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**THE CORPORATION OF THE MUNICIPALITY OF POWASSAN  
BY-LAW No. 2002- 32**

**BEING A BY-LAW TO REGULATE THE OPERATIONS OF PITS AND  
QUARRIES IN THE MUNICIPALITY OF POWASSAN**

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WHEREAS Section 124 (1), (2) & (3) of the Municipal Act authorizes the Municipality to pass by-laws for regulating the operation of Pits and Quarries within the Municipality.

AND WHEREAS the Council of the Corporation of the Municipality of Powassan deems it necessary to pass a By-law for the purpose of regulating the operation of pits and quarries within the Municipality.

NOW THEREFORE the Council of the Corporation of the Municipality of Powassan hereby enacts as follows:

**Section 1 – Definition**

In this By-law the following definitions shall apply:

- 1.1 “Aggregate” means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock other than metallic ores.
- 1.2 “Holiday” shall mean a holiday defined in the Interpretation Act of Ontario.
- 1.3 “Operate” when used in relation to a pit for quarry includes all activities associated with a pit or quarry that are carried out on land from which aggregate is being excavated.
- 1.4 “Person” means an individual, a partnership, a corporation, a municipality, a public authority or other group or body but does not include the Corporation of the Township of Powassan.
- 1.5 “Pit” means land or land under water from which consolidated aggregate is being or has been excavated and that has not been rehabilitated but does not mean land or land underwater excavated for a building or other work on the excavation site.
- 1.6 “Quarry” means land or land under water from which consolidated aggregate is being or has been excavated and that has not been rehabilitated but does not mean land or land under water excavated for a building or other work on the excavation site.
- 1.7 “Rehabilitate” means to treat land from which aggregate has been excavated so that the use or conditions of the land:
  - a) Is restored to its former use or condition or
  - b) Is changed to another use or condition that is or will be compatible with the use of adjacent land.
- 1.8 “Site” means the lands used for the operation of a pit or quarry.
- 1.9 “Municipality” means the Corporation of the Municipality of Powassan.

**Section 2 – Application**

- 2.1 This By-law applies to all pits or quarries in the Municipality of Powassan in which extraction exceeds 20,000 tonnes per annum.

- 2.2 No person shall operate a pit or quarry on land except in compliance with the provisions of this By-law, any other application By-law of the Municipality and all provincial and federal legislation or regulation.
- 2.3 Nothing in this By-law is intended to make lawful any operation of a pit or quarry which would otherwise be unlawful under a Zoning By-law, other By-law or Provincial or Federal legislation or regulation.
- 2.4 This By-law shall not apply to the excavation of aggregate by an individual or group of individuals for use by the individual or group of individuals but not for resale or commercial purposes.

### **Section 3 – Hours of Operation**

No person shall permit the operation of any machinery or equipment in connection with a pit or quarry, other than water pumping equipment (only if a Certificate of Approval from the Ministry of the Environment has issued one for noise and discharge) and a Permit to Take Water has been obtained:

- a) on any Sunday or holiday; or
- b) on any other day except between the hours of 7:00 am and 7:00 pm Monday to Friday inclusive; or
- c) Between the hours of 8:00 am and 5:00 pm on a Saturday; or
- d) As otherwise provided for in an agreement with the Municipality.

Except that where the machinery or equipment is located within 400 metres of any residence the hours of operation for that equipment shall be limited to 7:00 am and 7:00 pm.

### **Section 4 – Setback Limits**

- 4.1 In this Section “Excavation Setback Area” of a site means the area within;
- a) 30 metres from the boundary of the site;
  - b) 300 metres from any lot building in use for residential purposes on the date of the passing of this By-law;
  - c) 215 metres from any part of the boundary of the site that abuts land restricted to residential use by a Zoning By-law.
- 4.2 No person shall excavate aggregate within the Excavation Setback Area of a site.
- 4.3 No person shall pile aggregate, topsoil or overburden, locate any processing plant or place, build or extend any building or structure.
- a) 30 metres from the boundary of the site;
  - b) 300 metres from any building in use for residential purposes on the date of the passing of this By-law;
  - c) 215 metres from any land restricted to residential use by a Zoning By-law.
- 4.4 The preceding subsection 4.3 does not apply with respect to earth berms that are intended to screen adjoining lands from the operation on the site.
- 4.5 The preceding subsections do not apply to any excavations, building or structures that existed on the date of the passing of this By-law.

### **Section 5 – Screening and Berming**

- 5.1 Within one year following the date of passing of this By-law, the operator of a pit or quarry, shall plant and thereafter maintain a screen of trees adequate to obstruct the view of the pit or quarry within the Excavation Setback Area as shown on the approved site plan.

## **Section 6 – Maintenance Standards**

6.1 The operator of a pit or quarry shall ensure that:

- a) Any building, structure or processing plant on the site is maintained in a good state of repair and the site is kept in an orderly condition;
- b) All Test Holes on the site are fenced immediately after being dug and refilled and regraded to the natural land contour level within 10 days from the time of the completion of the digging;
- c) Each entrance to, and exit from, the site is located so as to provide at the point of intersection within any highway, a clear view of the highway in both directions;
- d) Sight triangles are provided having sides of 6 metres from the point of intersection of the entrance/exit and the highway and that no structures, fill or vegetation shall be permitted in excess of 1 metre above the grade of the abutting highways in such site triangles;
- e) All scrap on the site is collected in areas on the site that are further than 50 metres from the boundary of the site and is removed from the site on an ongoing basis. For the purpose of this subsection, “scrap” means all waste material, refuse and debris, and includes scrap metal or lumber, discarded machinery, equipment and motor vehicles, fallen trees and tree stumps.

## **Section 7 – Noise**

- a) All construction equipment used in any phase of pit operation shall conform to the Ontario Ministry of the Environment Noise Guidelines for Construction Equipment as prescribed in the Ministry’s publication NPC115. Or any Certificate of Approval issued by the Ministry of the Environment.
- b) All internal combustion engines located and operated within the site are properly fitted with sound-muffling equipment equal to the manufacturer’s specifications or better, and all equipment is operated so as to avoid any nuisance due to noise;
- c) The licensee shall comply with Ontario Ministry of the Environment Noise Guidelines for stationary sources as prescribed in the Ministry’s publication NPC 105 and NPC 132.
- d) Noise emissions shall be monitored at least once per calendar year for the life of the pit; and if the Ministry of the Environment Guidelines for stationary sources or construction equipment is being exceeded, remedial action to reduce the noise to acceptable levels shall be taken immediately.
- e) If requested by an owner, any residence within 400 metres of the proposed haulage route shall be equipped with central air conditioning, and noise barriers shall be built around their quire outdoor living areas if feasible, subject to approval of the Ministry of the Environment. Any request for either air conditioning or noise barriers must be made within 2 years of the commencement of extraction.

## **Section 8 – Dust**

- a) The operator shall apply dust suppressants as frequently as necessary to control dust emissions from equipment, internal haul routes, and the type of suppressant, method of application, and the frequency of application shall be in accordance with

any requirements of the Ministry of Natural Resources and the Ministry of the Environment to prevent dust from being deposited on other lots.

- b) Dust emissions from the licensed site shall be controlled to ensure compliance to standards set out in Air Quality Monitoring Reports Published by the Ministry of the Environment (ARB-136-83+AOM:ISSNO-704-3325).

### **Section 9 – Adjacent Water Supplies**

- a) Where the Ministry of Natural Resources or the Ministry of the Environment has determined that the operation of the pit has caused any well water to be adversely affected, the licensee will, at the licensee's expense, either deepen the well or replace the well to ensure that historic water production quality standards are maintained for that well. Where the Ministry of Natural Resources or the Ministry of the Environment is satisfied that this pit operation has caused a water supply problem the licensee shall, at his expense, ensure a continuous supply of water to the affected landowner.

### **Section 10 – Rehabilitation**

- 10.1 The operator of a pit or quarry shall rehabilitate the site in accordance with the provisions hereinafter set out.

### **Section 11 – Operator's Agreement**

- 11.1 Prior to amending the Township's Zoning By-law to permit the establishment of a pit or quarry, or an extension to an existing pit or quarry, the proposed operator shall make application therefore and shall enter into an Operator's Agreement with the Township.
- 11.2 Every application shall be accompanied by a site plan signed by the applicant which must show:
  - a) A general description of the proposed site, including lot and concession lines, if any;
  - b) The shape, dimensions and hectarage of the proposed site;
  - c) The use of the land and the location and use of the buildings and other structures within 150 metres of the proposed site of the pit or within 500 metres of the proposed site of the quarry;
  - d) The location, dimensions and use of building and other structure existing or proposed to be erected on the proposed site;
  - e) The location of the excavation setback limits;
  - f) The location and type of existing and proposed fences;
  - g) The location of existing and proposed tree screens;
  - h) The location of earth berms, if applicable;
  - i) The location and size of existing and proposed stockpiles of topsoil and subsoil and over burden and the location and size of proposed aggregate stockpile areas;
  - j) The existing and estimated final elevation of the proposed site;
  - k) Every existing and proposed entrance to and exit from the proposed site;

- l) Any existing surface water on and surrounding the proposed site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters, along with a valid Certificate of Approval issued by the Ministry of the Environment;
- m) Subject to available information, the location of water wells on and within 300 metres of the proposed site;
- n) The maximum depth of excavation and whether it is intended to excavate below the water table;
- o) Prior to blasting a hydrogeological study reporting on potential impacts on wells;
- p) The progressive rehabilitation and final rehabilitation plans;
- q) All internal roads;
- r) Any other necessary information and final rehabilitation plans;
- s) The location of the weigh scale;
- t) The fuel storage and filling area, preferably on a concrete pad.

**Section 12 – An operator’s Agreement may contain;**

- a) A statement that the operator shall comply with the provisions of this By-law;
- b) A statement that the operator shall operate and rehabilitate the pit or quarry in accordance with the site plan, this By-law and the Operator’s Agreement.
- c) A statement that the operator shall be responsible for all reasonable costs of the Township incurred with respect to the application, any re-zoning, the preparation of the Operator’s Agreement, including survey, engineering, planning and legal costs;
- d) A consent of the operator and if required the registered owner of the site to the registration of the Operator’s Agreement, against title of the lands to which it applies.

**Section 13 – Existing Pits or Quarries – Site Plan**

13.1 The operator of a pit or quarry existing on the date of the passing of this By-law shall file with the Clerk of the Township on or before the first day of XXXX 2002, a site plan signed by the operator which must show,

- a) A general description of the site, including lot and concession line if any;
- b) The shape, dimensions and hectareage of the site;
- c) The location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- d) The existing and proposed excavation and setback limits;
- e) The location and size of existing stockpiles of topsoil; subsoil and overburden and the location and size of aggregate stockpile areas;
- f) The existing elevations of the site;

- g) The existing entrance to and exits from the site;
  - h) Any existing surface water on the site and existing water diversion, storage and drainage facilities on the site and points of discharge to surface waters;
  - i) Any action taken by the operator to rehabilitate the pit or quarry in accordance with Section 7 of this By-law.
- 13.2 The Operator of every pit or quarry shall file with the Clerk of the Municipality on or before the 1<sup>st</sup> day of February 2003 and each year thereafter a revised site plan showing any changes made to the pit or quarry in the year immediately preceding or a Declaration stating that no changes have been made to the said site plan.

**Section 14 – General**

- 14.1 This By-law in no way relieves any person from complying with any other By-law of the Municipality including any zoning and shall not in any way limit or restrict the Council of the Municipality in exercising its discretion respecting an application to amend the Municipal Zoning By-law to permit a pit or quarry or the extension to a pit or quarry;
- 14.2 If any provision of this By-law is for any reason held to be invalid by a Court of competent jurisdiction it is hereby declared to be the intention of the Council of the Township that all remaining provisions shall continue to be in full force and effect notwithstanding that one or more provisions shall have been declared to be invalid.

**Section 15 – Penalty**

- 15.1 Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and upon conviction shall be liable to the fines and penalties prescribed by the Provincial Offences Act.
- 15.2 Where this By-law requires any matter or thing be done and there is default of its being done by the person directed or required to do it, such matter or thing may be done by the Township at the person's expense and the Township may recover the expenses incurred in doing it be action or in like manner as municipal taxes.

**Section 17 – Enactment**

THIS BY-LAW READ A FIRST TIME and considered read a second and third time and considered passed this December 17, 2002

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Mayor

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CAO/CLERK