

THE RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 702/20

BEING A BY-LAW TO PROVIDE FOR THE PURPOSE OF PROTECTING MUNICIPAL ROADS WITHIN THE RURAL MUNICIPALITY OF WHITEMOUTH FROM DAMAGE CAUSED BY VEHICLES CARRYING EXCESS WEIGHT.

WHEREAS Section 231(a) of *The Municipal Act* of Manitoba C.C.S.M. c. M225, and amendments thereto ("the *Municipal Act*") provides council of a municipality with the power to pass by-laws that give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under the *Municipal Act* and other Acts as to enhance the ability of the council to respond to present and future issues in the municipality;

AND WHEREAS Section 232(1) of the *Municipal Act* provides: "A council may pass by-laws for municipal purposes respecting the following matters:

(a) the safety, health, protection and well-being of people, and the safety and protection of property;

(b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;

...

(m) local transportation systems;

AND WHEREAS Section 232(2) of the *Municipal Act* provides: "Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

(a) regulate or prohibit;

...

(c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;

...

(e) subject to the regulations, provide for a system of...permits...including any or all of the following:

(i) establishing fees, and terms of payment of fees, for...permits...including fees related to recovering the costs of regulation;

...

(iii) prohibiting a development, activity, industry, business or thing until a...permit...is granted;

(iv) providing that terms and conditions may be imposed on any...permit...and providing for the nature of the terms and conditions and who may impose them;

(v) providing for the duration of...permits...and their suspension or cancellation...

(vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;

AND WHEREAS Section 90(1) of *The Highway Traffic Act*, S.M. 1985-86, C.3-Cap. H60, and amendments thereto ("the *Highway Traffic Act*") provides:

"A traffic authority may classify vehicles according to dimensions, design, weight, kind of weight carried or otherwise, for any class or all classes of vehicles and may make rules or bylaws supplementary to, or in addition to, but not contrary to, any provision of this Act or regulations made thereunder and applicable on highways over which the traffic authority has jurisdiction or within any area over which the traffic authority has jurisdiction, with respect to

...

(d) prescribing routes of travel; and may impose penalties for a violation of any such rule or by-law."

AND WHEREAS the Rural Municipality of Whitemouth is the traffic authority for municipal roads within the limits of the Municipality;

AND WHEREAS the council of the Rural Municipality of Whitemouth has deemed it to be in the best interests of the Municipality to classify certain vehicles according to weight and to prescribe routes of travel for same;

NOW THEREFORE, the Rural Municipality of Whitemouth in council assembled enacts the following:

PART 1: SHORT TITLE, PURPOSE, APPLICATION AND DEFINITIONS

1.1 SHORT TITLE

This by-law may be referred to as the "**Truck Hauling By-law**".

1.2 PURPOSE

To ensure the protection of Municipal Roads from extraordinary damage caused by vehicles carrying excess weight to the capacity of the vehicle or the capacity of the Municipal Road to sustain such weight.

1.3 APPLICATION

This by-law applies to the whole of the Municipality.

1.4 DEFINITIONS

Unless otherwise expressly provided, or unless the context otherwise requires, words and expressions in this By-law have the same meaning as the same words and expressions in the *Highway Traffic Act*.

Council - means the duly elected council of the Rural Municipality of Whitemouth;

Designated Officer - means a person appointed as a Designated Officer under this By-Law or section 130 of the *Municipal Act* and includes the by-law enforcement officer;

Gross Weight – means the combined weight of a vehicle and load;

Heavy Transport Truck(s) or Trucks means a motor vehicle or semi-trailer truck constructed or adapted to carry goods, wares and merchandise, freight or commodities, but not passengers or baggage, and with a Gross Weight over _____ or over two axles;

Heavy Transport Truck Agreement means an agreement between a Heavy Transport Truck Permit holder and the Municipality which requires the Heavy Transport Truck Permit holder to reimburse the Municipality for all costs incurred by the Municipality in the repair and restoration of any Municipal Road as a result of damage caused by the activity that is the subject of the Heavy Transport Truck Permit;

Heavy Transport Truck Permit means a permit issued in accordance with Part 2 of this By-law;

Municipal Road - means a road or highway for which the Municipality is the traffic authority in the meaning of the *Highway Traffic Act*, and in addition, means land that has been opened by the Municipality under authority of the *Municipal Act*, or constructed or maintained by the Municipality, as a road for public use; and has not been closed under the *Municipal Act*; but does not include a provincial road or a provincial trunk highway, as those terms are defined in *The Traffic and Transportation Modernization Act*, S.M. 2018 c.10;

Municipality - means the Rural Municipality of Whitemouth; and

Person - includes an individual, firm, partnership, association, company, organization, or corporation and any of their heirs, executors, administrators, employees or officers or other legal representatives.

PART 2: GENERAL PROVISIONS

- 2.1 No Person shall operate a Heavy Transport Truck on a Municipal Road or any portion thereof unless such Person holds a Heavy Transport Truck Permit issued by a Designated Employee.
- 2.2 A Designated Employee may issue Heavy Transport Truck Permits permitting a Person to operate a Heavy Transport Truck on a Municipal road for a period of time not exceeding one year;

if he or she has reason to believe that the proposed activity will be conducted in a way which:

- 2.2.1 will not create an undue hazard to people or property;
- 2.2.2 will not unduly disrupt or interfere with vehicular or pedestrian traffic;
- 2.2.3 will not unduly disrupt or interfere with police, fire, paramedic or other emergency services;
- 2.2.4 will not result in harm or damage to Municipal Roads or, where it is likely to result in harm or damage, the Person will provide appropriate compensation for the harm or damage;
- 2.2.5. will comply with this By-law and other applicable laws, by- laws, codes and regulations

and the Person enters into a Heavy Transport Truck Agreement which must be signed before the Heavy Transport Truck Permit is issued.

2.3 A Designated Employee must refuse to issue a Heavy Transport Truck Permit where he or she reasonably concludes that the proposed activity cannot be conducted in compliance with clauses 2.2.1 to 2.2.5.

2.4 A Designated Employee may impose reasonable conditions upon a Heavy Transport Truck Permit in order to:

2.4.1 prevent, reduce, mitigate or compensate for any potential harm or damage to people, property or the environment, including harm to the Municipality or damage to its property;

2.4.2 prevent or minimize any disruption or interference with vehicular or pedestrian traffic caused by the permitted activity;

2.4.3 ensure that the permitted activity will not harm or damage to Municipal Roads or, where it is likely to result in harm or damage, the Person will provide appropriate compensation for the harm or damage;

2.4.4 ensure that the permitted activity will comply with this By-law and other applicable laws, by-laws, codes and regulations;

2.4.5 facilitate the administration of the Heavy Transport Truck Permit;

and without limiting the generality of the foregoing, such conditions may include a requirement or the permit holder to:

2.4.1.1 provide proof of insurance naming the Municipality as an additional insured party in any amount sufficient to compensate the Municipality for harm or damage suffered as a result of the permitted activity;

2.4.1.2 provide a deposit of monies, bond, letter of credit or other surety sufficient to compensate the Municipality for harm or damage suffered as a result of the permitted activity;

2.4.1.3 agree to indemnify the Municipality and save it harmless from any harm or damage suffered as a result of the permitted activity;

2.4.1.4 conduct the permitted activity in a particular manner, on specified Municipal Roads, and at specified times;

2.4.1.5 provide details of plans for the permitted activity before the Heavy Transport Truck Permit becomes active;

2.4.1.6 provide evidence of compliance with applicable laws, by-laws, codes and regulations and/or with conditions imposed upon the permit;

2.4.1.7 complete the permitted activity by a specified date or within a specified period of time;

2.4.1.8 ensure that appropriate dust control measures are undertaken at the sole cost of the permit holder.

2.5 A Designated Employee may impose requirements reasonably required to administer the issuance of Heavy Transport Truck Permits, including requirements concerning:

2.5.1 the completion and submission of application forms;

2.5.2 the provision of information reasonably required for the Designated Employee to consider an application;

2.5.3 reasonable time limitations for the submission of application forms.

2.6 Council may establish permit fees for Heavy Transport Truck Permits which must be paid before a Heavy Transport Truck Permit is issued.

2.7 The Designated Employee may revoke a Heavy Transport Truck Permit where:

2.7.1 misleading or false information was provided upon which the decision to issue the permit was based;

2.7.2. the facts on which the decision to issue the permit was based have changed and would not now justify issuing the permit;

2.7.3 the Designated Employee concludes that, if the activity authorized by the permit were to proceed, it would or would be likely to

- 2.7.3.1 create an undue hazard to people or property;
 - 2.7.3.2 unduly disrupt or interfere with vehicular or pedestrian traffic;
 - 2.7.3.3 unduly disrupt or interfere with police, fire, paramedic or other emergency services;
 - 2.7.3.4 result in harm or damage to Municipal Roads or, where it is likely to result in harm or damage, the permit holder will not provide appropriate compensation for the harm or damage
- 2.7.4 a permit holder has failed to comply with or violated the Heavy Transport Truck Permit, the Heavy Transport Truck Agreement, this By-law or other applicable laws, by-laws codes and regulations.
- 2.8 Municipal Roads on which Heavy Transport Trucks are not permitted may be identified by placing traffic control devices or signage adjacent thereto, in such manner as the Municipality shall deem necessary.

PART 3 EXCEPTIONS

- 3.1 This By-law shall not apply to the operation of:
- 3.1.1 emergency vehicles;
 - 3.1.2 vehicles of Canada Post, or of the Government of Manitoba or of any public utility, if such vehicles have the entities' name on them and are actually engaged in works of necessity on or near a Municipal Road;
 - 3.1.3 a vehicle owned and operated or a vehicle contracted and employed by the Municipality while in use with work being done on or near a Municipal Road;
 - 3.1.4 local farm trucks;
 - 3.1.5 a truck or truck tractor operated by a resident travelling to and from their home provided the resident uses caution and care to and from their home to a provincial road or provincial highway and does not damage any municipal road."
 - 3.1.6 a truck or truck tractor providing goods or services to a resident or owner of a property, provided the driver uses caution and care to and from the property to a provincial road or highway and does not damage any municipal road.

PART 4 TEMPORARY TRAFFIC CONTROL DEVICES

- 4.1 The Designated Officer shall place and maintain or cause to be placed and maintained approved temporary traffic control devices to prohibit or regulate traffic in an emergency or for purposes of carrying out any authorized work on the street

including street cleaning and snow removal operations to ensure orderly movement of traffic, to prevent injury or damage to persons or property, or to permit action in an emergency.

- 4.2 Any person undertaking authorized work of any form within a street or in any way interfering with or obstructing the normal use of a street shall place and maintain temporary traffic control devices as prescribed in the *Highway Traffic Act* or as directed by the Designated Officer.

PART 5 COSTS, OFFENCES AND PENALTIES

- 5.1 Every Person who contravenes or refuses, neglects, omits or fails to obey or observe any provision of this By-law, and damage to a Municipal Road occurs as a result, is responsible for the payment of all applicable costs incurred by the Municipality in the repair and restoration of the Municipal Road.
- 5.2 Every Person who contravenes, or refuses, neglects, omits or fails to obey or observe any provision of this By-law shall, upon conviction, be liable to a fine of \$250.00 (Two Hundred and Fifty Dollars) for the first offence, \$500.00 (Five Hundred Dollars) for the second offence, and \$1,000.00 (One Thousand Dollars) for the third and each subsequent offence, plus costs.
- 5.3 Where the contravention, refusal, neglect, omission or failure to comply continues for more than one day, the Person is guilty of a separate offence for each day it continues.
- 5.4 Where a corporation commits an offence under this By-Law, each director or officer of the corporation who authorized, consented to, connived at or knowingly permitted or acquiesced in doing the act or omission that constitutes the offence or offences, is likewise guilty of the offence and is liable to the penalties for which provision is for above.

PART 6 LIABILITY

- 6.1 Inaction by the Municipality to enforce any part of this By-Law shall not result in any civic liability to the Municipality, and the Municipality shall be entitled to a full indemnity for any liability it incurs as a result of any Person's failure to comply with the provisions of this By-Law from such Person.

PART 7 INTERPRETATION

- 7.1 In all parts of this By-Law, any word importing the male gender shall include the female gender and vice versa. Any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.
- 7.2 Nothing in this By-law shall be interpreted so as to permit the operation of a Heavy Transport Truck on any Municipal

Road or portion thereof where such operation is in contravention of

7.2.1 the provisions of this or any other by-law of the Municipality; or

7.2.2 temporary restrictions put into place by the Municipality from time to time; or

7.2.3 any statute or regulation enacted by the Province of Manitoba or the Government of Canada.


PART 8 VALIDITY OF BY-LAW

8.1 Should any provision of this By-law be declared to be invalid by a court of competent jurisdiction, it is the intent of Council that it would have passed all other provisions of this By-law independent of the elimination of any such portion as may be declared invalid.


PART 9 COMING INTO FORCE

9.1 This By-law shall come into force on the 9th day of June, 2020.

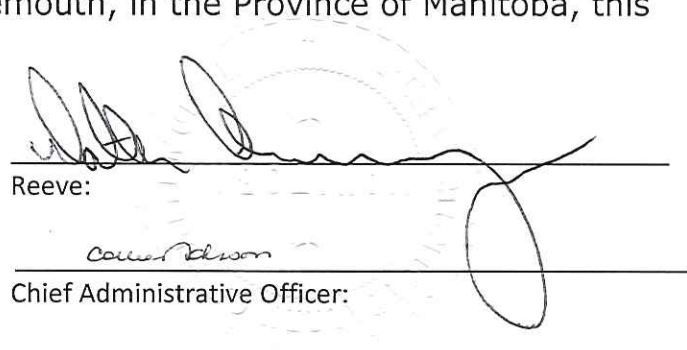
DONE, PASSED AND ENACTED in Council duly assembled at the Municipal Office in Whitemouth, in the Province of Manitoba, this 9th day of June, 2020.



Reeve:



Chief Administrative Officer:



Read a first time this 12th day of May, A.D., 2020
Read a second time this 26th day of May, A.D., 2020
Read a third time this 26th day of May, A.D., 2020



RURAL MUNICIPALITY OF WHITEMOUTH
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OFFICE USE
PERMIT NO.

ROLL NO.

INSTRUCTIONS
1. Print Clearly
2. Appropriate Fee Must Accompany Application

DATE: _____

PERMIT APPLICATION

THE RURAL MUNICIPALITY OF WHITEMOUTH

PERMIT FOR THE PURPOSE OF PROTECTING MUNICIPAL ROADS WITHIN THE RURAL MUNICIPALITY OF WHITEMOUTH FROM DAMAGE CAUSED BY VEHICLES CARRYING EXCESS WEIGHT.

Name of Applicant: _____

Address: _____

Telephone: _____

Cell Phone: _____

Email: _____

Purpose of Application New Amendment Previous Permit No. (attach copy if applicable):

New Amendment

Proposed Movement Information:

Start Date: _____ End Date: _____

Origin of Goods to be moved: _____

Destination of Goods: _____

Route Details of Municipal Roads to be Travelled:

Load Description (describe what is being moved):

Declaration: I / we understand that under the provision of By-Law 702/20 of the Rural Municipality of Whitemouth, the owner, operator or mover of a heavy vehicle, load, object or structure in respect of which a permit is granted under this section who has obtained a permit is nevertheless responsible for all damages that may be caused to the municipal road, by reason of the driving, operating or moving of any such heavy vehicle load, object or structure. The applicant certifies that the information contained in this application is true and acknowledges and accepts the responsibilities imposed by law on the applicant in relation to the operation of a commercial motor vehicle under the authority of the permit(s) issued pursuant to this application.

Authorized Signature

Date