

BY-LAW NO. 73-22

OF

THE RURAL MUNICIPALITY OF SPRINGFIELD

IN

THE PROVINCE OF MANITOBA, CANADA

A By-law of The Rural Municipality of Springfield to regulate and control the operation of gravel pits; prescribing measures to be taken when a gravel pit is not being operated; and to control, regulate or prohibit the removal of topsoil from lands within the Municipality;

WHEREAS Section 319 of "The Municipal Act" being Chapter 100 of the Statutes of Manitoba 1970 and amendments authorizes the Council of any Municipality to pass By-laws inter alia for controlling and regulating the operation of gravel pits and for prescribing the measures that are required to be taken with respect to gravel pits that are not being operated; and for controlling, regulating or prohibiting the removal of topsoil from lands within the Municipality, and for prescribing the measures to be taken with respect to any land from which topsoil is or has been removed;

AND WHEREAS excavations for gravel and the removal of topsoil may create hazards for persons or livestock in the Municipality or reduce the taxable assessment of the property;

NOW THEREFORE the Council of the Rural Municipality of Springfield in Council assembled enact as follows:

1. In this By-law
 - (a) "gravel" means all granular material when in its natural or processed state, including sand and crushed stone;

- (b) "inspector" means an officer of the Municipality who is designated in writing by the Reeve and Council of the Municipality and signed by the Secretary-Treasurer of the Municipality as an inspector for the purpose of this By-law;
- (c) "operator" means the person or persons or company or companies who own the right to extract material from a pit or wayside pit;
- (d) "permittee" means a person, holding a permit issued under this By-Law;
- (e) "person" includes a firm, syndicate or corporation;
- (f) "pit" means a place where unconsolidated gravel, stone, sand, earth, clay, fill, mineral or other material is being or has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes and includes a wayside pit;
- (g) "scrap" means all waste material resulting from the operation of a pit or a wayside pit and includes rejected metal, lumber, and tree stumps;
- (h) "topsoil" includes agricultural soil, sod, peat;
- (i) "wayside pit" means a temporary pit opened or used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way.

2. This By-law does not apply to

- (a) an excavation for a building or structure authorized by a Building Permit of the Municipality; or
 - (b) a dug-out for the sole purpose of providing a water supply for agricultural purposes and being less than one acre in surface area.
3. (1) No person shall remove topsoil or open, establish or operate a pit except under the authority of a permit issued by the Municipality for that purpose.
- (2) An application for a permit to remove topsoil or to operate a pit shall be in writing in the form set out in Schedule "A" to this By-law, filed with the Secretary-Treasurer and shall be accompanied by a site plan in duplicate (hereinafter referred to as "the site plan", which shall include:
- (a) the location, true shape, topography, contours, dimensions, acreage and description of the lands set aside for the purposes of removing topsoil or the operation of a pit;
 - (b) the use of all land and the location and use of all buildings and structures lying within a distance of 500 feet of any of the boundaries of the lands set aside for the purposes of a pit;
 - (c) existing grades and anticipated final grades of excavation, contours where necessary and excavation set-backs;
 - (d) drainage provisions;
 - (e) all entrances and exists;
 - (f) as far as possible, ultimate pit development, progressive and ultimate road plans,

any water diversion or storage, location of stock piles for stripping and products, tree screening and berming, progressive and ultimate rehabilitation and intended use and ownership of the land after the extraction operations have ceased;

(g) cross-sections where necessary to show geology, progressive pit development and ultimate rehabilitation.

(3) The requirements of paragraphs (a) and (b) of subsection (2) hereof may be supplied by an aerial photograph taken not earlier than 12 months prior to application for licence.

(4) Subject to Section 6 no permit shall be issued for and no excavation shall be made in an area closer than

(a) 100 feet from any property boundary; or

(b) 250 feet from a habitable residence existing at the time a permit is applied for.

(5) Every permittee shall carry on his operations in accordance with the site plan upon which his permit is based and the operator may amend the site plan with the consent of the Municipality.

4. (1) Each permittee shall provide and maintain a security deposit with the Municipality for the rehabilitation of the pit operated under his permit and for the protection of the pit during any period that it is not being operated and has not been rehabilitated.

(2) The amount of the security referred to in Subsection (1) shall be equal to 5 cents per ton of material removed and subject to Subsection (5) shall continue to be paid until such time as the total amount of the security on deposit under that licence (including interest) is \$100,000.00, or an amount equal to \$500.00 per acre of the

property to be used for pit operations, whichever is the greater.

- (3) The security deposit shall be paid monthly to the Secretary-Treasurer on or before the 10th day of each month for material removed in the previous calendar month and shall be deposited in a special account of the Municipality bearing interest at prevailing bank rates.
- (4) Where a pit operation has ceased or the pit has been abandoned and the rehabilitation program carried out in accordance with the requirements of this By-law and the site plan the operator of the pit is entitled to a refund of the whole of the security on deposit including accumulated interest.
- (5) Where a pit is in operation and progressive rehabilitation has been carried out, the operator of the pit is entitled to a refund annually of that portion of the security on deposit as determined by the Municipality based on the amount of the rehabilitation completed in accordance with the site plan.
- (6) Every operator of a pit shall, where possible, while the pit is in operation, rehabilitate the pit to the final grade and contours indicated in the site plan.

5. The Council by resolution may in its absolute discretion authorize to be issued to any person a permit for the removal of topsoil or gravel from the lands specified in the permit provided that person has:

- (a) made application in writing as required by this By-law;
- (b) paid the fee for such permit as set out in Schedule "B" to this By-law;

(c) where the applicant has previously operated a pit in the Municipality, provided and maintained a security deposit, as set out in this By-law, to ensure performance of all of the permit obligations under this By-law.

6. (1) No permit for excavation shall be issued for any land and no excavation shall be made where the top of the natural slope in cut for any excavation is within one hundred feet of the land reserved by any public road or highway or fifty feet from adjoining private or public property unless written consent of the adjacent property owner is first secured, and further, no permit shall be issued for any pit for which the top of the natural slope in cut for any excavation is within the controlled area contiguous or adjacent to a limited access highway, freeway or provincial trunk highway as defined in "The Highway Protection Act"; this buffer zone so created to remain in a natural state with sod, grass and trees and be free from all piles and all scrap.
- (2) Where an operator makes application for a permit to extract material from a new pit or area and is presently operating a pit which does not comply with the requirements of the By-law, no permit shall be issued for the new pit or area until the operator completes the rehabilitation of the non-conforming pit.
- (3) A permit for the removal of topsoil, unless specifically stated in the permit shall be issued for the sole purpose of a gravel pit operation. The stripping of topsoil or an area

in excess of the area required for the permit year of operation or the next following permit year will be strictly prohibited. All stripping shall be maintained on the site and stockpiled in designated areas as shown on the site plan submitted with the application.

- (4) Notwithstanding Subsection (1) a permit may be issued and an excavation may be made adjacent to or within the area of a public road or highway where such is permitted by an agreement in writing, authorized by a By-law of the Municipality, approved by the Minister of Municipal Affairs, and which provides for an alternate road or highway.

7. Before commencing any excavation, a permittee shall

- (a) clear the area to be stripped of all tree growth. The clearing shall be neatly piled and burned in accordance with all municipal fire regulations; and
- (b) erect and maintain a heavy duty fence consisting of not less than 3 strands of galvanized barbed wire attached to treated or steel poles spaced not more than 12 feet apart which shall follow the contours of the surface of the ground on the perimeter of the area to be excavated for the pit as indicated in the site plan; or
- (c) surround the area to be excavated for the pit as indicated on the site plan with a berm not less than 5 feet in height or 6 feet in width at the top and with slopes not less than 2 feet

horizontal to 1 foot vertical and seeded or planted with trees, shrubs, legumes or grasses; and

- (d) protect each entrance to and exit from the pit with a gate which shall be kept closed and locked during the time when the pit is not in operation.

8. The operator of a pit shall maintain every access road to that pit with a dust free surface within 100 feet of a public road during the period of operation of the pit.

9. (1) Any excavations, for any pit operations, which may be below the natural water table shall require a special permit.

(2) All ponds as a result of excavations shall be posted showing depth and that swimming is not allowed.

10. (1) Except where a special permit is granted by the Municipality, hours of operation of a gravel pit shall be restricted to the period between the hours of 6:00 o'clock in the forenoon and 10:00 o'clock in the afternoon.

(2) All operations at the site of the pit to be conducted in such a manner as to preclude excessive noise and dust and subject to the Anti-noise By-law and the Dust Control By-law of the Rural Municipality of Springfield.

(3) The Council may grant a special permit when deemed necessary or advisable to allow the operation of a pit beyond the hours set out in Subsection (1) for a specified period.

11. Every permit issued under this By-law shall expire on the 31st day of December next following the date of

issue but may (in the absolute discretion of the Council) be renewed upon application and payment of the required fee.

12. (1) When a permittee ceases to operate a pit he shall forthwith

- (a) ensure that all sides of the excavation have been sloped in accordance with the site plan or to the materials' natural angle of repose from the excavation limits allowed under Subsection (3) of Section 3 hereof,
- (b) remove all scrap, debris, plant and foreign materials from the site,
- (c) level all scrap piles within the excavation boundaries,
- (d) replace topsoil over the excavated area which is not naturally covered by water in sufficient quantity and depth to raise and maintain a healthy growth of vegetation adequate to bind the soil and to prevent erosion, and seed and plant the same with trees, shrubs, legumes or grasses; and
- (e) take such other measures to render the area safe for persons and livestock as may be required by the Municipality.

(2) A permittee shall be deemed to have ceased to operate a gravel pit when

- (a) no permit issued for 12 months;
- (b) the permittee advises Council that he has ceased to operate pit; or
- (c) in the opinion of the Council the permittee has ceased the operation of the gravel pit.

(3) Where progressive rehabilitation has been carried out the operator may apply in January or later for a refund of security deposit or a portion thereof under Subsection (5) of Section 4 hereof.

(4) Where a permittee ceases to operate a pit and has completed the rehabilitation thereof as required by Subsection (1) he may apply for the refund of the security deposit provided and maintained for that pit.

13. Every permittee shall report in writing to the Secretary of the Municipality on or before the 10th day of each month following the previous month of operation setting out the quantities of topsoil or gravel removed from the lands referred to in the permit; said report will be on a form provided by the Municipality or a certified or carbon copy of weigh scale tickets or certified or carbon copies of reports submitted to the Department of Mines.

14. (1) Every person who, after the effective date of this By-law

- (a) removes topsoil or gravel from, in upon or under any land in the Municipality without a permit;
- (b) refuses, neglects, omits or fails to protect and secure an excavation as required by Section 7 hereof;
- (c) refuses, neglects, omits or fails to render the area of a gravel pit safe for persons and livestock and to prevent the growth of noxious weeds thereon within the 12 months of ceasing to operate a pit;
- (d) knowingly gives false information to the Municipality in an application for

permit or in a report required under this By-law; or

- (e) otherwise contravenes any provision hereof other than a contravention mentioned in Subsection (2) hereof;

is guilty of an offence and is liable on summary conviction to a fine not exceeding One Hundred Dollars (\$100.00) or to imprisonment for 30 days or to both such a fine and to such an imprisonment.

(2) Every permittee who refuses, neglects, omits or fails to report the quantities of topsoil or gravel in accordance with Section 13 hereof is guilty of an offence and is liable on summary conviction to a fine not exceeding Fifty Dollars (\$50.00).

(3) Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person is guilty of a separate offence for each day that it continues.

15. Where a permittee refuses, neglects, omits or fails to do anything that he is required to do by the provisions of this By-law, the Municipality may do it or cause it to be done at the expense of the permittee and may recover the cost thereof by action or distress, or may levy the cost thereof against the property respecting which the matter or thing was done or the permit was issued and recover such cost in like manner as taxes in arrears, or may pay the same from and out of any security deposit held for such permittee.

16. This By-law is subject to the provisions of "The Mines Act" and regulations thereunder; and to the provisions of the Springfield Planning and Zoning Scheme.

17. A permit issued under this By-law is not

transferable.

18. The Municipality may revoke a permit issued under this By-law for any breach of the terms and conditions of the permit of this By-law.

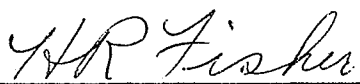
19. (1) An inspector may enter in or upon any land or premises set aside for the purpose of a pit at any reasonable time to make such examination or tests and inquiries as may be necessary for the purpose of ensuring compliance with this By-law, the site plan or the terms and conditions of the permit.

(2) No person shall hinder or obstruct an inspector in the performance of his duties or furnish him with false information or refuse to furnish him with information.

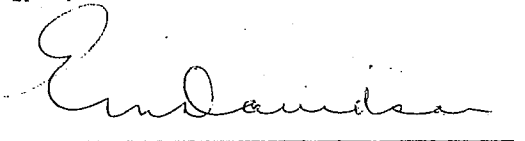
20. By-law No. 73-19 is hereby repealed.

21. This By-law shall be effective on, from and after the First day of July, A.D. 1973.

DONE AND PASSED in Council assembled at Oakbank, Manitoba, this 28th day of May, A.D. 1973.



Reeve



Secretary-Treasurer

Read a First time this 28th day of May, A.D. 1973.
Read a Second time this 28th day of May, A.D. 1973.
Read a Third time this 28th day of May, A.D. 1973.

Upon the affirmative vote of two-thirds of the whole Council suspending the requirement of The Municipal Act, Section 183 (2).

SCHEDULE "A"

to By-law No. 73-22 Rural Municipality of Springfield

APPLICATION FOR A PERMIT TO OPEN, ESTABLISH OR OPERATE A PIT.

I,
of the _____ of _____, in the Province
of _____, hereby make application
for a permit to open, establish or operate a pit in the
lands described as follows:

Section Township
Range _____, East of the Principal
Meridian in Manitoba.

1. APPLICANT:
ADDRESS:

2. OWNER of the PROPERTY where pit is located.
NAME:
ADDRESS:

3. TYPE OF MATERIAL to be removed.
_____ sod _____ peat _____ gravel _____ sand
_____ clay _____ other (Specify _____)

4. Previous history of pit (if any).

5. Pit Operation:
Date operation to commence:
Duration of operation:
Area to be worked: _____ acres.
Proposed depth of excavation: _____ feet.

Estimated quantity of material to be removed:

_____ cubic yards or tons.

Type of excavation equipment to be used:

Proposed final grades of excavation:

Proposed excavation setbacks from road and
property boundaries:

Proposed drainage provisions:

Are products to be stockpiled:

_____ Yes _____ No Duration _____

6. SITE PLAN:

The site plan which accompanies this application

(a) was prepared by

P. Eng. or M.L.S., or

(b) is an aerial photograph taken the _____ day

of _____, 197 ,

and shows

(i) the size, shape, location and acreage
of the property to be worked,

(ii) the topography of the property (by
contours, spot elevations or by an
estimated slope of the land, if not
an aerial photograph),

(iii) the location and use of all lands
and buildings within 500 feet of the
property boundaries,

(iv) all entrances and exits.

7. REHABILITATION (describe the proposed rehabilitation
of the property and its intended use and ownership after
termination of operation.

DATED the _____ day of _____, A.D. 197 .

Title of Officer, if a Corporation.

SCHEDULE "B"

FEES FOR PERMITS:

TOPSOIL:

1. For a permit to strip and stock
pile topsoil for the purpose of a
gravel pit \$1.00 per acre or
part thereof.

2. For a permit to remove topsoil
as sod \$1.00 per acre or
part thereof.

GRAVEL:

3. For a permit to remove gravel
 - (a) where the pit does not
exceed 5 acres in area
\$100.00
 - (b) where the pit exceeds 5
acres in area, for all land
in the parcel as shown on
the last revised assessment
roll of the Municipality
\$10.00 per acre
(minimum \$200.00)

NOTE:

1. The initial fee shall be based upon the acreage shown in the application. An additional fee at the same rate shall be charged where the acreage shown in the application is exceeded.
2. The permit fees under this By-Law are in addition

to any fees or royalties which may be due or payable to the Province of Manitoba or any department or agency thereof.