

RURAL MUNICIPALITY OF RUSSELL

By-Law No. 1131

PROVINCE OF MANITOBA

BEING A BY-LAW of the Rural Municipality of Russell to authorize the requirement of obtaining an Aggregate Mining Licence for the mining of aggregate from land in the Municipality, and to prescribe the requirement of obtaining an Aggregate Transport Licence for transporting aggregate on a highway; to prescribe levies payable by the holder upon issuance of the aforementioned licences; to prescribe levies payable by the holder of an Aggregate Mining Licence based on the quantity of aggregate removed from land in the Municipality, and by the holder of an Aggregate Transport Licence for the maintenance, repair and restoration of any highway used by the holder to transport aggregate; to prescribe levies payable by the holder of an Aggregate Transport Licence for the shortening of the lifetime of a highway resulting from the transporting of the aggregate.

WHEREAS Section 717.1(2) of The Municipal Act, R.S.M. 1988 c M225 provides authority for a Municipality to pass By-Laws:

- a) respecting the issuance of aggregate mining licences for the mining of aggregate from land in the municipality, 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;
- b) respecting the issuance of aggregate transport licences for transporting aggregate on a highway;
- c) subject to clause 713(3)(d), setting fees payable for aggregate mining licences and aggregate transport licences;
- d) fixing fees or establishing a schedule of fees payable by the holder of an aggregate mining licence based on the quantity of aggregate removed from land in the municipality by the holder;
- e) fixing fees or establishing a schedule of fees payable by the holder of an aggregate transport licence for the maintenance, repair and restoration of any highway used by the holder to transport aggregate;
- f) providing for an agreement, in lieu of the payment of fees fixed under clause (e), between the municipality and the holder of an aggregate transport licence respecting the maintenance, repair and restoration of any highway used or to be used by the holder to transport aggregate;
- g) fixing fees or establishing a schedule of fees payable by the holder of an aggregate transport licence for the shortening of the lifetime of a

highway resulting from the transporting of aggregate;

h) requiring the holder of an aggregate mining licence to pay any fee referred to in clauses (e) or (g) in respect of aggregate mined by the holder of the aggregate mining licence and transported by the holder or another person; and

i) providing for an agreement, in lieu of an agreement under clause (f) or the collection of fees under clause (e), between the municipality and the holder of an aggregate mining licence respecting the maintenance, repair and restoration of any highway used or to be used by the holder of the aggregate mining licence or another person to transport aggregate mined by the holder of the aggregate mining licence.

AND WHEREAS Section 717.1(3) & (4) provides the authority for a Municipality to establish fees as provided herein, in accordance with regulations made by the Lieutenant Governor in Council, of the Province of Manitoba;

AND WHEREAS the Council of the Rural Municipality of Russell deems it expedient and in the best interests of the Municipality to enact a by-law which requires the attainment of the aforementioned licences and the levy and payment of the aforementioned fees;

NOW THEREFORE the Council of the Rural Municipality of Russell 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 and crushed stone or rock;

"Aggregate Mining Licence" means a licence issued under clause 2 of this by-law;

"Aggregate Transport Licence" means a licence issued under a by-law passed under clause 3 of this by-law;

"Highway" means a highway over which the Rural Municipality of Russell has jurisdiction;

"Municipality" means The Rural Municipality of Russell

- 2) THAT within the Municipality, 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, shall be required to obtain an Aggregate Mining Licence in the form and substance hereto attached as Schedule "A".
- 3) THAT within the Municipality, any person, firm or corporation transporting aggregate on a highway shall be required to obtain an Aggregate Transport Licence in the form and substance hereto attached as Schedule "B".
- 4) THAT the Municipality requires the payment of annual fees for Aggregate Mining Licences and Aggregate Transport Licences in the amount of \$100.00 One Hundred Dollars per annum for each licence.
- 5) THAT 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:
 - a) 4.4 cents per tonne, or
 - b) 8 cents per cubic metre.
- 6) That the Municipality requires the payment of fees by the holder of an Aggregate Transport Licence, for the maintenance, repair and restoration of any highway used by the holder to transport aggregate, which shall be;
 - a) Where the aggregate is transported during the period commencing March 1 and ending on November 30 of a year, the product obtained when the number of kilometres of highway over which the aggregate is transported is multiplied by the lesser of 1.4 cents per tonne or 2.4 cents per cubic metre; and
 - b) Where the aggregate is transported during the period commencing December 1st of one year and ending the last day of February of the following year, the product obtained when the number of kilometres of highway over which the aggregate is transported is multiplied by the lesser of 0.7 cents per tonne and 1.2 cents per cubic metre.

- 6a) PROVIDED THAT the fees contained in clause 6 hereof for the maintenance, repair and restoration of any highway used by the holder to transport aggregate, shall not be payable where the holder of the said Aggregate Transport Licence has executed an agreement with the Municipality as referred to in the Municipal Act Section 717.1(2)(f).
- 7) THAT the Municipality requires the payment of fees by the holder of an Aggregate Transport Licence, for the shortening of the lifetime of a highway resulting from the Transporting of aggregate, which shall be;
- a) Where the aggregate is transported during the period commencing March 1st and ending on November 30th of a year, the product obtained when the number of kilometres of highway over which the aggregate is transported is multiplied by the lesser of 1.0 cents per tonne and 1.8 cents per cubic metre; and
- b) Where the aggregate is transported during the period commencing December 1st of one year and ending on the last day of February of the following year, the product obtained when the number of kilometres of highway over which the aggregate is transported is multiplied by the lesser of 0.5 cents per tonne and 0.9 cents per cubic metre.
- 8) THAT the Municipality requires the holder of an Aggregate Mining Licence to pay any fee referred to in clauses 6 and 7 respecting aggregate mined by the holder of the Aggregate Mining Licence and transported by the holder or another person subject to clause 6 (a) hereof.
- 9) THAT 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, 4, 5, and 7 of this By-Law.
- 10) THAT in lieu of the payment of fees fixed under clause 6 and the agreement referred to in clause 6 (a) of this By-Law, the Municipality may enter into an agreement with the holder of an Aggregate Mining Licence, respecting the maintenance, repair and

restoration of any highway used or to be used by the holder of the aggregate mining licence, or another person, to transport aggregate, subject to the terms as set forth in the regulations made by the Lieutenant Governor in Council of the Province of Manitoba, as provided under Section 717.1(3) of The Municipal Act and Regulations 274/91.

- 11) THAT any holder of an Aggregate Mining Licence and/or an Aggregate Transport Licence contained in this by-law will notify the Secretary-Treasurer of the Rural Municipality of Russell at the Municipal Office of the date upon which the said holder intends to commence the Transportation of aggregate on or over a highway (as defined in this by-law) and thereafter of the date upon which that particular transportation of aggregate is completed.
- 12) THAT any person, firm or corporation who is required to remit a fee pursuant to clauses 6 and 7 of this By-Law, shall remit the fees to the Municipality no later than Thirty (30) days following the completion of the particular Transportation of aggregate to which the said fee relates.
Any person, firm or corporation who fails to remit the fees by the aforementioned due dates is guilty of an offence. Every day of late remittance is a separate offence.
- 13) THAT any person, firm or corporation who mines aggregate from land in the Municipality without first obtaining an Aggregate Mining Licence or transports aggregate on a highway in the Municipality without first obtaining an Aggregate Transport Licence is guilty of an offence. The offender is liable to a fine not more than \$200.00 (Two Hundred Dollars).
- 14) THAT any person, firm or corporation who contravenes, refuses, neglects, omits, or fails to obey or observe any provision of this By-Law is guilty of an offence and where no other penalty is provided, is liable to a fine not exceeding \$500.00 (Five Hundred Dollars), or to imprisonment for a term not exceeding one month, or to both. Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person, firm, or corporation is guilty of a separate offence for each day that it continues.

15) That this By-Law shall take force and effect as of September 8,
A.D., 1992.

RECEIVED First reading this 8th day of September A.D. 1992

RECEIVED Second reading this 8th day of September A.D. 1992

RECEIVED Third reading this 8th day of September A.D. 1992.

DONE AND PASSED in Council duly assembled this 8th day of September A.D.
1992.

THE RURAL MUNICIPALITY OF

W. A. Collins
Reeve

Louise Grantham
Secretary-Treasurer

SCHEDULE "A" to By-Law No.

AGGREGATE MINING LICENCE

LICENSEE

NAME:
ADDRESS:

The above named licensee is hereby licensed under By-Law No. _____ of the Rural Municipality of Russell for the purpose of mining aggregate (as defined in the said By-Law).

This licence is for the purposes of the said By-Law only and confers no rights to entry, access or mining on the lands which require to be obtained from the owner thereof.

PERIOD OF LICENCE

FROM:
TO:

LOCATION OF LANDS MINED:

THE RURAL MUNICIPALITY OF RUSSELL

Per: _____

Per: _____

11/15/01

SCHEDULE "B" TO BY-LAW NO.

AGGREGATE TRANSPORT LICENCE

LICENSEE

NAME:
ADDRESS:

The above named Licensee is hereby licensed under By-Law No. _____ of the Rural Municipality of Russell for the purpose of transporting aggregate (as defined in the said By-law) on a highway (as defined in the said By-Law).

This licence is for the purposes of the said By-Law only and confers no rights of entry, access or mining on the lands which require to be obtained from the owner thereof.

PERIOD OF LICENCE

FROM:
TO:

LOCATION OF LANDS MINED