

(Unofficial version)

**Province of Quebec  
Municipality of Clarendon  
By-Law 2017-262  
Creation of a local fund for the maintenance of certain municipal roads**

**WHEREAS** articles 78.1 and following ones of the *Municipal Powers Act* (L.R.Q. c. C-47.1) impose the obligation to any local municipality having on its territory a sand pit or quarry to establish a fund reserved for the maintenance of certain municipal roads.

**WHEREAS** the presence of sand pits and or *quarries are* on the territory of the municipality;

**WHEREAS** the present by-law needed to be updated

**WHEREAS** notice of motion to review and update the present By-Law was duly given by councillor Elliott at a regular meeting of council that was held on July 11, 2017.

**IT IS PROPOSED BY ELLIOTT,**

**SECONDED BY SMITH;**

**AND RESOLVED UNANIMOUSLY:**

That the by-law carrying the no 2017-262 is adopted and replaces by-law carrying the no 2008-239 and that council orders and so rules that it follows:

**PREAMBLE**

The preamble is an integral part of the present by-law.

**2. DEFINITIONS**

Quarry or sand pit: Any site such as defined in the article 1 of the *Regulation on sand pits and quarries* (R.R.Q. c. Q-2, r.2). The term sand pit includes notably the term gravel pit in the meaning of this regulation.

Exploitation of a sand pit or a quarry: Any individual or enterprise that runs a quarry or a sand pit that extracts or recycles substances for sale or their own use.

Substances subjected: Are subjected to the present regulation substances, transformed or not, which are transported outside the site of a stone pit or a sand pit. These substances include surface mineral substances listed in the article 1 of the *Mining Act* (L.R.Q. c. M-13.1), such as sand, gravel, small stone, clay, dressed stone, crushed stone, the minerals used for the manufacture of cement and inert mining residues, excluding however sod. These substances also include those resulting from the recycling of the demolition of buildings, bridges, roads or other structures.

**3. ESTABLISHMENT OF THE FUND**

The council decrees, by the present regulation the establishment of a local fund reserved for the maintenance of certain public roads.

**4. DESTINATION OF THE FUND**

The sums paid into the fund, other than those reserved for the administrative costs of the programme set up under this division, must be used for:

1. In the repair and maintenance of all or any of public roads on which substances on which duties are payable under section 5 of the Law are or could be transported from the site of a gravel pit or stone quarry situated on the territory of the municipality, subjected substances towards which a right is payable by virtue of the article 5;
2. In work to compensate for inconveniences related to the transport of those substances;

## **5. RIGHT TO BE COLLECTED**

The fund is to be made up of duties payable by every developer of a stone quarry or a sand pit situated on the territory of the municipality to which the exploitation of which may cause the transit, on the municipal public highways, the substances liable for the present regulation.

The duty payable by a developer of a stone quarry or a sand pit is calculated according to the quantity, expressed in metric ton by substances, transformed or not, which pass in transit from the site and which are substances liable for the present regulation article 7 or 7.1.

## **6. EXCLUSIONS**

No duty is payable on peat or substances processed in an immovable that is part of a unit of assessment that includes the site and is listed under the column « 2-3--- MANUFACTURING INDUSTRY », with the exception of the columns « 3650 Industry of prepared concrete » and « 3791 Industry of the manufacturing of bituminous concrete », provided in the textbook manual referred to In the regulation made under paragraph 1 of article 263 of the *Act Respecting Municipal taxation* (L.R.Q. c. F-2.1). The exclusion also applies when an immovable is included in a unit of assessment listed as described above if the unit is adjacent to the unit that includes the site.

When the developer of a stone quarry or a sand pit produce a sworn declaration such as foreseen in the article 8 and such as this declaration establishes that none of the liable substances have passed in transit over public municipal roads from his site, then duty is exempted for the period covered by the declaration.

## **7. PAYABLE RIGHT OUTSTANDING AMOUNT BY METRIC TON**

For the municipal financial year on 2017, the payable duty is 0,57 \$ per metric ton on any liable substance.

For any subsequent exercise, the payable duty per metric ton is obtained by indexing in the increase the applicable amount for the previous exercise. The percentage corresponds to the rate of increase, according to Statistics Canada, of the consumer price index for Canada. According to the article 78.3 of the *Municipal Powers Act*, this percentage as well as the applicable amount are annually published in the *official Gazette of Quebec* before the beginning of the aimed exercise.

### **7.1. INCREASING OF THE PAYABLE DUTY BY CUBIC METER**

For the municipal financial year on 2017, the payable duty is 1.08 \$ by cubic meter for any substance subjected except, in the case of dressed stone, where the amount is 1.54 \$ by cubic meter.

For any subsequent exercise, the payable duty by cubic meter is the result which we obtain by multiplying the payable amount by metric ton by the factor of conversion of 1,9

or, in the case of the dressed stone, by the factor 2.7. According to the article 78.3 of the *Municipal Powers Act* the applicable amount is annually published to the *official Gazette of Quebec* before the beginning of the aimed exercise.

## **8. DECLARATION OF THE DEVELOPER OF A STONE PIT OR A SAND PIT**

Every operator of a stone quarry or sand pit has to declare to the municipality no later than the 15<sup>th</sup> of June, the 15<sup>th</sup> of October and the 15<sup>th</sup> of January;

1. If subjected substances towards which a duty is payable by virtue of the present regulation may pass in transit on the municipal public roads from each of the sites that it operates during the period covered by the declaration;
2. The quantity of these substances, shall be expressed in metric ton or in cubic meter, which passed in transit from every site which it operates during the period covered by the declaration
3. If the declaration aimed at the first paragraph of the present article establishes that none of the substances have passed in transit over a public municipal roads from a site during the period which it covers, this declaration must be notarised and express the reasons.

## **9. PERCEPTION OF THE PAYABLE RIGHT AND THE PROCEDURE**

All operators must complete the declaration of transit of the substances transited through the municipal roadways.

The declaration must be accompanied by a check made out to the "Municipality of Clarendon", corresponding to the amount due.

## **10. PLAYABILITY OF THE PAYABLE DUTY AND THE TRANSMISSION OF AN ACCOUNT**

The duty payable by a developer is due as from the 30th day following the sending of an invoice for that purpose by the municipal civil servant in charge of the perception of the duty. Interest accrues as from this day at the rate current for the interests the arrears of the taxes of the municipality.

The invoice informs the debtor of rules set out in the first paragraph.

The duty payable by an operator for subjected substances which passed in transit from each of the sites that it operates, during a municipal financial year, is not however due before :

1. August 1st of this exercise for substances which passed in transit from January 1st until May 31st of this exercise;
2. December 1st of this exercise for substances which passed in transit from June 1st until September 30th of this exercise;
3. March 1st of the exercise following for substances which passed in transit from October 1st until December 31st of the exercise for which the duty is payable.

## **11. CHECK OF THE EXACTNESS OF THE DECLARATION**

The declarations of quantities may be verified by the Municipality by the Director General who has the power to examine and examine all records and documents he deems necessary for the purposes of the audit.

## **12. MODIFICATION IN THE ACCOUNT**

When the municipal civil servant in charge of the perception of the duties is of the opinion, according to the information obtained in application of the mechanism established according to the article 11, when a developer was wrongly exempted from the payable right towards a site following a declaration made by virtue of the article 8, or when the quantity of substances which passed in transit from a site is different from the one mentioned in the declaration, he has to mention at the expense of any change which he judges to have to bring to the mentions contained in such a declaration.

The duty is payable according to the modified invoice contained in the account, subject to any final judgment resulting from a prosecution for the application of the present regulation.

### **13. APPOINTED MUNICIPAL CIVIL SERVANT**

The Municipal Council appoints the Director General as municipal civil servant in charge of the application of the present regulation, notably including the perception of the rights.

### **14. PENAL CAPACITIES**

The physical or moral person who fails to produce a declaration as required by the present regulation or who passes on a false declaration commits an infraction and is liable, on top of expenses, to the following fines:

1. For a first infraction, a minimal fine of 500 \$ in a maximal fine of 1000 \$ for a physical person or a minimal fine of 500 \$ in a maximal fine of 1000 \$ for a moral person;
2. In case of recurrence, a minimal fine of 1000 \$ in a maximal fine of 2000 \$ for a physical person or a minimal fine of 1000 \$ in a maximal fine of 2000\$ for a moral person.

The fines are subject to change by municipal resolution.

### **15 Replacement**

The present by-law replaces any preceding municipal by-laws concerning The Creation of a local fund for the maintenance of certain municipal roads.

### **16. COME INTO EFFECT**

The present regulation will come into effect according to the law.

Adopted in Clarendon on the 8th of August, 2017

Notice of Motion: July 11th 2017

Adoption of the By-Law: August 8th 2017

Date de publication: August 11th, 2017

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Mayor, John Armstrong

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Director General, Mike Guitard