

## RURAL MUNICIPALITY OF MONTCALM

### BY-LAW NO. 780/17

**Being a By-Law of the Rural Municipality of Montcalm to regulate and control mining and transporting of Aggregate within the Municipality and the issuance of licenses and the charging of fees.**

**WHEREAS**, The Municipal Act, S.M. 1996, c.58 – Chap. M225 provides, in part, as follows:

- “232 (2)(e) (i) establishing fees, and terms for payment of fees, for inspections, licenses, permits and approvals...  
(iv) providing that terms and conditions may be imposed on any license, permit or approval, and providing for the nature of the terms and conditions and who may impose them;  
(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 WHEREAS**, Regulation No. 48/97 *Aggregate Mining and Transportation Fees and Agreements Regulation* establishes specific fees and provisions for regulating mining and transportation fees and agreements;

**AND WHEREAS**, the Rural Municipality of Montcalm deems it expedient and in the best interest of the Municipality to license Aggregate mining and transportation activities within the Municipality and to establish fees payable in connection with such licensing;

**NOW THEREFORE**, the Council of the Rural Municipality of Montcalm, in Council duly assembled, enacts as a By-Law the following:

#### 1.0 DEFINITIONS

In this By-Law, the following definitions are used:

“**Aggregate**” means a quarry mineral that is used for construction purposes or is used as a constituent of concrete and includes sand, gravel, clay and crushed stone or rock.

“**Aggregate Mining License**” issued by the Municipality shall mean a license permitting the mining of Aggregate upon a particular property.

“**Aggregate Transport License**” issued by the Municipality shall mean a license permitting the transportation of Aggregate upon a Highway within the Municipality.

“**Highway**” means a right-of-way over which the Rural Municipality of Montcalm has jurisdiction.

#### 2.0 APPLICATION

2.1 Unless otherwise stated, this by-law applies to every person, firm or corporation mining or transporting Aggregate within the Municipality.

#### 3.0 PROHIBITION

3.1 This by-law does not apply to the Municipality.

#### **4.0 LICENSES**

- 4.1 Every owner of property from which Aggregate is mined, or any person, firm or corporation mining aggregate from land, except in respect of aggregate owned by the Crown, or a Crown Agency, whether or not mined by a third party under a quarry permit, quarry lease or otherwise, must possess an Aggregate Mining License (Schedule A) prior to any mining of Aggregate on property within the Municipality.
- 4.2 Every owner of property from which Aggregate is transported, or any person, firm or corporation transporting such Aggregate must ensure that the person transporting such Aggregate has an Aggregate Transportation License (Schedule B) prior to allowing any Aggregate to be transported, and if a person does transport Aggregate from an owner's property without an Aggregate Transportation License then not only is the person transporting Aggregate in breach of this By-Law, but also the owner of the property is in breach of this By-Law and subject to the penalty provisions set forth herein.
- 4.3 The Aggregate Mining License and/or Aggregate Transportation License is available at the Municipal Office at a fee of \$100.00 per license per annum. Fee is payable at the time of application. The Aggregate Mining License and Aggregate Transportation License are valid for a calendar year or the balance thereof and must be renewed on or before January 1st of the following calendar year. There is no discount in fee if the License is purchased partway through the year.
- 4.4 The Chief Administrative Officer shall issue an Aggregate Mining License in the form of Schedule A and/or an Aggregate Transportation License in the form of Schedule B to the applicant if he/she is satisfied that:
  - 4.4.1 The application is complete and proper; and
  - 4.4.2 The applicant (or an associate of the applicant) is in compliance with all obligations under this by-law.
- 4.5 An Aggregate Mining License is not transferable.
- 4.6 An Aggregate Transportation License is not transferable.

#### **5.0 FEES FOR IMPACT ON ROADS**

- 5.1 Any person, firm or corporation who are required to be licensed for aggregate mining and/or aggregate transportation under this by-law must pay:
  - 5.1.1 A fee for the maintenance, repair and restoration of municipal roads; and
  - 5.1.2 A fee for the shortening of the lifetime of municipal roads;
  - 5.1.3 Both fees referenced in 5.1.1 and 5.1.2 shall be calculated in accordance with the maximums provided for under Manitoba Regulation 48/97 (as amended)
- 5.2 Payment for fees as per 5.1 must be accompanied by a completed remittance form in the form attached as Schedule C.
- 5.3 It is an offence to supply false or deliberately misleading information on a remittance form.

- 5.4 The above mentioned fees for any Aggregate mined or transported between March 1<sup>st</sup> and November 30<sup>th</sup> shall be due and payable by the end of December of the same year, and for any Aggregate mined or transported between December 1<sup>st</sup> and the end of February of the following year shall be due and payable by March 31<sup>st</sup> of the same year. All of such payments shall be paid to the Rural Municipality of Montcalm.
- 5.5 If the regulated maximum fees as per Manitoba Regulation 48/97 are changed, the Municipality adopts the change automatically, without further action by Council.
- 5.6 Where a person, firm or corporation does not submit a completed remittance form when required to do so, or supplies false, misleading or incomplete information, the Chief Administrative Officer may assess a fee based on whatever information is in his/her possession. In proceeding to collect such a fee the onus is on the person assessed to disprove its accuracy.

## **6.0 AGGREGATE TRANSPORTATION REGULATIONS**

- 6.1 Council may designate haul roads by resolution.
- 6.2 Persons, firms or corporations transporting aggregate must follow these rules:
- 6.2.1 Notify the Chief Administrative Officer or Public Works Manager in writing at least one week before starting the transportation of aggregate on municipal roads
- 6.2.2 Trucks must be in compliance with all provincial laws and regulations, including weight restrictions
- 6.3 Persons, firms or corporations who in transporting aggregate
- 6.3.1 Raises dust such that in the discretion of Council the Municipality is compelled in the interests of the safety and health of residents to apply dust control suppressant on a municipal road; or
- 6.3.2 Causes damage to a municipal road requiring repair in the discretion of Council; is responsible for the cost incurred by the Municipality to repair such damage
- 6.4 Where Council intends to claim reimbursement of costs under section 6.3 it will notify the person, firm or corporation in writing and provide the person with an opportunity to respond.
- 6.5 If there is no response or Council has considered the response, Council may confirm its claim and issue and invoice to the person. Payment must be made within 30 days of the date of the invoice.
- 6.6 The Municipality may enter into agreements with a holder of an Aggregate Transportation License in lieu of payment of the fees referred to in clause 5.2. 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.

## **7.0 ENFORCEMENT**

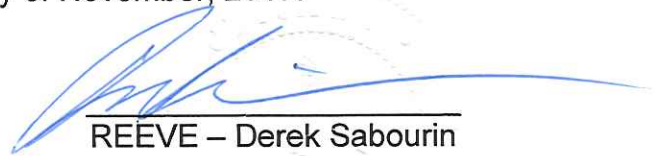
- 7.1 The Chief Administrative Officer is a designated officer for the purposes of administration and enforcement of this by-law. Council may in addition appoint any other person for the purposes of administration and enforcement of this by-law.

- 7.2 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 \$100.00 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.
- 7.3 In the event that fees due and owing under this by-law are not paid by an owner or by a person, firm or corporation acquiring Aggregate from an owner, the Municipality may add the amount owing to the property taxes of the owner and collect such fees in the same manner as taxes or take any other remedy available to the Municipality.

**8.0 GENERAL**

- 8.1 That By-Law No. 735/15 be repealed.

**DONE AND PASSED** in by the Council of the Rural Municipality of Montcalm in Council duly assembled, at Letellier, Manitoba this 15 day of November, 2017.



REEVE – Derek Sabourin



CAO – Jolene Bird

Read a first time, this 18 day of October, 2017  
Read a second time, this 18 day of October, 2017  
Read a third time, this 15 day of November, 2017

**SCHEDULE A**  
**AGGREGATE MINING LICENSE**

**Person, Firm or Corporation**

---

Name: \_\_\_\_\_

Contact Person (if Firm or Corporation): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Town: \_\_\_\_\_, MB

Postal Code: \_\_\_\_\_

Phone Number: 204-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_- or 204-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_-

Email: \_\_\_\_\_

---

is licensed, pursuant to the provisions of By-Law No. 780/17 of the Rural Municipality of Montcalm, for the purposes of mining Aggregate within the Municipality.

License Expiry Date: \_\_\_\_\_

License Fee: \_\_\_\_\_ \$100.00 \_\_\_\_\_

Dated in Letellier, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Rural Municipality of Montcalm

\_\_\_\_\_  
Chief Administrative Officer, Jolene Bird  
(apply seal upon issuing license)

**SCHEDULE B**  
**AGGREGATE TRANSPORTATION LICENSE**

**Person, Firm or Corporation**

---

Name: \_\_\_\_\_

Contact Person (if Firm or Corporation): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Town: \_\_\_\_\_, MB

Postal Code: \_\_\_\_\_

Phone Number: 204-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_- or 204-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_-

Email: \_\_\_\_\_

---

is licensed, pursuant to the provisions of By-Law No. 780/17 of the Rural Municipality of Montcalm, for the purposes of transporting Aggregate within the Municipality.

License Expiry Date: \_\_\_\_\_

License Fee: \_\_\_\_\_ \$100.00 \_\_\_\_\_

Dated in Letellier, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Rural Municipality of Montcalm

\_\_\_\_\_  
Chief Administrative Officer, Jolene Bird  
(apply seal upon issuing license)

**SCHEDULE C  
CALCULATION OF FEES**

Name of Person, Firm or Corporation remitting fees: \_\_\_\_\_

**I Aggregate Mining:**

A fee based on the quantity of Aggregate mined as per following calculation

Year	Rate per tonne
2018 and following	\$0.150

Fee is based on Manitoba Regulation 48/97; see Section 5.5 of By-law 780/17

$$\frac{\text{_____ tonnes}}{\text{(quantity)}} \times \frac{\text{_____}}{\text{(applicable rate)}} = \frac{\text{_____}}{\text{(amount due)}}$$

**II Aggregate Transportation**

A fee for the shortening of the lifetime, maintenance, repair and restoration of any road used to transport Aggregate as per following calculation

Time Period	Rate per tonne
During the months of March to November annually	\$0.0341
During the months of December, January and February annually	\$0.0170

Fee is based on Manitoba Regulation 48/97; see Section 5.5 of By-law 780/17

$$\frac{\text{_____ tonnes}}{\text{(quantity)}} \times \frac{\text{_____}}{\text{(applicable rate)}} \times \frac{\text{_____}}{\text{(kilometer)}} = \frac{\text{_____}}{\text{(amount due)}}$$

Payment of the above-mentioned fees are due and owing as per Section 5 and all Clauses listed in Section 5 of By-Law 780/17.

Name of Authorized Person: \_\_\_\_\_

Signature of Authorized Person: \_\_\_\_\_