

BY-LAW NUMBER 2019-026

**CONSTITUTING A RESERVED FUND FOR THE REHABILITATION AND
MAINTENANCE OF CERTAIN PUBLIC ROADS**

WHEREAS article 78.1 and following of the municipal powers Act (R.S.Q. c. C - 47.1 which impose the obligation on any local municipality whose territory includes the site of a quarry or a sandpit a reserved fund for the rehabilitation and maintenance of certain public roads;

WHEREAS the presence of a quarry and/or of a sandpit on the territory of the municipality;

WHEREAS the absence of a regional fund for the rehabilitation and maintenance of certain public roads in the sense of article 110.1 of the municipal powers Act;

WHEREAS a notice of motion was given at a regular Council meeting held on July 2, 2019;

WHEREAS the project by-law has been presented and tabled at the regular Council meeting held on July 2, 2019

FOR THESE REASONS, IT IS PROPOSED by Sylvain La France, **SECONDED** by, Craig Gabie and resolved at the majority that the By-law number 2019-026 is adopted and that this Council orders and decrees the following:

ARTICLE 1 PREAMBLE

The preamble of the By-law in an integral part as if reproduced throughout.

ARTICLE 2 DEFINITIONS

In the present by-law, unless the context indicates a different meaning, the following words and expressions mean or is designated

- a. « Quarry »: any place where is extracted open-air consolidated mineral substances for commercial or industrial purposes or to fulfil contractual obligations or to build roads, dikes or dams, with the exception of the asbestos mines, of apatite, of barite, of brucite, of diamond, of graphite, of ilmenite, of magnesite, of mica, of salt, of talc, of wollastonite and metal, as well as the exception of the excavations and other work carried out to establish the right-of-way or the foundations of any construction or to expand a playground or parking;
- b. « Exploiter of a quarry or a sandpit»: Physical or legal person who exploits a quarry or a sandpit, i.e. who proceeds to the extraction or recycling of the substances subject to the sale or personal use;
- c. « Sandpit »: any place where is extracted open-air unbound mineral substances, including sand or gravel, from a natural deposit, for purposes or commercial or industrial uses or to fulfil contractual obligations or to build roads, dikes or dams, with the exception of the excavations and other work carried out to establish the right-of-way or the foundations of any construction or to expand a playground or parking;
- d. « Substances subject to »: Substances, transformed or not, which are carried out of the site of a quarry or a sandpit are subject to this by-law. These substances include mineral surface listed in article 1 of the law on mines (R.S.Q. c. M - 13.1), including such as sand, gravel, clay, stone, crushed stone, mineral used for the production of cement and the inert tailings, as well as similar materials from the recycling of debris from demolition of buildings, bridges, roads or other structures with the exception however of the peat.

ARTICLE 3 ESTABLISHMENT OF THE FUND

The Council decrees, by this by-law, establishing a local fund reserved for the rehabilitation and maintenance of certain public roads.

ARTICLE 4 DESTINATION OF THE FUND

Payments made to the Fund will be used, subtraction of those devoted to the administrative costs of the fund introduced by this By-law:

- a. repair or maintenance of all or part of public roads which transit or are likely to transit

substances for which a fee is payable under section 5;

- b. to offset any inconvenience for the works related to the transport of these substances.

ADMINISTRATION COST

The municipality of Kazabazua devotes 15% of the money collected as fees payable by an exploiter of a quarry or sandpit to cover the costs of administration of the plan.

ARTICLE 5 RIGHTS TO BE COLLECTED

It is provided to the needs of the Fund by a fee payable by each exploiter of a quarry or a sandpit situated on the territory of the municipality. This right is payable for all the substances being transported off the site, if any or all of them are likely to transit through public municipal roads.

The fee payable by a quarry or sandpit exploiter is calculated according to the quantity, expressed in metric ton or cubic meter, of substances, transformed or not, flowing from its site, and which are substances subject to the present by-law.

ARTICLE 6 EXCLUSIONS

No fee is payable in respect of the substances transformed in a immovable in a unit of assessment that includes the site and listed under the heading «2 - 3 - - MANUFACTURING INDUSTRY », with the exception of the heading « 3650 Prepared concrete industry » and « 3791 Asphalt concrete manufacturing industry », provided for in the manual that refers to in the regulation made under subparagraph 10 of the first paragraph of section 263 of the Act respecting municipal taxation (RSQ F-2.1). The exclusion also applies when the property is included in a valuation unit and is adjacent to the property that includes the property.

When the exploiter of a quarry or a sandpit produces a sworn declaration such as provided for in article 8 and this declaration does establish that none of the substances is likely to transit through municipal public roads from its site, it is then exempt from any right with respect to the period covered by the declaration.

In addition, no right is payable by an exploiter with respect to substances for which he declares that they are already been the subject of a fee payable under this section by the exploiter of another site.

ARTICLE 7 AMOUNT OF THE FEE PAYABLE

For the municipal fiscal year 2009, the fee is \$ 0.50 per metric tonnage for any substance except, in the case of stone, where the amount is \$ 1.35 per cubic meter.

For any subsequent year, the fee payable per metric tonnage is the result obtained by indexing upward the amount applicable for the previous fiscal year. The percentage is the rate of increase, according to Statistics Canada, the Canada consumer price index in accordance to Article 78.3 of the municipal powers Act, this percentage as well as the applicable amount are published annually in the Official Gazette of Quebec before the beginning of the current year.

For any subsequent fiscal year, the fee payable per cubic meter is the result obtained by multiplying the amount payable per metric tonnage by the factor of 2.7. in accordance to Article 78.3 of the municipal powers Act, the applicable amount is published annually in the Official Gazette of Quebec before the beginning of the current year.

ARTICLE 8 DECLARATION OF THE EXPLOITER OF A QUARRY OR A SANDPIT

The exploiter of a quarry or sandpit must file a declaration for each established period. This declaration must be sent to the municipality no later than June 30th, for the period from January 1st to May 31st, on October 31st, for the period from June 1st to September 30th and January 31st of the following year, for the period from October 1st to December 31st. This declaration sets out:

- a. If substances from the site and in respect of which a right is payable under this by-law are likely to transit on municipal roads during the period covered by the declaration;
- b. as appropriate, the quantity of the substances for which a fee is payable under this by-law, expressed in tons or cubic meters, which has been carried out of the site during the period covered by the declaration;

If the declaration referred to in subsection 1 of the first paragraph that none of these substances is likely to transit on public municipal roads during the period it covers, it must be sworn and express the reasons. The declarant is then exempt from any right with respect to the period covered by the declaration.

However, an exploiter cannot be exempted on the basis that the substances transported off site are sent, without using public municipal roads, to a distribution site, storage or transformation when this site is neither a quarry or a sandpit and that its operation is likely to transit, by municipal public roads, of all or part of these substances, whether or not they have been transformed on this site. This paragraph does not apply where the substances are transited to this site for transformation in a immoveable in an evaluation unit listed under the heading '2-3-manufacturing INDUSTRIES', with the exception of the headings "3650 the prepared concrete industry" and "3791 of bituminous concrete manufacturing industry", referred to in the first paragraph of article 6.

ARTICLE 9 VERIFICATION OF THE EXACTITUDE OF THE DECLARATION

The municipality reserves the right to require the exploiter of copies of documents attesting to the accuracy of his statement: reports of weighing of trucks, delivery notes, list of clients and contracts, the exhaustion of the resource report according to the annual financial statements prepared by the accounting external firm, as well as any other relevant documents to verify the quantities reported. Surveyors access should also be granted to the ground in the event of geodetic data. The Director-general and the Treasurer of the municipality shall also have the power to obtain all the necessary documents to ensure the accuracy of the declarations of the exploiter.

ARTICLE 10 PAYMENT AND COLLECTION OF THE FEE PAYABLE

Subject to the following paragraph, this duty is payable starting from the 30th day following the sending of a account to this effect. The amount owed bears interest from that day at the rate in effect for the interests on arrears of taxes to the municipality.

The fee payable by one exploiter for substances which transited from each site that it exploits, during a municipal fiscal year, may not be required before:

- a. August 1st of the fiscal year for substances that have transited from January 1st to May 31st of this year;
- b. December 1st of the fiscal year for substances that have transited from June 1st to September 30th this year;
- c. March 1st of the following fiscal year for substances which have transited from October 1st to December 31st of the year for which fee is payable.

ARTICLE 11 MODIFICATION TO ACCOUNT

When following a declaration, the Treasurer is of the opinion that an exploiter has been falsely exempted of the fee payable in respect for a site, or the quantity of substances that have transited from a site is different from that which is mentioned in the declaration, it should make reference in the account of any changes it deems having made to the particularities contained in a declaration.

The duty is payable based on the modified terms contained in the account, subject to any pass judgment in force of things judged as a result of a lawsuit for the application of this by-law.

ARTICLE 12 DESIGNATED MUNICIPAL OFFICER

Municipal Council designates the Director general and the Treasurer as municipal officials responsible for the application of this By-law, including the collection of fees.

ARTICLE 13 PENAL PROVISIONS

Any physical or moral person who fails to produce such a declaration as required by this by-law or which conveys a false declaration commits an offence and is liable, in addition to the costs, the following fines:

- a. for a first offence, a fine of \$1,000 for an individual or \$2,000 for a moral person;
- b. in case of recidivism, a minimum fine of \$2,000 for an individual or \$4,000 for a moral person.

ARTICLE 14 REPEALING AND ENTRY INTO FORCE

This by-law repeals by-law number 2009-01
This by-law comes into force in accordance with the law

Henri Chamberlain register his dissidence

CARRIED



Robert Bergeron
Mayor

Pierre Vaillancourt, DMA
Director General / Secretary-Treasure

Notice of motion and project given, July 2, 2019
By-Law adopted, August 6, 2019
Publication and Entry into force, August 13, 2019
Adopting resolution 2019-08-173

PUBLICATION OF BY-LAW NUMBER 2019-026

Public Notice is given by the undersigned, Pierre Vaillancourt, Director General and secretary-treasurer of the Municipality of Kazabazua, that at the regular Council meeting held on August 6, 2019 the council of the municipality of Kazabazua by its resolution number 2019-08-173 adopted by-law № 2019-026 titled

REPEALING AND REPLACING BY-LAW 2009-01 CONSTITUTING A RESERVED FUND FOR THE REHABILITATION AND MAINTENANCE OF CERTAIN PUBLIC ROADS

That any person interested may consult this by-law at the municipal office located at 30 Begley Road between the hours of 8:00am to Noon and 1:00pm to 4:00pm Monday through Friday.



Directeur general / secretary-treasurer

August 13, 2019
Date

Certificate of publication

By-Law № 2019-026

I the undersigned Pierre Vaillancourt, Director General, of the Municipality of Kazabazua certifies, under my oath of office that I issued the Public Notice regarding the By-Law 2019-026 by posting a copy at each of the locations designated by By-law 2017- 012, on August 13, 2019, between 8:00 am. and 4:00 pm.



Directeur general / secretary-treasurer

August 13, 2019
Date