

# THE CORPORATION OF THE TOWNSHIP OF ARMOUR

## BY-LAW # 12-2006

### **BEING A BY-LAW TO REGULATE THE CONSERVATION OF WOODLANDS WITHIN THE TOWNSHIP OF ARMOUR**

**WHEREAS** Sections 135 through 138 of the Municipal Act, S. O. 2001, c. 25, as amended, provides that a *local* municipality may prohibit or regulate the destruction or injuring of trees and sets out a fine structure for any person who contravenes a by-law passed under Section 135 or an order made under subsection 137 (3).

**AND WHEREAS** the Council of the Corporation of the Township of Armour deems that it is desirable to enact such a by-law for the purposes of promoting conservation, good forestry practices and sustain healthy woodlands within the Township.

**NOW THEREFORE** the Council of the Corporation of the Township of Armour enact as follows:

**Short title: The Woodlands Conservation By-law,**

#### **1. Definitions**

##### **For the purposes of this By-law:**

- (a) "Building Permit" means a Building Permit issued under the Building Code Act, 1992, S. O. 1992, c. 23, as amended;
- (b) "By-law Enforcement Officer" or "Officer" means the individual appointed by Council for the administration and enforcement of this By-law;
- (c) "Circumference" means the circumference measurement of the stem of a tree made outside the bark of the tree;
- (d) "Council" means the Council of the Corporation of the Township of Armour;
- (e) "Destroy" means to remove, cut down or injure a tree to such an extent that it is deemed necessary to remove or cut down the tree;
- (f) "Diameter" means the diameter measurement of the stem of a tree measured outside the bark of the tree;
- (g) "Good Forestry Practices" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetic and recreational opportunities of the landscape; and

“Good Forestry Practices” permits the cutting and removal of trees that are hazardous, severely damaged, diseased and insect infested trees which must be removed in order to prevent the contamination of infestation of other trees, or which no longer contribute to the achievement of forest values;

- (h) “Injure” means any act that will harm a tree including failure to protect in accordance with the requirements of this By-law;
- (i) “Intermittent Stream” means a stream which flows for fewer than nine consecutive months per year under average annual precipitation conditions, and which has defiled banks;
- (j) “Landowner” means a person having any right, title, interest or equity in land;
- (k) “Own Use” means a use that **does not include** a sale, exchange or other disposition of trees destroyed or injured;
- (l) “Point of Measurement” means that point on the tree trunk measured above the highest point on the tree where the ground meets the stump. For coppice growth the point of measurement shall be at the point on the tree trunk where the tree stems separate that such a point of separation is less than 1.27 metres (50 inches) from where the ground meets the stump
- (m) “Registered Professional Forester” as defined in the Professional Foresters Act, 2000, S. O. 2000, c.18;
- (n) “Silviculture” means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve objectives of management;
- (o) “Sensitive Natural Area” means an environmentally significant area, natural area or ravine as defined and designated in the Armour Township Official Plan and Zoning By-law and shall include;
  - (i) significant portions of habitat of vulnerable, threatened and endangered species;
  - (ii) significant woodlands, ravines, valleys, rivers and streams;
  - (iii) significant wildlife habitat and natural corridors;
  - (iv) any portion of a woodlot located within 30.5 metres (100 feet) of the waters edge of a wetland, a lake, a river, a stream, or an intermittent stream;
- (p) “Tree” means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 metre (14.5 feet) at physiological maturity;
- (q) “Wetland” means lands on which water tolerant plants are dominant and that are Seasonally or permanently flooded by shallow water or where the water table is within 0.25 metres of the surface;

(r) "Woodlands" means land at least **one hectare** and more in area with at least:

- (i) 400 trees per acre (988 trees per hectare) of any size,
- (ii) 300 trees per acre (750 trees per hectare) measuring over two (2) inches, (5.0 centimetres), in diameter at DBH,
- (iii) 200 trees per acre, (494 trees per hectare) measuring over five (5) inches (12.7 centimetres) in diameter at DBH, or
- (iv) 100 trees per acre, (247 trees per hectare) measuring over eight (8) inches (20.3 centimetres) in diameter at DBH,

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas Trees;

**2. APPLICATIONS - SPECIFIC**

2.1 Except as provided in this by-law no person shall destroy or shall allow, or cause or permit the destruction by cutting, burning or any other means, any living tree listed in this section that has not attained the circumference or diameter measurement specified herein at the point of measurement.

- SPECIES "A"**
- ASH**
  - BASSWOOD**
  - BEECH**
  - BIRCH - YELLOW**
  - HEMLOCK**
  - WHITE MAPLE** - hard(sugar maple) - soft(red maple)
  - OAK** -red and white
  - WHITE PINE**

<u>Point of Measurement</u>	<u>Diameter</u>	<u>Circumference</u>
38cm./15 inches	36cm./14 inches	112 cm./44 inches
30 cm./12 inches	38 cm./15 inches	119 cm./47 inches
20 cm./8 inches	43 cm./17 inches	132 cm./52 inches
10 cm./4 inches	51 cm./20 inches	160 cm./63 inches

- SPECIES "B"**
- ASH** - green and black
  - BALSAM FIR**
  - BIRCH** - white
  - CEDAR**
  - CHERRY**
  - ELM**
  - PINE** -red and jack
  - POPLAR**
  - SPRUCE** -white, red, black

<u>Point of Measurement</u>	<u>Diameter</u>	<u>Circumference</u>
30cm./12 inches	20 cm./8 inches	64 cm./25 inches
20 cm./8 inches	28 cm./11 inches	84 cm./33 inches

10 cm./4 inches

36 cm./14 inches

109 cm./43 in

2.2 The regulations in Section 2.1 shall not apply to the thinning of red pine plantations.

### 3. APPLICATION - GENERAL

3.1 Every person who is destroying or injuring trees shall,

- (i) do so in accordance with good forestry practices;
- (ii) only destroy or injure those trees which have attained, at the specific point of measurement, the circumference measurement which equals or is greater than the minimum circumference prescribed for the species in Section 2.1; and
- (iii) not reduce the number of trees per hectare below the minimum number of trees per hectare required to be considered woodlands; (as defined)

3.2 No person shall destroy or injure a tree,

- (i) located in sensitive natural area;
- (ii) that is to remain standing after the destruction or injuring of trees is Completed;

3.3 Any portion of woodlands that is located within a wetland features, flood plain, lake, river or stream as identified in the Township of Armour Official Plan and Zoning By-Law, will receive slope dependent protection unless otherwise prescribed by the By-law Officer.

i) In Wetland Features and Flood Plains, apply the "Code of Practice for Forest Management" in riparian areas;

- a) no skidding within 5 metres (16 feet) of treed edge,
- b) no debris of any description is to be deposited in any water bodies,
- c) establishment of roads within riparian area is only permitted in exceptional cases, where no reasonable alternative exists.

ii) Slope dependent protection for Lakes, Rivers, Streams and Creeks shall be:

- 0-8 degree of slope = 15 metre (50 feet) reserve + 15 metre (50 feet) modified
- 9-17 degree of slope = 25 metre (82 feet) reserve + 25 metre (82 feet) modified
- 18-24 degree of slope = 35 metre (115 feet) reserve + 35 metre (115 feet) modified
- >24 degree of slope = 45 metre (148 feet) reserve + 45 metre (148 feet) modified

3.4 No person shall operate a vehicle, machinery or equipment or conduct operations in such manner or at such time that results in,

- i) excessive damage to the soil, wetlands or other portions of the woodlands; and
- ii) leaving any part of a tree in a watercourse including trees that have not been cut, but have been pushed, knocked over or otherwise ended up in the watercourse.

3.5 The By-law Officer has the authority to use his discretion for minor variances.

#### 4. EXEMPTIONS

4.1 This By-law does **not** apply to:

- (a) the injuring or destruction of trees by the registered owner of land, who has owned the land for at least two years, to cut trees thereon for the person's own use, as defined;
- (b) activities or matters undertaken by a municipality or a local board of a municipality;
- (c) activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994;
- (d) the injuring or destruction of trees by a person licenced under the Surveyors Act to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (e) the injuring or destruction of trees imposed after December, 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51, or 53, respectively, of the Planning Act or as a requirement of site plan agreement or subdivision agreement entered into under those sections;
- (f) the injuring or destruction of trees imposed after December, 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under the regulation;
- (g) the injury or destruction of trees by a transmitter or distributor, as those terms are defined under section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (h) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act; or
- (i) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
  - (a) that has not been designated under the Aggregate Resources Act, or a Predecessor of that Act, and
  - (b) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act, 2002, c.17, Sch. A, s.27.
- (j) the injuring or destruction of trees within:
  - (a) a cultivated fruit or nut orchard,
  - (b) a plantation established for the purpose of producing Christmas Trees,
  - (c) an existing plantation established for the purpose of producing red and white pine where a plan for continuous growth through reforestation exists and is filed with the Clerk of the Township.

(k) apply to trees growing in a woodlot that is less than 2 acres (0.81 hectares) in area.

## **5. EXCEPTIONS - MINOR VARIANCE**

- 5.1 Upon application of the owner of any trees affected by this by-law, or any person authorized by the owner, the Council may by a Resolution of the Council authorize such minor variance from this by-law in respect of such trees as in its opinion is desirable for the appropriate development and use of land on which such trees are suitable, if in its opinion the general intent and purpose of the by-law is maintained.
- 5.2 Council shall ask for letters of credit or a deposit from the developer in order to insure that areas may be replanted with trees should the development not be completed.
- 5.3 Where an application is received by Council under Section 5.1, and an agreement is entered into under Section 5.2 the provisions of Section 12 of the Forestry Act, R. S. O. 1990, c. F.26, shall apply.
- 5.4 An application for a minor variance shall be in the form as set out in Schedule "A" of this by-law, and shall be delivered to the Clerk, of the Township of Armour 120 days prior to the expected commencement of the development.

## **6. POWER OF ENTRY**

- 6.1 An officer may at any reasonable time, enter and inspect any land to determine whether a by-law, an order, or a court order made under this by-law is being complied with.
- 6.2 The power of entry under section 6.1 does not allow a municipality to enter any building.

## **7. STOP WORK ORDER MADE BY AN OFFICER**

- 7.1 If an officer is satisfied that a contravention of a by-law has occurred, the officer may make an order requiring the person who contravened the by-law or who caused or permitted the injuring or destruction of trees in contravention of the by-law to stop the injuring or destruction of trees and the order shall set out:
- (a) the municipal address or the legal description of the land;
  - (b) reasonable particulars of the contravention; and
  - (c) the period within which there must be compliance with the order,
- 7.2 Every person who fails to comply with an order issued under this by-law, or who removes or defaces an order issued under this by-law, is guilty of an offence.

## **8. ENFORCEMENT**

- 8.1 The Council may appoint such Officer(s) as may be necessary to enforce the provisions of this by-law.
- 8.2 Any person who obstructs or interferes with any Officer in the discharge of their duties under this By-law is guilty of an offence.

**9. PENALTY**

9.1 Anyone who contravenes a Section of this By-law, or anyone who contravenes an order made by an officer under the authority of this By-law to discontinue an activity, is guilty of an offence and is liable,

(a) on first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and

(b) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.

9.2 Where the person convicted is a corporation,

(a) the maximum fines in clause 9.1 (a) are \$50,000 or \$5,000 per tree; and

(b) the maximum fines in clause 9.1 (b) are \$100,000 or \$10,000 per tree.

**10. REPLACEMENT**

10.1 If a person is convicted of an offence for contravening this By-law or an order made by an officer under this By-law, the court in which the conviction had been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

**11. ADMINISTRATION**

11.1 Schedules "A" and "B" shall form part of this By-law.

**12. SEVERABILITY**

12.1 In the event any Court of competent jurisdiction should adjudge that any section or sections of this By-law may not be valid for any reason, such section or sections shall be deemed to be severable from the remainder of the By-law and the remainder of the By-law shall stand and be enforceable to the same extent as if the offending section or sections had not been included therein.

**READ A FIRST TIME THIS  
14TH, DAY OF MARCH, 2006.**

\_\_\_\_\_  
REEVE

**READ A SECOND TIME THIS  
28<sup>TH</sup> DAY OF MARCH, 2006**

\_\_\_\_\_  
CLERK

**READ A THIRD AND FINAL  
TIME, SIGNED AND THE SEAL OF  
THE CORPORATION AFFIXED THERETO  
AND FINALLY PASSED IN OPEN COUNCIL  
THIS 11<sup>TH</sup> DAY OF APRIL, 2006**

