

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW NO. 2016-056

Being a By-law to provide for the maintenance of property in a clean, clear and safe condition.

WHEREAS the Township of Seguin Official Plan resulted in the development of a Land Use Vision for the future of the Township that is expressed in the Official Plan. This Vision is based on planning principles including the protection and enhancement of the natural environment and natural heritage features of the Township;

AND WHEREAS the Township's Strategic Plan has identified 3 Key Strategic Directions (the 3E's) including the Environment (Natural, Visual and Social Environment), which the community, volunteers and the organization will focus on in order to achieve our Vision;

AND WHEREAS Council of The Corporation of the Township of Seguin strives to adopt policies for the economic, social, and environmental well-being of the Township. The health, safety, and well-being of persons, and the protection of persons and property. Including policies related to the depositing of waste, including construction waste and/or fill in a location other than the Township's designated landfill site where waste deposit is allowed;

AND WHEREAS the intent of Council is to enact a by-law that would only be engaged under specific circumstances to protect the environmental integrity of private property within the Township. And provide the Township with the authority to require property owners to maintain their property within environmental, health, safety, fire and societal standards as determined on an individual property basis;

AND WHEREAS the The Corporation of the Township of Seguin is a single-tier municipality;

AND WHEREAS the provisions of Section 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorize a single-tier municipality to provide any service or thing that the municipality considers necessary or desirable for the public and to pass by-laws respecting matters including the economic, social and environmental well-being of the municipality and, the health, safety and well-being of persons;

AND WHEREAS the provisions of Section 127 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes, without limiting sections 9, 10 and 11, a local municipality may,

- a) require the owner or occupant of land to clean and clear the land, not

- including buildings, or to clear refuse or debris from the land, not including buildings;
- b) regulate when and how matters required under clause (a) shall be done;
- c) prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and
- d) define “refuse” for the purpose of this section.

AND WHEREAS the provisions of Section 128 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes, without limiting sections 9, 10 and 11, a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances. And the opinion of council under this section, if arrived at in good faith, is not subject to review by any court.

AND WHEREAS as per the provisions of Section 426 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under this Act. And any person who contravenes this is guilty of an offence.

AND WHEREAS as per the provisions of Section 436 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, 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 by-law is being complied with;

AND WHEREAS the provisions of Section 444 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes,

- (1) If a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.
- (2) An order under subsection (1) shall set out,
 - a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - b) the date by which there must be compliance with the order.

AND WHEREAS the provisions of Section 445 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes,

- (1) If a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.

- (2) An order under subsection (1) shall set out,
 - a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - b) the work to be done and the date by which the work must be done.
- (3) An order under subsection (1) may require work to be done even though the facts which constitute the contravention of the by-law were present before the by-law making them a contravention came into force.

AND WHEREAS the provisions of Section 446 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes,

- 1) If a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense.
- 2) For the purposes of subsection (1), the municipality may enter upon land at any reasonable time.
- 3) The municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 4) For the purposes of subsection (3), a local municipality shall, upon the request of its upper-tier municipality, add the costs of the upper-tier municipality to the tax roll.
- 5) The costs include interest calculated at a rate of 15 per cent or such lesser rate as may be determined by the municipality, calculated for the period commencing on the day the municipality incurs the costs and ending on the day the costs, including the interest, are paid in full.

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

1. DEFINITIONS

- 1.1 "Clerk" shall mean the Municipal Clerk of The Corporation of the Township of Seguin.
- 1.2 "Council" shall mean the Council of The Corporation of the Township of Seguin.
- 1.3 "Domestic Waste" shall mean any article, thing, matter or any effluent belongings to or associated with a house or household or concerning or relating to the home or family or objects or conditions that may create fire, health or safety hazard and for greater certainty, but not so as to restrict the generality of the foregoing includes:
 - a) Accumulation, deposits, leavings, litter, remains, rubbish, garbage, trash;

- b) Refrigerators, freezers, or other appliances, or any part thereof;
- c) Furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks or any part thereof;
- d) Motor vehicles, motor cycles, snowmobiles, bicycles, trailers, boats or vessels, off-road vehicles which are in a wrecked, discarded or dismantled condition, in whole or in part and their components parts;
- e) Paper, cartons, fabrics or carpets;
- f) Furniture such as beds, bed springs, mattresses, couches, chesterfields, chairs, tables and their components parts;
- g) Salvage materials;
- h) Materials or things exposed to the elements and deteriorating or decaying on a property due to exposure to the weather.

1.4 “Inoperative Motor Vehicle” shall mean a vehicle having missing parts, including tires or damaged or missing glass or deteriorated or removed metal adjunctions, which prevent its mechanical functions and includes a motor vehicle that does not have a valid licence plate including a current validation sticker where such motor vehicle requires a licence plate and validation sticker for its legal use.

1.5 “Motor Vehicle” shall mean an automobile, truck, motorcycle, snowmobile, trailer, boat, recreational vehicle and any other vehicle propelled or driven by other than muscular power.

1.6 “Municipality” shall mean The Corporation of the Township of Seguin.

1.7 “Non-Domestic Waste” shall mean any article, thing matter or any effluent belonging to or associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste materials or salvage material and objects or conditions that may create fire, health or safety hazard, and for greater certainty, but not so as to restrict the generality of the foregoing includes:

- a) Articles, things, matters, effluent which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:
 - i. Agricultural, animal, paper, lumber or wood products; or
 - ii. Mineral, metal, steel, aluminum, or other ferrous or non-ferrous materials or alloy, or chemical products, whether or not the products are manufactured or otherwise processed.
- b) Automotive parts, batteries, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment or any part thereof;
- c) Piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing conduits or cable;

- d) Containers of any size, any type or any composition;
 - e) Material resulting from, or as part of, construction or demolition projects;
 - f) Rubble;
 - g) Salvage materials;
 - h) Materials or things exposed to the elements and deteriorating or decaying on a property due to exposure to the weather.
- 1.8 "Officer" shall mean a Municipal By-law Enforcement Officer appointed or directed by Council for the enforcement of the by-laws of the municipality and for the purpose of this by-law shall include the Ontario Provincial Police.
- 1.9 "Owner" shall mean the registered owner of land, the owner in trust, a mortgagee in possession and includes a person, firm, partnership, corporation, company, association or organization of any kind and its principal(s).
- 1.10 "Property" shall mean any land within the Township of Seguin including yards and vacant lots.
- 1.11 "Remedial Action" shall mean the pickup, removal, and disposal of Refuse or Debris or Inoperative Motor Vehicle from any property within the boundaries of the Township of Seguin by the municipality or its agent, including all associated costs.
- 1.12 "Refuse" or "Debris" includes "Domestic Waste", "Non-Domestic Waste" and "Waste Material" as defined in this By-law.
- 1.13 "Treasurer" shall mean the Treasurer of The Corporation of the Township of Seguin.
- 1.14 "Waste Material" shall mean material or effluent that in the opinion of the Officer:
- a) Appears to have been cast aside or discarded or abandoned, whether it is or not; or
 - b) Appears to be worthless or useless or of no practical value whether it is or not; or
 - c) Appears to be used up, in whole or in part, or expended or worn out in whole or in part;
- Notwithstanding that the owner of such material intends to repair or render it fit for a useful purpose.

2. GENERAL PROVISIONS

- 2.1 Every owner shall keep their property free from any objects or conditions that are likely to create an environmental, health, fire or safety hazard.

- 2.2 Every owner shall ensure that his or her property is kept in a clean condition and clear of any Refuse or Debris or Inoperative Motor Vehicle(s).
- 2.3 An Officer may enter upon property at any reasonable time for the purpose of inspection and enforcement.

3. EXEMPTIONS

- 3.1 Subsection 2.2 does not apply to:
 - a) the outdoor storage of articles or things which are included in the definition of Refuse or Debris or Inoperative Motor Vehicle when such articles or things are permitted to be stored outside in a permitted open storage area by the Township of Seguin Zoning By-law;
 - b) land or structures used by the municipality or any other government authority for the purpose of dumping or disposing of garbage or refuse.
 - c) land owned by the Government of Canada, the Province of Ontario or the Township of Seguin.

4. ENFORCEMENT

- 4.1 This by-law shall be enforced by an Officer as defined under this by-law.
- 4.2 An Officer may enter upon land, at any reasonable time, for the purpose of carrying out inspections of or on such land to determine whether or not the following are being complied with:
 - a) the provisions of this by-law;
 - b) investigation of a complaint received pursuant to this by-law;
 - c) a Notice sent pursuant to this by-law.
- 4.3 No person shall hinder or obstruct, or attempt to hinder or obstruct any Officer or other person exercising a power or performing a duty under this by-law.
- 4.4 An Officer shall determine what constitutes an environmental, health, fire or safety hazard.
- 4.5 Where any property is not maintained in compliance with the provisions of this by-law, an Officer may require the Owner of the Property by a Notice, sent by registered mail to the Owner of the Property at the address shown on the last revised assessment roll of the municipality or the last known address, or by delivering the Notice personally to the Owner of the Property, directing in writing that the Owner must respond in writing to the municipality within fifteen (15) days of the date of the Notice stating the Owner's intent to either comply with the by-law

within thirty (30) days of the date of the Notice or the Owner's intent to appeal the Notice to the Council.

- 4.6 The Notice shall include:
- a) date of the Notice;
 - b) identify any Refuse or Debris or Inoperative Motor Vehicle that must be removed;
 - c) deadline by which the Owner must advise the municipality in writing of the Owner's intent to either comply with the by-law or the Owner's intent to appeal the Notice.
 - d) deadline by which the Owner must comply with the by-law if the Owner's intent is to comply.
 - e) That if the Owner does not provide in writing the Owner's intent to either comply with the by-law or the Owner's intent to appeal the Notice by the deadline, that after the deadline to comply the municipality may undertake to complete the work and any costs associated with the work shall be billed to the person responsible in a like manner as taxes.
- 4.7 In the case of a health, fire or safety hazard, an Officer may compel that said hazard be removed forthwith without the notice as described in Section 4.6.

5. APPEAL PROCESS

- 5.1 An Owner who receives a Notice under this by-law is entitled to appeal the Notice to the Council.
- 5.2 Where an Owner has been served a Notice as per Section 4 of this by-law, the Owner may appeal the Notice to the Council by submitting in writing to the municipality the Owner's intent to appeal the Notice. The written submission of intent to appeal must be submitted to the municipality by the deadline noted in the Notice received by the Owner and must detail the specific areas of the Notice being appealed.
- 5.3 Where no appeal has been received by the municipality by the deadline as per Section 5.2, the original Notice shall be deemed to have been confirmed and no appeal is deemed to be undertaken nor shall be allowed.
- 5.4 The appeal shall be in writing and mailed by registered mail to the attention of the Clerk of the Township of Seguin or delivered in person to the Clerk or designate at the municipal offices at 5 Humphrey Drive, Seguin, ON, P2A 2W8.
- 5.5 Where an appeal is received by the Clerk of the Township, the Clerk shall schedule the hearing of the appeal by Council at the next regularly scheduled meeting of Council.

5.6 Council shall hear the appeal and may modify, confirm or quash the original Notice or may extend the original time frame given for compliance, provided that any modifications to the original Notice satisfy the intent of the by-law.

5.7 Council's decision shall be made in writing and a copy of said decision shall be provided to the appellant.

6. PENALTY

6.1 Where a Notice identified in Section 4 of this by-law has been served on an Owner in accordance with this by-law, and the said Owner is in default of doing anything that is required to bring the land into compliance with this by-law, as set out within the time frame specified in the Notice, an Officer or his designate may, on behalf of the Township, direct Township Staff, officers or agents to carry out any or all such work, at the expense of such Owner and such costs may, at the discretion of the Township Treasurer or her or his designate, be added to the tax roll and collected in the same manner as property taxes.

7. SEVERABILITY

7.1 In the event that any of the provisions of this by-law are deemed ultra vires by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

8. EFFECTIVE DATE

8.1 The effective date of this by-law shall be the date of passage thereof.

READ a FIRST, SECOND and THIRD TIME, PASSED and ENACTED this day of , 2016.