

BY-LAW NO – 8-15

OF THE

RURAL MUNICIPALITY OF ROSSER

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SECTION 1 PREAMBLE

BEING a By-Law of the Rural Municipality of Rosser for the purpose of regulating Quarry Operations in the Municipality with respect to enhancing safety, public health, welfare, protection and well-being of people, safety and protection of property, and to minimize social impacts upon adjoining land uses (land use compatibility) including, but not limited to:

1. regulating, approving and/or prohibiting Quarry Operations;
2. prescribing measures to be taken when Quarry Operations are to be established, created and/or operated or when a Quarry is not being operated;
3. prescribing measures to mitigate the social impacts and effects of Quarry Operations and enhancing safety, public health, welfare, protection and well-being of people, the safety and protection of property and to minimize unreasonable effects upon adjoining land uses (land use compatibility);
4. to control, regulate or prohibit the removal and/or deposition of Topsoil from lands within the Municipality;

WHEREAS Section 231 of the Act provides council of a municipality with the power to pass by-laws that give broad authority to the council and to respect its right to govern the municipality in whatever way council considers appropriate, within the jurisdiction given to it under the Act and other Acts;

AND WHEREAS Section 232(1) of the Act authorizes council of a municipality to pass by-laws for municipal purposes respecting, in part, the safety, health, protection and well being of people, and the safety and protection of property and, subject to Section 233 of the Act, activities or things in or on private property;

AND WHEREAS Subsection 232(1) of the Act provides, in relevant parts, as follows:

Spheres of Jurisdiction:

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;
 - (c.1) subject to section 233.1, the condition and maintenance of vacant dwellings and non-residential buildings;
 - (c.2) subject to section 233.2, the conversion of rental units into units under *The Condominium Act*;
- (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;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;
- (g) the operation of off-road vehicles on public or private property;
- (h) drains and drainage on private or public property;
- (i) preventing and fighting fires;

- (j) the sale and use of firecrackers and other fireworks, the use of rifles, guns, and other firearms, and the use of bows and arrows and other devices;
- (k) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size or weight;
- (l) public utilities;
- (m) local transportation systems;
- (n) businesses, business activities and persons engaged in business;
- (o) the enforcement of by-laws.

AND WHEREAS Section 232(2) of the Act allows, in part, that a council of a municipality may pass a by-law that regulates or prohibits activities and provides for a system of licences, permits and approvals.

AND WHEREAS Section 232(2) of the Act states:

Exercising by-law making powers:

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

- (a) regulate or prohibit;
- (b) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;
- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality;
- (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;
- (f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters;
- (g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality; and
- (h) require pawnbrokers to report all transactions by pawn or purchase to the head of council or to the police.

AND WHEREAS Section 233 of the Act provides, in part, that a by-law under clause 232(1)(c), may contain provisions only in respect of, in part, the removal of Topsoil;

AND WHEREAS Section 233 of the Act states in part:

233 A by-law under clause 232(1)(c) (activities or things in or on private property) may contain provisions only in respect of:

- (a) the requirement that land and improvements be kept and maintained in a safe and clean condition;
- (b) the parking and storing of vehicles, including the number and type of vehicles that may be kept or stored and the manner of parking and storing;
- (c) the removal of top soil; and
- (d) activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations.

AND WHEREAS Section 236(1) of the Act states in part:

236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions

- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
- (b) remedying contraventions of by-laws, including
 - (i) creating offences,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
 - (iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under subclause (iv),
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment of fines.

AND WHEREAS excavations for Quarry Minerals or other minerals and the removal of Topsoil may create a nuisance, unreasonable social impacts on adjoining properties, affect ground water, create hazards for persons, livestock and wildlife in the Municipality or reduce the taxable assessment of the property;

AND WHEREAS in those areas of the Municipality covered by the Rural Zoning By-Law the Municipality has the ability to regulate land uses and prescribe mitigation measures for incompatible land uses, including preventing incompatible land.

AND WHEREAS in those areas covered by the CentrePort Inland Port Zoning By-Law, the Municipality under the direction of the CentrePort Special Planning Area Board has the ability to regulate land uses and prescribe mitigation measures for incompatible land uses, including preventing incompatible land uses.

AND WHEREAS the Municipality has the ability to enforce this By-Law under the Act, *The Planning Act*, C.C.S.M. c. P80, as amended, or any other Statute by which the Municipality may enforce a By-Law;

NOW THEREFORE the Council of the Rural Municipality of Rosser enacts a By-Law as follows:

SECTION 2 SHORT TITLE

1. This By-law may be referred to as the “Quarry Operations By-Law” (“By-Law”).

SECTION 3 PURPOSE AND OBJECTIVE OF THE BYLAW

1. The purpose of this By-Law is to:
 - a) provide and enforce certain standards and regulations for the orderly and safe extraction of Quarry Minerals from Quarry Operations while protecting public safety, health, social and property impacts, to minimize or ameliorate the potential for those impacts;
 - b) ensure that all Quarry Operations remove vegetation and soil in a safe and orderly manner and abide by certain standards and regulations to minimize the negative social and property impacts including the potential to impact ground and surface water flow;
2. It is the objective of this By-Law to:
 - a) allow orderly extraction and optimum utilization of Quarry Minerals and Topsoil and to provide for local and regional needs while at the same time minimizing potential property, social and land use impacts;
 - b) provide for the establishment and regulation of Quarry Operations within the Municipality;
 - c) review and address the regulation of each Quarry Operation appropriate to the particular circumstances of their proposal;
 - d) so far as possible, conserve and protect property and the natural environment;
 - e) ensure the Quarry Operation implements aggregate extraction and processing plans which include mitigation initiatives to minimize unreasonable social and economic impacts on municipal infrastructure and upon adjoining properties from Quarry Operations;
 - f) require designated Quarry Operations to be progressively rehabilitated to a compatible land use during Quarry Mineral extraction and following depletion of the resource;
 - g) ensure sustainable development and environmentally responsible extraction;
 - h) ensure Quarry Operations make financial contributions towards the costs of the Municipality for enforcement and the impacts and regulation of the Quarry Operation while the extraction activities are undertaken or during any rehabilitation phase.

SECTION 4 APPLICATION TO THE WHOLE MUNICIPALITY

1. This By-Law applies to the whole of the Municipality and where:
 - a) the By-Law applies to the area outside the Inland Port Area and is covered by the Rosser Rural Zoning By-Law, as amended, the Quarry Operations shall be considered a Conditional Use;

- b) the By-Law applies to the area within the Inland Port Area and covered by the CentrePort Secondary Plan and CentrePort Zoning By-Law, as amended, the Quarry Operations shall be considered a Permitted Use with Specified Standards.

SECTION 5 PERMIT FOR QUARRY OPERATIONS

1. All Persons shall be required to obtain a Quarry Permit from the Municipality when:
 - a) operating a new Quarry Operation; or
 - b) expanding an existing Quarrying Operation; or
 - c) re-opening a Quarry Operation or Quarry Site which has been inactive for 36 months. (Renewed Quarry)
2. A Quarry Permit shall:
 - a) not be transferable except in accordance with this By-Law;
 - b) not expire unless the Quarry Operation remains Inactive for 36 months;
 - c) be subject to revocation in accordance with the provisions of this By-Law.
3. A Lawfully Existing Quarry Operation shall not require a Quarry Permit except in accordance with Section 5 (1) (c) but shall require a Licence for Quarry Operations.
4. If after a Quarry Permit has been issued, or where before the coming into force of this By-Law, a Lawfully Existing Quarry Operation exists but does not have a Quarry Permit in accordance with this By-Law, any Quarry Operator adding an Ancillary Use shall be required to obtain an Ancillary Use Permit.

SECTION 6 PERMIT APPLICATION

1. In order to obtain a Quarry Permit to allow the commencement of a Quarry Operation, each Quarry Operator or their designate must submit an application to the Municipality containing the minimum requirements set out in Schedule “A”.
2. When facilities are required for an Ancillary Use, the Quarry Operator making the application should include in their application all anticipated Ancillary Uses in the Quarry Permit application and these uses shall be approved in accordance with the Ancillary Uses Permit process.
3. Once the Quarry Site Operator has been notified by the Designated Officer that the Quarry Permit Application is deemed complete, the Quarry Operator may commence the Community Consultation Process (“CCP”) set out in Schedule “D”.

SECTION 7 DEVELOPMENT AGREEMENT REQUIRED

1. The Quarry Operator, of a new, expanding or renewed Inactive Quarry Operation shall be required to enter into a Development Agreement with the Municipality prior to issuance of a Quarry Permit, Ancillary Use Permit and/or Transfer Permit.

2. The Quarry Operator shall abide by the terms and conditions of the Development Agreement, including all fees, or other charges for services, activities or things provided or done by the Municipality or for the use of property under the ownership, direction, management or control of the Municipality and for the fees for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation as established by Council and set out in Schedule “F”.
3. The Development Agreement shall cover the matters as set forth in Schedule “E” and any further matters that Council of the Municipality considers appropriate.
4. All Development Agreements will provide that pursuant to Section 151(1) of *The Planning Act*, C.C.S.M. c. P80, as amended, the Municipality and/or Quarry Operator shall register the Development Agreement as a caveat at the Winnipeg Land Titles Office.

SECTION 8 LICENCE FOR QUARRY OPERATIONS

1. All Quarry Operators of Quarry Operations shall obtain a Licence from the Municipality annually and abide by the applicable provisions of this By-law as amended from time to time.
2. Council for the Municipality must have regard for the provisions set out in Schedule “E” when deciding whether or not to issue a Licence.
3. Where an Operator of a Quarry Operation is mining less than 1000 metric Tons in any one month and no more than 10,000 metric Tons per year in total, then the Quarry Operator of the Quarry Operations shall pay a Licence fee of no more than \$50.00 and Council may in its absolute discretion waive any and/or all of the requirements of this By-Law for Licensing.

SECTION 9 TRANSPORTATION LICENCE

1. All Quarry Operators:
 - a) transporting Quarry Minerals on municipal roads shall obtain a Transport Licence from the Municipality and abide by the provisions outlined in Municipality’s Transportation By-Law;
 - b) shall ensure that all other Persons who haul Quarry Minerals from the Quarry Operation and transport those Quarry Minerals on municipal roads have a Transportation Licence in accordance with the Municipality’s Transportation By-Law.

SECTION 10 ANCILLARY USE PERMIT APPLICATION

1. All Quarry Operators shall obtain an Ancillary Use Permit for any Ancillary Use.
2. In order to obtain an Ancillary Use Permit to allow the commencement of an Ancillary Use in a Quarry Operation, each Person must submit an application to the Municipality containing the requirements set out in Schedule “B” and Council may in its absolute discretion waive any and/or all of the requirements of this By-Law for Ancillary Uses.

SECTION 11 TRANSFER OF A PERMIT APPLICATION

1. A Quarry Operator operating a Quarry Operation may transfer the Quarry Permit for a Quarry Operation, with the approval of Council, under a Transfer Permit Application containing the requirements set out in Schedule “C”.
2. When considering a Transfer Permit application, Council of the Municipality shall consider:
 - a) the Transferee’s experience;
 - b) the Transferee’s consent to be bound by the terms of the original approval for the Quarry Permit and conditions set out in the Development Agreement and confirm their approval by way of an assignment of rights and responsibilities under the Development Agreement.
 - c) the ability of the Transferee to provide the Security Deposit and bonding as required under the original Quarry Permit Application or the Ancillary Use Application;
 - d) any other factors considered relevant by Council of the Municipality.
3. Council of the Municipality, in its absolute discretion, may waive any or all of these requirements if Transferee demonstrates that they will abide by the original Quarry Permit conditions imposed by the Municipality.

SECTION 12 LICENCE APPLICATION

1. No Person in the Municipality shall operate a Quarry Operation on land that is not Crown land except under the authority of and in accordance with a Licence issued by the Municipality annually under this By-Law.
2. It shall be the Quarry Operator’s responsibility to ensure that development and operation within the Quarry Site is in compliance with any conditions of the approval for the Quarry Permit, any Development Agreement, the applicable municipal, provincial and federal laws and regulations.
3. It shall be the Quarry Operator’s responsibility to obtain all necessary licences, including the necessary Transportation Licence and the Mining Licence or other provincial or federal permits and licences required for the Quarry Operation.
4. The Designated Officer may issue a Licence if there has been no material change in circumstances in the Quarry Operation or Quarry Site.
5. The Designated Officer must take into account the factors set out in Schedule “E” to this By-Law.

SECTION 13 MINIMUM OPERATIONS PROCEDURE REQUIREMENTS

1. The Quarry Operator shall submit an Operations Plan on a yearly basis for review and acceptance by the Municipality, and shall comply with the following:

a) Blasting

- (i) The Quarry Operator shall provide the Municipality a yearly Blasting schedule.
- (ii) The Quarry Operator shall provide all surface owners and property owners within 300 feet of the Quarry Operation with a copy of the yearly Blasting schedule.
- (iii) No Person shall engage in Blasting unless prior approval to do so is obtained from the Municipality.
- (iv) A Designated Officer of the Municipality shall be permitted to enter the Quarry Operations or Quarry Site and monitor the Blasting.
- (v) Blasting that exceeds the maximum level of vibration limits as established by provincial regulation or any Environmental Act Licence shall be guilty of an offence against the Quarry Operator set out in section 19 of this By-Law.
- (vi) Blasting shall only occur in the Quarry Site from Monday to Friday between the hours of 9:00 a.m. to 4:00 p.m.
- (vii) Notwithstanding the aforementioned, there shall be no Blasting on statutory holidays. Emergency Blasting may take place, subject to proper approvals under The Mines and Mineral Act.

b) Hours of Operation

- (i) Quarry Operations shall only operate from Monday to Friday between the hours of 6:00 a.m. to 6:00 p.m. and Saturday from 6:00 a.m. to 12:00 p.m., unless specified otherwise in a Development Agreement.
- (ii) Quarry Operations shall not be permitted to operate during times outside of those specified in subsection (b)(i) without approval being granted by the Municipality.

c) Statutory Holidays

- (i) Notwithstanding the aforementioned, there shall be no Quarry Operations permitted on statutory holidays, with the exception of July 1st. The Quarry Operator may apply to the Municipality for a special one day permit to accommodate unique circumstances as determined by the Municipality.

d) Transportation

- (i) The Quarry Operator shall obtain a Transport Licence from the Municipality and abide by the provisions outlined in Municipality's Transportation By-Law;
- (ii) The Quarry Operator shall ensure that all other Persons who haul Quarry Minerals from the Quarry Operation and transport Quarry Minerals on municipal roads have a Transportation Licence in accordance with the Municipality's Transportation By-Law.
- (iii) The Quarry Operator shall confirm the Transportation Plan and Haul Route Plan showing:

- 1) a map of any municipal roads or highways to be used during the Quarry Operation for haul routes;
- 2) the capacity of the transportation system;
- 3) the location of existing and proposed truck entrances and exits;
- 4) the location of existing and proposed parking and loading areas;
- 5) the proposed hauling route plan;
- 6) any changes to the Transportation Plan/Haul Route;

and any additional information as requested by the Designated Officer pertaining to matters such as traffic volumes and on-going road maintenance projections.

e) Haul Roads

- (i) The Quarry Operator shall only use roads designated by the Municipality and at no time shall it use any other roads other than those designated by the Municipality. The Quarry Operator shall also take all reasonable efforts to ensure that any independent contractor(s) hauling from any Quarry Operations use only such roads as designated by the Municipality.

f) Noise

- (i) The Quarry Operator shall not exceed the noise levels in excess of those set out in the approved Sound Impact Assessment plan.

g) Earth Berms

- (i) Any earth berm to be constructed by the Quarry Operator shall be to standards acceptable to the Municipality.

h) Garbage and Waste Material

- (i) The Quarry Operator shall not collect garbage or Waste material, or dump any petroleum product or other pollutant in the Quarry Site. The Quarry Operator shall comply with all federal, provincial and environmental provisions pertaining to, but not limited to, petroleum storage and disposal.

i) Security

- (i) The Quarry Operator shall install a steel gate at all entrances to the Quarry Operations which shall be kept closed and locked to prevent access by the general public. The berm and steel gate shall be constructed in such a fashion that it shall be impracticable for vehicular traffic to travel between the gate and the edge of the berm.

j) Weed Control

- (i) Weeds shall be controlled pursuant to the requirements of the Municipality under the Act, *The Noxious Weed Act* or other laws of the Province of Manitoba. For this purpose, the top of the berm must be of sufficient size to permit a ½ ton truck to be driven on top of said berm for the purpose of spraying weeds.

SECTION 14 LEGAL AND RELATED COSTS

- 1. It shall be the responsibility of the Quarry Operator to pay to the Municipality all legal fees and disbursements on a solicitor and client basis incurred by the Municipality in connection with the preparation, carrying out and enforcement of the Development Agreement.

SECTION 15 DESIGNATED OFFICER AND ENFORCEMENT

- 1. A Designated Officer, for the purpose of carrying out assigned duties:
 - a) may enter, at any reasonable time, any land, vessel or business premises that is or appears to be used or has or appears to have been used in respect of a Quarry Operation or any activity or use related to Quarry Operations;
 - b) may require the production of a Licence, a Quarry Permit, any record or document respecting the Quarry Operations or Progressive Rehabilitation, a report or a survey and may inspect and make copies thereof;
 - c) may, upon giving a receipt therefor, remove any Licence, Quarry Permit, record or document produced under clause (b) and make copies thereof; and
 - d) may, alone or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material.
 - e) in accordance with the Act, *The Planning Act*, C.C.S.M. c. P80, as amended, The Municipal By-Law Enforcement Act of Manitoba, the Municipality's Enforcement By-Law and any other municipal by-laws, the Designated Officer may take whatever action or measures available by law to the Municipality to remedy a contravention of this By-Law in order to enforce or to prevent a re-occurrence of a contravention of this By-Law.
 - f) may take action simultaneously under the Act, *The Planning Act*, C.C.S.M. c. P80, as amended, the Municipal By-Law Enforcement Act of Manitoba, the Municipality's Enforcement By-Law and any other legislation or by-law that the Municipality is authorized to enforce.
- 2. Every person who hinders or obstructs the Designated Officer in the performance of the Designated Officer's duties or furnishes the Designated Officer with false information or refuses to furnish the Designated Officer with information is guilty of an offence.

SECTION 16 ORDER TO REMEDY CONTRAVENTION

- 1. If a Designated Officer finds that a Quarry Operator is contravening this By-Law or any other legislation or by-law that the Municipality is authorized to enforce, the Designated

Officer may by written Order require a Person or Quarry Operator responsible for the contravention to remedy it if, in the opinion of the Designated Officer, the circumstances so require.

Content of order

2. The Order may:
 - a) direct a Person to stop doing something, or to change the way in which the person is doing it;
 - b) direct a Person to take any action or measure necessary to remedy the contravention of the Act or by-law, including the removal or demolition of a structure that has been erected or placed in contravention of a by-law and, if necessary, to prevent a reoccurrence of the contravention;
 - c) state a time within which the Person must comply with the directions;
 - d) state a time within which the Person must comply with the order; and
 - e) state that if the Person does not comply with the order within the specified time, the Municipality will take the action or measure at the expense of the Person.

Review of the Order to Remedy by Council

3. A Person who receives a written order under section 16(1) may request the Council of the Municipality to review the Order by written notice within 14 days after the date the order is received. After reviewing the Order, the Council may confirm, vary, substitute or cancel the Order.

Municipality remedying contraventions

4. Where the appeal period has expired or Council confirms the Order and the Quarry Operator does not comply with the Order:
 - a) the Municipality may take whatever action or measures are necessary to remedy a contravention of this or any other by-law that the Municipality is authorized to enforce or to prevent a re-occurrence of the contravention, once the Designated Officer has given a written order under section 16(1);
 - b) where the Quarry Operator is directed to remedy the contravention and has not complied with the Order within the time specified in the Order; and the appeal period respecting the Order has passed or, if an appeal has been made, and the Order has been confirmed; the Municipality may take any action or measures it deems appropriate including cancelling the Quarry Permit and Licence of the Quarry Operation. In the case of dangerous circumstances the Municipality may take whatever actions or measures it considers necessary to eliminate the danger to public safety caused by the condition, a structure, excavation or hole.

SECTION 17 SUSPENSION OF LICENCE

1. The Municipality may suspend a Licence for any period of time, for any contravention of this By-Law, the site plan or the conditions of the Licence, effective as soon as the notice of the contravention is served upon the Licencee.

SECTION 18 REVOCATION OF LICENCE

1. If a Licencee whose Licence has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Municipality may revoke the Licence.

SECTION 19 OFFENCES, PENALTIES AND COSTS

1. Any person who contravenes or disobeys, or refuses or neglects to obey any provision of this By-Law or the Order of a Designated Officer shall be guilty of any offence and shall be subject to the penalty provisions set out herein and/or in the Municipality's Enforcement By-law.
2. Every Person who operates Quarry Operations except under the authority of a Licence is guilty of an offence.
3. Every Person who contravenes or permits the contravention of the operation of a Quarry Operation or a condition of the Quarry Permit or Licence is guilty of an offence.
4. Every Person who contravenes this By-Law is guilty of an offence.
5. Penalty:
 - a) Every Person who contravenes a provision of this by-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$1,000.00.
 - b) Notwithstanding subsection (a), if the Person convicted is a corporation, the corporation is liable to a fine of not less than \$1,000.00 and not more than \$20,000.00.
 - c) Where the contravention, refusal or neglect, omission, or failure continues for more than one day, the Person is guilty of an offence for each day that it continues.
 - d) The Municipality may suspend or revoke a Quarry Permit or Licence issued under this By-Law for any breach of the terms and conditions of the Quarry Permit, Development Agreement or of this By-Law.
6. All costs relating to the enforcement of this By-Law, the Act, *The Planning Act*, C.C.S.M. c. P80, as amended, The Municipal By-Law Enforcement Act of Manitoba, the Municipality's Enforcement By-Law and any other municipal by-laws, may be collected by the Municipality as set out in its Enforcement By-Law.
7. In any prosecution under this By-Law, the court may, in addition to imposing a fine under Section 19 of this By-Law, make such order as the court considers proper to obtain compliance with this By-Law, the Site Plan or any condition of a Licence or Quarry Permit.

SECTION 20 RECOVERY OF COSTS

1. All such costs of enforcement shall be deemed an amount owing to the Municipality, added to the real property taxes, and collected and enforced in the same manner as property taxes may be collected and enforced under the Act.

SECTION 21 VALIDITY OF BY-LAW

1. Should any provision of this By-Law be declared to be invalid by a court of competent jurisdiction, it is the intent of Council of the Municipality that it would have passed all other provisions of this By-Law independent of the elimination of any such portion as may be declared invalid.

SECTION 22 INTERPRETATION

1. The inclusion in this By-Law of headings and subheadings is for convenience of reference only and shall not affect the construction or interpretation of this By-Law.
2. In this By-Law, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing one gender include all genders.

SECTION 23 DEFINITIONS

- a) **“Act”** means *The Municipal Act*, C.C.S.M. c. M225, as amended from time to time.
- b) **“Ancillary Use”** means uses ancillary to the extraction operation and include but are not limited to:
 - (iv) stripping, berm construction, screen planting and landscaping, crushing, processing, screening, washing, stockpiling, storage, loading and weighing;
 - (v) manufacture, stockpiling, warehousing and transporting of ready-mixed concrete, bagged mortar products, concrete block, concrete pavers, concrete pipe, concrete plank, etc;
 - (vi) importing, grading, processing and stockpiling aggregates to be blended with local aggregates in the production of various products which will increase the effective use of the local aggregates and extend the life of the resource;
 - (vii) transporting, accepting and recycling products returned from construction sites, including "come-back" asphalt, ready-mixed concrete, bagged mortar products, concrete block, concrete pavers, concrete pipe, concrete plank, etc;
 - (viii) transporting, accepting, stockpiling and processing recycled construction materials for inclusion in new products;
 - (ix) offices and sales areas and any buildings or structures;
 - (x) equipment maintenance areas;
 - (xi) fuel storage and refueling areas;
 - (xii) or other uses related to supporting the Quarry extraction process.
- c) **“Ancillary Use Permit”** means a permit issued by the Municipality to operate an Ancillary Use within the Municipality.
- d) **“Blasting”** means the use of explosives or other explosive methods to excavate, break down or remove rock;

- e) **“Council”** means the duly elected council of the Rural Municipality of Rosser;
- f) **“Designated Officer”** means the Chief Administrative Officer and the duly appointed Designated Officer, or such other authority as may be lawfully appointed by the Municipality to administer and enforce its by-laws;
- g) **“Development Agreement”** means the agreement as drafted pursuant to this By-Law.
- h) **“Inactive”** means a Quarry Operation which has not been granted a Licence for 36 consecutive months or a Quarry Operation which has less than 50% of their production in any year based upon the last 3 year production average.
- i) **“Inland Port Area”** means the land described in the Schedule pursuant to *The CentrePort Canada Act*, C.C.S.M. c. C44
- j) **“Lawfully Existing Quarry Operation”** means a Quarry Operation that was existing prior to the coming into force of this By-Law and had a Licence issued to it by the Municipality and was not Inactive.
- k) **“Licence”** means the licence to be issued for a Quarry Operation issued under this By-Law and which such licence may be amended from time to time;
- l) **“Licencee”** means a person who holds a valid Licence under this By-Law;
- m) **“Mine”** means an opening or excavation in the ground that is established or maintained for the purpose of quarrying and includes
 - (i) a quarry,
 - (ii) machinery, plant, buildings, premises, stockpiles, storage facilities, waste dumps or tailings, whether below or above ground, that are used for, or in connection with, mining,
 - (iii) a crusher, mill, concentrator, furnace, refinery, processing plant or place that is used for, or in connection with, washing, crushing, sifting, drying, oxidizing, reducing, leaching, roasting, smelting, refining, treating.
- n) **“Municipality”** means the Rural Municipality of Rosser in the Province of Manitoba.
- o) **“Operation Plan”** means the permit application requirements set out at Schedule “A” section 2(i) of this By-Law.
- p) **“Person”** includes a corporation, partnership, limited partnership or syndicate and the heirs, executors, administrators or other legal representatives of a person;
- q) **“Progressive Rehabilitation”** means plans for Quarry Operations reclamation designed to complete reclamation activities concurrently with the mining activities to the maximum extent feasible.
- r) **“Quarry”** means a mine that is an open excavation from which Quarry Minerals are removed;
- s) **“Quarry Mineral”** means granular material when in its natural or processed state, including gravel, sand and crushed stone, clay, earth, shale, stone,

limestone, dolostone, sandstone, marble, kaolin, bentonite, gypsum, granite, and rock;

- t) **“Quarry Operation(s)”** means all forms of Quarry mining (all excavation of Quarry Mineral) and includes the land on which a Quarry Operation is located. Including the following:
- (i) Clearing and grubbing the site of vegetation and structures, as necessary;
 - (ii) Relocation of infrastructure, as necessary;
 - (iii) Excavation and transport of the raw Quarry Minerals and materials;
 - (iv) Excavation, stockpiling, and transporting of other soils materials, including clay and Topsoil, which may be present within the Quarry Site for shipment to sites out of the Quarry Site or for use in reclamation;
 - (v) Washing, grading and stockpiling Quarry Minerals for sale or later internal use;
 - (vi) Transporting and stockpiling Waste "fines" for potential later use in reclamation;
 - (vii) Transporting finished Quarry Minerals internally for subsequent processing and to construction sites beyond the Quarry Site;
 - (viii) Transporting, accepting, and stockpiling clean, compactable fill materials, typically referred to as "back-hauled", for potential later use in reclamation;
 - (ix) Transporting, accepting, and stockpiling clean organic soil materials (i.e., peat) for potential later use in reclamation;
 - (x) Eventual redistribution, compacting, grading of overburden and clean fill materials to reclaim the sites.
- u) **“Quarry Operator”** means a person, who, as the owner, lessee, grantee or Licencee of mineral rights or the applicant or holder of a Quarry Permit and Licence, operates a Quarry, but does not include:
- (i) a person who receives only a royalty or rent from the person who operates the Quarry;
 - (ii) an owner of a Quarry that is subject to a lease, grant or licence in favour of the person who operates the Quarry, where the owner does not participate in the operations of the Quarry;
 - (iii) an owner of land on which a Quarry is operated or an owner of the surface rights pertaining to such land, where the owner has no right or title to minerals situated in the land and does not participate in the Quarry Operation.
- v) **“Quarry Permit”** means a permit issued by the Municipality to operate Quarry Operations within the Municipality;
- w) **“Quarry Site”** means the area to be mined from the lands on which a Quarry Operation is located.

- x) **“Security Deposit”** includes a certified cheque drawn on, or an irrevocable letter of credit given by, a bank or a trust company, credit union or caisse populaire licenced to carry on business in Manitoba;
- y) **“Topsoil”** means the natural, normal layer of upper soil which supports or is capable of supporting growth of plant life;
- z) **“Transfer Permit”** means a permit issued by the Municipality to transfer Quarry Operations to a Transferee.
- aa) **“Transferee”** means the Person who makes a joint application with the Transferor for a Transfer Permit to become the Quarry Operator for the Quarry Operation.
- bb) **“Transferor”** means the Person who has been issued the Quarry Permit and/or Licence for a Quarry Operation and makes a joint application with the Tranferee for a Transfer Permit.
- cc) **“Transportation Licence”** means a licence issued by the Municipality under the Municipality’s Transportation By-Law.
- dd) **“Waste”** means all waste material resulting from the operation of the Quarry Site or a wayside pit and includes rejected metal, lumber, and tree stumps.

SECTION 24 COMING INTO FORCE

This By-Law shall come into force on the 6th day of April, 2016.

SECTION 25 REPEAL

1. This By-law hereby repeals sections 3.1, 3.2, 3.3, 3.4, 3.5 of the Rural Municipality of Rosser By-Law No. 11-09.
2. This By-Law hereby repeals the Rural Municipality of Rosser By-Law No. 15-71.

DONE AND PASSED in Council assembled in the Municipal Council Chambers at Rosser, in the Province of Manitoba, this 5th day of April, A.D., 2016.

THE RURAL MUNICIPALITY OF ROSSER

Original signed by “Frances Smee”
FRANCES SMEE, Reeve

Original signed by “Beverley Wells”
BEVERLEY WELLS, Chief Administrative Officer

GIVEN First Reading this 13th day of October, A.D., 2015.

GIVEN Second Reading this 5th day of April, A.D., 2016.

GIVEN Third Reading this 5th day of April, A.D., 2016.

Schedule "A"

PERMIT APPLICATION

and forming part of this By-Law

In order to obtain a Quarry Permit to allow the commencement of a Quarry Operation, each Quarry Operator or their designate must submit an application to the Municipality containing the minimum requirements set out in this Schedule.

1. The Quarry Operator or their designate may apply for a Quarry Permit online through the Municipal Website and include with their application, the following:
 - i. a non-refundable fee, in the form of a certified cheque, money order or cash, payable to the Municipality in the amount of \$15,000.00 with a confirmation the anticipated professional fees for review of the application will be paid by the Quarry Operator to the Municipality as and when determined by the Municipality in its sole discretion.
 - ii. the full names, addresses and contact information of the Persons and any agents who are responsible for the Quarry Permit Application;
 - iii. the full names, addresses and contact information of the Persons and any agents who are responsible for the Quarry Operations;
 - iv. proof of retention of a Professional Engineer;
2. The Quarry Operator must submit the following information as part of their Application:
 - i. A detailed Site and Operation Plan indicating:
 - a) The proposed hours of operations for the Quarry Operations;
 - b) the boundaries of the Quarry Operation;
 - c) the Land area and depth of excavation including a key map and Site Plan showing the Quarry Operations and surrounding Land;
 - d) identification of the area in the Quarry Operations to be excavated first and staging of the excavation;
 - e) the location and use of existing and proposed buildings and structures on-site, and the location of existing buildings and structures on lands within 800.0 metres (2600.00 ft.) of the site boundaries;
 - f) the location of existing and proposed areas for separate stockpiling of Topsoil, overburden stripping and mined material;
 - g) the location, width, height and description of existing and proposed landscaped buffers or berming, and existing and proposed entrances and exits, on-site roads and parking and loading areas;
 - h) the location of any storage or deposit facilities to be used in storing excavated materials or Topsoil;

- i) the nature and location of any Quarry Ancillary Uses as set out in Section 10 of this By-Law;
 - j) the proposed security measures for the Quarry Operations;
 - k) the anticipated dust and means to control dust;
- ii. Impact Assessments or addendums as follows:
 - a) Blasting Impact Assessment or addendum demonstrating the proposed blasting procedure, extraction procedure, vibration levels and means to control vibrations;
 - b) Sound Impact Assessment or addendum demonstrating the anticipated noise and means to control the noise;
 - c) Visual Impact Assessment or addendum;
- iii. Water and Natural Resource Management Plan showing:
 - a) surface water diversion;
 - b) groundwater withdrawal;
 - c) storage and drainage plans;
 - d) impact assessment of potential effects on water wells, springs, groundwater, surface watercourse and bodies, wetlands, woodlands;
 - e) impact assessment of potential effects on fish and wildlife habitat; and
 - f) identification of water wells within a one kilometer radius of the Quarry Site;
- iv. An Adaptive Management Plan including technical reports to identify:
 - a) monitoring plans;
 - b) mitigation measures;
 - c) trigger mechanisms; and
 - d) contingency plans;
- v. A Progressive Rehabilitation Plan including:
 - a) a geotechnical analysis by a Certified Engineering Geologist or Registered Geotechnical Engineer, using Progressive Rehabilitation Guidelines, demonstrating the long-term stability of all final slopes and the slope configuration needed to ensure the safety and revegetation appropriate to the end use of the mined land;
 - b) the intended staging for Progressive Rehabilitation, and how the Progressive Rehabilitation plan is in compliance with the provincial pit and quarry rehabilitation program standards and any standards established by the Municipality, including the proposed date of final Progressive Rehabilitation for the land and estimates of the Progressive Rehabilitation costs;
- vi. Transportation Plan and Haul Route Plan showing :

- a) a map of any municipal roads or highways to be used during the Quarry Operation for haul routes;
 - b) the capacity of the transportation system;
 - c) the location of existing and proposed truck entrances and exits;
 - d) the location of existing and proposed parking and loading areas;
 - e) the proposed hauling route plan;
 - f) and any additional information as requested by the Designated Officer pertaining to matters such as traffic volumes and on-going road maintenance projections;
- vii. Insurance coverage, including:
- a) proof of comprehensive liability insurance which lists the Municipality as additional insured, at a minimum of five million dollars (\$5,000,000.00);

Schedule "B"

ANCILLARY USE PERMIT

and forming part of this By-Law

1. The Quarry Operator may apply for a Ancillary Use Permit and must provide the following to the Municipality:
 - a) a non-refundable fee, in the form of a certified cheque, money order or cash, payable to the Municipality in the amount of \$3,000.00 with a confirmation that the anticipated professional fees for review of the Ancillary Use Application will be paid by the Quarry Operator to the Municipality as and when determined by the Municipality, in its sole discretion.
 - b) the full names, addresses and contact information of the Persons and any agents who are responsible for the Ancillary Use Permit Application;
 - c) the full names, addresses and contact information of the Persons and any agents who are responsible for the Ancillary Use Quarry Operations;
 - d) a report to Council of the Municipality setting out:
 - i. the nature of the Ancillary Use;
 - ii. the impact (if any) any on adjacent land uses with respect to haulage, water supply, noise, dust, odours, lighting and unsightliness;
 - iii. an expert statement confirming that the Ancillary Use is located in the least geologically sensitive/vulnerable area to avoid potential accidental releases.
 - iv. a review of the most technological means to minimize the potential impact on property from negative effects of dust, chemical spills, run-off on the surface and ground water;

Schedule "C"

TRANSFER PERMIT

and forming part of this By-Law

1. In order to obtain a Transfer Permit to allow the continuation of a Quarry Operation by a Transferee, the Transferee and the Transferor must submit a joint application to the Municipality.
2. The Application shall be accompanied by a non-refundable fee, in the form of a certified cheque, money order or cash, payable to the Municipality in the amount of \$3,000.00 with confirmation that the anticipated professional fees for review of the Transfer Permit will be paid by the Transferee or Transferor to the Municipality, as and when determined by the Municipality on its sole discretion.
3. If different from the original Permit Application, the Transferee must meet all the requirements listed in Schedule "A" and Schedule "D" to this By-Law.
4. The Transferee shall confirm in writing to the Municipality their agreement to be bound by the original Quarry Permit terms and conditions.
5. The Transferee shall confirm in writing to the Municipality their agreement to be bound by the terms and conditions set forth in any Development Agreement between the Transferor and the Municipality.

Schedule "D"

NOTIFICATION AND COMMUNITY CONSULTATION

and forming part of this By-Law

1. Once the Quarry Operator has been notified by the Designated Officer that the Quarry Permit Application is deemed complete, the Quarry Operator may commence the Community Consultation Process ("CCP").
2. When the Quarry Operator commences the CCP, the Quarry Operator shall provide to all landowners a minimum of 45 days notice ("Notice") before the date of the Community Consultation Meeting ("CCM"). The Notice shall also provide that the entire Application may be reviewed at the Municipal Office, on the Municipality's website, or an electronic copy may be requested from the Quarry Operator.
3. The Quarry Operator must hold the CCM following the 45 day Notice period.
4. The Notice of the CCM shall be completed at least 45 days prior to the meeting and the Quarry Operator must:
 - a) Send the Notice, by registered mail, to all landowners within 2 miles of the boundary of the Property where the Quarry Permit Application applies (the Property); and
 - b) Post a sign of the Notice on the site of the Property; and
 - c) Publish at least one Notice in a print newspaper of general circulation within the Municipality and at least one Notice in the Winnipeg Free Press.
5. The Notice must contain the format, style, location and procedure for the meeting.
6. Prior to the CCM all interested Persons are invited, no less than 20 days prior to the CCM, to provide in writing to the Quarry Operator any comments, recommendations, suggestions, and/or concerns that arise from a review of the Quarry Operator's Application.
7. Subsequent to the CCM, any interested person may file an objection ("Objection") to the Application, in writing to the Quarry Operator and the Municipality, within 30 days following the CCM.
8. The Quarry Operator shall no sooner than 30 days following the CCM provide the Municipality with documentation demonstrating that the CCM has been completed along with a Community Consultation Report ("CCR") outlining any comments received and any adjustments recommended to the conditions of the Application.
9. If there are Objections to the Application, the Quarry Operator is required to consult with the objectors in an attempt to resolve the Objections. If the Objections are resolved, the Quarry Operator shall obtain written confirmation from the objectors that the Objections have been resolved. The Quarry Operator shall then submit all written confirmations from the objectors and any revisions to the Application to the Municipality.
10. If the Objections are not resolved, the Quarry Operator shall include in their CCR to the Municipality, with copies to the objectors, details of the Quarry Operator's efforts to resolve the objections; the Quarry Operator's position on the Objections; and the Quarry Operator's recommendations for resolving the Objections.

11. The objectors have 30 days from receiving the Quarry Operator's CCR, including all documentation that the Quarry Operator is relying upon, to submit their own recommendations, including all documentation to the Municipality for resolving their Objections. If an objector does not provide its recommendation and documentation within 30 days, the Objection may be resolved by the Municipality on the information received.
12. If the Municipality receives Objections following the CCR, the Municipality has 60 days to provide a decision on how the Objections will be resolved, which may include a hearing to deal with the subject matter of the Objection(s), or in Council's sole and unfettered discretion that no further resolution is necessary and that the Objection(s) are rejected.
13. If a hearing is deemed necessary by Council, the hearing shall be completed and a decision shall be completed by Council within 90 days of the date of the conclusion of the hearing.
14. If the Application relates to Land outside the Rural Municipality of Rosser CentrePort Area Zoning By-Law then a conditional use shall be required and the Quarry Operator shall at the same time as filing the Application for approval under the Quarry Operations By-Law make a separate application for a conditional use. The hearing for the Application under the Quarry Operations By-Law and the hearing for the conditional use are to be heard by Council at the same time.
15. If the Application related to Land inside the Rural Municipality of Rosser CentrePort Area Zoning By-Law then all materials provided to the Municipality by the Quarry Operator and the interested parties will be forwarded to the Special Planning Area Board ("SPA") and the SPA.
16. The Quarry Operator has 2 years from the commencement of the 45 day notification period to provide the Municipality with documentation that the notification and consultation has been completed, including the efforts to resolve Objections. If the Quarry Operator does not meet that deadline, the Application will be returned.

Schedule "E"

LICENCING REQUIREMENTS

and forming part of this By-Law

1. The Municipality must have regard to the following provisions when deciding whether or not to issue an annual Licence :
 - i. the effect of the Quarry Operations on adjacent property;
 - ii. the effect of the Quarry Operations on nearby communities;
 - iii. the suitability of the Progressive Rehabilitation and Final Rehabilitation Plans for the Quarry Operations;
 - iv. any possible effects on ground and surface water resources;
 - v. any possible effects of the Quarry Operation on agricultural resources;
 - vi. any planning and land use considerations;
 - vii. the main haulage routes and proposed truck traffic to and from the Quarry Operations;
 - viii. the quality and quantity of the Quarry Minerals within the Quarry Operations;
 - ix. the drainage provisions approved in the Water and Natural Resource Management Plan;
 - x. the site design plan indicating the developments and changes to the Quarry Operations;
 - xi. the detailed list of ongoing maintenance to the Quarry Operations;
 - xii. the security report detailing the security measures used at the Quarry Site to keep the Quarry Site secure;
 - xiii. the reports supplied by the Quarry Operator and any comments provided by the Municipality's advisors;
 - xiv. a proponent's history of compliance with previous licences (if any). However, if the previous contravention has been corrected in accordance with the requirements of the *Municipal By-Law*, no regard shall be had to those past contraventions;
 - xv. such other matters as are considered appropriate.
2. Council may refuse to grant a Licence where the application:
 - i. does not comply with the requirements of this By-Law;
 - ii. does not comply with any other Provincial Regulations;
 - iii. cannot be adequately serviced by the municipal road and/or drainage system;

- iv. lacks adequate data or assurance that groundwater quality or supply will not be adversely affected, and/or;
- v. poses a threat of environmental danger to any unique or significant ecological, wildlife, water fowl or fisheries areas, historical site or church.

Schedule “F”

QUARRY OPERATIONS FEES AND CHARGES

and forming part of this By-Law

Costs related to Quarry Operations in this By-law include:

Fees & Charges	
Transportation By-Law Fee	As per By-Law
Topsoil By-Law Fee	As per By-Law
Quarry Permit Fee	\$2,000.00 (one time payment)
Annual Quarry Operation Licence Fee	\$250.00 (annually)
Transfer Permit Fee	\$500.00
Administration of this By-Law Fee	\$250.00
Development Agreement	Fees and charges as per Development Agreement

Costs for inspections related to determining compliance with regulations in this By-Law may include:

Fees & Charges	
Building Inspection Fee	As per SIPD
Fire Inspection Fee	As per SIPD
Police Inspection Fee	As per SIPD
Property standards Inspection Fee	As per SIPD

Costs for enforcement of this By-Law include:

Fees & Charges	
Inspection Costs	\$250.00 (per inspection)
Investigations related to request for service or complaints	On a per service basis
Legal Fees	On a per service basis
Professional Fees	On a per service basis