

# THE CORPORATION OF THE TOWNSHIP OF MULMUR

## BY-LAW NO. 19-15

### BEING A BY-LAW TO PROHIBIT OR REGULATE THE DESTRUCTION OR INJURING OF TREES IN TOWNSHIP OF MULMUR

**WHEREAS** pursuant to Section 135(1) of the Municipal Act, 2001, R.S.O., 2001, C.25, as amended, a municipality may prohibit or regulate the destruction or injuring of trees designated in a by-law, where an upper tier does not regulate or prohibit same;

**AND WHEREAS** the County of Dufferin rescinded its Tree Conservation By-law;

**AND WHEREAS** exemptions provided for tree cutting in the Niagara Escarpment Plan area are not applicable without a Tree Conservation By-law being enacted;

**AND WHEREAS** the Council of the Corporation of the Township of Mulmur has determined it desirable to prohibit clear-cutting activities, while permitting good forestry practices by landowners;

### **NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MULMUR ENACTS AS FOLLOWS:**

#### **1. DEFINITIONS**

- 1.1 "Municipality" means The Corporation of the Township of Mulmur.
- 1.2 "clear cutting" means the removal of the majority of trees in a stand of timber with a total area greater than 2.0 hectares, at one time or over a period of time.
- 1.3 "Clerk" means the Clerk of The Corporation of the Township of Mulmur
- 1.4 "Council" means the Council of The Corporation of the Township of Mulmur.
- 1.5 "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.
- 1.6 "injure" means to cause irrevocable and lasting damage to a tree, which has the effect of inhibiting or terminating its growth, but does not include pruning or removing branches for maintenance purposes. This may include the destruction or elimination of a tree by cutting, burning, bulldozing or other means.
- 1.7 "Officer" means a police officer, a Municipal Law Enforcement Officer, County Forester or other person appointed by Council to administer and enforce this By-law.
- 1.8 "person" includes a corporation or partnership.
- 1.9 "Tree" means any species of woody perennial plant which has reached or can reach an average height of at least 5 metres at the physiological maturity and is larger than 50 mm diameter outside the bark of the tree measured at a point that is 1.37 metres above the ground.

#### **2. GENERAL PROVISIONS**

- 2.1 No person shall injure, destroy or harvest any tree or undertake clearcutting on any parcel of land of an area larger than ½ hectare, prior to receiving approval from the Council.

2.2 Any person wanting to injure, destroy or harvest trees or undertake clearcutting of an area larger than ½ hectare on any parcel, for which an exception is not provided under section 3.0 of this By-law, shall provide to the Municipality a proposal prepared by a certified arborist or forester including the following information:

i) a complete inventory of all of the trees to be removed including the health, species, size and location of each tree, and whether any of the species are rare, threatened or endangered; and,

iii) a justification for the removal of the trees.

2.3 Council may authorize the destruction or removal of trees where the person has provided a complete proposal in accordance with subsection 2.2 of this By-law, and the person has entered into an agreement with the Municipality and provided necessary securities.

### 3. EXCEPTIONS

3.1 This By-law does not apply to:

- i. activities or matters undertaken or authorized by the Municipality;
- ii. activities or matters undertaken as a condition of an approved site plan, approved plan of subdivision, licensed pit or quarry, wayside pit or wayside quarry;
- iii. Normal Farm Practices in accordance with the Farm Practices Protection Act, R.S.O. 1990, c. F.6, as amended, carried on as part of an agricultural operation, including minor squaring-up of fields to a maximum of 2ha of treed area;
- iv. Trees planted and/or cultivated by the current owner of the subject lands;
- v. Activities or matters undertaken in accordance with an agreement with the Ministry of Natural Resources for a managed forest or conservation lands;
- vi. Properties which are less than 2 hectares in total area;
- vii. activities or matters in relation to the installation of utilities or a driveway to each building or structure;
- viii. the removal or injury of trees within 100m of a building or structure where a building permit has been issued for such building or structure;
- ix. the harvesting of trees for personal use as firewood;
- x. the harvesting of market trees, marked by a Registered Professional Forester or a Member of the Ontario Professional Foresters Association; and
- xi. the injury, destruction or harvesting of any trees in accordance with *good forestry practices*.

### 4. GENERAL PROHIBITIONS

4.1 No person or corporation through their own actions or through any other person shall destroy or injure any tree that is:

- (1) located in an area designated Natural Area or zoned Environmental Protection, except in accordance with good forestry practices; and
- (2) located within the Niagara Escarpment Plan, unless a permit has been issued by the Niagara Escarpment Commission.

**5. ENFORCEMENT**

- 5.1 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with or whether an order issued under this By-law is complied with.
- 5.2 No person shall hinder or obstruct any person lawfully carrying out the enforcement of this By-law.
- 5.3 Where an Officer is satisfied that a contravention of this By-law has occurred, the Officer may issue an Order, personally, by posting it on the property, or by mail, requiring the person who contravened the By-law or who caused or permitted the contravention of the By-law to stop harvesting, injuring or destroying trees. The Order may be served on the owner or person identified as harvesting, injuring or destroying a tree or trees.
- 5.4 If the person to whom the Order is directed is not satisfied with the terms of the order, the person may appeal to the Municipality by filing a notice of appeal by personal service or registered mail to the Clerk within 30 days of the date of the Order. Where a notice of appeal has been filed, the Council shall hear the appeal. Prior to conducting a hearing, the Clerk shall give notice to such persons or direct that notice be given to such persons as the Clerk considers should receive notice and in the manner directed by the Clerk. After hearing an appeal, Council may confirm and enforce or revoke any order issued under this By-law or may issue a Permit with conditions, provided that in the opinion of the Council, the general intent and purpose of this By-law is maintained.
- 5.5 Any person who breaches this By-law is guilty of an offence and upon conviction is liable to a fine of not more than \$10,000 or \$1000 per tree, whichever is greater; and on any subsequent convictions, to a fine of not more than \$25,000 or \$2500 per tree whichever is greater.
- 5.6 Despite subsection 5.5, where the person is a corporation, the maximum fines are, on a first conviction, a fine of not more than \$50,000 or \$5000 per tree, whichever is greater; and on a subsequent conviction, a fine of not more than \$100,000 or \$10,000 per tree, whichever is greater.
- 5.7 If a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of the By-law shall continue in force.

READ a first, second and a third time and finally passed this 3rd day of June, 2015.

ORIGINAL SIGNED

CLERK. ✓

ORIGINAL SIGNED

MAYOR. ✓