

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW No.2008-104

*“Being a By-law to prohibit or regulate blasting in areas of the Township of Seguin”*

*This By-law applies only to shoreline areas (20 metres inland from the high water mark) and to land zoned Environmental Protection (EP).*

*The primary intent of this By-law is to protect and preserve the visual environment and the natural environment by prohibiting the blasting away of cliffs and areas of rock in shoreline areas and EP Lands.*

*This By-law recognizes that in our topography, the blasting of rock is sometimes necessary for construction purposes. Accordingly, this By-law does not restrict blasting outside the shoreline areas and EP zones and does not in any way impair the construction of buildings, roads, or facilities in lands outside the shoreline areas and EP Zones.*

*There are no licences, permits, or fees required with this By-law.*

*This By-law is flexible. Council may grant exceptions.*

**WHEREAS** Sections 10(2)5, 10(2)6, and 10(2)8 of the *Municipal Act* authorizes municipalities to pass By-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

**AND WHEREAS** the Council of The Corporation of the Township of Seguin deems it expedient to regulate blasting along shoreline areas and Environmentally Protected “EP” zones with a view to preserving the natural environment, and the environmental quality of shoreline areas of Seguin Township;

**AND WHEREAS** the Council of The Corporation of the Township of Seguin deems it expedient to regulate blasting along shoreline areas and Environmentally Protected “EP” zones to:

- Prevent extensive topographical changes to the shoreline area of the Township; and,
- Preventing the blasting in environmentally protected areas;

**NOW THEREFORE,** The Council of The Corporation of the Township of Seguin enacts as follows:

## **1.0 DEFINITIONS**

In this By-law:

- (a) “Blasting” and/or “Blast” means the alteration of rock by means of explosives or any other means;
- (b) “Clerk” means the Clerk for The Corporation of the Township of Seguin;
- (c) “Contractor” means any person who engages in blasting, any person who has effective control over any corporation that engages in blasting, and any person who on behalf of a contractor or owner engages in blasting or causes a person to engage in blasting;
- (d) “Council” means the Council for The Corporation of the Township of Seguin;
- (e) “Inspector” means the following persons who are authorized to carry out any of the powers or duties pursuant to this By-law, for the period of their employment with the Township:
  - By-law Enforcement Officers appointed by Council
- (f) “Owner” means any person, firm or corporation controlling, maintaining or occupying the land upon which blasting is, or is to be, undertaken;
- (g) “Person” includes a company, a corporation, a partnership or an individual person, and the singular shall include the plural;
- (h) “Shoreline” means the line at which the normal or controlled high water mark of a lake or river meets the land”;
- (i) “Shoreline Area” means the area of land abutting a water body that lies inland from the shoreline to a line which is 20 metres inland, measured horizontally, from the high water mark (which is not necessarily the water’s edge);
- (j) “Township” means The Corporation of the Township of Seguin; and,
- (k) “Zoning By-law” means the Township of Seguin Zoning By-law No. 2006-125, as amended;

## **2.0 AREA OF APPLICATION OF THE BY-LAW**

2.1 This By-law shall only apply to the following areas of the Township:

- (a) lands within the Environmental Protection Zone (EP) in the Zoning By-law; and,
- (b) Shoreline areas.

## **3.0 PROHIBITION**

3.1 No blasting shall be permitted within the areas of the Township defined and zoned “Environmental Protection” (EP) by the Zoning By-law, except as noted in paragraph 4.0 Exemptions of this By-law.

3.2 No blasting shall be permitted within the Shoreline Area, except as noted in paragraph 4.0 Exemptions of this By-law.

## **4.0 EXEMPTIONS**

4.1 This By-law shall not apply to blasting where the same is necessary or appropriate to facilitate roads, or other public works undertaken by or on behalf of Her Majesty the Queen in right of the Province of Ontario, or Her Majesty the Queen in right of Canada, or any Public Authority including any Department or Ministry of the Government of Canada or Ontario and, for the purposes of this By-law, shall include a transmitter or distributor as those terms are defined in Section 2 of the *Electricity Act, 1998*, any telephone or cable TV Company and any natural gas company, which company possesses all the necessary powers, rights, licenses and franchises.

## **5.0 CONSIDERATION BY COUNCIL**

5.1 If any owner, contractor or person wishes to apply for relief from this By-law, they may do so by submitting a written request identifying the nature and extent of the relief requested and accompanied by a site plan/diagram and a description of the proposed works to the Clerk. In considering such a request Council may require the applicant to provide such additional information as it deems necessary and, Council may impose such conditions on the relief as it deems appropriate.

## 6.0 ENFORCEMENT

Enforcement of this By-law shall occur in accordance with the *Municipal Act, 2001* as set out in the following sections:

- 6.1 Notwithstanding Section 435 of the Municipal Act, 2001 S.O. 2001, c. 25, the Inspector for the Township, having probable cause to believe that a violation of this By-law is occurring or has occurred may enter the lands at any reasonable time for the purpose of inspecting the site to determine whether there is a violation of any or all portions of Section 3 of this By-law and to prevent further destruction.
- 6.2 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the fine(s) as provided for under the Municipal Act as amended.
- 6.3 Where a person is convicted of an offence under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to have prepared a rehabilitation plan and rehabilitate the lands in such manner and within such a period of time as the court considers appropriate.
- 6.4 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable for the following fines:
  - (a) On a first conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$10,000.00; and,
  - (b) On any subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$25,000.00.
- 6.5 Where a Corporation is convicted of an offence under this By-law, the Corporation is liable for the following fines:
  - (a) On a first conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$50,000.00; and,
  - (b) On any subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$100,000.00.
- 6.6 Where a person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed by the By-law, the court in which the conviction has been entered, and any court of competent

jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted or any other person.

## **7.0 SEVERABILITY**

7.1 Where a court of competent jurisdiction declares any section or part of a section of this By-law to be invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

## **8.0 REVOCATION OF WRITTEN AUTHORIZATION**

8.1 Council and/or the Inspector may revoke written authorization that has been previously granted where:

- (a) the terms and conditions of the written authorization are not complied with; or,
- (b) any instructions or directions of the Council and/or Inspector are not complied with.

## **9.0 AMENDMENTS TO THIS BY-LAW**

9.1 Where Council deems it desirous to make amendments to this By-law, Notice shall be provided of the intent to consider said amendments and that Notice shall be as prescribed in the Township's By-law to prescribe the form and manner and times for the provision of Notice under the Municipal Act.

9.2 Where Council deems it desirous to make amendments to this By-law, at least one Public Meeting shall be held to hear public comments on the proposed amendments.

**10.0 EFFECTIVE DATE OF BY-LAW**

10.1 This By-law shall come into force and take effect on the day of the passing thereof.

By-law Read a **FIRST**, **SECOND** and **THIRD** time and **FINALLY PASSED** this    day  
of            , 2008.

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Mayor - David Conn

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Clerk - Craig Jeffery