

# THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF ARMOUR

## BY-LAW #21-2020

Being a By-law to regulate the conservation and clearing of trees on waterfront property within the Township of Armour

**WHEREAS** the *Municipal Act*, Section 135 (1) subject to subsection (4) and without limiting sections 9, 10 and 11, a local municipality may prohibit or regulate the destruction or injuring of trees;

**AND WHEREAS** the *Municipal Act* Section 436 (1), a municipality has the power to pass By-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

1. A By-law of the municipality passed under this Act.
2. A direction or order of the municipality made under this Act or made under a By-law of the municipality passed under this Act.
3. A condition of a licence issued under a By-law of the municipality passed under this Act.
4. An order made under section 431 of the *Municipal Act 2001, S.O. 2001, c. 25*.

**AND WHEREAS** the Council of The Municipal Corporation of the Township of Armour deems it desirable to enact such a By-law for the purposes of promoting conservation, good waterfront practices, erosion control and sustain responsible use of waterfront property within the Township;

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

Short title: The Conservation and Clearing of Trees on Waterfront By-law,

### 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) "Council" means the Council of The Municipal Corporation of the Township of Armour;
- (d) "Destroy" means to remove, or cut down a tree or its roots system to such an extent that it is deemed necessary to remove or cut down the tree;
- (e) "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 aesthetics and recreational opportunities of the landscape;
- (f) "Injure" means any act that will harm a tree including failure to protect in accordance with the requirements of this By-law;

- (g) “Landowner” means a person having any right, title, interest or equity in land;
- (h) “Site Plan” means a planning tool that is used by the Township of Armour to ensure that land development is designed appropriately, safe and minimizes potential impacts on neighbouring properties. It also ensures that the Township's standards for developing land are respected. Site Plan control compliments zoning, the Official Plan, the Tree Canopy and Natural Vegetation Policy and is subject to the provisions stipulated under Section 41 of the *Planning Act*;
- (i) “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.

## **2. APPLICATIONS - SPECIFIC**

- 2.1 Except as provided in this By-law no person or landowner shall destroy or shall allow, or cause or permit the destruction or injury by cutting, burning or any other means, any living tree within 15 metres (49.2 feet) in depth along the shoreline or watercourse.
- 2.2 Before a Building Permit is issued, a Site Plan Agreement is required for development or redevelopment on lands which front on a designated lake or watercourse, a natural vegetative buffer of not less than 15 metres (49.2 feet.) in depth along the shoreline or watercourse shall be identified on the Site Plan. The cutting or removal of trees, shrubs or ground cover will not be permitted within the natural vegetative buffer except for the removal of dead or diseased trees, debris or noxious plants or where a landscaped corridor not greater than 9 metres (29.5 feet.) in width is required for access between the dwelling and shoreline.
- 2.3 Council may require that a professional competent in shoreline landscaping be engaged to prepare a shoreline vegetation management plan suitable for conserving and sustaining the natural environment.

## **3. EXEMPTIONS**

- 3.1 This By-law does not apply to:
  - (a) activities or matters undertaken by a municipality or a local board of a municipality;
  - (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
  - (c) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
  - (d) 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;
  - (e) 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;
  - (f) 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;

- (g) the injuring or destruction of a tree(s) which would be deemed to prevent risk of harm to persons or property, providing that evidence of such can be provided;

#### **4. POWER OF ENTRY**

- 4.1 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;
- 4.2 The power of entry under section 4.1 does not allow a municipality to enter any building.

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

- 5.1 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.
- 5.2 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.

#### **6. ENFORCEMENT**

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

#### **7. PENALTY**

- 7.1 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.
- 7.2 Where the person convicted is a corporation,
  - (a) the maximum fines in clause 7.1 (a) are \$50,000 or \$5,000 per tree; and
  - (b) the maximum fines in clause 7.1 (b) are \$100,000 or \$10,000 per tree.

7.3 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

## **8. REPLACEMENT**

8.1 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 implement good forestry practices, 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;

8.2 Where a person has failed to correct any such contravention within the time specified in an Order issued pursuant to this By-law, the Township, in addition to all other remedies it may have, may take all necessary steps to bring the lands into compliance with the terms of this By-law.

8.3 The Township may also recover those costs incurred plus interest accrued to the date payment is made at the rate of 1.25% per month, from the owner of the land by action or in like manner as municipal taxes.

## **9. SEVERABILITY**

9.1 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.

## **10. ADMINISTRATION**

10.1 The Clerk of the Township of Armour is hereby authorized to make any minor modifications or corrections of an administrative, numeric, grammatic, semantic or descriptive nature or kind to the by-law and schedule(s) as may be deemed necessary after the passage of this by-law, where such modifications or corrections do not alter the intent of the by-law.

10.2 This By-law shall be deemed to come into force and effect upon its passing.

Read in its entirety, approved, signed and the seal of the Corporation affixed thereto and finally passed in open Council this 28<sup>th</sup> day of April, 2020.

Original signed by Bob MacPhail  
Robert MacPhail, Reeve

Original signed by John Theriault  
John Theriault, Clerk