

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2021-23

A By-law to establish regulations within Municipal Parkland and Municipally owned lands used for recreational purposes within the Town of Midland and to repeal By-laws 98-56, 95-78, as amended and By-law 97-36.

WHEREAS pursuant to Section 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, a municipality is authorized to pass by-laws with respect to the health, safety and well-being of persons within its boundary;

AND WHEREAS pursuant to Section 11(3) of the *Municipal Act, 2001*, S.O. 2001 c. 25 as amended, a municipality is authorized to pass by-laws with respect to culture, parks, recreation and heritage within its boundary;

AND WHEREAS Section 119 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other weapons within its boundary;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, authorizes municipalities to prohibit and regulate with respect to public nuisances within its boundary;

AND WHEREAS the Town of Midland has established recreational trails for the purpose of hiking, cycling, cross-country skiing and limited use by snowmobiles;

AND WHEREAS Council for the Town of Midland deems it necessary to pass a by-law to regulate and protect municipal parkland and trails;

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

SECTION 1 – DEFINITIONS

“All-Terrain Vehicle” means an off-road vehicle that:

- has four tires, the tires of which all make contact with the ground;
- has a steering handlebar;
- has a seat that is designed to be straddled by the driver; and
- is designed to carry a driver and no passenger, or a driver and one passenger.

“Camping” means the erection of tents, huts or other temporary shelters for the purpose of temporary lodgings.

“Emergency Vehicle” means a Motorized Vehicle required to attend a situation which arises suddenly and requires prompt action, and includes ambulance, fire, police, and municipal law enforcement vehicles.

“E-Bike” means a Motorized Vehicle referred to as a motor assisted bicycle that contains an integrated electric motor which can be used for propulsion and retain the ability to be pedaled by the rider. E-Bikes must have the following features:

- Steering Handlebar
- Working Pedals
- Electric motor not exceeding 500 watts
- Maximum speed of 32 km/h
- Maximum weight of 120 kg
- A permanent label from the manufacturer in both English and French stating the E-Bike conforms to federal definition of power-assisted bicycle

“Litter” includes, but is not limited to: garbage, domestic waste (including items such as, but not limited to, furniture, carpets, appliances, household garbage), ashes, rubbish, builder’s and building contractors refuse, other industrial waste, inoperable vehicles and motor vehicles parts and accessories.

“Manager of Operations” means the Manager of the Operations for the Town of Midland, or his or her designate;

“Motorized Vehicle” means an automobile, motorcycle, power assisted bicycle, snowmobile or any other vehicle propelled or driven otherwise than by muscular power.

“Municipal Trail” means the part of Municipal Parkland, or private property in which an easement is registered with the Town that has been improved with a hard surface asphalt, concrete, gravel or stone dust and is intended for a variety of uses which may include pedestrian, in-line skating, skateboards, bicycles, Pedelects and mobility devices.

“Municipal Parkland” means properties as set out in Schedule “A” and any lands owned by or belonging to the Town of Midland that is utilized for recreational purposes and as otherwise may be designated for use as a public park, open space, dock or wharf, (including, without limitation, the Rotary Trail and the Pen-Mid Trail) and any and all buildings, structures, facilities, erections and improvements located in or on such land.

“Nuisance” means an unreasonable, unwarranted, or unlawful interference with a right common to the general public.

“Officer” means a Municipal Law Enforcement Officer who has been appointed by Council for the purposes of carrying out the enforcement of Municipal by-laws and/or an Officer of a municipal or provincial police services board.

“Park” means any Municipal Parkland that is owned or belonging to the Town of Midland.

“Pedelect” means a Motorized Vehicle referred to as a motor assisted bicycle that is similar in appearance to a manually powered bicycle driven by muscular power, that requires the use of pedals to activate a small electric motor that is only triggered while the rider is pedaling, reaching a maximum speed of 25 km/h during assisted pedaling and weighing less than 40 kilograms.

“Personal Mobility Device” means a motorized wheelchair or similar vehicle specifically designed for transportation of the Physically Disabled and has at least three or more permanently attached wheels and that is not classified under any other vehicle defined by the Ontario Ministry of Transportation.

“Physically Disabled” means an individual as defined by the Ontario Ministry of Transportation requirements for the purpose of obtaining an Accessible Parking Permit.

“Service Animal” means any animal used by a person with a disability for reasons related to the disability and the owner has a valid identification card signed by the Attorney General of Canada or a certificate of training from a recognized service animal training school.

“Snowmobile” means a motorized, self-propelled vehicle designed to be driven primarily on snow.

“Special Event” means an event, or occasion held on or at a Town owned property, including, but not limited to:

- a. parades, processions, marathons, bicycle races, adventure/obstacle races, recreational events, animal shows, car/automobile shows
- b. carnivals, bazaars, gatherings and similar events which offer such activities as amusement rides or devices, games of skill, animal rides or exhibitions, food concessions or live entertainment;

- c. outdoor concerts, festivals or entertainments offering live or recorded music or entertainment for public or private audiences;
- d. organized scheduled contests and exhibitions;
- e. marine events, including any prescheduled organized concentration of watercraft, involving participants and/or spectators, of a competitive or non-competitive nature;
- f. scheduled races, exhibitions or other events involving the operation of motorized vehicles of any type;
- g. activities or events requiring a variance from the regulations of any municipal department;
- h. outdoor assemblies for demonstration, political, religious and/or cultural purposes;
- i. the showing of feature films; filming of television commercials, documentaries, educational films, television films, television network programs, music videos and commercial still photography

“Storm Water Management Facility” means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.

“Town” means the Corporation of the Town of Midland or the geographic Town of Midland as the case requires.

“Trail” means any Municipal Trail within the Town and includes any portion of the Rotary Trail or Mid-Pen Trail.

“Trail Grooming Machine” means a machine designed for the purpose of grooming snow to provide a maintained surface on which Snowmobiles travel.

“Tree” means the member of any coniferous or deciduous species having one or more self-supporting trunks/stems and includes the roots, branches, trunks/stems, or any part thereof.

“Utility Off-Road Vehicle” means an off-road vehicle that:

- has four or more wheels;
- tires of which are all in contact with the ground;
- has a steering wheel for steering control; and
- has seats that are not designed to be straddled.

“Under Control” when an animal is not on the property where it is usually kept, the animal must be leashed or chained with a leash or chain with a maximum length of 1.5 metres,, and must be held securely by the person accompanying the animal and that person must be physically able to control the animal.

“Wasting Water” means to willfully or maliciously let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, lake or other receptacle for water connected with any such park (*Public Parks Act, R.S.O. 1990, c. P.46* Section 19(1)(b));

SECTION 2.0 - GENERAL PROHIBITIONS

2.1 No person shall within any Municipal Parkland:

- 2.1.1** Use discriminatory, abusive, harassing, or insulting language or gestures or make excessive noise or disturb other persons in a park.
- 2.1.2** Willfully or maliciously damage or displace any tree, shrub, grass, plant, sand, gravel, soil, rock, building, monument, fence, bench, or any other structure.
- 2.1.3** Plant, cultivate, groom, or landscape on any municipal parkland without written consent of the Manager of Operations.
- 2.1.4** Carry or discharge any firearms, firecrackers, rockets, torpedoes, bows and arrows, cross bows, air guns, catapults, or fireworks.
- 2.1.5** Conduct or participate in any game or activity that may cause an element of danger to those people not engaged in the activity or game, except disc golf where permitted.
- 2.1.6** Operate or use any apparatus, mechanism, or device for the amplification of the human voice, music, or sound, except in designated areas where permitted.
- 2.1.7** Disturb, molest, wound, attempt to kill, or kill any bird, fowl, or animal upon parkland property except by the authority of the Town. In addition, no person shall remove or injure any bird's nest or eggs.
- 2.1.8** Litter, drop, or leave garbage or refuse in any portion of the Municipal Parkland or Trail, except in receptacles provided for the deposit of refuse therein.
- 2.1.9** Place or deposit household garbage or any garbage that is not related to the use of the Municipal Parkland into any garbage receptacle on municipally owned parkland or property, including along any Trail.
- 2.1.10** Let loose animals of any kind within any Municipal Parkland unless in designated Off Leash areas.
- 2.1.11** Enter into or remain in any fountain or Storm Water Management Facility.
- 2.1.12** Use a park for the purpose of launching motorized or trailered boats, except where designated for such purpose by the Town.
- 2.1.13** Use a park for the purpose of camping or overnight sleeping, unless authorized by the Town.
- 2.1.14** Build, set, light, stoke or maintain a fire or fire pit except in places provided therefore.
- 2.1.15** Throw or deposit any injurious or offensive matter into any body of water within any municipal park or upon the ice in case the water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes, or water, or encourage the same to be done.
- 2.1.16** Play, or bet at or against, any game conducted, dealt, or carried out with cards, dice, or other device for money, chips, shells, credit or any other representation of value, or maintain or exhibit any gambling table or other instrument for gambling or gaming.

- 2.1.17** Enter any place or location where the sign “No Admittance” is displayed and is reasonably visible.
- 2.1.18** Create a nuisance by loitering, spying, frightening, annoying or generally making himself/herself or themselves objectionable to other persons peaceably enjoying park privileges.
- 2.1.19** Distribute any handbills or circulars, or post, place or erect any bills, notice of paper, or advertising device or matter of any kind.
- 2.1.20** Sell, or offer for sale, or expose any merchandise, article or anything for immediate or future delivery, or any art, skill or service exercised or performed immediately or in the future unless written authorization from the Town is obtained.
- 2.1.21** Practice, carry on, conduct, or solicit for any trade, occupation, business, or profession.
- 2.1.22** Hire or solicit passengers for any vehicle for hire in the parks,
- 2.1.23** Waste Water.
- 2.1.24** Use or operate any motorized boat, personal watercraft, motorized board, hydro plane, or other similar device propelled by an engine having a size larger than 10 horsepower in or upon Little Lake.
- 2.1.25** Feed Canada Geese and/or Seagulls.
- 2.1.26** Enter into or remain in a park between the hours of 11:30 p.m. local time in the afternoon and 5:00 a.m. local time in the forenoon from the First day of April to the Thirtieth day of September, inclusive, in any calendar year;
- 2.1.27** Enter into or remain in a park between the hours of 10:00 p.m. local time in the afternoon and 5:00 a.m. local time in the forenoon from the 1st day of October to the 31st day of March, inclusive, in any calendar year;

SECTION 3.0 - DOGS IN MUNICIPAL PARKLAND

- 3.1** All provisions of the current Town of Midland Animal Control By-law 2009-18, or any successor By-law, shall apply in Municipal Parklands.

SECTION 4.0 - MOTORIZED VEHICLES

- 4.1** No person shall operate any motorized vehicle or Utility Off Road Vehicle within a park, Municipal Parkland, including a Trail.
- 4.2** Notwithstanding section 4.1 of this By-law, the operation of E-Bikes on Municipal Parkland and Trails shall be prohibited beginning January 1, 2022.
- 4.3** Notwithstanding Section 4.1 of this By-law, a person is exempt from operating a motorized vehicle in a park or on any trail in the following circumstances:
 - 4.3.1** Emergency vehicles while performing their duties.
 - 4.3.2** Motorized vehicles operated by the Town and authorized Town staff for maintenance, enforcement or patrol purposes.
 - 4.3.3** Motorized vehicles authorized by resolution of Town Council for Special Events or purposes.

- 4.3.4 Personal mobility devices specifically designed for the transportation of the Physically Disabled.
- 4.3.5 Snowmobile on that portion of the Trail leased by the Georgian Bay Snowriders during the time from authorized by the lease and which display a valid trail permit as provided for by the *Motorized Snow Vehicle Act*, R.S.O. 1990, c. M.44, as it exists from time to time or any successor legislation.
- 4.3.6 Trail grooming machines operated by the Georgian Bay Snowriders pursuant to any valid executed agreement for use with the Town.
- 4.3.7 Operating an E-Bike on on-road bike lanes, or on a roadway within a park, provided it is operated in accordance with the provisions of the *Highway Traffic Act* R.S.O. 1990, c. H.8 as it exists from time to time or any successor legislation with respect to 'motor assisted bicycles' and municipal policies applicable to bicycles.
- 4.3.8 While operating a Pedelec.

SECTION 5.0 - EXEMPTIONS

- 5.1 The Town may grant an exemption to this by-law or any part thereof for any Special Event.

SECTION 6.0 - OFFENCES AND PENALTIES

- 6.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law. Any person who is alleged to have contravened any of the provisions in this By-law shall identify themselves to the Officer upon request. Failure to do so shall be deemed to be an obstruction or hinderance of the Officer in execution of his/her duties.
- 6.2 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended and any successor legislation

SECTION 7.0 - ADMINISTRATION AND ENFORCEMENT

- 7.1 An Officer is hereby vested with the authority of enforcing the provisions of this By-law.

SECTION 8.0 - TOWN NOT LIABLE

- 8.1 The Town assumes no liability for property damage, damage or injury to an animal or person resulting from remedial action, remedial work and/or enforcement, undertaken with respect to any person, animal or property that is subject to this By-law.

SECTION 9.0 - VALIDITY AND SEVERABILITY

- 9.1 Should any section, subsection, clause, paragraph, or provision of this Bylaw be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this By-law, or of the By-law as a whole.

SECTION 10 - SEPARATE OFFENCE

- 10.1 For the purpose of this By-law, each day of a continued offence shall be deemed to be a separate offence.

SECTION 11 - SHORT TITLE

- 11.1 The short title of this by-law is the Parks and Trails By-law.

SECTION 12 - REPEAL

12.1 That By-laws 98-56, 95-78, as amended and By-law 97-36, as amended, are hereby repealed.

SECTION 13 - ENACTMENT

13.1 That this By-law shall take force and take effect immediately upon the final passage thereof.

BY-LAW PASSED AND ENACTED THIS 19TH DAY OF MAY, 2021.

THE CORPORATION OF THE TOWN OF MIDLAND

STEWART STRATHEARN - MAYOR

KAREN DESROCHES - CLERK

SCHEDULE “A” TO BY-LAW 2021-23

Land Designated As Municipal Parkland or Municipal Trail

THE CORPORATION OF THE TOWN OF MIDLAND

By-law 2021-23 Parks and Trails By-law

PARK OR TRAIL NAME	ADDRESS
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<u>TRAILS</u>	
Rotary Trail	Pete Pettersen Park to Tay Township
Pen-Mid Trail	Pete Pettersen Park to Murray Road

<u>PARKS</u>	
Gawley Park	820 Gawley Drive
Glenbrook Gardens	356 Glenbrook Drive
Sunrise Park	347 Estate Court
McCullogh Park	821 Gawley Drive
Pete Pettersen park	159 Marina Park Avenue
Bayview Park	87 Sixth Street
Mac MacAllen Park	135 Woodland Drive
Town Dock	165 King Street
Harbourside Park	475 Bayshore Drive
David Onley Park	475 Bayshore Drive
Edgehill Park	287 Bayshore Drive
Midland Bay Landing Park	420 Bayshore Drive
Carpenter Park	850 Dominion Avenue
Neezhoday Park	King Street
Veterans Park	281 Aberdeen Boulevard
Little Lake Park	617 Yonge Street
Frazer Parkette	378 King Street
Georgian View Park	154 Yonge Street
Vas Kuchar Memorial Parkette	Yonge @ Aberdeen
Cenotaph	454 King Street
Regent Park	College @ Hannah
Ernest T. Bates Memorial Park	374 Irwin Street
Tiffin Park	539 William Street
Quota Park	746 Birchwood Drive
Trillium Woods Park	345 Christine Drive
Galloway Park	Brandon Street
Un-named park	Cook Drive/Wright Drive

SCHEDULE “B” TO BY-LAW 2021-23

PART 1 *Provincial Offences Act* - Set Fine Schedule

THE CORPORATION OF THE TOWN OF MIDLAND

By-law 2021-23 Parks and Trails By-Law

Item	Column 1 Short Word Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Use discriminatory/ abusive/ harassing/ insulting language or gestures within park	2.1.1	\$150.00
2	Make excessive noise within park	2.1.1	\$150.00
3	Disturb other persons within park	2.1.1	\$150.00
4	Willfully/ maliciously damage/ displace a tree/ shrub/ grass/ plant/ sand/ gravel/ soil/ rock within park	2.1.2	\$150.00
5	Willfully/ maliciously damage a building/ monument/ fence/ bench or any other structure within park	2.1.2	\$150.00
6	Plant/ cultivate/ groom/ landscape on municipal parkland without written consent	2.1.3	\$150.00
7	Carry/ discharge any firearm/ firecrackers/ rockets/ torpedoes/ bows and arrows/ cross bows/ air guns/ catapults or fireworks within municipal parkland	2.1.4	\$150.00
8	Conduct/ participate in game/ activity that may cause an element of danger within park	2.1.5	\$150.00
9	Operate device to amplify human voice/ music or sound within park	2.1.6	\$150.00
10	Disturb/ molest/ wound/ attempt to kill any bird/fowl/ animal within park	2.1.7	\$150.00
11	Litter/drop/ leave garbage/refuse not in garbage receptacle within parkland/Trail	2.1.8	\$150.00
12	Place/deposit household garbage within park/trail	2.1.9	\$300.00
13	Let loose animal within park	2.1.10	\$150.00
14	Enter into/remain in any fountain or storm water management pond	2.1.11	\$150.00
15	Launch motorized/trailer boat within park	2.1.12	\$150.00
16	Use park for purpose of camping/ overnight sleeping within park	2.1.13	\$150.00
17	Build/set/ light/stoke/ maintain fire or fire pit within park	2.1.14	\$150.00
18	Throw/deposit injurious/offensive matter into any body of water or on the ice within park	2.1.15	\$150.00
19	Foul any body of water within park	2.1.15	\$150.00
20	Commit unlawful damage/ injury to works/pipes/water within park	2.1.15	\$150.00
21	Play/ bet at or against a game within park	2.1.16	\$150.00
22	Maintain/ exhibit any gambling table or other instrument for gambling/ gaming within park	2.1.16	\$150.00
23	Enter place/ location where “No admittance” sign is erected	2.1.17	\$150.00
24	Create nuisance within park	2.1.18	\$150.00
25	Distribute handbills/ circulars within park	2.1.19	\$150.00
26	Post/ place/ erect any bills/ notice of paper/ advertising device within park	2.1.19	\$150.00

27	Sell/ offer for sale/ expose any merchandise/ article or anything for immediate or future delivery within park	2.1.20	\$150.00
28	Practice/ carry on/ conduct/ solicit any trade/ occupation/ business or profession within park	2.1.21	\$150.00
29	Hire or solicit passengers for any vehicle for hire in the parks	2.1.22	\$150.00
30	Waste Water	2.1.23	\$150.00
31	Use/operate any motorized boat/personal watercraft/motorized board/hydro plane/ other similar device propelled by an engine having a size larger than 10 horsepower in or upon Little Lake	2.1.24	\$150.00
32	Feed Canada Geese and/or Seagulls	2.1.25	\$150.00
33	Enter or remain in a park between 11:30 pm and 5:00am.	2.1.26	\$150.00
34	Enter or remain in a park between 10:00pm and 5:00am	2.1.27	\$150.00
35	Operate motor vehicle within park/ municipal parkland/ Trail	4.1	\$250.00
36	Hinder or Obstruct an Officer	6.1	\$300.00

Note: The penalty provision(s) for the offences indicated above is Section 6 of By-Law #2021-23. A certified Copy of which has been filed.

SCHEDULE “B” TO BY-LAW 2021-23

PART 1 *Provincial Offences Act* - Set Fine Schedule

THE CORPORATION OF THE TOWN OF MIDLAND

By-law 2021-23 Parks and Trails By-law

Item	Column 1 Short Word Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Use discriminatory/ abusive/ harassing/ insulting language or gestures within park	2.1.1	
2	Make excessive noise within park	2.1.1	
3	Disturb other persons within park	2.1.1	
4	Willfully/ maliciously damage/ displace a tree/ shrub/ grass/ plant/ sand/ gravel/ soil/ rock within park	2.1.2	
5	Willfully/ maliciously damage a building/ monument/ fence/ bench or any other structure within park	2.1.2	
6	Plant/ cultivate/ groom/ landscape on municipal parkland without consent	2.1.3	
7	Carry/ discharge any firearm/ firecrackers/ rockets/ torpedoes/ bows and arrows/ cross bows/ air guns/ catapults or fireworks within park	2.1.4	
8	Conduct/ participate in game/ activity that may cause an element of danger within park	2.1.5	
9	Operate device to amplify human voice/ music or sound within park	2.1.6	
10	Disturb/ molest/ wound/ attempt to kill any bird/fowl/ animal within park	2.1.7	
11	Litter/ drop/ leave garbage/refuse not in garbage receptacle within parkland/Trail	2.1.8	
12	Place/deposit household garbage within park/trail	2.1.9	
13	Let loose animal within park	2.1.10	
14	Enter into/remain in any fountain or storm water management pond	2.1.11	
15	Launch motorized/trailer boat within park	2.1.12	
16	Use park for purpose of camping/ overnight sleeping within park	2.1.13	
17	Build/set/ light/stoke/ maintain fire or fire pit within park	2.1.14	
18	Throw/deposit injurious/offensive matter into any body of water or on the ice within park	2.1.15	
19	Foul any body of water within park	2.1.15	
20	Commit unlawful damage/ injury to works/pipes/water within park	2.1.15	
21	Play/ bet at or against a game within park	2.1.16	
22	Maintain/ exhibit any gambling table or other instrument for gambling/ gaming within park	2.1.16	
23	Enter place/location where “No admittance” sign is erected and reasonably visible	2.1.17	
24	Create nuisance within park	2.1.18	
25	Distribute handbills/ circulars within park	2.1.19	
26	Post/ place/ erect any bills/ notice of paper/ advertising device within park	2.1.19	

27	Sell/ offer for sale/ expose any merchandise/ article or anything for immediate or future delivery within park	2.1.20	
28	Practice/ carry on/ conduct/ solicit any trade/ occupation/ business or profession within park	2.1.21	
29	Hire or solicit passengers for any vehicle for hire in the parks	2.1.22	
30	Waste Water	2.1.23	
31	Use/operate any motorized boat/personal watercraft/motorized board/hydro plane/ other similar device propelled by an engine having a size larger than 10 horsepower in or upon Little Lake	2.1.24	
32	Feed Canada Geese and/or Seagulls	2.1.25	
33	Enter or remain in a park between 11:30 pm and 5:00am.	2.1.26	
34	Enter or remain in a park between 10:00pm and 5:00am	2.1.27	
35	Operate motor vehicle within park/ municipal parkland/ Trail	4.1	
36	Hinder or Obstruct an Officer	6.1	

Note: The penalty provision(s) for the offences indicated above is Section 6 of By-Law 2021-23. A certified Copy of which has been filed.