to knock over any **Town Infrastructure**;
- (s) mark or apply **Graffiti** on any **Town** property or **Private Property** without authorization from the owner of the property to which the **Graffiti** is being applied;
- (t) damage or destroy or attempt to damage or destroy any **Town** property or **Infrastructure**;
- (u) remain in or refuse to leave a **Public Place** after it is closed and/or when ordered to leave by an **Officer**;
- (v) continue to engage in any type of activity prohibited under this By-law when instructed to stop by any **Officer** or occupier of the property in which the activity is taking place on.

3.0 EXEMPTIONS

- 3.1 The **Manager** may grant an exemption to any person from any provision of this By-law and impose conditions for such exemption as may be considered reasonable and necessary, provided that such exemption does not interfere with the general integrity of this By-law.
- 3.2 This By-law shall not apply to:
 - (a) The **Town** and its employees, agents or contractors carrying out their duties on behalf of the **Town**;

(b) Any Police Officer carrying out police activities; or

(c) Anyone who applied for and received an exemption from the **Town**.

4.0 ENTRY AND INSPECTIONS

4.1 An **Officer** may at any reasonable time, enter upon any land and into structures other than a place actually used as a dwelling without notice for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law are being contravened or to carry out any remedial action required.

5.0 ADMINISTRATION AND ENFORCEMENT

5.1 This By-law shall be administered and enforced by an **Officer**, their designate or any person appointed or otherwise delegated the authority of administration and enforcement of municipal by-laws.

5.2 No **Person** shall obstruct, hinder or otherwise interfere with an **Officer** while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law.

5.3 Any **Person** who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the **Officer** upon request. Failure to do so shall be deemed to have obstructed or hindered the **Officer** in the execution of their duties.

5.4 The **Town** assumes no liability for property damage or injury resulting from remedial action, remedial work and enforcement undertaken with respect to any **Person** or property that is subject to the provisions of this By-law.

6.0 PENALTY

6.1 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.

6.2 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.

6.3 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 \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

- 6.4 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.
- 6.5 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;
- 6.6 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.
- 6.7 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.
- 6.8 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.
- 6.9 Notwithstanding Section 6.7 and 6.8, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.
- 6.10 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.

7.0 VALIDITY AND SEVERABILITY

- 7.1 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.

8.0 TRANSITION

- 8.1 The repeal of By-laws referred to in Section 9.1 shall not affect any offence committed against the provisions of the By-law or any penalty incurred in respect thereof or any investigative procedure, including but not limited to any prosecution thereunder.

9.0 REPEAL

- 9.1 That By-law 70-2969 and all amendments thereto are hereby repealed and replaced with this By-law.

10.0 EFFECTIVE DATE

- 10.1 This By-law shall come into force and effect on the date of passage.

BY- LAW PASSED AND ENACTED THIS 3rd DAY OF DECEMBER 2025.

THE CORPORATION OF THE TOWN OF MIDLAND

BILL GORDON – MAYOR

SHERRI EDGAR – CLERK

**Written approval of this By-law was given by Mayoral Decision MDE-2025-16
dated December 3, 2025**

THE CORPORATION OF THE TOWN OF MIDLAND
PART I Provincial Offences Act
By-law 2025-65: Public Nuisance By-law
Set Fines

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Deposit, permit to deposit or aid in depositing refuse on private property	2.1 (a)	\$300.00
2	Deposit, permit to deposit or aid in depositing refuse on Town property	2.1 (b)	\$300.00
3	Leave, allow or permit to remain any refuse on private property	2.1 (c)	\$300.00
4	Leave, allow or permit to remain any refuse on Town property	2.1 (c)	\$300.00
5	Block access to municipal infrastructure or fire hydrant	2.1 (d)	\$300.00
6	Erect, set up, stand or place tent on Town property	2.1 (e)	\$300.00
7	Erect, set up, stand or place temporary structure on Town property	2.1 (e)	\$300.00
8	Foul Town property	2.1 (f)	\$300.00
9	Sell or offer for sale product or service from Town property	2.1 (g)	\$300.00
10	Give away or provide at no charge any item, product, or sample from Town property	2.1 (h)	\$300.00
11	Busk on Town property	2.1 (i)	\$300.00
12	Block, interfere or impede passage of pedestrian on Town property or highway	2.1 (j)	\$300.00
13	Block, interfere or impede passage of vehicular traffic on Town property or highway	2.1 (j)	\$300.00
14	Ride or operate motorized vehicle on sidewalk or pedestrian way	2.1 (k)	\$300.00
15	Engage in boisterous or aggressive behaviour on Town property	2.1 (l)	\$300.00

16	Engage in intimidating activity or action on Town property	2.1 (m)	\$300.00
17	Engage in activity or action that interferes with individual on Town property	2.1 (m)	\$300.00
18	Loiter, panhandle or solicit on Town property	2.1 (n)	\$300.00
19	Emit or cause to be emitted an excessive amount of smoke, dust or airborne particulate on Town property	2.1 (o)	\$300.00
20	Emit or cause to be emitted an odour that is objectionable in a public place	2.1 (p)	\$300.00
21	Knock over or attempt to knock over Canada Post mailbox or relay box	2.1 (q)	\$300.00
22	Knock over or attempt to knock over a fence, bench, chair, newspaper box, garbage/recycling box or other Town infrastructure	2.1(q)	\$300.00
23	Knock over or attempt to knock over Town infrastructure	2.1 (r)	\$300.00
24	Mark or apply graffiti on Town property without authorization	2.1 (s)	\$300.00
25	Mark or apply graffiti on private property without authorization	2.1 (s)	\$300.00
26	Damage or destroy or attempt to damage or destroy Town infrastructure	2.1 (t)	\$300.00
27	Remain or refuse to leave a public place after it is closed	2.1 (u)	\$300.00
28	Remain or refuse to leave a public place after being ordered to leave	2.1 (u)	\$300.00
29	Continue to engage in activity prohibited after being instructed to stop	2.1(v)	\$300.00
30	Obstruct, hinder or interfere with an Officer	5.2	\$500.00

NOTE: The penalty provision for the offences indicated above is section 6.1 of By-law 2025-65, a certified copy of which has been filed.