

# THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF ARMOUR

## BY-LAW # 36-2017

### BEING A BY-LAW TO REGULATE PUBLIC NUISANCES

**WHEREAS** the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights and powers and privileges of a natural person for the purpose of exercising its authority and that it may do so by by-law; and Section 128 of the said Municipal Act, provides that a local municipality may prohibit and regulate with respect to public nuisance, including matters that in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** it is the opinion of the Council of The Municipal Corporation of the Township of Armour that certain actions outlined in this by-law do constitute a public nuisance;

**AND WHEREAS** Section 425 of the Municipal Act, establishes that any person who contravenes any by-law of the municipality is guilty of an offence;

**AND WHEREAS** Section 429 of the Municipal Act provides that a municipality may establish a system of fines for offences under a by-law of the municipality;

**NOW THEREFORE** the Council of The Municipal Corporation of the Township of Armour hereby enacts as follows:

#### **SECTION 1 - DEFINITIONS**

- 1.1 "Township" - means The Municipal Corporation of the Township of Armour;
- 1.2 "Bridge" - means a structure spanning and providing passage over water and which forms part of a highway;
- 1.3 "Defecate" - means to discharge waste matter from the bowels;
- 1.4 "Fight" - means any confrontation involving violent physical contact between two or more people;
- 1.5 "Graffiti" - means one or more letters, symbols, figures, images, etchings, scratches, inscriptions, stains or other markings howsoever made or affixed to a property that disfigure, deface or otherwise mar said property;
- 1.6 "Highway" - has the same meaning as in the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended;
- 1.7 "Loiter" - means lingering on the way or travelling indolently with frequent pauses without any apparent destination;
- 1.8 "Officer" - means a By-law Enforcement Officer or any person or persons appointed by Council to administer and enforce the provisions of this by-law; or means a police officer appointed by the Ontario Provincial Police or the RCMP;
- 1.9 "Owner" - means the registered owner, occupant or tenant of a property, or a person who, for the time being or permanently, is managing or receiving the rent from a property, whether on his or her own account or on account of an agent or trustee of any other person, or any one of the aforesaid or any mortgagee in possession or control of such property;
- 1.10 "Property" - means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, signs, mobile structures, outbuildings, railway control boxes, traffic control boxes, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

- 1.11 "Public Place" - includes a highway, sidewalk, pedestrian walkway or trail, property and any place to which the public have access as of right or by invitation, expressed or implied and private property that is exposed to public view but does not include a washroom facility;
- 1.12 "Spit" - means to eject phlegm, saliva, chewing tobacco juice, or any other substance from the mouth;
- 1.13 "Urinate" - means to discharge urine from the body;
- 1.14 "Vomit" - means to eject matter from the stomach through the mouth.

## **SECTION 2 – PROHIBITIONS**

- 2.1 No person shall urinate, defecate, vomit or spit in a public place.
- 2.2 No person shall knock over or attempt to knock over a Canada Post mailbox, newspaper box, bench, fence, recycling box, organics bin, or garbage container, or any other structure or object, located in a public place. This section shall not apply to Township employees or persons under contract with the Township, acting under the jurisdiction of the Township.
- 2.3 No person shall loiter in a public place whether signed or not.
- 2.4 No person shall participate or be a spectator in a fight in any public place.
- 2.5 No person shall jump, dive or leap off or from any bridge located within the boundaries of the Township.

## **SECTION 3 – GRAFFITI PROHIBITIONS**

- 3.1 No person shall mark or apply, or cause, or permit graffiti to be placed on any property.
- 3.2 No person shall mark or apply graffiti on any public place.
- 3.3 Every owner shall maintain their property free of graffiti.
- 3.4 Every owner of a wall, fence or other structure or thing, on a highway or other public place not included in the definition of property in Section 1.11, shall maintain the wall, fence, or structure or thing free of graffiti.
- 3.5 When there is any violation of Section 3.3 or 3.4 of this By-law, a By-law Enforcement Officer or a Police Officer may give written notice to the owner requiring the owner to comply with Section 3.3 or 3.4 within the period specified in the notice.
- 3.6 The notice given under Section 3.5 may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third (3<sup>rd</sup>) day after it is mailed.
- 3.7 If there is evidence that the person in possession of the property is not the registered property owner, the notice shall be served on both the registered property owner and the person in possession of the property.
- 3.8 If the address of the owner is unknown, or the Township is unable to effect service on the owner or occupant under Section 3.6, a placard stating the terms of the notice and placed in a conspicuous place upon the land on or near the property, structure or thing shall be deemed to be sufficient notice.

## **SECTION 4 – FAILURE TO COMPLY**

- 4.1 If an owner fails to comply with a notice given under Section 3.5, the Township's representative may enter upon the lands at any reasonable time for the purposes of doing the things described in the notice.
- 4.2 Any person who fails to comply with a notice made under Section 3.5 is guilty of an offence.

- 4.3 All costs incurred by the Township for doing the work required to be completed by the notice may be recovered by action or adding the costs to the tax roll and collecting them in the same manner as taxes.

**SECTION 5 – PENALTIES/OFFENCES**

- 5.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) as prescribed in section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and regulations thereto.

**SECTION 6 – GENERAL**

- 6.1 Each provision of this by-law is independent of all other provisions, and if any provision is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this by-law remain in force.
- 6.2 Nothing in this by-law relieves any person from complying with any provision of a federal or provincial regulation or municipal by-law or any requirement of a lawful permit, order or licence.
- 6.3 The provisions of this by-law may be enforced by a Police Officer or a By-Law Enforcement Officer or other individual duly appointed for the purpose of enforcing this by-law.

**SECTION 7 – OBSTRUCTION**

- 7.1 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.
- 7.2 Any person who has been 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 his/her duties.

**SECTION 8 – SHORT TITLE OF BY-LAW**

- 8.1 This by-law may be referred to as the "Public Nuisance By-law".

**SECTION 9 – FORCE AND EFFECT**

- 9.1 This by-law comes into effect on the date of its passing.

Read in its entirety, approved, signed and the seal of the Corporation affixed thereto and finally passed in open Council this 11<sup>th</sup> day of July, 2017.

Original signed by Bob MacPhail  
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REEVE

Original signed by Wendy Whitwell  
\_\_\_\_\_  
CLERK-ADMINISTRATOR

THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF ARMOUR

SCHEDULE A - BY-LAW #36-2017

Part I Provincial Offences Act

Item	Short form wording	Provision creating or defining offence	Set Fine
1.	Urinate, defecate, vomit or spit in a public place	Section 2.1	\$200.00
2.	Knock over or attempt to knock over a Canada Post mailbox, newspaper box, bench, fence, recycling box, organics bin or garbage container, or any other structure or object, located in a public place	Section 2.2	\$200.00
3.	Loiter in a public place	Section 2.3	\$200.00
4.	Participate or be a spectator in a fight in any public place	Section 2.4	\$200.00
5.	Jump, dive or leap off any bridge	Section 2.5	\$200.00
6.	Mark or apply, cause or permit graffiti to be placed on any property	Section 3.1	\$350.00
7.	Mark or apply graffiti on any public place	Section 3.2	\$350.00
8.	Fail to comply with a notice	Section 4.2	\$350.00
9.	Obstruct officer designated to enforce this By-law	Section 7.1	\$350.00

**NOTE:** The penalty provision for the offence listed above is section 5 of By-law #36-2017, a certified copy of which has been filed and section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33.