

# RURAL MUNICIPALITY OF FRANKLIN

## AGGREGATE BY-LAW BY-LAW NO.07-06

BEING A BY-LAW of the Rural Municipality of Franklin to regulate and control the mining and transportation of aggregate in or through the Municipality on a commercial basis including the determination of routes, dust control, road weight restrictions and for maintenance of highways resulting from the transportation of aggregate. This by-law will be known as the "Aggregate By-law".

**WHEREAS** the Municipal Act provides as follows:

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;. .
- (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.

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,
  - (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses  
who do not reside or maintain a place of business in the municipality,
  - (iii) prohibiting a development, activity, industry, business or thing until a licence, permit or approval  
is granted,
  - (iv) providing that terms and conditions may be imposed on any licence, permit or approval,  
and  
providing for the nature of the terms and conditions and who may impose them,
  - (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;

293 A municipality must maintain

- (a) municipal roads within its boundaries.

**AND WHEREAS** the Lieutenant Governor in Council has made Regulation No. 48/97 (amended 216/2004) under section 232(2)(e) of the Municipal Act for the purpose of regulating aggregate mining and transportation fees and agreements;

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

**NOW THEREFORE** the Council of the Rural Municipality of Franklin in Council duly assembled enacts as a by-law the following:

### 1.0 DEFINITIONS

In this by-law:

“aggregate” means a quarry mineral that is used solely for construction purposes or as a constituent of

concrete, and includes sand, gravel, clay and crushed rock or stone;

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

## 2.0 APPLICATION

This by-law applies to every person mining and transporting aggregate within the Municipality, except the Municipality.

## 3.0 PROHIBITION

3.1 No person shall mine or transport aggregate within or through the Municipality without an Aggregate Transportation License.

3.2 This prohibition does not apply to the mining or transportation of aggregate to property within the Municipality for the purposes of construction on that or adjacent property. This exception does not apply where the construction is for industrial purposes or for livestock production operations of 300 animal units and more.

## 4.0 LICENSES

4.1 A person requiring an Aggregate Transportation Licence must apply to the Chief Administrative Officer at the municipal office in the form attached as Schedule A, and submit a fee of \$100.

4.2 An applicant for an Aggregate Transportation License must consent to disclosure by Department of Highways or other pit owners of information in their possession as to contracts with the applicant, including copies of the contracts and documentation showing the volume of aggregate hauled.

4.3 The Chief Administrative Officer shall issue an Aggregate Transportation Licence in the form of Schedule

A to the applicant if she is satisfied that

- (a) the application is complete and proper; and
- (b) the applicant (or an associate of the applicant) is in compliance with all obligations under this by-law.

4.4 An Aggregate Transportation License authorizes the mining and transportation of aggregate

- (a) from the pit location specified on the license;
- (b) over roads designated as municipal haul roads and specified on the license.

4.5 An Aggregate Transportation License expires on 31 December of the year of issuance.

4.6 An Aggregate Transportation License is not transferable.

4.7 The holder of an Aggregate Transportation License shall produce it to a designated officer immediately on demand.

## 5.0 FEES FOR IMPACT ON ROADS

5.1 Persons who are required to be licensed under this by-law must pay

- (a) a fee for the maintenance, repair and restoration of municipal roads; and
- (b) a fee for the shortening of the lifetime of municipal roads; both of which fees shall be calculated in

accordance with the maximums provided for under Manitoba Regulation 48/97 (as amended).

5.2 If the regulated maximum fees are changed, the Municipality adopts the change automatically, without

further action by Council.

5.3 Fees must be paid no later than 31 December of the year in which the aggregate is transported.

5.4 Payment must be accompanied by a completed remittance form in the form attached as Schedule

B.

5.5 A person must complete and submit a remittance form within 21 days of a written request from the Chief

Administrative Officer.

5.6 It is an offence to supply false or deliberately misleading information on a remittance form.

5.7 Where a person 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 her possession. In proceedings 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 municipal haul roads by resolution.

6.2 Persons transporting aggregate must follow these rules:

(a) Persons must notify the Chief Administrative Officer in writing at least one week before starting

the transportation of aggregate on municipal roads.

(b) Persons must comply with the terms of the Aggregate Transportation License concerning pit

location and designated municipal haul roads.

(c) Trucks must not exceed 60 km/hr when meeting other traffic.

(d) Trucks must not exceed 60 km/hr when approaching a farm residence.

(e) Trucks must be in compliance with all provincial laws and regulations, including weight restrictions.

6.3 A person who in transporting aggregate

(a) 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

(b) causes damage to a municipal road requiring repair in the discretion of Council; is responsible for

the cost incurred by the Municipality.

6.4 Where Council intends to claim reimbursement of costs under section 6.3 it will notify the person 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 an

invoice to the person. Payment must be made within 30 days of the date of the invoice.

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. A person affected by a decision of a designated officer may request Council to review the decision by

giving a written notice to the Chief Administrative Officer within 14 days of receiving the decision.

7.3. Upon receiving a request for review, the Chief Administrative Officer must set a date and time for the

review by Council, and notify the person of the date of the review.

7.4. At the time and place set out in the notice, Council will convene the review. The person who made the request may appear in person or by counsel. After reviewing the order, Council may confirm, vary, substitute or cancel the decision.

7.5 If a designated officer is of the opinion that a person is in contravention of this by-law or the terms of an Aggregate Transportation License, the designated officer may notify the person in writing requiring the default to be corrected within a specified period.

7.6 The Municipality may amend or cancel the Aggregate Transportation License if the default is not corrected.

7.7 A person who contravenes this by-law or the terms of a licence is guilty of an offence and liable on summary conviction to

(a) a fine of not less than \$100 and not more than \$1000 or to imprisonment for a term not exceeding three months;

(b) a penalty equal to the municipality's cost of enforcement, to a maximum of \$1000; and

(c) in the case of a contravention of sections 4 and 5, a penalty equal to the required fees plus interest.

#### 8.0 GENERAL

8.1 A notice given to a person at the address contained in an application form is valid for all purposes. The person may change such address by advising the Chief Administrative Officer in writing.

8.2 Amounts not paid when due carry interest at 2% monthly, compounded.

8.3.1 By-law No.09-93 is repealed. Despite the repeal, amounts owing under that by-law remain outstanding and may be enforced under this by-law.

Hunter

----- Reeve Archie

----- C.A.O. Tracey French

**Read a First Time This 21st Day of April, 2006.**

**Read a Second Time this 21st Day of April, 2006.**

**Read a Third Time this 9th Day of May, 2006.**