



Rural Municipality of De Salaberry

By-Law No. 2345-16

BEING a By-Law of the Rural Municipality of De Salaberry to regulate and control the mining of aggregate in the Rural Municipality of De Salaberry to be known as the “Aggregate Mining By-Law”.

WHEREAS *The Municipal Act*, C.C.S.M., cap. M225, and amendments thereto provides in part, as follows:

“Section 232(1) A Council may pass by-laws for Municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from Municipal taxation;
- (c) subject to Section 233, activities or things in or on private property;
- (d) municipal roads, including naming the roads, posting the names on public or private property, and numbering lots and buildings along the roads;

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(m) local transportation systems;

(n) businesses, business activities and persons engaged in business;

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(o) the enforcement of by-laws.

232(2) Without limiting the generality of Subsection (1), a Council may in a by-law passed under this division;

(a) regulate or prohibit;

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(e) subject to the regulations, provide for a system of licenses, permits or approvals, including any or all of the following:

(i) establishing fees, terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the costs of regulation;

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(v) providing for the duration of licenses, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law; and

(vi) providing for the posting of a bond or other security to ensure compliance with a term or condition.

239(1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a Municipality, a designated officer of the Municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action;

(a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;

(b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and

(c) make copies of anything related to the inspection, remedy, enforcement or action.

AND WHEREAS the Lieutenant Governor in Council has made Regulation No. 48/97 under Section 232(2)(e) of *The Municipal Act* for the purpose of regulating aggregate mining and transportation fees and agreements and has made Regulation No. 216/2004 concerning the maintenance, repair, restoration of highways and the shortening of its lifetime;

AND WHEREAS the Municipality wishes to provide for the licensing of aggregate mining and for the licensing of the transportation of mining aggregate within the Municipality and to set fees payable in connection with such licensing;

NOW THEREFORE the Council of the Rural Municipality of De Salaberry in Council duly assembled enacts as a By-Law the following:

1. DEFINITIONS:

“aggregate” means a quarry mineral that is used solely for construction purposes or as a constituent of concrete other than in the manufacture of cement and includes sand, gravel, clay, crushed stone and crushed rock;

“aggregate mining licence” means a licence issued under clause (2) of this by-law;

“aggregate transport licence” means a licence issued under clause (3) of this by-law;

“Designated Officer” means the person or persons designated in writing by the Municipality from time to time to administer and/or enforce this By-Law;

“haul route” is a highway designated by the Municipality for the hauling of aggregate;

“highway” means a highway, as defined in “*The Highway Traffic Act*”, C.C.S.M. c.H60, and amendments thereto, over which the municipality has jurisdiction;

“licensee” means the holder of aggregate mining licence and/or aggregate transport licence;

“Municipality” means the Rural Municipality of De Salaberry;

“owner” means the person having the right to remove and dispose of aggregate in, under or upon a parcel or tract of land or, where such right cannot be conveniently determined, the legal owner of such parcel or tract;

“person” means a natural person, a partnership, a firm, a business, an association, a credit union, a cooperative, a corporation or a municipality;

“pit” means a place where unconsolidated gravel, stone, sand, earth, topsoil, peat moss, clay, fill, mineral or other material is being or has been removed, by means of an open excavation to supply material for construction, industrial or manufacturing purposes;

“pit location” means the parcel or tract of land from which aggregate is mined and includes a pit location specified in an aggregate mining licence;

“quarry” means a place where consolidated rock has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside quarry or open pit metal mine;

“Regulation” means Province of Manitoba Regulations No. 48/97 and/or 216/2004 as amended or replaced from time to time.

2. THAT within the Municipality, any person, firm or corporation, mining aggregate from land, except in respect of aggregate owned by the Crown of a Crown agency or a person, firm or corporation mining aggregate for use on the same property described in the same land title as the pit and/or quarry from which the aggregate was removed, whether or not mined by a third party under a quarry permit,

quarry lease or otherwise, shall be required to obtain, from the Municipality, for the period from January 1 to December 31 in each year, an aggregate mining licence in the form issued by the Municipality from time to time and pay such fees and other charges as are provided for herein and by Regulation.

2.1. If no aggregate is removed from a pit or quarry for 12 consecutive months, then any Conditional Use Order granted by the Municipality under its zoning by-law with respect to that pit or quarry shall automatically lapse without further notice from the Municipality.

3. THAT within the Municipality, any person, firm or corporation, transporting aggregate on a highway, shall be required to obtain annually from the Municipality, for the period from January 1 to December 31 in each year, an aggregate transport licence in the form issued by the Municipality from time to time and pay such fees and other charges as are provided for herein and by Regulation.

3.1. That the within By-Law shall not apply to the transportation of aggregate for personal use for land owners within the Municipality provided that aggregate so removed remains on the property described in the same land title as the pit and/or quarry from which the material was removed.

4. The holder of an aggregate transport licence is not required to hold an aggregate mining licence issued by the Municipality.

5. The Municipality may designate highways as haul routes for each person, firm, or corporation holding an aggregate mining licence and/or aggregate transport licence.

6. All aggregate transport licensees must follow haul routes. Any deviation from the haul route requires the licensee to obtain prior written permission from the Designated Officer. The Designated Officer has the authority to revoke a haul route immediately after written notice is served on the licensed hauler if the licensed hauler has, in the sole opinion of the Designated Officer, deviated from the haul route and/or operated a motor vehicle in excess of the weight permitted under "*The Highway Traffic Act*", C.C.S.M., c.H60, which may be amended from time to time.

6.1. The Designated Officer shall have the authority to issue temporary special transportation licenses, valid for a period of time which shall not exceed thirty days from the date of issuance of the temporary special transportation licence, dealing with the designation of alternative haul routes. The form of the temporary special transportation licence shall be as issued by the Municipality, as required, from time to time.

Such a licence will be valid for a period of time which shall not exceed the lesser of:

- (a) Thirty days from the date of issuance of the temporary special transportation licence; or
- (b) The decision of the Designated Officer to designate the temporary haul route as being a permanent haul route and the subsequent issuance of an aggregate transport licence to the licensee; or
- (c) Upon the decision of the Designated Officer and/or Council to revoke same.

7. The annual fees for aggregate mining licenses and aggregate transport licenses shall be \$100.00 for each licensee.
8. Each licensee referred to herein shall annually furnish an irrevocable letter of credit from a chartered Canadian Bank or Credit Union, acceptable to the Municipality and in favour of the Municipality, in an amount of not less than \$5,000.00 or a cash deposit to the Municipality, in an amount not less than \$5,000.00.
9. All licenses referred to in clause 2 shall be posted by the licence holder in a visible area at each pit and quarry location.
10. The Municipality requires the payment of fees by the holder of an aggregate mining licence, based on the quantity of aggregate removed from land in the Municipality by the holder, which amount shall be in accordance with the Regulation, as amended from time to time, of the Province of Manitoba setting such fees.
11. The Municipality requires the payment of fees by the holder of an aggregate transport licence, for the maintenance, repair, restoration or shortening of the lifetime of any highway used by the holder to transport aggregate, which shall be:
 - (a) Except as herein provided, in accordance with the Regulation setting such fees, the Designated Officer has the authority to revoke a designated haul route, immediately after written notice is served on the licensed hauler, if the Municipality has received written complaints from the majority of residents along with the designated haul route that is being revoked;
 - (b) If the foregoing fees prove to be insufficient in the sole opinion of the Municipality, then the Municipality may require the licensee to pay for the maintenance, repair and restoration and for the shortening of the lifetime of a highway in accordance with the Regulation, as amended from time to time, of the Province of Manitoba setting the amount of such payment; and,
 - (c) The Municipality may enter into an Agreement with a licensee for the maintenance and/or restoration of any designated haul routes and/or the application of dust control chemicals or other dust suppression methods as requested by and at the sole discretion of the Designated Officer on a designated haul route and/or on any road located on land within which a pit and/or quarry is located.
12. The Municipality requires the holder of an aggregate mining license to pay any fee referred to in clause 10 and 11 respecting aggregate mined by the holder of the aggregate mining licence and transported for the holder by another person.
13. Any aggregate mining licensee shall be responsible for ensuring that all transportation and maintenance levies for volume or weight of material for pits and quarries in the Municipality for which it is licence have been paid in full. Each aggregate mining licensee and each aggregate transportation licensee in the Municipality shall, within 30 days after the end of any month in which excavation or transportation occurs, submit a remittance form, in the form issued by the Municipality from time to

time to the Municipality together with the payment required therein. The said licensee will, within 30 days, after written demand by the Municipality, submit any supplementary proof as to the amount of aggregate excavated and/or hauled that the Municipality requests.

14. Any person, firm or corporation transporting aggregate within the Municipality, regardless of the origin of the aggregate, is subject to the requirements of clauses 3, 10, and 11 of this By-Law.

15. Any person, firm or corporation who is required to obtain a licence pursuant to this By-Law, shall remit license fees before mining and/or transporting aggregate and shall pay any other fees within the time as required. Every day of late remittance of a fee is an offence and the offender is liable to a fine as provided in the within By-Law.

16. Any person who contravenes any provision of this By-Law is guilty of an offense and is liable to a fine of not less than \$200.00 or more than \$500.00 or to imprisonment for a term not exceeding three months, or both. Each day the offence continues is a separate offence.

17. If the Designated Officer and/or Municipality revokes a licence referred to herein, then the Municipality may, at its sole discretion, draw down the Letter of Credit and/or cash deposit and use said monies to remedy any damages caused by the licensee. If the licensee objects to the Municipality drawing down on the Letter of Credit and/or cash deposit it shall have 14 days after receipt of written notice of the draw down from the Municipality to appeal the draw down to the Council of the Municipality. The Council of the Municipality shall set a date for the hearing of said appeal and the Licensee must justify why the draw down should not occur. The decision of the Municipality is final and binding upon the licensee.

18. This by-law shall come into effect on January 1, 2017.

DONE AND PASSED as a By-Law of the Rural Municipality of De Salaberry this 8th day of November, 2016.

Original Signed by "Marc Marion"

Reeve

Original Signed by "Kristine Sheilds"

Chief Administrative Officer

Read a first time this 26th day of July, 2016

Read a second time this 8th day of November, 2016

Read a third time this 8th day of November, 2016