

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW No. 2008-105

***“Being a By-law to prohibit or regulate the placing or dumping or removal of fill 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 water quality by prohibiting the placing or removal of fill in shoreline areas and on EP lands. EP zones, commonly including wetlands, are significant contributors to water quality. They are nature’s water filters due to their ability to remove harmful impurities from water before it enters the main body of a watershed. Further, wetlands are the breeding ground and home for many species of plants, fish, insects, animals, birds and wildlife.*

*This By-law recognizes the right of waterfront property owners to engage in normal landscaping activity on their waterfront property. However, this By-law prohibits any landscaping work that could significantly alter the grade or topography in a manner that increases the flow of surface water to neighbouring lands or the adjacent bodies of water.*

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

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

**WHEREAS** Section 142 of the *Municipal Act, R.S.O. 1990 c.M.45*, as amended, authorizes the Council of local municipalities to pass By-laws for prohibiting or regulating the placing or removal of fill of any kind in any defined area or areas in the Township of Seguin;

**AND WHEREAS** the Council of The Corporation of the Township of Seguin deems it desirable in the public interest to implement such a By-law for the purposes of:

- Preventing the erosion and sedimentation of the lakes and water bodies of the Township;
- Preventing the extensive topographical changes to the properties in the shoreline areas of the Township;

- Protecting and preserving the environmentally protected areas of the Township; and,
- Ensuring a healthy and sustainable ecosystem and natural environment;

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

## **1.0 DEFINITIONS**

In this By-law:

- (a) “Clerk” means the Clerk for The Corporation of The Township of Seguin;
- (b) “Council” means the Council of The Corporation of The Township of Seguin;
- (c) “Fill” means any type of material deposited or placed on lands and includes but is not limited to sand, soil, stone, granular material, concrete, either singularly or in combination;
- (d) “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
- (e) “Landscaping, Minor” means the construction of walkways, pathways, flowerbeds, and similar landscaping features where the landscaping does not significantly alter the grade or topography of the lands and shall not increase the flow or the rate of flow of surface water to the adjacent lands or the adjacent lake or water body;
- (f) “Owner” includes any person, firm or corporation controlling, maintaining or occupying the land upon which fill is, or is to be, placed or dumped or land where the grade is, or is to be, altered;
- (g) “Person” includes a company, a corporation, a partnership or an individual person, and the singular shall include the plural;
- (h) “Placing” includes the distribution of fill on lands to establish a finished grade higher than the existing grade; “Place” and “Placed” shall have a corresponding meaning;

- (i) “Removing” includes any type of material extracted and taken away from lands and includes but is not limited to sand, soil, stone, granular material, concrete, either singularly or in combination;
- (j) “Shoreline” means the line at which the normal or controlled high water mark of a lake or river meets the land”;
- (k) “Shoreline Area” means the area of land abutting a water body that lies inland from the water’s edge to a line which is 20 meters inland, measured horizontally, from the high water mark (which is not necessarily the water’s edge);
- (l) “Soil” means material commonly known as earth, top soil, loam, subsoil, clay, sand or gravel;
- (m) “Township” means The Corporation of The Township of Seguin;
- (n) “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 person shall place or remove fill in the areas of the Township defined in Zoning By-law No. 2006-125 as zoned Environmental Protection “EP”, except as noted in paragraph 4.0 Exemptions of the By-law.

3.2 No person shall place or remove fill within a Shoreline Area, except as noted in paragraph 4.0 Exemptions of the By-law.

## **4.0 EXEMPTIONS**

4.1 The provisions of Subsection 2.1 (a) and (b) of the By-law do not apply to:

- (a) The placing of fill for the purposes of minor landscaping;

- (b) The maintenance or replacement of any existing landscaping, existing driveways and existing beaches;
- (c) The placing of fill, removal of topsoil or alteration of the grade of land 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 a site plan agreement or subdivision agreement entered into under those sections;
- (d) The use, operation, establishment, alteration, enlargement or extension of a sewage treatment system approved pursuant to Part 8 of The Ontario Building Code;
- (e) A waste, waste disposal site or waste management system that is approved pursuant to the *Environmental Protection Act*;
- (f) The construction, extension, alteration, maintenance or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act*;
- (g) The activities of the District School Boards, Crown agencies as defined in the *Crown Agency Act* and the activities undertaken by a transmitter or distributor as defined in section 2 of the *Electricity Act, 1998*;
- (h) The placing of fill, removal of topsoil or alteration of the grade of land 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*;
- (i) The placing or removal of fill within 3 metres of any building where a building permit has been issued.
- (j) Activities authorized under a work permit issued by the Ministry of Natural Resources under the *Public Lands Act* or the *Lakes and Rivers Improvement Act*;
- (k) Fill is placed in an excavation to the elevation of the Existing Grade at the immediate perimeter of the excavation following the demolition or removal of a building or structure; and,

- (l) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*, 2001.

## **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 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 prepare a rehabilitation plan to rehabilitate the lands in such manner and within such a period of time as the court considers appropriate.
- 6.3 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.
- 6.4 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.

6.5 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