



BYLAW NO XXXX

COMMUNITY AGGREGATE PAYMENT LEVY BYLAW

A BYLAW OF KNEEHILL COUNTY, IN THE PROVINCE OF ALBERTA, TO AUTHORIZE THE IMPOSITION OF A COMMUNITY AGGREGATE PAYMENT LEVY ON LANDS WITHIN KNEEHILL COUNTY PROPOSED FOR AGGREGATE MINING DEVELOPMENT.

WHEREAS, the Municipal Government Act, Part 10, Division 7. 1, authorizes the Council of Kneehill County to pass a community aggregate payment levy bylaw to impose a levy in respect of all sand and gravel businesses operating within the municipality to raise revenue to be used toward the payment of infrastructure and other costs in the municipality; and

AND WHEREAS the Community Aggregate Payment Levy Regulation, Alberta Regulation 263/2005 made pursuant to Section 409.3 of the Municipal Government Act, applies to all municipalities that have passed a community aggregate payment levy bylaw;

AND WHEREAS the revenue raised through the Levy shall be used in accordance with Section 409.1(2) of the Municipal Government Act, which mandates that the Levy shall be used to raise revenue for the payment of infrastructure, maintenance of infrastructure and other costs within the municipality

AND WHEREAS the Council of Kneehill County has determined that it is in the best interest of Kneehill County to pass a community aggregate payment levy bylaw;

NOW THEREFORE, the Council of Kneehill County, duly assembled, enacts as follows:

PART ONE INTRODUCTION

1. This Bylaw shall be known as the “Community Aggregate Payment Levy Bylaw”

2. DEFINITIONS - In this bylaw the following words and phrases mean:

- (a) **“Aggregate”** means gravel and sand, individually or in combination;
- (b) **“Council”** means the Council of Kneehill County;
- (c) **“County”** means Kneehill County;
- (d) **“Crown”** means the Crown in right of Alberta or Canada;
- (e) **“Development”** means “development” as defined in the Municipal Government Act;

- (f) **“Lands”** means the private titled lands in accordance with the Land Titles Act, as amended;
- (g) **“Levy”** means Community Aggregate Payment Levy imposed pursuant to this Bylaw under the authority of the Municipal Government Act;
- (h) **“Peace Officer”** means a person employed for the purposes of enforcing the provisions of this Bylaw or as established by the Approving Authorities Bylaw of Kneehill County.
- (i) **“Pit”** means a location where Aggregate can be, is, or has been, extracted from its naturally occurring location.
- (j) **“Sand and gravel operator”** means a person duly engaged in extracting sand and gravel for shipment.
- (k) **“Shipment”** means a quantity of sand and gravel duly hauled from the pit from which it was extracted.
- (l) **“Tonnage Roll”** means a report in which an Operator is required to record the tonnage of Aggregate removed.

PART TWO OPERATOR REPORTING REQUIREMENTS

- 3. The Levy shall be imposed on and paid by the person who operates the Aggregate operations on Lands within Kneehill County.
- 4. All sand and gravel operators in the County shall report their shipments, in tonnes, from each individual pit within the boundaries of the County. Quarterly reports must be provided to the County within thirty (30) days after March 31, June 30, September 30 and December 31 of each calendar year.
- 5. All Operators shall report the Aggregate Shipments from each Pit on an Aggregate Tonnage Roll. The form of Tonnage Roll to be used by Operators is attached as Schedule “A” to this Bylaw.
- 6. Where a sand and gravel operator is unable to provide a measurement of weight for the amount of sand and gravel in a shipment, the operator must use the following conversion rates to report shipments in tonnes:
 - (i) 1 cubic metre = 1.365 tonnes, for sand; and
 - (ii) 1 cubic metre = 1.632 tonnes, for gravel
 - (iii) where 1 cubic metre = 1.308 cubic yards

PART THREE LEVY NOTICES AND PAYMENTS

- 7. The County shall send out community aggregate payment levy notices, in the form of an accounts receivable invoice, within forty-five (45) days of March 31, June 30, September 30 and December 31 in each calendar year setting out the amount of the Levy, based upon the Aggregate Tonnage Roll submitted, payable by the Operator.
- 8. A levy notice is deemed to have been received 7 days after it is sent.

9. The amount owing to the County by an Operator as shown on the Levy notice sent to the Operator shall be paid by the Operator within thirty (30) days of the date of mailing of the Levy notice.
10. All Operators shall provide the County with written notice of a mailing address to which all notices under this Bylaw and Division 7.1 of Part 10 of the Municipal Government Act may be sent.
11. The uniform Levy Rate for all Shipments of Aggregate from a Pit within the County shall be \$0.40 per tonne of Aggregate.
12. The amount of the Levy for each quarterly period to be invoiced to an Operator shall be determined by multiplying the number of tonnes of Aggregate for each quarter of the year, as shown on the Tonnage Roll provided to the County, by the uniform Levy Rate.
13. If the operator of an Aggregate Pit is in default of fulfilling the intention of the Bylaw the County may, on the notice of the default, carry out necessary actions to rectify the default and charge the cost of expense thereof to the operator of the Aggregate Mine.
14. The interest earned upon funds collected by the Levy shall be retained by the County.
15. There shall be no refunds on collected Levies.

PART FOUR AGGREGATE SHIPPED TONNAGE ROLL

16. The County shall record the tonnage of aggregate in an aggregate operator's shipment on an aggregate shipped tonnage toll based on the tonnage in an operator's shipment as reported by the operator.

PART FIVE EXEMPTIONS FROM LEVY

17. No levy may be imposed on the following classes of shipments of sand and gravel:
 - (1) A shipment from a pit owned or leased by the Crown for a use or project that is being undertaken by or on behalf of the Crown.
 - (2) A shipment from a pit owned or leased by a municipality for a use or project that is being undertaken by or on behalf of a municipality.
 - (3) A shipment from a pit owned or leased by the Crown or a municipality for a use or project that is being undertaken by or on behalf of the Crown or a municipality.
18. No levy may be imposed on shipments of sand and gravel that are subject to another tax, levy or payment that is established by and payable to a municipality.
19. No levy may be imposed on shipments of sand and gravel that are required pursuant to a road use agreement or a development agreement for construction, repair or maintenance of roads identified in the agreement, that is necessary to provide access to the pit from which the sand and gravel is extracted.
20. An Operator shall report all Shipments of Aggregate as provided for in this Bylaw even though one or more of such Shipments may be exempt under this Bylaw from the Levy.

PART SIX PERSON LIABLE TO PAY LEVY

21. A person who purchases a sand and gravel business or in any other manner becomes liable to be shown on the sand and gravel shipped tonnage roll as liable to pay a levy must give the County written notice of a mailing address to which notices under Division 7. 1 of Part 10 of the Municipal Government Act may be sent.

PART SEVEN LATE REPORTING SURCHARGE

22. In addition to any other remedy under this Bylaw, if a sand and gravel operator fails to report their shipments in the timeframe set out in this Bylaw, the County may impose a late reporting surcharge, in addition to the principal amount owing under the levy notice as set out in Schedule "B".
23. The County shall send out the levy notice within thirty days of receipt of the sand and gravel operator's late report setting out the levy payable by the sand and gravel operator, including any late reporting surcharge imposed.
24. The amount shown on the levy notice shall be paid to the County within thirty days of the date on the notice.
25. At the request of a sand and gravel operator, the County's Chief Administrative Officer or delegate may, in their sole discretion, waive, cancel or adjust a late reporting surcharge if it is fair and equitable to do so. This decision is not appealable.

PART EIGHT LATE PAYMENT PENALTY

26. Where the levy imposed under the levy notice or the amended levy notice is not paid within thirty days of the date on the notice, the County may impose a late payment penalty in addition to the principal amount owing under the specific community aggregate payment levy notice, as set out at Schedule "B", as amended by resolution of Council from time to time.
27. At the request of a sand and gravel operator, Council may, in their sole discretion, cancel, reduce, refund or defer a late payment penalty in accordance with the Municipal Government Act. This decision is not appealable.

PART NINE ENFORCEMENT

28. Any person who fails to comply with any provision of this Bylaw shall be guilty of an offence and liable on summary conviction to a fine as set out in Schedule "C", as amended by resolution of Council from time to time.
29. Any Sand and Gravel Operator that fails to comply with the requirement of this bylaw is guilty of an offence and is liable, upon summary conviction, to a fine as set out in Schedule "C" of this bylaw.
30. A peace officer is authorized and empowered to issue a violation ticket pursuant to the Provincial Offences Procedure Act to any person who the peace officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw

31. Where a Violation Ticket has been issued to an Aggregate Operator under this bylaw, the Operator may enter a plea of guilt by making a voluntary payment in the amount shown on the ticket to a Provincial Court, on or before the initial appearance date indicated on the violation ticket, the specified Penalty as set out in the violation ticket and the recording of the payment by the Clerk of the Court constitutes acceptance of the guilty plea and also constitutes a conviction.

PART TEN INSPECTION AND PRODUCTION OF RECORDS

32. The Peace Officer must display or produce identification on request, and will attempt to contact the owner or occupant prior to entry.
33. For the purposes of determining compliance with this Bylaw, a designated officer of the County may, after providing reasonable notice to the sand and gravel operator, enter on the lands where the pit is located including any structures, at any reasonable time for the purpose of inspecting the sand and gravel operations, including any shipments.
34. During an inspection under this part, or at any other time, a designated officer of the County may request the sand and gravel operator to produce any and all records relating to shipments of sand and gravel from the sand and operator's operations so that the County may determine whether the operator is or has been in compliance with the Bylaw. A request may be made verbally during an inspection under number 31 or at any other time in writing.
35. If following an inspection, or a review of the shipment records provided by the sand and gravel operator, or both, it is discovered that there is an error, omission, or incorrect description with respect to any of the information shown on a sand and gravel shipped tonnage roll, the County may correct the sand and gravel shipped tonnage roll, and, if applicable, issue an amended levy notice to account for the difference between actual shipments during the reporting period and the shipments initially reported by the sand and gravel operator.
36. The amount shown on the amended levy notice shall be paid to the County within thirty days of the date of on the amended levy notice.
37. Sand and gravel operators must maintain all records relating to shipments of sand and gravel from the sand and operator's operations for at least five years.

PART ELEVEN MISCELLANEOUS

38. Aggregate Operators who have paid the Community Aggregate Payment Levy and are members of the Alberta Sand and Gravel Association may request the installation of signage to promote or notify the public about a specific project or improvement funded by the levy. All costs associated with the signage, including installation, will be the responsibility of the Aggregate Operators. Kneehill County Administration must approve all signage before installation can proceed.

PART TWELVE SEVERABILITY

39. Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provision of this Bylaw shall remain valid and enforceable.

PART THIRTEEN EFFECTIVE DATE

40. This bylaw comes into effect upon third (3rd) reading of this bylaw.

READ a first time on this

READ a second time on this.

UNANIMOUS permission for third reading given in Council on the

READ a third time and final time of this.

Reeve

Kenneth King

Date Bylaw Signed

Chief Administrative Officer

Mike Haugen

Date Bylaw Signed

SCHEDULE "A"

Sand and Gravel Shipments Quarterly Report

The report (including zero reports) must be received by Kneehill County within thirty (30) days from the last day of the reporting period.

A separate report must be submitted for each pit from which an operator has shipped Aggregate during the reporting period.

Name of Operator	
Mailing Address of Operator	
Telephone Number	
Fax Number	
E-mail Number	
Type of Pit	
Location of Sand/Gravel Pit	
Reporting Period <i>[Enter quarter/month]</i>	
Name of Owner of Parcel where Pit is Located (if different from operator)	
Mailing Address of Owner of Parcel	
Telephone Number	
Fax Number	
E-mail Address	

Total sand and gravel shipped from this pit in the reporting period (tonnes)	
Total A =	

Shipments exempted from Community Aggregate Payment Levy	
E1) Total sand and gravel that you shipped from this pit, pursuant to a road haul agreement, for the construction, repair or maintenance of access roads to the pit (tonnes)	

Please complete sections E2 to E4 only if this pit is owned or leased by the Crown or a municipality:

E2) Total sand and gravel shipped from this pit for Government of Alberta projects in the reporting period (tonnes) Provincial Project: _____	
E3) Total sand and gravel shipped from this pit to a project being completed by or for Kneehill County projects in the reporting period (tonnes)	
E4) Total sand and gravel shipped from this pit to projects being completed by or for other municipalities (excluding Kneehill County) in the reporting period (tonnes)	

Total Exempted Shipments [Add E1+E2+E3+E4] (tonnes) TOTAL B =	
Total Shipments subject to Community Aggregate Payment Levy (tonnes) TOTAL A minus TOTAL B = TOTAL C	
Total Aggregate Levy Payable [Total C (taxable tonnes) * \$0.40] = TOTAL PAYABLE	

The weight of sand and gravel in individual shipments may be estimated if weigh scales are unavailable. The conversion rates to be used in estimating the tonnage are as follows:

1 cubic metre = 1.365 tonnes, for sand
 1 cubic metre = 1.632 tonnes, for gravel
 where 1 cubic metre = 1.308 cubic yard

SCHEDULE "B"**LATE PAYMENT SURCHARGE**

A late reporting surcharge of \$100.00 may be added to any levy issued to a sand and gravel operator who fails to report their shipments in accordance with part 2 of the Bylaw.

LATE PAYMENT PENALTIES

A penalty of ten percent (10%) shall be added to the current levy that remains unpaid after thirty (30) calendar days following the end of the reporting period.

A penalty of ten percent (10%) shall be added to any levy that remains unpaid on the anniversary of the due date specified in part 3.0.

SCHEDULE "C"**FINES**

	<u>Penalties</u>	<u>Part</u>
Failure to report shipments	\$1000	9 – Enforcement
Second or subsequent offence within a Twelve (12) month period	\$2000	9 – Enforcement