



## Sudbury East Building and By-law Services (SEBBS)

### Report for the Consideration by Council

*Shared Services in the Municipalities of French River, Killarney, Markstay-Warren and St.-Charles*

<b>Meeting Date:</b> December 11, 2024	<b>Report Date:</b> November 29, 2024
<b>Reason Before Council:</b> Policy Direction / Approval	<b>Priority:</b> Normal
<b>Department:</b> Protection to Persons & Property	<b>Type of Meeting:</b> Regular Meeting

### RE: Information Regarding Implementing a Blasting By-Law

<b>RECOMMENDED RESOLUTION:</b>	That Council review the proposed draft Blasting By-Law and provide comments and direction to staff.
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### BACKGROUND:

Earlier this year, Council directed staff to investigate best practices for dealing with blasting activities happening within the Municipality.

Staff reviewed Ontario Regulation 120 (OPSS 120) and recommended the following actions that have been implemented:

1. Information about blasting has been added to the Municipal website.
2. Building permit applicants are being asked if they will be blasting as part of their building plans.

Finally, staff recommended that a draft By-Law be explored and presented for Council to review.

### ANALYSIS:

Draft Blasting By-Law:

The draft Blasting By-Law is a simple and straightforward document that puts responsibility on the property owners to ensure that they are working with contractors who follow the rules of OPSS 120 and penalizes contractors who disregard their responsibilities as blasting professionals.

Staff received legal advice to ensure that any proposed By-Law would not open up the Municipality to liability in the case of wrong action by a blasting contractor.

While it was noted that neither the OPSS 120 or the Federal *Explosives Act* have provisions that would trigger the requirement of the Municipality to enact a Blasting By-Law, the *Explosives Act* at section 29

provides that nothing in the Act relieves any person of the obligation to comply with the requirements of any By-Law of any municipality lawfully enacted in relation to explosives.

It was finally concluded by legal counsel that *“Upon review of the relevant legislation and the proposed blasting by-law, we do not anticipate the Municipality being liable for the decision to enact the by-law. Any potential liability would stem from the potential administration of the by-law through the inspection and enforcement processes.”*

They go on further to say:

*“In order to mitigate the potential for liability, we recommend the following:*

a) *Ensure that the Municipality has discretion regarding inspection. It is not necessary to make inspection a requirement for any project that is contemplating blasting.”*

**With regards to inspection, the draft By-Law would not call for an inspection of the blasting site as that is an expectation of the contractor as directed by OPSS 120.**

b) *“Place a notice on all approval documents, such as building permits, indicating that any blasting activities must comply with the blasting by-law.”*

**A note will be added to building permits noting that any blasting activity must adhere to OPSS 120.**

c) *“If the by-law is enacted, ensure that the necessary resources are available to allow for enforcement the by-law in order to mitigate the potential liability for negligent enforcement.”*

**The tools for enforcement are in place with enforcement officers having the ability to administer penalties to property owners and write orders to contractors.**

### **Recommendations:**

To review and provide comments to the Director of SEBBS which will be considered in future drafts of the By-Law to be presented for consideration in early 2025.

### **Attachments:**

- Draft Blasting By-Law

**Respectfully submitted by:** Andrea Tarini, Director of SEBBS / CBO