

**MUSKOKA LAKES ASSOCIATION AND
FRIENDS OF MUSKOKA
COMMENTS - JUNE 2, 2022**

KEY:

Red reflects our suggested addition and deletions

Green reflects our comments

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW NUMBER 2023-XXX

Site Alteration By-law

**A By-law of The Corporation of the Township of Seguin to regulate
and prohibit the modifications to
private properties in the Township of Seguin.**

WHEREAS Section 142 of the *Municipal Act, 2001*, S.O. 2001 c. 25, permits the enactment of a By-law by the Council of The Corporation of the Township of Seguin:

- (a) to prohibit or regulate the placing or dumping of fill;
- (b) to prohibit or regulate the removal of topsoil;
- (c) to prohibit or regulate blasting and the alteration of the grade of any property in the Township of Seguin;
- (d) to require a permit be obtained for the placing or dumping of fill, the removal of soil, or the alteration of the grade of the land and;
- (e) to impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of soil and rehabilitation of the land.

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001 authorizes the Township of Seguin to pass by-laws providing that a person who contravenes a by-law of Township of Seguin passed under that Act is guilty of an offence;

AND WHEREAS Section 436 of the *Municipal Act, 2001* S.O. 2001 provides that the municipality has the power to pass By-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a By-law, direction, order, or condition of licence;

AND WHEREAS, an order to discontinue and work orders are authorized under Section 444 and 445 of the Municipal Act 2001, S.O. 2001 c. 25 where a contravention of this by-law has occurred;

AND WHEREAS, the Council of The Corporation of the Township of Seguin may require that a permit be obtained for the following:

- i. the placing or positioning of fill;
- ii. the removal of soil, and;
- iii. the alteration of the grade of land

In the Township of Seguin and prescribe the fees for the permit and the circumstances under which a permit may be issued and the conditions to such a permit;

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 purpose of:

- (a) Preventing extensive topographical changes and significant site alteration of properties in Shoreline Areas, including islands;
- (b) Protecting and preventing site alteration in Environmental Protection Areas,
- (c) Sustaining a healthy and aesthetically pleasing natural environment.

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

1.0 DEFINITIONS

For the purpose of this By-law, the following definitions shall apply:

“Agreement” means any **Agreement** made between the **Township** and a property owner such as but not limited to a Consent **Agreement**, Site Plan **Agreement** or License **Agreement**;

“Alteration” or **“Site Alteration”** means a change in elevation from **Existing Grade** or **Finished Grader** resulting from:

- i. the **Placing** or **Dumping** of **Fill**,
- ii. the removal of **Soil** or **Fill**,

- iii. **Placing, Dumping**, removal, or **Rock Blasting**, or
- iv. any other action that alters the **Grade** of land including the altering in any way of a **Natural Drainage Course** on a **Site**.

“Alter”, “Altered” and “Altering” shall have corresponding meaning;

“**Applicant**” means the **Person** who submits an application for a **Permit** under this By-law;

“**Building Permit**” means a **Building Permit** issued under the Building Code Act, 1992, S.O. 1992, c. 23, as amended;

“**Clerk**” means the **Clerk of Township** of Seguin;

“**Council**” means the Council of the **Township** of Seguin;

“**Director**” means the **Director** of Planning for the **Township** or their designate provided such designate is an **Officer** as defined in this By-law;

“**Drainage**” means the movement of water to a **Place** of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;

“**Driveway**” means the ingress and egress lane or lanes that are connected to a highway that lead to a residential dwelling unit but does not include a **Parking Area**;

“**Dry-Laid**” means a method of construction or installation where individual stones, blocks or pavers are laid on a bed of sand or gravel or other similar material and the stones, blocks or pavers are held in place by tightly compacted material and does not include the use of concrete or mortar, asphalt or other poured materials;

“**Dumping**” and “**Dump**” means the depositing of **Fill** in a location other than where the **Fill** was obtained or the movement and depositing of **Fill** from one location on a property to another location on the same property;

“**Erosion**” means the detachment and movement of **Soil**, sediment or rock fragments by water, wind, ice or gravity;

“**Fill**” means any type of material capable of being removed from or deposited on lands, such as **Soil**, stone, sod, turf, concrete, stumps, rock, and asphalt either singly or in combination excluding construction material which are incorporated into a building or structure within 6 months of deposit on the lands and excluding installed paving materials.

“Financial Assurance” means a commitment of funds by an owner or applicant to the **Township** that is a sufficient amount to equal the cost of re-vegetation or re-naturalization of a property and any subsequent studies or inspections required by the **Township**;

“Grade” means the elevation of the ground surface and shall be more particularly defined as follows:

- (i) **“Existing Grade”** means the elevation of the existing ground surface of the lands upon which **Dumping** and/or **Placing of Fill**, altering of the **Grade**, removing of **Soil**, or **Rock Blasting** is proposed and of abutting ground surface up to three metres wide surrounding such lands, except that where such activity has occurred in contravention of this By-law, **Existing Gradings** shall mean the ground surface of such lands as it existed prior to the said activity;
- (ii) **“Proposed Grade”** means the proposed finished elevation of ground surface after **Fill** is **Dumped** or **Placed**, the **Grade** altered or **Soil** removed; and
- (iii) **“Finished Grade”** means the approved elevation of ground surface of lands upon which **Fill** has been **Placed** or **Dumped**, the **Grade** altered or **Soil** removed, in accordance with this By-law;

“High Water Mark” means the usual or average level to which a body of water rises at its highest point and remains for a sufficient time so as to change the characteristics of the land. On a body of water where the water level is regulated by control structures, this means the regulated high water mark (the line where the land meets the water at a normal controlled level);

“Landscaping” means yards, patios, flowerbeds, walkways and other similar features that do not increase the flow or rate of flow of surface water to adjacent properties, EP zones or a waterway;

“Natural Drainage Course” means a valley or elongated depression created by naturally flowing water that varies in size and may be dry or contain intermittent, ephemeral, or perennial running water, including a lake, river, stream, creek, spring, ravine, swamp and gulch with well-defined banks and a bed that gives direction to a water source, but excludes roadside ditches, **Drainage** ditches and irrigation works;

“Navigable Waterway” means any waterbody, natural or manmade, capable of carrying a water borne vessel. This includes waters capable of being used for commerce,

transportation or recreation and there is no limit on the size of stream considered navigable in accordance with the Navigable Waters Protection Act.

“**Officer**” means a Municipal Law Enforcement **Officer** that has been appointed through a By-law in the **Township** of Seguin to administer and enforce by-laws in the **Township**;

“**Order**” means a mandatory requirement for action within a specified time period specifically issued by an **Officer** or other authorized personnel to address issues of non-compliance with any section of this by-law or the conditions of a **Permit** which includes a Stop Work **Order** or an **Order** to Remedy;

“**Owner**” means the registered **Owner(s)** of the property;

“**Parking Area**” means the use of an area of land, building or structure associated with the principal use of the same lot for the parking of motor vehicles and does not include the ingress or egress lane(s) of a **Driveway**;

“**Patio**” means a platform without a roof with direct access to the ground, the floor of which is not more than 1.5 metres above grade which is designed and intended for use as an amenity space which is accessory to the principal use on the lot.

“**Permit**” means the authorization in writing from the Director or their designate provided such designate is an **Officer**, to make modifications to landscapes in the **Township** pursuant to this By-law;

“**Person**” means any individual, corporation, partnership or association, firm, trust, or other entity and includes anyone acting on behalf or under the authority of such entity;

“**Placing**” or “**Place**” means the distribution of **Fill** on lands to establish a **Finished Grade**, and includes **Soil** stripping;

“**Professional**” means a **Person**, who in the opinion of the **Township**, has experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or subject;

“**Proposed Grade**” means the proposed elevation of ground surface of land upon which **Fill** is proposed to be **Placed** or **Dumped**, the **Grade** altered, **Soil** or rock removed;

“Riparian Zone” a 5-metre buffer adjacent to the high water mark of a stream, lake or wetland that contains a combination of trees shrubs and/or other perennial plants and is managed differently from the surrounding landscape.

“Rock Blasting” means to break up or dislodge various rock material to form or open up land through various means such as, but not limited to, explosives or hydraulics;

“Sedimentation Control Plan” means a plan to control **Erosion** and sedimentation prepared and implemented to comply with this By-law;

“Site” means the lands which are the subject of an application for a Permit and where the **alteration** will occur, or has occurred if the **Soil** has not yet been stabilized so as to prevent **Erosion** and sedimentation;

“Soil” means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;

“Shoreline” means the line at which the normal or controlled high water mark meets the land.

“Temporary Access Road” means a temporary road that is no wider than 4.5m (15ft) and has been constructed for the purpose of gaining temporary access to a water access only property in order to allow for construction vehicles or other machinery to safely maneuver a property;

“Township” and **“Township of Seguin”** means The Corporation of the Township of Seguin;

“Vegetation” means any woody plant, or contiguous cluster of plants including trees, shrubs, and hedgerows;

“Walkway” means an access pathway between the shoreline and shoreline structures to other areas on the lot. ~~A Walkway should be made of permeable, natural materials or Dry-Laid construction, and shall have a maximum width of 2.0 metres.~~ We suggest these words be deleted from the definition. They are requirements for a Walkway to qualify for an exemption, and are included in the exemption section (s. 3.1(w)).

“Water Permeable” or “Pervious” means any material used or a style of construction or installation that allows water or other liquids to pass through the feature or structure, this definition can also be used for “permeable materials”;

“Zoning By-law” means the By-law regulating land use as provided for under the *Planning Act* within the **Township**.

2.0 LAND SUBJECT TO THIS BY-LAW

2.1 This By-law applies to the following lands within the Township:

- (a) All lands within 60 metres of the high-water mark of a Navigable Waterway:
 - i. In the Shoreline Area designation in the Official Plan; *We suggest changing 60 meters to 90 meters for the Shoreline Area to better achieve the objective of this By-law, as explained in our cover letter.*
 - ii. With the exception of commercial uses, in the Settlement Area designation in the Official Plan;
- (b) All lands on islands or water access only properties;
- (c) All lands zoned Environmental Protection (EP and EP1) in the Township Comprehensive Zoning By-law;

3.0 EXEMPTIONS

3.1 The provisions of this By-law does not apply to the following:

- (a) Activities or matters undertaken by the Township or a local board of the Township;
- (b) Lots owned by the Township of Seguin.
- (c) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land imposed after December 31, 2002 to facilitate development permitted by the approval of a site plan, a plan of subdivision, development agreement or a consent under section 41, 45, or 51, respectively, of *the Planning Act*;

- (d) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land imposed after December 31, 2002 to facilitate development permitted by a development permit authorized by regulation made under section 70.2 of the *Planning Act*;
- (e) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken by a transmitter or distributor, as those terms are defined in 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;
- (f) The Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken on land described in a license for a pit or quarry or a permit for wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (g) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land;
 - i. that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - ii. on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the *Planning Act*;
- (h) the Placing or Dumping of Fill, removal of Soil, Rock Blasting, or Alteration of the Grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- (i) the removal of Soil as incidental part of a normal agricultural practice including such removal as an incidental part of sod farming, greenhouse operation and nurseries for horticultural products, but not the removal of Soil for sale, exchange or other disposition;

Development Exemptions

- (j) the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a septic system approved and for which a permit has been issued under the Ontario Building Code Act and an area no larger than 3.5 m

from the outer edge of the septic system envelope for the purposes of grading to accommodate the system;

Access/Driveways

- (k) the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a Driveway upon obtaining any necessary entrance permit from the Township of Seguin, Ministry of Transportation or other relevant authority, and subject to the following conditions:
 - (i) The ingress and egress lane(s) of a Driveway no wider than 6.1m unless otherwise approved by the entrance permit, the approval of a site plan, a plan of subdivision, or development agreement, under section 41, 45, or 51 of the *Planning Act* or a development permit authorized by regulation made under Section 70.2 of the *Planning Act*;
 - (ii) The Driveway does not extend closer to a Navigable Waterway than the rear of a dwelling, sleeping cabin or garage to which it is serving and is no closer than 20 metres from the high water mark;
 - (iii) The driveway is not located on lands zoned Environmental Protection (EP1) under the Zoning By-law.
 - (iv) For the purposes of this section, a Parking Area is not subject to the width requirement of subsection (i).

As explained in our cover letter, we suggest adding permission for a Parking Area of a certain maximum size and subject to the same location restrictions as a Driveway (see (k)(ii) and (iii)).

- (l) the Placing or Dumping of Fill for the purpose of one (1) Temporary Access Road no wider than 4.5 metres on properties only accessible by water. The Temporary Access Road shall not be perpendicular to the shoreline;

Approved Buildings

- (m) the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a foundation for a building approved under the Ontario Building Code Act and a building Permit has been issued by the Township, or for a building, structure, or feature installed in compliance with the

Zoning By-law, and an area no larger than 3.0 metres from the outer edge of the building or structure envelope for the purposes of grading to accommodate the installation. The ability to alter Grade 3.0 metres from the outer edge of the envelope does not apply to the installation of waterfront accessory structures.

- (n) Despite Section 3.1 (m), for an existing single detached dwelling or cottage within 20 metres of the high-water mark of a Navigable Waterway, the Placing or Dumping of Fill, removal of Soil, Rock Blasting or Alteration of Grade necessary for the installation of a foundation for a building approved under the Ontario Building Code Act and a building Permit has been issued by the Township, or for a building, structure, or feature installed in compliance with the Zoning By-law, and an area no larger than 1.5 metres from the outer edge of the building or structure envelope for the purposes of grading to accommodate the installation. The ability to alter Grade 1.5 metres from the outer edge of the envelope does not apply to the installation of waterfront accessory structures.

Despite Section 3.1(m), Rock Blasting or Alteration of Grade shall be explicitly prohibited within 20 metres of the high-water mark of a Navigable Waterway for any new development which is proposed following the date of this By-law's adoption, unless it has **been approved by Council as set out an exemption** under Section 4.4 of this By-law.

Shoreline Accessory Structures, Patios and Walkways

- (o) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade within 20 metres of the high water mark necessary for the installation of waterfront accessory structures [We suggest adding a definition of 'Waterfront Accessory Structure', for clarity and enforceability. The definition could refer to the meaning in s. 4.1.9 of the Township's Zoning By-law, but should also include Walkways.] in accordance with Section 4.1.9 of the Township of Seguin Zoning By-law 2006-125 provided that:
 - (i) No Placing or Dumping of Fill, removal of Soil or Alteration of Grade occurs beyond 1.5 metres from the outer edge of the approved building or structure envelope to accommodate the construction or installation This provision shall not apply to Patios or Walkways;
 - (ii) Any proposed tree injury, destruction or removal is completed in accordance with the Township of Seguin Tree Conservation By-law 2023-xxx

- (p) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade within 20 metres of the high water mark necessary for the installation of a Patio provided that:
- (i) Only a **Dry-Laid Patio**, or a **Patio** made of other natural permeable materials, is permitted
 - (ii) The cumulative area of all Patios does not exceed 28 square metres for lots with a frontage of 90 metres or less;
 - (iii) The cumulative area of all Patios does not exceed 40 square metres for lots with a frontage of more than 90 metres;
 - (iv) The maximum elevation of the Patio is 1.5 metres above existing grade;
 - (v) It does not occur within the 5 metre Riparian Zone along the shoreline;
 - (vi) Any proposed tree removal is completed in accordance with the Township of Seguin Tree Conservation By-law 2023-xxx
- (q) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade within 20 metres of the high water mark necessary for the installation of a Walkway provided that:
- (i) Only a **Dry-Laid Walkway**, or a **Walkway** made of other natural permeable materials, is permitted;
 - (ii) The area of alteration to accommodate the Walkway is a maximum width of 2 metres;
 - (iii) Any proposed tree removal is completed in accordance with the Township of Seguin Tree Conservation By-law 2023-xxx.
- (r) The Placing or Dumping of Fill, removal of Soil or Alteration of Grade between 20 and 60 metres of the high water mark for **Landscaping** ancillary and accessory to permitted buildings or structures. *As explained in our cover letter, we suggest deleting this exemption for Landscaping since it will permit unrestricted site alteration for lawns, gardens and patios.*
- (s) The maintenance of existing, or naturally occurring beaches. Existing for the purpose of this provision shall allow for the maintenance of beaches above the high-water-mark in the same state as occurring prior to August 5, 2008.

4.0 GENERAL PROVISIONS AND REGULATIONS

4.1 No Person shall cause or permit any Site Alteration within 20 metres of the high water mark of a Navigable Waterway for those lands:

- a) Designated as Shoreline Area in the Township Official Plan; **or**
- b) Designated as Settlement Area in the Township Official Plan with the exception of commercial uses;

without an Owner or Person first obtaining a Permit under this By-law, unless ~~Unless~~ such Site Alteration occurs in accordance with an applicable exemption as set out in Section 3.0 **(a) to (n) or Section 3.0 (s).**

4.2 No Person shall cause or permit any Site Alteration within an area zoned Environmental Protection (EP and EP1) in the Township's Comprehensive Zoning By-law, except in conjunction with the permitted uses of and in compliance with the Zoning By-law;

4.3 No Person shall cause or permit any Site Alteration without an Owner or Person first obtaining a Permit under this By-law in any area on an island, unless such Site Alteration occurs in accordance with an applicable exemption as set out in Section 3.0.

4.4 Any application for a Permit for Site Alteration which includes Rock Blasting in areas noted in Section 4.1 which does not meet the criteria for an exemption as set out in Section 3.0, **other than Section 3.0 (c) and (d), will be subject to approval by Township of Sequin Council.** *We suggest this added language in order for blasting within 20m of the high water mark to always require Council approval.*

4.5 No Person shall cause or permit Site Alteration without an Owner or Person first obtaining a Permit under this By-law:

- a) with the exception of commercial uses, in any area between 20 metres and 60 metres of the high water mark of a Navigable Waterway for those lands designated as Settlement Area in the Township's Official Plan;
- b) in any area between 20 metres and 60 metres of the high water mark of a Navigable Waterway in the Shoreline Area designation as defined in the Township's Official Plan; *We suggest changing 60m to 90m in order to achieve the objectives of this By-law, as explained in our cover letter.*

Unless such Site Alteration occurs in accordance with an applicable exemption as set out in Section 3.0.

4.6 No Person shall cause or permit Site Alteration that may result in:

- a) Erosion on the Site or any neighbouring property;
 - b) Siltation or pollution of a watercourse, wetland or storm swale/sewer;
- 4.7 No Person shall cause or permit Site Alteration more than 1.5 metres beyond the outer edge of the building or structure envelope for the installation of waterfront accessory structures; We suggest adding a definition of 'Waterfront Accessory Structure', for clarity and enforceability. The definition could refer to the meaning in s. 4.1.9 of the Township's Zoning By-law, but should also include Walkways.
- 4.8 No Person shall cause or permit Site Alteration for the installation of waterfront accessory structures which results in trees being injured, destroyed or removed in contravention of the requirements of the Tree Conservation By-law;
- 4.9 The exemption under Section 3.1 (o) of this By-law does not allow a person or owner to cause or permit Site Alteration beyond the outer edge of a Patio;
- 4.10 No Person shall cause or permit Site Alteration for a Patio which results in trees being injured, removed or destroyed in contravention of the requirements of the Township of Seguin Tree Conservation By-law 2023-xxx;
- 4.11 The exemption under Section 3.1 (q) ~~(p)~~ of this By-law does not allow a person or owner to cause or permit Site Alteration beyond the outer edge of a Walkway;
- 4.12 No Person shall cause or permit Site Alteration for a Walkway which results in trees being removed in contravention of the requirements of the Township of Seguin Tree Conservation By-law 2023-xxx;
- 4.13 No Person shall cause or permit Site Alteration for the installation of a foundation for a building approved under the Ontario Building Code Act or for a building, structure, or feature installed in compliance with the Zoning By-law which results in trees being removed in contravention of the requirements of the Tree Conservation By-law;
- We suggest adding additional sections to create an offence for contravening the restrictions on Patios (s. 3.1(p) and Walkways (s. 3.1(q)).
- 4.14 No Person shall fail to comply with an Order issued under this By-law;

- 4.15 No Person shall pull down, remove or deface an Order posted under this By-law;
- 4.16 No Person shall fail to produce or post a Permit as required by this by-law;
- 4.17 If archaeological resources are discovered or identified during any Site Alteration, including that permitted by this By-law, the Owner shall immediately cease all activity on the Site and contact the Director and take such actions as defined by the Director or other responsible agency to address, safeguard, and protect the resources;
- 4.18 Sufficient Erosion and sedimentation control measures, such as a sedimentation fence, shall be provided around any area that may be disturbed in a manner satisfactory to the Director or an Officer prior to the commencement of the Site Alteration, and shall be maintained in good working order until the Site has been stabilized and operations completed;
- 4.19 No Person shall fail to erect an adequately installed sedimentation fence before the commencement of Site Alteration or construction of a building, structure, septic area or waterfront accessory structure;
- 4.20 No Person shall fail to adequately maintain a sedimentation fence during Site Alteration or construction of a building, structure, or waterfront accessory structure;
- 4.21 Despite Section 3.1 of this By-law, no Person shall cause or permit any Site Alteration in order to erect a building, structure or thing for an occasional or special event as permitted by the Comprehensive Zoning By-law;
- 4.22 No Person shall permit any Site Alteration contrary to the provisions of any Agreement entered into with the Township that is registered or approved for the property on which such injury or destruction of trees take place, without first obtaining a permit as required under the Tree Conservation By-law 2023-xxx.
- 4.23 No Person shall permit any Site Alteration before the appropriate approvals have been issued whether it be through the approval of an application under the *Planning Act*, a building Permit, septic Permit or other approval received from the Township of Seguin.

4.24 No Person shall permit any site alteration which results in the removal of any tree in contravention of the Township's Tree Conservation By-law, unless otherwise granted permission through a Site Plan Agreement, or through the issuance of a permit under the Township's Tree Conservation By-law.

5.0 APPLICATION REQUIREMENTS

5.1 A **Person** who wishes to obtain a **Permit** shall submit to the **Director** an application that:

- (a) Is a complete Application as set out in Schedule "A", in such form as may be approved by the **Director**;
- (b) Is accompanied by the prescribed fees payable to the **Township** in accordance with the existing **Township** of Seguin Fees and Charges By-law;
- (c) As part of the application for a **Permit**, the **Owner** shall permit an **Officer, Director** or anyone designated by an **Officer** or **Director** to enter upon their property and undertake such **Site** inspections as may be required to consider the application. An **Officer, Director** or anyone designated by an **Officer** or **Director** may undertake a **Site** inspection prior to, during and after the proposed activity.
- (d) At the discretion of the **Director**, all applications to alter a **Site** may be required to include a **Sedimentation Control Plan** in accordance with the requirements in Section 9 of this By-law and a **Financial Assurance** in a form and amount acceptable to the **Director**;
- (e) Includes any report required by the **Township** or external agency (e.g. **Sedimentation Control Plan**, archeological report, **Vegetation** analysis, environmental impact assessment, geotechnical report, or hydrogeological report.)
- (f) An application for a **Permit** shall only be deemed complete if;
 - (i) The application has been completed in full;
 - (ii) The **Owner**/applicant has signed the application;

- (iii) The party who will be undertaking or responsible for the **Site Alteration** has signed the application;
- (iv) The application fee has been paid;
- (v) Any required inspections have been undertaken;
- (vi) A **Financial Assurance** required by the **Director** has been provided;
- (vii) An application for a permit for Tree Removal has been completed and submitted in accordance with the Township's Tree Conservation By-law if tree injury, destruction or removal is contemplated.

5.2 The **Director** has the discretion to require a **Financial Assurance** as a condition of issuing a **Permit**, and the **Financial Assurance** shall be dealt with in accordance with the following conditions:

- (a) The **Financial Assurance** may be drawn upon by the **Township** to remedy any deficiency in work under a **Permit**, including but not limited to site restoration.
- (b) The **Financial Assurance** shall remain in effect for the full duration of the **Permit**.
- (c) Any **Financial Assurance** in the form of a letter of credit shall contain a clause stating that 30 days' written notice shall be given to the **Township** prior to its expiry or cancellation. In the event that the **Township** receives this notice, and further securities are not provided by the **Owner**, the **Director** may draw on the letter of credit to render it as cash security.
- (d) The **Financial Assurance** shall be released by the **Township** following the completion of a final inspection to the satisfaction of the **Director**.

6.0 ISSUANCE OF PERMIT

6.1 The **Director** shall issue a **Permit** where:

- (a) The **Director** is satisfied that the application is complete, in accordance with this By-law and the Schedules;
- (b) The **Director** is satisfied that the **Site** is not within an area where **Site Alteration** is prohibited under Section 4 of this By-law;

- (c) The **Director** is satisfied that if the site is within an area where **Site Alteration** is prohibited under Section 4 of this By-law, a resolution permitting the issuance of a Permit has been passed by Township of Seguin Council;
- (d) The **Director** is satisfied that the proposed **Placing or Dumping of Fill**, altering of the **Grade** or removing of **Soil**, will not result in the following:
 - (i) **Erosion**;
 - (ii) Blockage of a natural or manmade watercourse;
 - (iii) Siltation of a natural or manmade watercourse;
 - (iv) Contamination of a natural or manmade watercourse;
 - (v) Any disruption or impact of both warm and cold watercourses;
 - (vi) Flooding or ponding;
 - (vii) A detrimental effect on any **Vegetation** that has been designated for conservation;
 - (viii) A detrimental effect on the natural environment of the area;
 - (ix) Contravening the intent of the by-law as expressed in the recitals.
- (e) All other **Permits**, application material, background studies, **Agreements**, documents, reports and **Financial Assurances**, if required, have been received, reviewed and approved to the satisfaction of the **Director**;
- (f) Any other matters that the **Director** considers relevant.

7.0 RENEWAL, TRANSFER, EXPIRY AND REVOCATION OF PERMITS

Renewal

- 7.1 A **Permit** which has expired may be renewed by the **Director** as appropriate, within a period of three months before the date of expiry upon the submission of a written request to the **Director** accompanied by a payment of one-half of the original Application Fee, provided that the proposed work which was the subject of the **Permit** has not been revised;

- 7.2 A **Permit** which has been renewed in accordance with section 7.1 shall thereafter be treated as a new **Permit** except that it shall not again be renewed, unless specifically stated in a **Site Alteration Agreement**.

Transfer

- 7.3 A **Permit** shall expire upon the transfer of ownership of the **Site** unless the new **Owner** provides written commitment to comply with all conditions under which the **Permit** was issued, prior to transfer of the **Site**, including compliance with this By-law and **Agreement** to provide **Financial Assurance** in a form and amount acceptable to the **Director**, at which time any **Financial Assurance** previously provided by the original **Permit** holder pursuant to this By-law shall be released.
- 7.4 Failing the written commitment from the new **Owner**, the **Permit** shall be deemed to be cancelled as of the date of transfer.
- 7.5 A **Permit** is not transferable to another **Site**.

Expiry and Revocation

- 7.6 A **Site Alteration Permit** expires on the date set out in the **Permit**.
- 7.7 The **Township** may revoke any **Permit** if:
- (a) It was obtained on mistaken, false or misleading information;
 - (b) It was issued in error;
 - (c) The **Owner** or **Permit** holder requests it be revoked in writing;
 - (d) Work authorized under the **Permit** has not commenced prior to its expiry date;
 - (e) The **Owner** has breached any of the prohibitions of Section 4 of this By-law; and
 - (f) The land has been transferred and the new **Owner** has not complied with the requirements under this section of the By-law.

- 7.8 When a **Permit** expires or is revoked, the **Owner** shall immediately cease all **Site Alteration**, and shall immediately rehabilitate and stabilize the **Site** so as to prevent adverse effects from **Erosion** and sedimentation from or at the **Site**. If the **Owner** has a registered site plan **Agreement**, subdivision **Agreement**, or a developmental **Agreement** that includes the **Site Alteration** as a condition or requirement, rehabilitation and stabilization shall take place in accordance with that **Agreement**.

8.0 REVIEW OF DECISIONS OF DIRECTOR

8.1 An Applicant for a **Permit** under this By-law may request a review by **Council**:

- (a) Where the **Director** refuses to issue a **Permit**, within ten (10) days after the refusal; or
- (b) if the **Director** fails to make a decision on the complete Application, within thirty (30) days after the complete application is received by the **Director**, or
- (c) if the Applicant objects to a condition in the **Permit**, within thirty (30) days after the issuance of the **Permit**.

9.0 REQUIREMENTS FOR SEDIMENTATION CONTROL PLANS

- 9.1 Every **Sedimentation Control Plan** shall be completed and signed by a **Professional** as defined in this by-law;
- 9.2 A **Sedimentation Control Plan** shall identify and include the relevant information as set out in Schedule "B" of this By-law;
- 9.3 The **Township** may request additional information on any **Sedimentation Control Plan** that is submitted with an application.

10.0 ORDERS

- 10.1 Where the **Director**, their designate or an **Officer** is satisfied that a **Person** has contravened any provision of this By-law, the **Officer** may issue a "Stop Work Order", an "Order to Remedy" or both and such **Orders** shall contain:
- (a) The municipal address and legal description of the land, this may also include the roll number associated with the land;

- (b) Reasonable particulars of the contravention(s); and
- (c) The period in which there must be compliance; or,
- (d) Consist of verbal direction followed by a written **Order** should a written **Order** not be possible at the time of inspection.

10.2 The **Orders** issued pursuant to Section 10.1 of this By-law may require a **Person** or corporation who has contravened any section of this By-law to:

- (a) Cease all work in relation to **Site Alteration**;
- (b) Remove the **Fill**;
- (c) **Fill** in any holes, ruts, excavations or ponds;
- (d) Complete all necessary work to:
 - (i) Eliminate any hazard or potential hazard from the **Alteration** of the **Grade** or the **Placing, Dumping or Removal** of **Fill** and to restore the land to a condition of safety and/or its original environmental condition to the satisfaction of the **Township**.
 - (ii) restore the land to its former condition prior to the **Alteration** of the **Grade** of the land or to the **Placing, Dumping, cutting or Removal** of the **Fill** on the land or other **Site Alteration** to the satisfaction of the **Township**;
 - (iii) Undertake such further investigations as required by the **Township** to identify the extent of any breach of this By-law and do work to correct the contravention, as deemed appropriate by the **Township**.
- (e) Any other requirement as deemed necessary by the **Director** or **Officer**.

10.3 Any remedial work that is ordered through a “Stop Work Order” or an “Order to Remedy” shall be done in accordance with a **Professional’s** report/plan that shall be submitted to the **Township** within the period of compliance provided for listed on the **Order**.

- (a) An **Order** is not deemed to be complied with until the **Professional's** report/plan has been approved by the **Township**, which may include a review by a third party retained by the **Township** and the remedial work has been completed to the satisfaction of the **Township**.
- 10.4 Any **Order** issued under this section may be served personally and/or served by sending it by registered mail, and/or email to the last known address of;
- (a) The **Owner** of the property at the address shown on the municipal tax rolls;
 - (b) The **Person** identified as contravening this by-law;
 - (c) If sent via email, the **Order** shall be sent to the last known email address of the **Person(s)** or corporation(s) in which the **Order** is addressed to.
- 10.5 Where service of an **Order** is made by registered mail, the **Order** shall be deemed to have been served on the fifth day after the **Order** is mailed.
- 10.6 Where service of an **Order** is made by email, the **Order** shall be deemed to have been served on the fifth day after the **Order** was emailed or upon a response from the recipient of the **Order**.
- 10.7 Where service cannot be made under Section 10.4, it is deemed sufficient if the **Director**, their designate or **Officer** places a placard containing the terms of the **Order** in a conspicuous place on the affected lands and the **Placing** of the placard shall be deemed to be sufficient service of the **Order** on the **Person** to whom the **Order** is addressed to;
- 10.8 If the **Owner** or **Permit** holder fails to do the work required by an "Order to Remedy" or "Stop Work Order" issued pursuant to Sections 10.1-10.2 inclusive of this By-law within the period specified, the Municipality, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the **Township** in so doing shall be paid by the **Owner** of the land and may be recovered by the **Township** in the same manner as property taxes or by drawing on the **Financial Assurance** provided.
- 10.9 Any costs incurred by a property **Owner** as a result of remedial action as outlined in Section 10.8 of this By-law will also include interest calculated at a rate of 15% which is calculated for the period commencing on the day the

Township incurs the cost and ending on the day the cost, including the interest, is paid in full;

- 10.10 The amount of the cost incurred could constitute a lien on the land upon which the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established in Section 10.9 to the date full payment is made;
- 10.11 Upon the **Township** receiving payment of all costs payable plus interest accrued to the date of payment, the **Township** shall register a discharge of the lien in the proper land registry office at the expense of the **Owner**;
- 10.12 If a **Person** or corporation is not satisfied with the terms of an "Order to Remedy" or a "Stop Work Order" they may request an appeal to be heard by **Council** or any appointed appeal body/committee by submitting an appeal form within 30 days of receiving the **Order** upon paying the prescribed fees as set out in the existing **Township of Seguin Fees and Charges By-law**;
- 10.13 When an appeal is heard by **Council**, **Council** has the power to confirm, modify, extend or rescind an "Order to Remedy" or "Stop Work Order". The decision of **Council** is final and no further appeals will be permitted.

11.0 INSPECTION AND ENFORCEMENT

- 11.1 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. Any **Person** who is 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 duties.
- 11.2 The **Director**, their designate or an **Officer** may, at any reasonable time, enter and inspect any land to determine whether provisions of this By-law, a condition of a **Permit** issued under this By-law has been complied with, or to ensure that an **Order** issued under this By-law or Section 431 of the Municipal Act, 2001, has been complied with;

- 11.3 For the purposes of conducting an inspection pursuant to Section 10.2 of this By-law, the **Township** may, in accordance with Section 436(2) of the Municipal Act, 2001:
- (a) Require the production of documents or things relevant to the inspection;
 - (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) Require information from any **Person** concerning a matter related to the inspection;
 - (d) Alone or in conjunction with a **Person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 11.4 Upon completion of the work pursuant to the **Permit**, the **Owner** and/or **Permit** holder shall contact the municipality for an inspection;
- 11.5 This By-law shall be administered and enforced by the **Director**, their designate or an **Officer**;

12.0 OFFENCES AND PENALTIES

- 12.1 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33. The applicable fines are as set out in Schedule "C" of this By-law.
- 12.2 Every person who contravenes the provisions of any section of this By-law, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.3 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty

where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

- 12.4 Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of the By-law by the corporation is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is also liable for a special fine in circumstances where there is an economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000.
- 12.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected;
- 12.6 For the purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is deemed a multiple offence.
- 12.7 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.8 For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.9 Notwithstanding Section 12.7 and 12.8, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.

12.10 If an **Order** has been issued under this By-law, and the **Order** has not been complied with, the contravention of the **Order** shall be designated as a continuous offence for each day or part of a day that the **Order** is not complied with.

13.0 OTHER APPROVALS

13.1 The issuance of a **Permit** under this By-law does not excuse the **Owner** from complying with other applicable federal, provincial and municipal By-laws.

14.0 CONFLICT WITH OTHER BY-LAWS

14.1 Nothing in this By-law shall exempt any **Person** from complying with the requirement of any By-law in force or from obtaining any license, permission, **Permit**, authority or approval required under any By-law or legislation.

15.0 SEVERABILITY

15.1 If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of the **Council** to enact, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of this By-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found illegal.

16.0 INTERPRETATIONS

16.1 For the purposes of this By-law, all measurements are shown in imperial and metric equivalent is in brackets following. The imperial measurement shall prevail and the metric equivalent is for reference only.

16.2 "m" in this By-law refers to metres.

16.3 Schedules "A" to "D" plus any others shall form part of this By-law.

17.0 EFFECTIVE DATE AND SHORT TITLE

17.1 By-law No. 2008-104 and By-law No. 2008-105 are hereby repealed.

17.2 This By-law will come into force and effect on the date of passage.

17.3 The short title of this By-law is the "Site Alteration By-law"

READ a First, Second and Third time, and finally passed this X day of X, 20XX.

Ann MacDiarmid, Mayor

Craig Jeffery, Clerk

Schedule "A"

Standards for Site Alteration Plans

Definition of Site Alteration: means a change in elevation from Existing Grade or Finished Grade resulting from:

- i) the placing or dumping of fill;*
- ii) the removal of topsoil;*
- iii) placing, dumping, removal or basting of rock; or*

- iv) any other action that alters the grade of land including the altering in any ways of a natural drainage course*

The owner shall ensure that the information required for Site Alteration Plans are provided by a qualified person. Two certified paper copies and one digital copy of the site alteration plan are required to be submitted. All plans are to be metric and all information provided must be legible and clear. All elevations shall be tied to the existing benchmarks and be related to geodetic datum. Digital drawings are to be submitted in original software format (ARC GIS/CAD) and/or pdf.

General Requirements:

1. A key map showing the location of the site, site boundaries, number of hectares of the site, the site alteration area, municipal address, legal description, nearest major intersection, a legend and north arrow;
2. The use of the site and the location of all buildings and structures on and adjacent to the site;
3. Location, dimensions and use of the buildings or other structures proposed to be erected on the site;
4. The location of driveways on the site and all basements, right-of-way over and across each site;
5. The location of any body of water, wetlands, ditches, channels, environmental protection areas and features within 30 m of the proposed site alteration areas;
6. The high water mark must be identified;
7. The location and identification of predominant soil types;
8. The location and species types of vegetative cover, including the species and size of trees and shrubs;
9. The location and dimensions of any existing and proposed storm water management or drainage systems;
10. Location of any easements;
11. Location and dimensions of utilities, structures, roads, paving or roads on the site or within 30 m of the site;
12. The identification of the proposed finished grade elevations of the site;
13. Location and dimensions of all proposed site alteration activities;
14. Location and dimensions of all proposed temporary stockpiles for fill, soil and other materials;
15. Location and dimensions of all proposed staging areas for equipment;
16. An indication on the drawing of the direction of overland flow and overland flow routes;

17. The location, dimensions, design details and design calculations of all site control measures, including plan and profile drawings of erosion and sediment controls and storm water management devices, necessary to meet the requirements of this by-law;
18. Provisions for the maintenance of the site and control measures;
19. A schedule of anticipated start and completion dates of each land disturbing or land developing activity including the installation of erosion and sediment control measures needed at the site;
20. Details of rehabilitation including the type and location of all interim and permanent stabilization measures;
21. A list of all vegetative species proposed to be removed or planted on the site;
22. And such other information with respect to the Site as may be required by the Director.
23. AND
24. Sedimentation Control Plan.

SCHEDULE "B"

For Design and Maintenance of Erosion and Sedimentation Control Measures

1. Pre-Construction Information

The Sedimentation Control Plan shall include the following descriptive information with respect to the pre-construction state of the Site:

- (a) A 1" = 40' scale Site map and key map
- (b) Drainage information, including:

- i. existing storm water drainage;
 - ii. natural drainage channels on Site;
 - iii. natural drainage channels within 30m of the Site boundary;
- and

(c) Location and type of existing vegetative cover;

- (d) Description of the historic, current and any proposed future land use of the Site.

2. Sediment Control Plan

The Sedimentation Control Plan shall include the following information relating to the proposed Site Alteration:

- (a) A detailed description of the location and dimensions of all proposed Site Alteration activities.
 - (b) Description of local receiving waters such as watercourses and lakes (e.g. warm water fisheries, cold water fisheries; aquatic habitat use, confined or unconfined valley);
 - (c) Description of neighbouring areas, such as residential and commercial areas, reserves, natural areas, parks, storm sewers, and roads that might be affected by the land disturbance;
 - (d) A description of **soils** on the site, including erodibility, and grain size analysis. This description should include a summary of the **soils/geotechnical** report for the site;
 - (e) The location of all sediment fences that will be installed on the site
 - (f) Description of areas within the development site that have potential for serious erosion or sediment problems;
- (f) A land alteration sequencing plan, setting out;
- i. timing of construction activities;
 - ii. sequencing of installation and removal of all control measures; and
 - iii. measures taken to minimize exposed areas.

- (g) Description of how the site will be stabilized after construction is completed. This will require a phasing plan of the altered areas to be reseeded and the expected time of stabilization;
- (h) The location and dimensions of all temporary **soil** or dirt stockpiles;
- (i) The location of all erosion and sedimentation control measures to be installed on the Site.
- (j) Provide a list of emergency and non-emergency contacts complete with a phone number and email address (e.g. owner, site supervisor);

Schedule “C”

Potential Site Design Guidelines may address some or all of the following:

- 1) Prevention of the impairment of water, groundwater and soil quality as well as the off-site effects of soil erosion and sedimentation;
- 2) Dewatering and/or runoff control;
- 3) Plans shall include Drain Inlet Protections;
- 4) Site erosion and sediment control;
- 5) Phasing to minimize the area of bare soil exposed at any one time;
- 6) Rehabilitation and/or vegetative planting; and
- 7) Additional/reduced items as identified through public consultation

THE CORPORATION OF THE TOWNSHIP OF SEGUIN
PART I Provincial Offences Act
By-law 2022-XX: Site Alteration By-law
SCHEDULE "D": SET FINES

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Cause or permit site alteration within 20 metres of a navigable waterway in Shoreline Area and Settlement Area designation	4.1	\$1000.00
2	Cause or permit site alteration in an Environmental Protection zone	4.2	\$1000.00
3	Cause or permit site alteration on an Island	4.3	\$1000.00
4	Cause or permit site alteration within 20-60 metres of navigable waterway in Shoreline Area and Settlement Area designation without obtaining a permit	4.5	\$1000.00
5	Cause or permit site alteration resulting in erosion	4.6 (a)	\$1000.00

6	Cause or permit site alteration resulting in siltation/pollution of a watercourse/wetland/storm sewer	4.6 (b)	\$1000.00
7	Cause or permit site alteration beyond building envelope larger than allowed for the installation of Waterfront accessory structures	4.7	\$1000.00
8	Cause or permit site alteration for the installation of a waterfront accessory structure resulting in removal of trees without the appropriate permit	4.8	\$1000.00
9	Cause or permit site alteration for a patio beyond the outer edge of patio	4.9	Dollar amount
10	Cause or permit site alteration for a walkway beyond the outer edge of walkway	4.11	Dollar amount
11	Cause or permit site alteration for the installation of a foundation resulting in removal of trees without the appropriate permit	4.13	\$1000.00
12	Fail to comply with an Order	4.14	\$1000.00
13	Pull down/Remove/Deface a posted Order	4.15	\$300.00
14	Fail to produce or post permit	4.16	\$300.00

15	Fail to stop work if archaeological resources found	4.17	\$1000.00
16	Fail to erect sedimentation fence	4.18 & 4.19	\$1000.00
15	Fail to maintain sedimentation fence	4.20	\$1000.00
16	Cause or permit site alteration for occasional or special event	4.21	\$1000.00
17	Permit site alteration contrary to agreement	4.22	\$1000.00
18	Permit site alteration before approval has been issued	4.23	\$1000.00
19	Permit site alteration while permit is expired or revoked	7.8	\$1000.00
20	Hinder or obstruct officer	11.1	\$500.00

NOTE: The penalty provision for the offences indicated above is section XX of By-law No. XXXX-XX, a certified copy of which has been filed.