

THE RURAL MUNICIPALITY OF CORNWALLIS

BY-LAW NO. 1719/11/2023

**A By-Law of the Rural Municipality of Cornwallis to regulate and control the Mining and Transport of aggregate in the Rural Municipality of Cornwallis to be known as the “Aggregate By-Law”, and repealing By-law No. 1714/04/2023.**

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;
- (m) local transportation systems;
- (n) businesses, business activities and persons engaged in business;
- (o) the enforcement of by-laws.

Section 232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division:

- (a) regulate or prohibit;
- (e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:
  - (i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,
  - (v) providing for the duration of licences, 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;

Section 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.

Section 287 Subject to this and any other Act, a municipality has the direction, control and management of municipal roads within its boundaries.

AND WHEREAS *The Highway Traffic Act* provides in part as follows:

90(1) A traffic authority may classify vehicles according to dimensions, design, weight, kind of weight carried or otherwise, for any class or all classes of vehicles and may make rules or by-laws supplementary to, or in addition to, but not contrary to, any provision of this Act, *The Drivers and Vehicles Act* or the regulations under either Act and applicable on highways over which the traffic authority has jurisdiction or within any area over which the traffic authority has jurisdiction, with respect to:

(d) prescribing routes of travel, including prohibiting certain traffic from travelling on certain routes of travel or requiring certain traffic to travel only on certain routes of travel; and may impose penalties for a violation of any such rule or by-law.

86(9) With or without conditions and in accordance with subsection (10), a traffic authority other than the minister may, in respect of a highway under its authority or a structure forming part of the highway,

- (a) prohibit drivers from using, or restrict their use of, the highway or structure;
- (c) restrict the permissible weights of vehicles that use the highway or structure.

86(10) When a municipality, a local government district or the council of a band, as traffic authority of a highway, imposes a prohibition or restriction under subsection (9), it must

- (a) if the prohibition or restriction is for two years or less, impose it by resolution; and
- (b) if the prohibition or restriction is for longer than two years, impose it by by-law.

86(15) A regulation, order, by-law or resolution made under this section

- (a) may be general or particular in its application;
- (b) may apply in whole or in part to one or more classes or types of vehicles or classes of persons to the exclusion of others; and
- (c) in the case of

...

(ii) a by-law or resolution, may apply to all or any part of the area over which the maker of the by-law or resolution has local government authority and to all or any portion of a highway or structure forming part of a highway.

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 transportation and for the licencing 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 Cornwallis in Council duly assembled, enacts as follows:

#### **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 and 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;

"licencee" means the holder of aggregate Mining and Transport licence;

"Municipality" means the Rural Municipality of Cornwallis;

“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. INTERPRETATION**

2.1 Nothing in this By-law will be interpreted so as to permit the operation of a vehicle on any Municipal Road or portion thereof where such operation is in contravention of:

2.1.1. the provisions of this or any other by-law of Cornwallis; or

2.1.2. temporary restrictions put into place by Cornwallis from time to time; or

2.1.3. any statute or regulation enacted by the Province of Manitoba or the Government of Canada

2.2 Unless provided to the contrary herein, this By-Law applies to every person engaged in Commercial Aggregate mining and transportation within the Municipality.

2.3 This By-law does not apply to the Municipality, the Crown, or to any Crown Agency.

## **3. APPLICATION AND LICENCES**

3.1 Any person mining and transporting Aggregate within the Municipality is required to apply for and obtain a licence as follows:

3.1.1. Aggregate Mining and Transport Applications will be in the form attached hereto as Schedule “A”; and

3.1.2. Aggregate Mining and Transport Fees will be in the form attached hereto as Schedule “B”;

3.2 Aggregate Mining and Transport Licences will be valid and subsisting for a period no greater than one year commencing on the date of issue and ending on December 31 in the same year.

3.3 All current Licencees must submit a new application and pay the annual application fee prior to December 31<sup>st</sup> in the current year in order continuing mining Aggregate, as the case may be, in the following year.

3.4 The holder of an Aggregate Mining and Transport Licence must produce such licence to the Designated Officer forthwith upon demand.

## **4. USE OF MUNICIPAL ROADS**

4.1 Any person may use any Municipal Road for the purpose of transporting Aggregate for Commercial purposes where necessary in order to conduct business at a Pit Location or at a destination point if:

4.1.1. either the Pit Location or the destination point is not located on a Provincial road or a Provincial Trunk Highway; or

4.1.2. it is not possible to travel from the Pit Location to the destination point, or vice versa, using only a Provincial road or a Provincial Trunk Highway;

provided always that when travelling on Municipal Roads, the person must use the route which results in the shortest distance possible being travelled over and across Municipal Roads.

4.2 No person may, for the purpose of transporting Aggregate for Commercial purposes, use a Municipal Road in lieu of using a provincial road and/or a Provincial Trunk Highway to connect two points along such person’s route of travel if the two points may be connected using only provincial roads and/or Provincial Trunk Highways.

## **5. DESIGNATED HAUL ROUTES**

5.1 As a condition of approving a conditional use application for an Aggregate Mining Operation, the Municipality may designate Haul Routes which must be used while Aggregate is in transport:

5.1.1. from a Pit Location operated by an Aggregate Mining and Transport Licencee.

5.2 All persons transporting Aggregate for Commercial purposes must follow the designated Haul Routes.

5.3 It is the responsibility of the holder of an Aggregate Mining and Transport Licence to ensure that all Aggregate leaving the Pit Location operated by the Aggregate Mining and Transport Licencee is done so over designated Haul Roads.

## **6. FEES**

6.1 The annual application fee for an Aggregate Mining and Transport Licence will be \$200.00.

6.2 The holder of an Aggregate Mining and Transport Licence shall produce such licence to a designated officer of the Municipality forthwith upon demand.

6.3 In addition to the Aggregate Mining and Transport Licence, all Aggregate Mining and Transport Licencees will be required to pay fees to the Municipality as follows:

6.3.1 A fee based on the quantity of aggregate mined in the Municipality by that person during the calendar year specified and which fee shall be the lesser of the amounts calculated in tonne or cubic metre or Column C as follows:

Column A	Column B	Column C
Calendar Year	Rate per cubic meter	Rate per tonne
September to December 2022	\$0.4646	\$0.2610
January 2023 and following	\$0.50124	\$0.28159

6.3.2 A fee for the transportation of aggregate for the shortened lifetime of and, maintenance, repair and restoration of municipal roads which fee shall be as determined by the following formula:  $A \times B$

In this formula,

A - is the number of kilometers of municipal road over which the aggregate is transported;

B - is the lesser of

(a) the number of tonnes of aggregate transported, multiplied by the rate per tonne set out in the following table for the relevant time period;

and

the number of cubic metres of aggregate transported, multiplied by the rate per cubic metre set out in the following table for the relevant time period.

Time Period in each year	Rate per tonne	Rate per cubic metre
March to November	\$0.06398	\$0.11188
January, February and December	\$0.03193	\$0.05610

6.4 Where a person is required to have an Aggregate Mining and Transport License in any part of the calendar year, such person shall provide to the Municipality on or before February 25<sup>th</sup> in the next ensuing year, a complete and accurate record in the form attached hereto as Schedule "B" as well as all fees paid in full. All of such payments shall be remitted to the Rural Municipality of Cornwallis.

6.5 The Municipality may enter into agreements with a holder of an Aggregate Mining and Transport Licence in lieu of payment of fees referred to in clause 6.3. Any agreement made under authority of this clause shall be in conformity with Manitoba Regulation 48/97, as amended from time to time and is subject to the approval of the Council of the Municipality.

## **7 FINES**

7.1 Any person, firm or corporation who is in breach of any provision of this By-Law is guilty of an offence and is liable to a fine of not less than \$50.00 or more than \$1,000.00 or to imprisonment for a term not exceeding three (3) months, or both. In addition to any such fine, the person, firm or corporation is still responsible to pay any fees required to be paid pursuant to this By-Law.

7.2 Where any person contravenes any provision of this by-law for more than one day, such person is guilty of a separate offence for each day such contravention continues.

7.3 In the event that fees due and owing under this by-law are not paid by a person, firm or corporation transporting aggregate on municipal roads, the Municipality may add the amount owing to the property taxes of the person, firm or corporation and collect such fees in the same manner as taxes or take any other remedy available to the Municipality.

## **8 COMING INTO FORCE**

8.1 This by-law comes into force and effect on the day following its final passage at which time By-Law No. 1714/04/2023, 1707/05/2022, 1626/03/2011, 1609/03/2009 and any subsequent amending by-law is repealed.

8.2 Any fee outstanding under By-Law No. 1714/04/2023 on the day before it is repealed shall be deemed to be a civil debt due to the Municipality by the person or persons liable for it under the said by-law and the municipality may affect recovery of such debt in any manner available to it at law.

**DONE AND PASSED**, in open Council assembled, by The Rural Municipality of Cornwallis at Brandon in the Province of Manitoba this \_\_\_\_ day of December, 2023.

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Sam Hofer,  
Reeve

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Marlene Biles,  
Interim Chief Administrative Officer

Read a first time this 21<sup>st</sup> day of November, 2023.  
Read a second time this 19th day of December, 2023.  
Read a third time this 19th day of December, 2023.

**SCHEDULE "A"**

**RURAL MUNICIPALITY OF CORNWALLIS  
AGGREGATE MINING AND TRANSPORT LICENCE**

To: R.M. of Cornwallis  
Box 10, Site 500, RR# 5, Brandon, Manitoba, R7A 5Y5

I, Name \_\_\_\_\_

Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

hereby make application for a license for the mining of aggregate at the following mining activity location:

EXISTING PIT \_\_\_\_\_

NEW DEVELOPMENT \_\_\_\_\_

LAND USE APPROVAL IN PLACE  YES  NO \*

\* Land use Approval must be in place before a license may be issued.

and for the transportation of that aggregate over municipal roads in the Rural Municipality of Cornwallis:

I hereby agree to the following:

- a) to pay all fees and provide all records stipulated in the provisions of By-Law No. 1719/11/2023 and amendments thereto, by February 25 of next year;
- b) to provide the Municipality through its officers, servants or agents, the right of entry to inspect and determine the weight and volumes of aggregate removed land within the Municipality and to provide proof of the Aggregate Mining and Transport Licence issued as a result of this Application and payment of the prescribed fee, upon request of any officer, servant or agent of the Rural Municipality of Cornwallis.
- c) to forthwith surrender the licence issued by the Rural Municipality of Cornwallis as a result of this application and payment of the prescribed fee, upon the cancellation of it by the Rural Municipality of Cornwallis for non-compliance with By-Law No. 1719/11/2023; and
- d) My address to which all notices by the Rural Municipality of Cornwallis to me should be sent is as above or: \_\_\_\_\_  
\_\_\_\_\_

Dated at the Rural Municipality of Cornwallis this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Signature of Applicant

**LICENCE**

This certifies that \_\_\_\_\_ is granted a licence(s) as described above subject to terms and provisions of the Municipality's By-laws.

Licence Fee: \$200.00 Received: \_\_\_\_\_

Pit Location: \_\_\_\_\_ ¼ Sec. \_\_\_\_\_ Twp. \_\_\_\_\_ Rge. \_\_\_\_\_

Licence Expiry Date: \_\_\_\_\_

Dated at the Rural Municipality of Cornwallis, in the Province of Manitoba this \_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Rural Municipality of Cornwallis  
Box 10, Site 500, RR# 5  
Brandon, Manitoba, R7A 5Y5

**SCHEDULE "B"**

**RURAL MUNICIPALITY OF CORNWALLIS  
AGGREGATE MINING AND TRANSPORT FEES**

REMITTANCE FOR AGGREGATE MINED AND TRANSPORTED

BETWEEN \_\_\_\_\_ and \_\_\_\_\_, 20 \_\_\_\_

**COMPLETE ONE FORM FOR EACH ROUTE OF TRAVEL**

Licence No. \_\_\_\_\_

Pit Location: \_\_\_\_\_ ¼ SEC. \_\_\_\_\_ TWP. \_\_\_\_\_ RGE. \_\_\_\_\_

COMPANY NAME			
P.O. BOX/STREET		CITY	
POSTAL CODE		CONTACT PERSON	
PHONE		EMAIL	

**TOTAL NUMBER OF YARDS TO BE TRANSPORTED ON MUNICIPAL ROADS: \_\_\_\_\_ yds**

Calculate payment in either tonnes or cubic metres. (1 Cubic Yard x **1.35** = Tonnes) or (1 Cubic Yard x **.764** = Cubic Metres)  
Aggregate taken from pits owned by the Crown or a Crown Agency are exempt from fees payable under Box A.

**BOX A – FEES FOR THE MINING OF AGGREGATE**

AMOUNT OF AGGREGATE	RATE OF PAYMENT	\$ AMOUNT (BOX A)
Tonnes		
Cubic Meters		
TOTAL \$ AMOUNT IN BOX A TO BE MOVED TO BOX D		

**BOX B – FEES FOR TRANSPORTATION OF AGGREGATE**

PERIOD TRANSPORTED	AMOUNT TRANSPORTED	RATE OF PAYMENT	\$ AMOUNT (BOX B)
January and February	Tonnes =		=
	Cubic Metres =		=
March to end of November	Tonnes =		=
	Cubic Metres =		=
December	Tonnes =		=
	Cubic Metres =		=
TOTAL \$ AMOUNT IN BOX B TO BE MOVED TO BOX C			=

**BOX C – CALCULATION OF FEES FOR KILOMETRES TRAVELLED ON MUNICIPAL ROADS**

	TOTAL PAYABLE
TOTAL AMOUNT FROM BOX B	\$
NO. OF KILOMETRES TRAVELLED	X kms.
MULTIPLY \$ AMOUNT BY NO. OF KM. TRAVELLED = MOVE PRODUCT TO BOX D	=

**BOX D – TOTAL PAYABLE TO MUNICIPALITY**

	TOTAL PAYABLE
AMOUNT FROM BOX A	\$
AMOUNT FROM BOX C	\$
ADD TWO LINES ABOVE, TOTAL SUM IS AMOUNT DUE:	=

**UPON COMPLETION, THIS FORM TOGETHER WITH PAYMENT IN THE AMOUNT FROM BOX B IS TO BE REMITTED TO:**

Rural Municipality of Cornwallis  
Box 10, Site 500, RR# 5  
Brandon, Manitoba, R7A 5Y5