

## THE CORPORATION OF THE TOWN OF MIDLAND

### BY-LAW 2026-19

A By-law regulating the usage and temporary occupation of Municipal sidewalks and Municipal property within the Town of Midland.

**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 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** the Council of the Corporation of the Town of Midland deems it appropriate to create a by-law regulating the usage and temporary occupation of municipal sidewalks;

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

This By-law shall be known as the “**Municipal Property Usage By-law**”

#### **1.0 DEFINITIONS**

“**Application**” means an application submitted pursuant to Section 4 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.

**“Municipal Sidewalk”** means the portion of a highway as set aside by the **Town** for the passage of pedestrians.

**“Municipal Property”** means lands owned by or leased or licensed to or under the management of the Town, municipal easements, and shall include but not limited to any road, lane, highway, road allowance, right of way, park, woodland, storm water management facility, wharf, dock, open space, municipal cemetery and lands in which the Town holds and real property interest, and all parts thereof, including any surface, grassed area, boulevard, ditch, curb, gutter, and sidewalk.

**“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 issued under this By-law.

**“Permit Holder”** means the **Person** or business who has obtained a **Permit** under the authority of this By-law.

**“Temporary Municipal Property Occupation”** means an area upon **Municipal Property** for the temporary storage, use or occupation from a private business to promote or sell their services, products or merchandise to the general public or the occupation of **Municipal Property** for the purposes of construction of any kind.

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

## **2.0 LANDS SUBJECT TO BY-LAW**

2.1 The lands subject to this By-law shall consist of the following areas:

- (a) King Street from Yonge Street to Bayshore Drive
- (b) Midland Avenue from Yonge Street to Bayshore Drive
- (c) First Street from Elizabeth Street to Bayshore Drive
- (d) Borsa Lane from Easy Street to Bay Street
- (e) Bouregois Lane from Elizabeth Street to Bay Street
- (f) Bayshore Drive from Second Street to Midland Avenue
- (g) Bay Street from Second Street to Queen Street

- (h) Dominion Avenue from Second Street to Queen Street
- (i) Hugel Avenue from Second Street to Queen Street
- (j) Easy Street from Preston Avenue to Borsa Lane
- (k) Elizabeth Street from First Street to Midland Avenue
- (l) Yonge Street from First Street to Midland Avenue

### **3.0 GENERAL PROVISIONS**

- 3.1 No **Person** shall cause any object to be placed, constructed or installed or remain in, on, under or over any **Municipal Property** in any manner unless a **Permit** has been issued by the Town.
- 3.2 No **Person** shall occupy or obstruct or close any **Municipal Property** on a temporary basis unless a **Permit** has been obtained from the Town.
- 3.3 No **Person** shall, block, interfere with or otherwise impede the passage of any pedestrian on any **Municipal Sidewalk** or portion thereof unless a **Permit** has been issued.
- 3.4 No **Person** shall occupy any portion of a **Municipal Sidewalk** that encroaches in front of an adjacent business unless approved by the **Approval Manager**.
- 3.5 The provisions contained in this By-law do not apply to:
  - (a) An employee or an agent of the Town when engaged in the proper delivery of a municipal service;
  - (b) The County of Simcoe, their agents and employees, and persons and organizations authorized by them in writing, from depositing material upon, or excavating, any **Municipal Property** within the Town, in the course of emergency work, providing that all appropriate safety precautions are employed and that the **Municipal Property** is rehabilitated to the satisfaction of the Executive Director, Infrastructure Management; or
  - (c) Any sign that is erected or displayed in compliance with the Town's Sign By-law, as amended or replaced from time to time,

### **4.0 APPLICATION REQUIREMENTS**

- 4.1 For a **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. Emergency contact person complete with the name, phone number and email.

(b) The applicable fees as set out in the **Town's Fees and Charges By-law**;

(c) 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.

(d) A site plan depicting:

- i. where all tents, tables, product, goods or other merchandise will be located, if applicable;
- ii. Setbacks from curblines taken from the closest edge of any tent or other structure proposed, if applicable;
- iii. Setbacks from the adjacent businesses on both sides of where the proposed temporary occupation is to occur;
- iv. Location of all proposed safety measures to be installed, if applicable; and
- v. Location of any signage that is proposed to be used during the occupation.

(e) Any other document as deemed appropriate by the Approval Manager.

4.2 Every **Permit Holder** shall:

(a) Post the **Permit** in a conspicuous location at the business in which the temporary occupation will take place;

(b) Comply with the provisions of this By-law, all applicable laws, including but not limited to, the Zoning By-law, Ontario Fire Code, Ontario Building Code and the Accessibility for Ontarians with Disabilities Act.

## 5.0 ISSUANCE OF PERMITS AND GROUNDS FOR REFUSAL

5.1 The **Approval Manager** shall receive and process all complete **Applications** for a **Temporary Municipal Property Occupation Permit**.

5.2 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 usage of **Municipal Property** under authority of this By-law 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 apply for a **Temporary Municipal Property Occupation Permit** 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 by the 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**.

## 6.0 REVOCATION AND SUSPENSION OF PERMIT

- 6.1 The **Approval Manager** may revoke or suspend a **Permit** at any time where:
  - (a) the **Approval Manager** is of the opinion that the **Temporary Municipal Property Occupation** 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.
- 6.2 If the **Approval Manager** is satisfied that the carrying on of the **Temporary Municipal Property Occupation** 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**.
- 6.3 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.

## 7.0 APPEAL

- 7.1 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**.
- 7.2 Section 7.1 of this By-law does not apply to **Permit** suspensions or revocations under Section 6.2 of this By-law.
- 7.3 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**.
- 7.4 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.
- 7.5 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.
- 7.6 **Council** shall hear all appeals.
- 7.7 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**.

## 8.0 NOTICES AND ORDERS

- 8.1 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 Municipal Property Occupation Permit** for which the contravention occurred to do work to correct the contravention.
- 8.2 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 Municipal Property Occupation** area on which the contravention occurred;
  - (b) The work required to correct the contravention;
  - (c) The date by which the work shall be completed.
- 8.3 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 Municipal Property Occupation** 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**.
- 8.4 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 (5<sup>th</sup>) day after the notice or **Order** is mailed.
- 8.5 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.
- 8.6 In addition to service under section 8.4 and 8.5, a notice or **Order** may also be posted at the business in which the **Temporary Municipal Property Occupation** 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.

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

## **9.0 REMEDIAL ACTION**

- 9.1 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.

- 9.2 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.

- 9.3 The costs outlined in Section 9.2 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.

## **10.0 ENFORCEMENT**

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

- 10.2 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.

- 10.3 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 10.2 shall be deemed an example of obstruction or hindering an **Officer**.

## **11.0 PENALTY**

- 11.1 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.

- 11.2 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*.

- 11.3 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.
- 11.4 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.
- 11.5 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.
- 11.6 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.
- 11.7 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.
- 11.8 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.
- 11.9 Notwithstanding Section 11.7 and 11.8, 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.
- 11.10 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.

## **12.0 INDEMNIFICATION**

12.1 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.

## **13.0 VALIDITY AND SEVERABILITY**

13.1 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.

## **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 8<sup>TH</sup> 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.**

**PART I Provincial Offences Act**  
**By-law 2026-19: Municipal Property Occupation By-law**  
**Set Fines**

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Place, construct or install object on, under or over any municipal property without a permit	3.1	\$250.00
2	Occupy, obstruct or close municipal property on temporary basis without a permit	3.2	\$250.00
3	Block, interfere with or otherwise impeded passage of pedestrian on municipal sidewalk	3.3	\$250.00
4	Occupy any portion of municipal sidewalk- encroaching on adjacent business	3.4	\$250.00
5	Failure to post permit	4.2 (a)	\$200.00
6	Fail to comply with provisions of By-law or applicable law	4.2 (b)	\$200.00
7	Fail to comply with notice or order	8.7	\$350.00
8	Hinder or Obstruct an Officer	10.3	\$500.00

**Note: The penalty provision(s) for the offences indicated above is Section 11.1 of By-law 2026-19, a certified copy of which has been filed.**