

# BYLAW NO 1655-21

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**A BYLAW OF THE COUNTY OF STETTLER NO. 6, IN THE PROVINCE OF ALBERTA, TO AUTHORIZE THE IMPOSITION OF A COMMUNITY AGGREGATE PAYMENT LEVY.**

**WHEREAS** the Municipal Government Act, Part 10, Division 7.1, authorizes a Municipal Council to pass a community aggregate payment levy bylaw to impose a levy in respect of all sand and gravel businesses operating in the municipality to raise revenue to be used toward the payment of infrastructure and other costs in the municipality;

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

**AND WHEREAS** the Council of the County of Stettler No. 6 has determined that it is in the best interest of the County of Stettler No. 6 to pass a community aggregate payment levy bylaw;

**NOW THEREFORE** be it resolved that the Council of County of Stettler No. 6, in the Province of Alberta, duly assembled, enacts as follows:

## **1. Interpretation**

In this Bylaw:

~~1.1. "Aggregate" means any sand or gravel that is excavated from a pit, whether in a processed or unprocessed form;~~

~~1.2.~~ 1.1. "County" means the County of Stettler No. 6;

~~1.3.~~ 1.2. "Crown" means the Crown in right of Alberta or Canada;

~~1.4.~~ 1.3. "Levy" means community aggregate payment levy;

1.4. "Peace Officer" means a person employed for the purposes of preserving and maintaining the public peace;

~~1.5.~~ "Person" includes any individual, firm, partnership or body corporate;

~~1.6.~~ 1.5. ~~"Pit" means any duly constituted opening, excavation or working of the surface or subsurface made for the purpose of removing sand or gravel, and includes any associated infrastructure, but does not include a mine or quarry;~~

~~1.7.~~ 1.6. "Sand and gravel operator" means a person ~~duly~~ engaged in extracting sand and gravel for shipment;

~~1.8.~~ 1.7. "Shipment" means a quantity of sand and gravel duly hauled from the pit from which it was extracted.

## **2. Reporting of Shipments**

2.1. All sand and gravel operators in the County ~~of Stettler~~ shall report their shipments, in tonnes, from each individual pit within the boundaries of the County ~~of Stettler~~, on a quarterly basis, within thirty ~~(30)~~ days after March 31, June 30, September 30 and December 31 of each year, on the form attached as Schedule "A" to this ~~B~~ bylaw.

### 3. Levy Notices and Payments

3.1. The County ~~of Stettler~~ shall send out community aggregate payment levy notices 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~~ payable by the sand and gravel operator. ~~Operator.~~

3.2. The levy shown on a levy notice shall be paid to the County ~~of Stettler~~ by the operator within thirty ~~(30)~~ days of the date ~~of issuance of the~~ on the levy notice.

### 4. Sand and Gravel Shipped Tonnage Roll

4.1. The County ~~of Stettler~~ shall record the tonnage of sand and gravel in a sand and gravel operator's shipment on a sand and gravel shipped tonnage roll based on the tonnage of sand and gravel in an operator's shipment, as reported by the sand and gravel operator.

### 5. Uniform Levy Rate

5.1. The levy rate to be applied throughout the County ~~of Stettler~~ in calculating the amount of the levy is \$-0.40 per tonne of sand and gravel.

### 6. Uniform Conversion Rate

6.1. 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 sand and gravel operator must use the following conversion rates to report shipments in tonnes:

6.1.1 1 cubic metre = 1.365 tonnes, for sand; and

6.1.2 1 cubic metre = 1.632 tonnes, for gravel;

where 1 cubic metre is equal to 1.308 cubic yards

### 7 Amount of Levy

7.1 The amount of levy to be imposed ~~in respect of a~~ on a sand and gravel operator shall be calculated by multiplying the number of tonnes of sand and gravel recorded on the sand and gravel shipped tonnage roll for that sand and gravel operator for the reporting period by the levy rate.

### 8 Exemptions from Levy

8.1 No levy may be imposed on the following classes of shipments of sand and gravel:

8.1.1 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;

8.1.2 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; or

~~8.1.2~~ 8.1.3 a shipment from a pit owner or lease by the Crown or a municipality for a use or project that is being undertaken by or on behalf of the Crown or municipality.

8.2 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.

8.3 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.

## **9 Person Liable to Pay Levy**

9.1 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 ~~of Stettler~~ written notice of a mailing address to which notices under Division 7.1 of Part 10 of the ~~the~~ Municipal Government Act, ~~Part 10, Division 7.1,~~ may be sent.

## **10 Late Reporting Surcharge**

~~9.2~~10.1 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 section 2 of 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".

10.2 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.

10.3 The amount shown on the levy notice shall be paid to the County within thirty days of the date on the notice.

10.4 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.

## **10.11 Late Payment Penalties**

~~10.1~~11.1 Where the levy imposed under a community aggregate payment ~~the~~ levy notice or the amended levy notice is not paid within ~~the time limit set out in section 3.2~~ thirty days of the date on the notice, the County, ~~the County of Stettler~~ 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".

11.2 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. ~~The County Chief Administrative Officer or designate may waive, cancel or adjust a late payment penalty applied to an account in accordance with Section 10.1.~~

## **12 Inspection and Production of Records**

12.1 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.

~~10.2~~12.2 During an inspection under section 12.1, 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.

~~10.3~~12.3 During an inspection, or at any other time, a designated officer of the County may request a sand and gravel operator to make copies of any record referred to in section 12.2 or the designated officer may make copies.

~~10.4~~12.4 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.

~~10.5~~12.5 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.

12.6 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.

### ~~11~~13 Enforcement

13.1 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 not less than the specified penalty established in Schedule "C" and not exceeding \$10,000.00.

13.2 Without restricting the generality of section 13.1, the fine amounts set out in Schedule "C" are established as specific penalties for use on a violation ticket if a voluntary payment option is offered.

13.3 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.

~~13.4~~ ~~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~~ if a violation ticket is issued in respect of an offence, the violation ticket may:

13.4.1 state the specified penalty for the offence as set out in Schedule "C"; or

~~11.1.1~~13.4.2 require the person to appear in Provincial Court without the alternative of making a voluntary payment.

~~11.2~~ ~~Where a peace officer has reasonable grounds to believe that an offence has been committed under this bylaw, the peace officer may issue a Violation Ticket to that sand and gravel operator, pursuant to Part II of the Provincial Offences Procedures Act, RSA 2000 c.P-34, as amended or repealed and replaced from time to time.~~

~~11.3~~13.5 ~~Where a violation ticket has been issued to a sand and gravel operator~~ Where a violation ticket has been issued to a person under this Bylaw, and where the violation ticket states a specified penalty established by this Bylaw for the offence as set out in Schedule "C", the person may make a voluntary payment by submitting to the 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 ~~that Operator~~

~~may enter a plea of guilt by making a voluntary payment in the amount shown on the ticket to a Provincial Court Office. The~~ recording of the payment by the Clerk of the Court ~~is~~ anconstitutes acceptance of the guilty plea and also constitutes a conviction.

## 14 Corporations and Partnerships

~~11.4~~14.1 Where a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.

~~11.5~~14.2 If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

## 1215 Miscellaneous

15.1 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.

15.2 ~~This Bylaw comes into effect January 1, 2020~~ Bylaw 1623-19 is hereby repealed.

~~12.1~~15.3 This Bylaw shall come into force and effect when it has received third reading and has been duly signed.

READ A FIRST TIME this 5<sup>th</sup> day of November, 2021~~19~~ A.D. ~~on a motion of Councillor Nixon.~~  
Carried.

READ A SECOND TIME this 11<sup>th</sup> day December, 2019, 2021A.D. ~~on a motion of Councillor Nixon.~~  
Carried.

READ A THIRD TIME this 11<sup>th</sup> day December, 2019 A.D. ~~on a motion of Councillor Nibourg.~~  
Carried2021.

DATED this 11<sup>th</sup> day December, 2019, 2021 ~~of A.D.~~

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Chief Administrative Officer

**CAP Levy Bylaw Schedule "A"**

*Sand and Gravel Shipments Quarterly Report*

This report must be received by the County of Stettler within ~~thirty (30)~~fifteen days from the last day of the reporting period (~~Operators must report shipments for the periods ending~~ March 31, June 30, September 30 and December 31). A separate report must be submitted for each pit from which ~~an operator~~a sand and gravel operator has shipped sand or gravel in the reporting period. Reports should be legible and accurate.

**Pit**

Legal Land Location \_\_\_\_\_

This report is for the period ending \_\_\_\_\_

**Sand and Gravel Operator**

Company Name \_\_\_\_\_

Contact Person \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

~~Fax Number~~ Email Address \_\_\_\_\_

Email Address confirm the County may send notices and communications pursuant to the CAP Levy Bylaw 1655-21 by email and an email will be deemed received 7 days from the date it is sent.

YES \_\_\_\_\_ NO \_\_\_\_\_ SIGNATURE \_\_\_\_\_

**Land Owner (if different from operator)**

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

~~Fax Number~~ \_\_\_\_\_

Email Address \_\_\_\_\_

**Tonnage**

A) Total sand and gravel that you shipped from this pit in this reporting period (tonnes) \_\_\_\_\_ **TOTAL A** \_\_\_\_\_

B) Shipments Exempted from the CAP Levy

B1) Total sand and gravel that you shipped from this pit, pursuant to a road haul agreement or a development agreement for the construction, repair or maintenance of access roads to this pit (tonnes)

Complete sections B2 –B4 only if this pit is owned or leased by the Crown or a municipality

B2) Total sand and gravel that you shipped from this pit to a Crown projects in the reporting period (tonnes)

B3) Total sand and gravel that you shipped from this pit to a County project in the reporting period (tonnes)

B4) Total sand and gravel you shipped from this pit to projects of other municipalities (excluding the County) in the reporting period (tonnes)

Total Exempted Shipments (tonnes)  
Add B1+B2+B3+B4 \_\_\_\_\_ **TOTAL B** \_\_\_\_\_

SHIPMENTS SUBJECT TO CAP LEVY (tonnes)  
\_\_\_\_\_ **TOTAL A minus TOTAL B** \_\_\_\_\_

<del>A. Total sand and gravel shipped from this pit in the reporting period</del>	<del>tonnes</del>
<del>B. Total sand and gravel shipped from this pit to the Government of Alberta or a municipality (applicable only if the pit is owned or leased by the Crown or a municipality).</del>	<del>tonnes</del>
<del>C. Total sand and gravel shipped from this pit for the construction, repair, or maintenance of access roads to this pit in accordance with a Road Use Agreement or development agreement.</del>	<del>tonnes</del>
<del>D. Total exempted sand and gravel (Add B+C)</del>	<del>tonnes</del>
<del>E. Total shipments subject to the Community Aggregate Payment Levy (Subtract A-D)</del>	<del>tonnes</del>

~~The weight of sand and gravel in individual shipments may be estimated by volume 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 yards.~~

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- ~~1 cubic metre = 1.632 tonnes, for gravel~~
- ~~where 1 cubic metre = 1.308 cubic yards~~

## Schedule "B"

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### ~~Late Payments and Penalties~~ Late Reporting 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 section 2 of the Bylaw. ~~penalty of two percent (2%) per month shall be added to any levy that remains unpaid thirty (30) days after the date of issuance of a levy notice.~~

### Late Payment Penalty

A late penalty of 1.5% per month shall be added to any levy that remains unpaid more than thirty days after the date on the levy notice.

Late payment penalties will not be compounded during the year.



## Schedule "C"

### *Fines*

#### Section 2.1 – Failure to report shipments

First Offence.....	\$1,500.00
Second offence <del>within a twelve (12) month period</del> .....	\$21,500.00
Third and subsequent offences <del>within a twelve (12) month period</del> .....	\$10,000.00 <u>5,000.00</u>