

MUNICIPALITY OF KILLARNEY - TURTLE MOUNTAIN

BY-LAW NO. 3-2024

Being a By-law of the Municipality of Killarney – Turtle Mountain to Regulate and Control Mining and Transportation of Aggregate in the Municipality of Killarney – Turtle Mountain and to be Known as the “Aggregate Mining and Transportation By-law”

WHEREAS *The Municipal Act* provides as follows:

“232(1) A Council may pass by-laws for municipal purpose 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 facilitates 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;
- (e) private works on, over, along or under municipal 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 licenses, permits or approvals, including any or all of the following:
 - (i) establishing fees, and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the cost of regulation;
 - (ii) establishing fees for licenses, permits and approvals that are higher for persons or businesses who do not reside or maintain place of business in the municipality;
 - (iii) prohibiting a development, activity, industry business or thing until a license, permit or approval is granted;
 - (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

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

293 A municipality must maintain

- (a) municipal roads within its boundaries; and
- (b) land within its boundaries that is shown on a plan of subdivision registered by an applicant at a land titles office under *The Planning Act* as dedicated for public use as a municipal road, upon compliance by the applicant with any condition that is related to the road and required for approval of the plan.

294 A municipality is required to construct or maintain municipal road only to a standard that is appropriate for the use to which the municipality expects the roads to be put.

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 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 such licensing;

NOW THEREFORE the Council of the Municipality of Killarney - Turtle Mountain in Council duly assembled enacts as a by-law the following:

1.0 DEFINITIONS:

1.1 In this by-law;

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

“Aggregate Mining and Transportation License” means a license issued under paragraph 4.0 of this by-law.

“Mine”, “Mining” or “Mined” means the removal of a substance to a place outside the boundaries of a parcel or tract of land from which such substance has been extracted by means of digging or excavation.

“Municipality” means the Municipality of Killarney - Turtle Mountain.

“Municipal Road” means a municipal road as defined in *The Municipal Act* and which is located in the Municipality of Killarney - Turtle Mountain.

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

“Pit Location” means the parcel or tract of land from which aggregate is mined and includes a pit location specified in an Aggregate Mining and Transportation license.

“Transport”, “Transporting” or “Transported” means the movement of a substance from one place to another place.

2.0 APPLICATION

2.1 Unless provided to the contrary herein, this by-law applies to every person mining or transporting aggregate within the municipality, and where the final use is outside the municipality.

2.2 Other than as provided in the immediately following paragraph, this by-law does not apply to the Crown, a Crown Agency or the municipality.

2.3 For the purpose of paragraph 5, excepting subparagraph 5.1(a), the Crown or a Crown Agency shall be deemed to be a person required to have an Aggregate Mining and Transportation License.

3.0 PROHIBITIONS:

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

3.2 No person shall transport aggregate on a municipal road unless:

- (a) such aggregate was obtained from a person required to have an Aggregate Mining and Transportation License; or
- (b) such aggregate was obtained from an entity deemed to be a person required to have an Aggregate Mining and Transportation License under paragraph 2.3 hereof; or
- (c) in any case other than as described in (a) or (b), such person pays to the municipality within five (5) days of the transport of aggregate, the full amount of fees calculated in accordance with Manitoba Regulation 48/97.

3.3 No owner shall allow, suffer or permit the mining or transportation of aggregate from any land of the owner unless such land is specified as a pit location in a valid and subsisting Aggregate Mining and Transportation License.

3.4 Where a person transports aggregate that was mined from a pit location specified in a valid and subsisting Aggregate Mining and Transportation License or from a pit location for which such License should have been obtained, such person shall within a reasonable time provide to the Licensee or to the person who should have obtained a license, the following information:

- a) his full name and mailing address; and
- b) the full name and address of his employer, if any; and
- c) the quantity of aggregate transported by him from the pit location in question; and
- d) the route over which such aggregate has been or will be transported; and
- e) and other information necessary to calculate fees due or the party from whom they are due in accordance with sub-paragraph 5.1

4.0 LICENSES:

4.1 Aggregate Mining and Transportation Licenses shall be in the form attached hereto as Schedule “A”.

4.2 Aggregate Mining and Transportation Licenses shall be valid and subsisting for a period of one year, commencing January 1 and ending December 31, notwithstanding the time of issuance.

4.3 Every person requiring an Aggregate Mining and Transportation License shall make

application for such license at the office or the municipality and shall pay to the municipality the fee for such license at the time of application.

4.4 The fee for an Aggregate of Mining and Transportation License shall be \$100.00.

4.5 The holder of an Aggregate Mining and Transportation License shall produce such license to a designated officer of the municipality forthwith upon demand.

5.0 ADDITIONAL FEES:

5.1 A person required to have an Aggregate Mining and Transportation License shall pay fees to the municipality for:

- a) a fee for maintenance, repair and restoration of municipal roads; and
- b) a fee for the shortening of the lifetime of municipal roads;

both of which 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, in accordance with the rates provided in the Manitoba Regulation 48/97, the Municipality adopts the change automatically, without further action by Council.

5.3 Where a person is required to have an Aggregate Mining and Transportation License in any part of a calendar year, such person shall provide to the municipality on or before February 25th in the next ensuing year, a complete and accurate record in the form attached hereto as Schedule B.

5.5 Where a person is required to have an Aggregate Mining and Transportation License in any part of a calendar year, such person shall maintain and retain for at least six years, complete and maintain accurate records sufficient to permit the calculation of fees payable under this by-law which records, without restricting the generality of the foregoing, shall include, in respect to all aggregate obtained by any person from the person required to have such License, the following:

- a) the name and address of persons transporting aggregate; and
- b) the quality of aggregate transported by any person; and
- c) the dates upon which aggregate was transported by any person; and
- d) The delivery point of aggregate transported by any person.

5.4 Fees payable by a person required to have an Aggregate Mining and Transportation License in any part of a calendar year, shall be remitted in full to the municipality on, or before February 25th in the next ensuing year.

5.5 Fees payable under this paragraph are a civil debt due to the municipality and the municipality may effect recovery of such debt in any manner available to it at law.

6.0 AGREEMENT IN LIEU OF FEES:

6.1 In lieu of payment of the fees referred to in sub-paragraphs 5.1(a) and (b), or either of them, the municipality may enter into agreements with persons required by this by-law to have an Aggregate Mining and Transportation License.

6.2 Any agreement made under the authority of this paragraph shall be in conformity with Manitoba Regulation 48/97, as amended and is subject to the approval of the Council of the municipality.

7.0 ENFORCEMENT:

7.1 Any person who contravenes any provision of this by-laws is guilty of an offense and is liable to a fine of not less than \$100.00 or more than \$500.00 or to imprisonment for a term not exceeding three months, or both.

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

7.3 Upon reasonable notice, a person required to have an Aggregate Mining and Transportation License in any year shall permit a designated officer of the municipality to enter upon

any premises where records required under this by-law are kept, to examine such records and to make copies thereof.

8.0 COMING INTO FORCE:

8.1 This amended by-law comes into force and effect on the th day of , 2024

8.2 That By-Law No. 3-2023 enacted by the Municipality of Killarney – Turtle Mountain, July 19, 2023, is hereby repealed.

DONE AND PASSED by Council of the Municipality of Killarney - Turtle Mountain duly assembled this 29th day of January, A.D., 2025.

Municipality of Killarney - Turtle Mountain

Mayor

Chief Administrative Officer

Read a first time this 11th day of December, A.D., 2024
Read a second time this 29th day of January, A.D., 2025
Read a third time this 29th day of January, A.D., 2025

Killarney, MB R0K 1G0

SCHEDULE “B”

MUNICIPALITY OF KILLARNEY - TURTLE MOUNTAIN

AGGREGATE MINING AND/OR TRANSPORT APPLICATION AND LICENSE

MUNICIPALITY OF KILLARNEY - TURTLE MOUNTAIN
AGGREGATE MINING AND TRANSPORT FEES
REMITTANCE YEAR _____

COMPLETE ONE FORM FOR EACH ROUTE OF TRAVEL

LICENCE NO.			
PIT LOCATION	Sec.	Twp.	Range

COMPANY NAME:	
MAILING ADDRESS:	
TELEPHONE:	
CONTACT PERSON:	

Payment may be calculated using either Tonnes or cubic meters, it is not necessary to calculate both. **Aggregate taken from pits owned by the Crown or a Crown Agency are exempt from fees payable under Box A. See Regulation 48/97 for current rates.**

BOX A – FEES FOR THE MINING OF AGGREGATE

NO. OF TONES OF AGGREGATE	RATE OF PAYMENT	\$ AMOUNT (BOX A)
Tonnes or		
Cubic metres		

BOX B – FEES FOR THE TRANSPORTATION OF AGGREGATE

PERIOD TRANSPORTED	AMOUNT TRANSPORTED	RATE OF PAYMENT	\$ AMOUNT (BOX B)
January & February	Tonnes Cubic Metres		
March to end of November	Tonnes Cubic Metres		
December	Tonnes Cubic Metres		
Total Sum of Amounts in Box B and Move to Box C			

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

\$ AMOUNT FROM BOX B	
MULTIPLIED BY NO. OF KILOMERES TRAVELLED	X KMS
\$ AMOUNT (MOVE TO BOX D)	

BOX D – TOTAL PAYABLE TO MUNICIPALITY

\$ AMOUNT FROM BOX A	
\$ AMOUNT FROM BOX C:	
TOTAL PAYABLE (BOX E):	

UPON COMPLETION, THIS FORM TOGETHER WITH PAYMENT IN THE AMOUNT FROM BOX E IS TO BE REMITTED TO THE MUNICIPALITY OF KILLARNEY - TURTLE MOUNTAIN, PO BOX 10, KILLARNEY MB R0K 1G0.

DATE RECEIVED _____