

**BYLAW NO. 04-20**

**LEDUC COUNTY**

**A BYLAW OF LEDUC COUNTY TO AUTHORIZE THE IMPOSITION OF A COMMUNITY AGGREGATE PAYMENT LEVY AND THAT BYLAW NO. 08-18 BE RESCINDED.**

**WHEREAS**

the *Municipal Government Act*, Part 10, Division 7.1, authorizes the council of Leduc County 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;

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 the council of Leduc County has determined that it is in the best interest of Leduc County to pass a community aggregate payment levy bylaw.

**NOW THEREFORE**

be it resolved that the council of Leduc County in the province of Alberta, duly assembled, enacts as follows:

**Title**

1 This bylaw shall be known as the "Community Aggregate Levy Bylaw".

**Definitions**

2 In this bylaw, unless the context otherwise requires:

- (a) "aggregate" means any sand or gravel that is excavated from a pit, whether in a processed or unprocessed form;
- (b) "County" means Leduc County;
- (c) "Crown" means the crown in the right of Alberta or Canada;
- (d) "levy" means community aggregate payment levy;
- (e) "operator" means a person duly engaged in extracting sand and gravel for shipment;
- (f) "peace officer" includes a bylaw enforcement officer appointed by the county, a community peace officer employed by the county, and includes members of the Royal Canadian Mounted Police;
- (g) "person" includes any individual, firm, partnership or body corporate;
- (h) "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;
- (i) "sand and gravel operator" means a person duly engaged in extracting sand and gravel for shipment;
- (j) "shipment" means a quantity of sand and gravel duly hauled from the pit from which it was extracted; and
- (k) "violation ticket" has the same meaning given to it in the *Provincial Offences Procedure Act*.

**Interpretation**

- 3 The headings in this bylaw are for guidance purposes and convenience only.
- 4 Every provision in 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 provisions of this bylaw shall remain valid and enforceable.
- 5 In this bylaw, a citation of or reference to any act or regulation of the province of Alberta or of Canada, or of any other bylaw of the municipality, is a citation of or reference to that act, regulation, or bylaw as amended, whether amended before or after the commencement of the act, regulation or bylaw in which the citation or reference occurs.
- 6 Nothing in this bylaw relieves a person from complying with any provision of any provincial or federal legislation or regulation, other bylaw or any requirement of any lawful permit, order or licence.

**Reporting of Shipments**

**Quarterly Reporting**

- 7 All sand and gravel operators in the county shall report their shipments, in tonnes, from each individual pit within the boundaries of the county, on a quarterly basis, within fourteen (14) days after March 31, June 30, September 30 and December 31 of each year, on the form attached as Schedule "A" to this bylaw.

**Levy Notices and Payment**

**Quarterly Notices and Payments**

- 8
  - (1) The county shall send out community aggregate payment levy notices within thirty (30) 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 operator.
  - (2) The levy shown on a levy notice shall be paid to the county by the operator within thirty (30) days of the date of receipt of the levy notice.

**Sand and Gravel Shipped Tonnage Roll**

- 9 The County shall record the tonnage of sand and gravel in an 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 operator.

**Uniform Levy Rate**

- 10 The levy rate to be applied throughout the County in calculating the amount of the levy shall be as established in the County Fees and Charges Bylaw.

**Uniform Conversion Rate**

- 11 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 shall use the following conversion rates to report shipments in tonnes:

1 cubic metre = 1.365 tonnes, for sand; and  
1 cubic metre = 1.632 tonnes, for gravel  
where 1 cubic metre = 1.308 cubic yards

**Amount of Levy**

12 The amount of levy to be imposed in respect of 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 operator for the reporting period by the levy rate.

**Exemptions from Levy**

13

- (1) No levy may be imposed on the following classes of shipments of sand and gravel:
- (a) 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;
  - (b) 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;
  - (c) 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.
- (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.
- (3) No levy may be imposed on shipments of sand and gravel that are required pursuant to a road haul 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.

**Person Liable to Pay Levy**

14 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 shall give the county written notice of a mailing address to which notices under the *Municipal Government Act*, Part 10, Division 7.1, may be sent.

**Late Reporting Penalty**

15 Where a sand and gravel operator fails to report their shipments within the time limits set out in section 7, the county may impose a late reporting penalty, in addition to the principal amount owing under the specific community aggregate payment levy notice, as set out in Schedule "B".

**Late Payment Penalty**

16 Where the levy imposed under a community aggregate payment levy notice is not paid within the time limit set out in section 8(2), 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 in Schedule "B". Where there is an outstanding community aggregate payment levy, payments shall be applied first to the outstanding amount and then to the current community aggregate payment levy notice.

**Vicarious Liability**

17 For the purposes of this bylaw, an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred in the course of the employee's employment with the person, or in the course of the agent's

exercising the powers or performing the duties on behalf of the person under their agency relationship.

**Corporations and Partnerships**

18

- (1) When 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.
- (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.

**Inspection and Production of Records**

19

- (1) For the purposes of determining compliance with this bylaw, the county may, after providing reasonable notice to the sand and gravel operator, enter on lands where a pit is located, including any structures, at any reasonable time for the purposes of inspecting the aggregate operations, including any shipments.
- (2) During an inspection under subsection (1), or at any other time, the county may request that a sand and gravel operator produce any and all records relating to shipments of aggregate from the operator's operations so that the county may determine whether the aggregate operation is or has been in compliance with this bylaw.
- (3) During an inspection, or at any other time, the county may request a sand and gravel operator to make copies of any record referred to in subsection (2) or may make copies of such records.
- (4) If an inspection determines the bylaw has not been complied with, the county may revise the aggregate shipped tonnage for the current year, based on the information obtained during such inspection, and the next community aggregate payment levy notice sent by the county shall include any such revised aggregate shipped tonnage amounts.

**Offence, Fines and Penalties**

20

- (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 in an amount:
  - (a) not less than the specified penalty established in Schedule "C";
  - (b) not exceeding \$10,000.00.
- (2) Without restricting the generality of subsection (1) the fine amounts set out in Schedule "C" are established as specified penalties for use on violation tickets, if a voluntary payment option is offered.
- (3) Notwithstanding subsection (1), any person who commits a second or subsequent offence under this bylaw within one (1) year of conviction for a first offence under this bylaw, is

liable on summary conviction to a fine not less than the increased amount set out for the offence in Schedule "C" to this Bylaw.

**Violation Ticket**

21

- (1) 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.
- (2) If a violation ticket is issued in respect of an offence, the violation ticket may:
  - (a) state the specified penalty for the offence as set out in Schedule "C" herein; or
  - (b) require a person to appear in provincial court without the alternative of making a voluntary payment.
- (3) A person who commits an offence may:
  - (a) if a violation ticket is issued in respect of the offence; and
  - (b) if the violation ticket states the specified penalty established by this bylaw for the offence, as set out in Schedule "C" herein;make a voluntary payment by submitting to a clerk of the provincial court, on or before the initial appearance date indicated on the violation ticket, the specified penalty set out on the violation ticket.
- (4) When a clerk of the provincial court records the receipt of a voluntary payment pursuant to subsection (3) above and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.

**Repeal**

22 Bylaw No. 08-18 is hereby repealed.

**Enactment**

23 This bylaw shall come into force and effect when it has received third reading and has been duly signed.

Read a first time this 25<sup>th</sup> day of February, 2020.

Read a second time this 25<sup>th</sup> day of February, 2020.

  
\_\_\_\_\_  
MAYOR

  
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COUNTY MANAGER

Read a third time and finally passed this 10<sup>th</sup> day of March, 2020.



MAYOR



COUNTY MANAGER

**Leduc County Community Aggregate Payment Levy Bylaw No. 04-20**

**Schedule "A"  
Sand and Gravel Shipments *Quarterly* Report**

This report must be received by the Leduc County within fourteen (14) days from the last day of the reporting period. A separate report must be submitted for each pit from which an operator has shipped sand or gravel in the reporting period

Name of Operator	
Mailing Address of Operator	
Telephone Number	
Fax Number	
E-mail Address	
Location of Sand/Gravel Pit	
Reporting Period <i>[Enter quarter/month]</i>	
Name of Owner of Parcel where Pit is Located	
Mailing Address of Owner of Parcel	
Telephone Number	
Fax Number	
E-mail Address	
<b>Total sand and gravel that you shipped from this pit in the reporting period (tonnes)</b>	<b>TOTAL A</b>

**Shipments exempted from Community Aggregate Payment Levy**

E1) 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)

*Please complete sections E2 to E4 only if this pit is:  
owned by the Government of Alberta or a municipality, or  
leased by the Government of Alberta or a municipality from another party*

E2) Total sand and gravel that you shipped from this pit to Government of Alberta projects in the reporting period (tonnes)

E4) Total sand and gravel that you shipped from this pit to projects of other municipalities (excluding the Leduc County) in the reporting period (tonnes)

**Total Exempted Shipments**  
[Add E1+E2+E3+E4] (tonnes)

**TOTAL B**

**TOTAL A minus Total B**

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 yards

**Note:** Leduc County has the right to audit financial records to ensure compliance with Bylaw No. 04-20.

**Leduc County Community Aggregate Payment Levy Bylaw No. 04-20**

**Schedule "B"**

**LATE PAYMENT PENALTIES**

A penalty as provided for in the county's current Fees and Charges bylaw, as may be amended from time to time, shall be added to the current community aggregate payment levy that remains unpaid after thirty (30) calendar days of the date of the issuance of the a community aggregate payment levy notice.

**LATE REPORTING PENALTIES**

A penalty of \$150 for the first time, \$250 for the second time and \$500 for the third and subsequent times shall be added to the current community aggregate payment levy for failing to report the shipping amount in accordance with the timeframe specified in Section 7 of the bylaw.

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**Schedule "C"**

**FINES**

<b>Offence</b>	<b>Section</b>	<b>Fine Amount</b>
Failure to give notice of sand and gravel operator	14	\$500.00
Failure to comply with request of peace officer	19	\$500.00
Second or subsequent failure to comply with request of peace officer within a twelve (12) month period	19	\$1000.00