

THE RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 714/21

BEING A BY-LAW to provide for the regulation and control of animals within the limits of the Rural Municipality of Whitemouth.

WHEREAS the provisions of section 232 of *The Municipal Act*, R.S.M. 1988, c. M225 provide as follows:

Spheres of Jurisdiction

232(1) 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;
- (k) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size or weight;

Exercising by-law making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;

AND WHEREAS subsections 5 (1), (2) and (3) of *The Animal Liability Act*, S.M. 2002 c. 4 provides in part as follows:

Animals not to run at large

5(1) Except when permitted by a by-law of a Municipality, no owner or person in charge of an animal shall allow it to run at large.

By-Law does not limit owner's liability

5(2) An owner's liability under section 2 is not limited or otherwise affected by a by-law referred to in subsection (1).

Municipality or LGD not liable by reason only of making By-Law

5(3) A municipality that makes a by-law referred to in subsection (1) is not liable, by reason only of having made the by-law, for damages for any harm that an animal causes to a person or property while running at large in the manner permitted under the by-law.

AND WHEREAS, subsections 31(1) and (2) of the Disease and Dead Bodies Regulation 338/88R of *The Public Health Act*, R.S.M 1987 c. P210 provide, in relevant part, as follows:

31(1) In the event of an animal bite to a person in which a physician determines that there is a possibility of transmission of rabies, the person bitten or any duly qualified medical practitioner or registered nurse attending that person shall forthwith notify the Medical Officer of Health or the Animal Control Officer of the municipality in which the biting incident occurred or a peace officer of the details of the biting incident.

31(2) An Animal Control Officer or Peace Officer receiving a report pursuant to subsection (1) shall notify the Medical Officer of Health of the details of the report at the earliest possible opportunity.

AND WHEREAS it is deemed advisable to provide for the regulation and control of animals within the limits of the Rural Municipality of Whitemouth;

NOW THEREFORE Council of the Rural Municipality of Whitemouth duly assembled enacts as follows:

Short Title

- 1 This By-Law may be referred to as The Rural Municipality of Whitemouth Animal Control By-Law.

Definitions and Interpretation

2(1) In this By-Law, unless the context otherwise requires:

- (a) "animal", unless otherwise defined in this by-law, means a live non-human being with a developed nervous system;
- (b) "Animal Control Officer" means any person appointed by Council as a by-law enforcement officer or appointed by Council pursuant to section 14 to carry out and enforce any provisions of this by-law or any contracts or agreements entered into for the purpose of carrying out any provision of this by-law;
- (c) "Animal Pound" means any premises authorized by Council used or intended to be used for the confinement of animals;
- (d) "at large", "run at large" and "running at large" means, when used in reference to an animal, off the premises of the owner and not under the direct and continuous charge and effective control by a person able to control the animal;
- (e) "cat" means a member of the subspecies *Felis catus*;
- (f) "Council" means the Council of the Municipality, or any delegate thereof;
- (g) "dog" means a member of the subspecies *Canis lupus familiaris*;
- (h) "Enforcement Area" means those areas marked as "Principal Centre Area" and "Settlement Centre Area" on the maps attached hereto as Schedule "A";
- (i) "harbouring", in relation to an animal, includes constructing, erecting, locating or keeping on the premises of which the person is the occupant a structure designed to be used as a shelter by the animal;
- (j) "kennel" means any premises that complies with the zoning by-law of the Municipality on which three or more animals are boarded, bred, trained or cared for in return for remuneration, or are kept for the purpose of sale, but does not include a veterinary clinic, animal hospital or animal pound;
- (k) "livestock" means animals of a domesticated species kept for food, milk or fur production, or propagation or intended for profit and includes,
 - (i) dairy and beef cattle;
 - (ii) swine, goats, sheep and horses;
 - (iii) hens, chicken, turkey, turkey broilers, geese and ducks;
 - (iv) foxes, llamas, alpaca and mink;

(v) rabbits and rodents, unless such rabbits and rodents are kept as pets only;

but does not include Restricted Animals;

(j) "Municipality" means the Rural Municipality of Whitemouth;

(k) "owner", in respect of an animal, means a person, including a corporation,

(i) who has legal title to the animal;

(ii) who has possession or custody of the animal, whether temporarily or permanently; or

(iii) who harbours the animal, or allows the animal to remain on his or her premises;

(l) "pound-keeper" means a person appointed by Council under section 14 to maintain an animal pound and carry out a pound-keeper's duties as set forth in this by-law;

(m) "pursue", in the context of an animal pursuing, means to chase in an aggressive or menacing manner;

(n) "rabbit" means a burrowing gregarious herbivorous mammal of the hare family;

(o) "Restricted Animal" means the following animals that are not permitted to be kept or harboured in the Municipality:

(i) all members of the order Primate excepting human beings;

(ii) all members of the order Carnivora excepting domestic dogs (*Canis lupus familiaris*), domestic cats (*Felis catus*) and ferrets;

(iii) all members of the order Crocodylia;

(iv) all constrictor snakes and venomous reptiles including, but not limited to:

(A) all members of the family Boidae;

(B) all members of the family Colubridae;

(C) all members of the family Elapidae;

(D) all members of the family Viperidae;

(E) all members of the family Helodermatidae; and

(F) all members of the family Varanidae; and

(v) all venomous amphibians including, but not limited to:

(A) all members of the family Bufonidae; and

(B) all members of the family Dendrobatidae; and

(p) "rodent" means guinea pigs, hamsters, rats and mice;

(q) "seeing-eye dog" means any dog specially trained for and used as a dog guide by any person whose sight is impaired or is blind, or whose hearing is impaired or is deaf;

(r) "Travelling Show" means a circus or exhibition that may include

Restricted Animals, which intends to operate within the Municipality for a period not exceeding two weeks and which does not have a permanent base, residence or location within the Municipality.

- 2(2) In this by-law, a reference to a period of impoundment includes the day on which the impoundment began but does not include any day in which the place of impoundment is closed to the public.

General Restrictions

- 3(1) In areas of the Enforcement Area zoned "residential general development", "open space and institutional", and "rural commercial and industrial", no person shall own, harbour, keep, have in his or her possession, or have on a single parcel of land of which he or she is the owner, more than three (3) cats and three (3) dogs over the age of three (3) months. In case of dispute, the onus shall be on the owner to establish the age of the cat or dog.
- 3(2) Subsection 3(1) does not apply to properties licensed to operate as a Kennel.
- 3(3) In areas of the Enforcement Area zoned "residential general development", "open space and institutional", and "rural commercial and industrial", no person shall own, harbour, keep, have in his or her possession, or have on a single parcel of land of which he or she is the owner, more than:
- (a) two (2) rabbits; and
 - (b) two (2) of each of guinea pigs, hamsters, rats and mice, to a maximum total of six (6) rodents.
- 3(4) The keeping of livestock shall only be permitted in those areas of the Municipality zoned agricultural unless otherwise permitted by the Municipality's Zoning By-Law in effect and as amended from time to time.
- 3(5) Every person owning or occupying premises on which dogs, cats, rabbits, rodents or livestock are kept, whether for commercial purposes or otherwise, shall keep the premises clean and tidy, to the satisfaction of a Province of Manitoba Public Health Officer. If an Animal Control Officer has reason to believe that a premises is not clean and tidy, he or she shall notify a Province of Manitoba Public Health Officer.
- 3(6) No person owning or occupying premises on which dogs, cats, rabbits, rodents or livestock are kept, whether for commercial purposes or otherwise, shall allow the premises to become offensive or adversely affect the health or comfort of other persons by reason of filthy conditions, offensive odours, or other causes.
- 3(7) No person may:
- (a) negligently or wilfully open a gate, door or other opening in a fence or enclosure in which an animal has been confined and thereby allow an animal to run at large in the Municipality;
 - (b) entice an animal to run at large;
 - (c) tease an animal caught in an enclosed space; or
 - (d) throw or poke any object into an enclosed space when an animal is caught or confined therein.

- 3(8) No person other than the owner of an animal or with the consent of the owner may untie, loosen or otherwise free and animal which has been tied or otherwise restrained.

Responsibilities of Owner

For the purpose of this section, "animal" shall mean dog, cat, rabbit, rodent or livestock.

- 4(1) The owner of an animal shall be responsible for his or her animal and must:
- (a) ensure that the animal does not run at large within the limits of the Municipality. When an animal is found running at large, its owner shall be deemed to have failed or refused to comply with this clause;
 - (b) ensure that the animal does not pursue, bite, wound or bark at any animal, person or any vehicle in any public place;
 - (c) ensure that, if the animal is a dog, the dog does not bark or howl or in any other way unduly disturb the quiet of any person or persons in the Municipality;
 - (d) ensure that the animal does not defecate on any public or private property other than the property of its owner and, where an animal defecates on property other than the property of its owner, the owner shall cause such excrement to be removed immediately and disposed of in a sanitary manner;
 - (e) ensure that the animal does not damage public or private property other than that of its owner;
 - (f) ensure that each unsprayed female dog is confined in the residence or other building on the premises of the owner or at a Kennel for the period of time that such dog is in heat, and take all reasonable measures to prevent the congregation of dogs upon or in the vicinity of the premises in which the unsprayed female dog is confined during the time when she is in heat;
 - (g) ensure that the animal does not bite, wound or otherwise injure any person or animal;
 - (h) ensure that the animal does not enter on any school ground or playground;
 - (i) ensure that the animal does not upset any waste receptacle and scatter the contents about a street, lane or other public or private property not belong to the owner;
 - (j) not permit a dog which, by reason of training, disposition or inclination, has exhibited signs of viciousness, to enter into any public place or onto any property to which the public has access, unless the said dog is muzzled and is restrained by a leash not more than five feet in length in the hands of a person capable of exercising control of the said dog; and
 - (k) not harbour or keep any dog which, by reason of training, disposition or inclination has exhibited signs of viciousness unless such dog is securely fastened and properly muzzled at all times in such place and in such manner that it does not endanger the safety of any person or any other animal.

- 4(2) In addition to the responsibilities set forth in subsection 4(1), if the animal is a rabbit or a mouse, the owner of an animal must:
- (a) not permit any rabbit or mouse owned by them or in their charge to:
 - (i) stray or trespass on a highway;
 - (ii) stray or trespass on a public place;
 - (iii) stray or trespass on private property;
 - (iv) graze on unfenced land; or
 - (v) be released or abandoned on land within the Municipality; and
 - (b) ensure that rabbits or mice are not kept in an outdoor pen, cage or run unless the pen, cage or run is securely enclosed to prevent escape.
- 4(3) Where an animal commits any of the acts prohibited by subsections 4(1) or (2), the owner will be deemed to have permitted the activity and the owner will be liable to pay costs associated with remedying the damage, including, but not limited to, veterinary bills.

Licensing of Dogs

- 4.1 If a dog over the age of three (3) months which is not a seeing-eye dog is in the Municipality, its owner must ensure that the dog has a valid dog license issued under this section. This obligation does not apply to any dog owner who can provide proof that he or she owns the dog and is not a resident of the Municipality.
- 4.2 In order for the Animal Control Officer to issue a dog license, the owner must:
- (a) pay the license fee;
 - (b) provide the following information to the Animal Control Officer:
 - (i) particulars of the dog to be licensed, in form and content satisfactory to the Animal Control Officer;
 - (ii) evidence that the dog has been inoculated for rabies; and
 - (iii) evidence of the sex of the dog, as well as whether it is spayed or neutered.
- 4.3 A dog license is not transferable to another dog.
- 4.4 The owner of a dog must ensure that his or her dog wears a valid license tag affixed to the dog's collar or harness.

Care for Animals in Need of Protection

- 5(1) An Animal Control Officer or pound-keeper is authorized to take into custody a dog or cat whose owner is unable to provide it with proper care due to the owner's mental or physical illness, incarceration, death or for any other reason.
- 5(2) An Animal Control Officer or pound-keeper is authorized to release a dog or cat referred to in subsection 5(1) into the care of the owner's family or friends or any other person the Animal Control Officer or pound-keeper considers to be able and willing to care for the dog or cat on the condition that the person agrees to return the dog or cat to the owner if and when the owner is able to care for the dog or cat.

the owner is able to care for the dog or cat.

- 5(3) If the dog or cat is not released under subsection 5(2) within ten (10) days after the dog or cat was taken into custody, the Animal Control Officer or pound-keeper may dispose of the dog or cat in any manner he or she considers appropriate.

Impoundment for Running at Large

For the purpose of this section, "animal" shall mean dog, cat, rabbit, rodent or livestock.

- 6(1) An Animal Control Officer is authorized to capture and impound an animal that he or she finds running at large.
- 6(2) An Animal Control Officer or pound-keeper is authorized to impound an animal that has been turned over to the Animal Control Officer or pound-keeper as having been running at large if the Animal Control Officer or pound-keeper has reasonable grounds to believe that the animal was in fact running at large. The Animal Control Officer or pound-keeper is authorized to require the person turning over the animal to execute a statutory declaration concerning the circumstances in which he or she took possession of the animal.
- 6(3) The Animal Control Officer must notify the owner of every animal impounded under this section of the impoundment or, where the owner of the animal is not known, must prepare and post in the general office of the Municipality a notice setting forth:
- (a) a description of the impounded animal;
 - (b) the date of the animal's apprehension and impoundment; and
 - (c) the date after which the animal will be disposed of.

The owner is entitled to redeem the animal under section 9 (redemption of impounded animals) at any time during its impoundment.

- 6(4) Unless it is redeemed earlier under section 9 (redemption of impounded animals), an Animal Control Officer or pound-keeper shall impound such an animal for a minimum period of three (3) days. If the animal has been impounded for a minimum of three (3) days without having been redeemed, the Animal Control Officer or pound-keeper is authorized to dispose of the animal in accordance with subsection 9(2).

Impoundment and Quarantine for Bites and/or Rabies Observation

For the purpose of this section, "animal" shall mean dog, cat or livestock but shall not include a police service dog owned by a public law enforcement agency while on duty and under the control of a qualified dog handler.

- 7(1) If:
- (a) an Animal Control Officer suspects that an animal has been exposed to rabies; or
 - (b) an animal bites or scratches an individual with its teeth so that the skin is broken, regardless of the circumstances of the bite or scratch;

the Animal Control Officer is authorized to capture, impound and quarantine the animal at the Animal Pound at the owner's expense for a

period of no less than fourteen (14) days for observation.

- 7(2) If an Animal Control Officer gives notice to the owner of an animal that he or she is acting under the authority of subsection 7(1), the owner must surrender the animal to the Animal Control Officer for impoundment and quarantine immediately. If the animal is not voluntarily surrendered to the Animal Control Officer, the Animal Control Officer shall be authorized to apprehend and impound the animal and, if necessary, to apply to a provincial court judge, magistrate or justice of the peace, as required, to obtain an order to enter the personal residence or other property of the owner for the purpose of apprehending and impounding the animal.
- 7(3) As an alternative to impounding and quarantining the animal under subsection 7(1), the Animal Control Officer is authorized to permit or require the owner of the animal, at the owner's expense, to have the animal quarantined at a veterinary clinic within the Municipality or have the animal quarantined on the property of its owner. The Animal Control Officer is authorized to act under this subsection 7(3) if he or she determines that the animal will be securely held and will not leave the property. The Animal Control Officer may impose conditions on a quarantine permitted or required by this section that are reasonable to ensure that the animal is appropriately confined during the quarantine period. An owner who fails to ensure that the animal is securely held on the property or fails to ensure compliance with other conditions imposed by an Animal Control Officer commits an offence under this by-law.
- 7(4) If an animal is quarantined at the Animal Pound or on the property of its owner, an Animal Control Officer must observe it for symptoms of rabies. If it is quarantined at a veterinary clinic, the veterinarian must observe it for symptoms of rabies. If, during the quarantine period, it is determined to have rabies, the animal must be euthanized, if it has not already died or been euthanized. The animal's body must then be examined for proof of rabies at the expense of the owner.
- 7(5) The Animal Control Officer must notify the owner of every animal impounded under this section of the impoundment or, where the owner of the animal is not known, must prepare and post in the general office of the Municipality a notice setting forth:
- (a) a description of the impounded animal;
 - (b) the date of the animal's apprehension and impoundment; and
 - (c) the date after which the animal will be disposed of.
- 7(6) Unless it is determined to have rabies, an animal may be redeemed under section 9 (redemption of impounded animals) after its mandatory period of impoundment and quarantine has ended. If the animal has not been redeemed within three days after the end of its period of impoundment and quarantine, the Animal Control Officer or pound-keeper is authorized to dispose of the animal in accordance with subsection 9(2).
- 7(7) In the event of an outbreak or the threat of an outbreak of rabies or any other transmittable disease, Council may require every owner to confine their animal upon his or her property for such period of time as Council may determine.

Impoundment of Potentially Dangerous Animal

For the purpose of this section, "animal" shall mean dog, cat or livestock but shall not include a police service dog owned by a public law enforcement agency while

on duty and under the control of a qualified dog handler.

8(1) An Animal Control Officer is authorized to impound an animal if:

- (a) there is evidence that the animal has acted in a dangerous or aggressive manner toward humans or animals; and
- (b) the Animal Control Officer concludes that leaving the animal in the keeping of its owner could pose a danger to humans or animals.

The Animal Control Officer shall keep a record of all incidents of dangerous or aggressive behaviour, identifying the animal and the details of the incident, and such record may be used in any hearing or appeal with respect to the dangerous animal provisions contained herein.

8(2) Rather than impounding an animal under subsection 8(1), the Animal Control Officer may impose conditions on the animal's owner designed to minimize any threat posed by the animal pending a determination under section 10 (dangerous animal designation) or section 12 (destruction of exceptionally dangerous animal) or both.

8(3) An animal impounded under subsection 8(1) is not eligible to be redeemed under section 9 (redemption of impounded animals) unless and until either:

- (a) Council has determined that the animal should neither be designated as dangerous under section 10 (dangerous animal designation) nor destroyed as exceptionally dangerous under section 12 (destruction of exceptionally dangerous animal); or
- (b) Council has designated the animal as dangerous under section 10 (dangerous animal designation) and its owner is able and willing to comply with the restrictions resulting from that designation.

8(4) Where Council has determined that an animal impounded under this section should neither be designated as dangerous under section 10 (dangerous animal designation) nor destroyed as exceptionally dangerous under section 12 (destruction of exceptionally dangerous animal), it is eligible to be redeemed within forty-eight (48) hours after its owner has been notified of this determination. After that point, the Animal Control Officer is authorized to dispose of the animal in accordance with subsection 9(2).

8(5) Where Council has determined that an animal impounded under this section should be destroyed as exceptionally dangerous under section 12 (destruction of exceptionally dangerous animal), the animal must continue to be impounded until either it is destroyed under that section or the determination that the animal should be destroyed is overturned on appeal.

Redemption of Impounded Animals

9(1) Where an animal has been apprehended and impounded pursuant to this by-law and such animal is eligible to be redeemed, the owner may redeem the animal by providing proof of ownership and paying the all applicable fees and costs including:

- (a) a fee equal to all costs of and associated with impounding the animal for each day or part thereof that the animal has been impounded;
- (b) the cost of the tranquilizer dart, if the use of same was, in the opinion

of the Animal Control Officer, necessary to apprehend the animal;

- (c) overtime pay and the cost of additional personnel required for the apprehension;
- (d) the cost of vehicles and equipment rented for the purposes of the apprehension; and
- (e) veterinary expenses necessarily incurred in connection with the animal during its confinement.

9(2) Where the owner of an animal refuses to pay the costs set forth in subsection 9(1), or where the animal has otherwise not been redeemed in accordance with the time periods set out in this by-law, the Animal Control Officer or the pound-keeper may:

- (a) sell the animal to any person who will pay the actual costs associated with the apprehension and impoundment of the animal or;
- (b) destroy or otherwise dispose of the animal.

Dangerous Animal Designation

For the purpose of this section, "animal" shall mean dog, cat or livestock but shall not include a police service dog owned by a public law enforcement agency while on duty and under the control of a qualified dog handler.

10(1) Council is authorized to designate an animal as dangerous if it concludes that the animal:

- (a) has caused injury to or killed a person, whether on public or private property; or
- (b) has seriously injured or killed any other animal without provocation; or
- (c) is used primarily for the purpose of guarding property and is not a police service dog owned by a public law enforcement agency; or
- (d) is likely to cause significant harm or injury to individuals or animals.

10(2) In making a dangerous dog designation on the basis of subsection 10(1), Council must take into account:

- (a) any recent incident in which the animal has:
 - (i) caused harm or injury to individuals or animals; or
 - (ii) pursued or menaced individuals or animals;
- (b) the nature of any incidents referred to in clause (a), including the seriousness or any harm or injury caused by the animal;
- (c) all the circumstances of any incidents referred to in clause (a) and, in particular, whether the animal was provoked; and
- (d) the behaviour of the animal since the incident.

10(3) Before making a dangerous animal designation under subsection (1), the Animal Control Officer must:

- (a) give notice to the animal's owner that a determination as to whether the animal should be designated a dangerous animal will be made;
- (b) provide the reasons why such determination is being made; and
- (c) give the animal's owner a reasonable opportunity to be heard at a regularly scheduled meeting of Council where the determination will be made. In the event that an owner voluntarily accepts the Animal Control Officer's recommended disposition of the matter, a hearing before Council may be dispensed with and the Animal Control Officer's recommended disposition of the matter shall constitute a final order in respect of which there is no appeal.

10(4) Council shall provide written notice of the hearing to the owner of the animal at least ten (10) days in advance of the hearing date by serving notice upon the owner or by mailing the notice by registered mail to the last known address of the owner. The notice shall include the following minimum information:

- (a) the time, place and purpose of the hearing;
- (b) a summary of the reasons in support of the allegation that the animal is dangerous;
- (c) a copy of this section 10 of the by-law; and
- (d) a statement that if the owner does not attend the hearing, the matter will be dealt with in his or her absence and that he or she will not be entitled to any further notice or appeal in regards to the proceedings concerning the animal.

10(5) The owner has the right to appear at the hearing, with or without legal counsel, and to make submissions to Council and call evidence on his or her behalf. The owner also has the right to hear all of the evidence and submissions presented at the hearing by or on the behalf of the Animal Control Officer and to inspect any documents filed by or on behalf of the Animal Control Officer, and to respond to same. Where the owner does not appear at the hearing, having been given notice provided in accordance with subsection 10(4), Council shall be entitled to deal with the matter in his or her absence, and the owner shall not be entitled to any further notice or appeal in regards to the proceedings concerning the animal.

10(6) Within five (5) working days following the hearing, Council shall issue a written decision and deliver a copy of such decision to the owner of the animal by personal service or registered mail to the last known address of the owner. There shall be no obligation upon Council to issue written reasons for its decision.

10(7) The decision of Council shall be final. There shall be no appeal from the decision of Council.

Consequences of Dangerous Animal Declaration

11(1) The owner of an animal that has been designated as dangerous must thereafter:

- (a) ensure that, while on the owner's property, the animal is either kept securely confined indoors or is kept in a securely enclosed and locked pen, structure or yard which:

- (i) prevents the animal from escaping and young children from entering;
 - (ii) has minimum dimensions suitable for the size of the dangerous animal, as prescribed by the Animal Control Officer;
 - (iii) has secure sides; and
 - (iv) provides adequate protection from the elements for the animal;
- (b) if the animal is a dog, not permit the dog off the owner's property unless it is muzzled and restrained by a leash or chain or no more than six feet in length which is held by a person capable of controlling the dog;
 - (c) if the animal is not a dog, not permit the animal off the owner's property unless it is under the effective control of a person competent to control it;
 - (d) provide to the Animal Control Officer a certificate of a policy of comprehensive liability insurance which provides coverage in the amount of no less than \$500,000 for harm or injury caused by the animal;
 - (e) notify the Animal Control Officer immediately if:
 - (i) the animal is running at large;
 - (ii) the animal has harmed any individual or other animal;
 - (f) provide the Animal Control Officer with the name and address of the new owner within three (3) working days of selling or giving away the animal;
 - (g) have a microchip containing the owner's name and current address as well as the fact of its dangerous animal designation implanted into the animal's skin by a licensed veterinarian;
 - (h) notify the Animal Control Officer of the animal's death within three working days and provide evidence to prove the animal's death;
 - (i) permanently and prominently display at each entrance to the property and any building in which a dangerous animal is kept, a sign designed and provided by the Animal Control Officer which warns visitors of the presence of a dangerous animal, is posted in such a manner that it cannot be easily removed, and is visible and capable of being read from outside of the premises; and
 - (j) comply with such other conditions as may be prescribed by order of Council.

11(2) The requirements in subsection 11(1) are imposed immediately upon provision of notice to the owner of the dangerous animal designation.

11(3) If the owner of an animal that has been designed as dangerous under this section fails to comply with the requirements of subsection 11(1), in addition to any other remedies or enforcement actions available, an Animal Control Officer is authorized under the Municipality's authority to act in emergencies to immediately impound the animal and Council is authorized to consider whether the animal is exceptionally dangerous and should be destroyed under section 12 (destruction of exceptionally dangerous

animal).

11(4) No person shall deface or remove a sign posted pursuant to clause 11(1)(i) without having first obtained the permission of the Animal Control Officer.

Destruction of Exceptionally Dangerous Animal

For the purpose of this section, "animal" shall mean dog, cat or livestock but shall not include a police service dog owned by a public law enforcement agency while on duty and under the control of a qualified dog handler.

12(1) Council must make a determination as to whether an animal is exceptionally dangerous and should be destroyed where either:

- (a) the animal:
 - (i) has repeatedly bitten, clawed or otherwise attacked individuals or animals;
 - (ii) has engaged in an exceptionally brutal attack on an individual or animal;
 - (iii) after having been designated as dangerous under section 10 (dangerous animal designation), has caused injury or harm to, or has pursued or menaced, individuals or animals; or
 - (iv) has demonstrated other behaviour that causes Council to consider that the animal may be exceptionally dangerous; or
- (b) the owner of an animal that has been designated as dangerous fails to comply with the restrictions in section 11 (consequences of a dangerous animal designation).

12(2) Council is authorized to determine that an animal is exceptionally dangerous and should be destroyed if:

- (a) it concludes that the animal's behaviour is such that it poses a serious risk to the safety of individuals or animals that cannot be adequately addressed by restrictions imposed with respect to the animal, including those imposed with respect to a dangerous animal under section 11 (consequences of a dangerous animal designation); or
- (b) the owner refuses to, or there are reasonable grounds to believe that he or she will fail to comply with restrictions that council concludes are necessary to protect the safety of individuals or animals.

12(3) Before making a determination as to whether an animal is exceptionally dangerous and should be destroyed under subsection (1), the Animal Control Officer must:

- (a) give notice to the animal's owner that a determination as to whether the animal is exceptionally dangerous and should be destroyed will be made;
- (b) provide the reasons why such determination is being made; and
- (c) give the animal's owner a reasonable opportunity to be heard at a regularly scheduled meeting of Council where the determination will be made. In the event that an owner voluntarily accepts the Animal Control Officer's recommended disposition of the matter, a hearing before Council may be dispensed with and the Animal

Control Officer's recommended disposition of the matter shall constitute a final order in respect of which there is no appeal.

- 12(4) Council shall provide written notice of the hearing to the owner of the animal at least ten (10) days in advance of the hearing date by serving notice upon the owner or by mailing the notice by registered mail to the last known address of the owner. The notice shall include the following minimum information:
- (a) the time, place and purpose of the hearing;
 - (b) a summary of the reasons in support of the allegation that the animal is exceptionally dangerous and should be destroyed;
 - (c) a copy of this section 12 of the by-law; and
 - (d) a statement that if the owner does not attend the hearing, the matter will be dealt with in his or her absence and that he or she will not be entitled to any further notice or appeal in regards to the proceedings concerning the animal.
- 12(5) The owner has the right to appear at the hearing, with or without legal counsel, and to make submissions to Council and call evidence on his or her behalf. The owner also has the right to hear all of the evidence and submissions presented at the hearing by or on the behalf of the Animal Control Officer and to inspect any documents filed by or on behalf of the Animal Control Officer, and to respond to same. Where the owner does not appear at the hearing, having been given notice provided in accordance with subsection 12(4), Council shall be entitled to deal with the matter in his or her absence, and the owner shall not be entitled to any further notice or appeal in regards to the proceedings concerning the animal.
- 12(6) Within five (5) working days following the hearing, Council shall issue a written decision and deliver a copy of such decision to the owner of the animal by personal service or registered mail to the last known address of the owner. There shall be no obligation upon Council to issue written reasons for its decision.
- 12(7) The decision of Council shall be final. There shall be no appeal from the decision of Council.
- 12(8) If an animal that has been determined to be exceptionally dangerous under this section is not impounded at the time the determination is made, its owner must destroy the animal or surrender it to an Animal Control Officer for impoundment within 24 hours of being given notice of the determination under subsection 12(5). If the animal is neither destroyed nor surrendered within 24 hours notice, the Animal Control Officer shall act immediately to impound the animal.
- 12(9) If an animal has been determined to be exceptionally dangerous under this section, unless its owner destroys it under subsection 12(8), the Animal Control Officer shall have the animal destroyed. The owner shall be responsible for the payment of all applicable fees and costs associated with the apprehension and impoundment of the animal including those fees and costs set forth in subsection 9(1).

Restricted Animals

- 13(1) Except as may be permitted by the Municipality's Zoning By-Law in effect and as amended from time to time, no person shall keep or harbour any Restricted Animals within the Municipality without the prior authorization

of Council. Upon receipt of an application to keep or harbour a Restricted Animal from any person other than the owner or operator of a Travelling Show, Council shall conduct a hearing in accordance with the notice and hearing requirements applicable to variance and conditional use applications as set out in section 57(4) of The Planning Act.

- 13(2) Council need not give notice of an application from the owner or operator of a Travelling Show to keep a Restricted Animal in the Municipality on a temporary basis but shall consider the application at the next regularly scheduled Council meeting.
- 13(3) Any person who is keeping or harbouring a Restricted Animal in the Municipality at the time that this by-law comes into force or effect shall have thirty days from the coming into effect of this by-law, or such longer time as may be approved by Council, to sell the Restricted Animal to a buyer outside of the Municipality or otherwise dispose of the Restricted Animal.
- 13(4) Where an Animal Control Officer believes that a person is keeping or harbouring a Restricted Animal, the Animal Control Officer shall provide the Person with notice in writing to dispose of the Restricted Animal within fourteen days of receipt of the notice or such shorter period of time that the circumstances may require and the notice may provide. The onus shall be on the person receiving the notice to establish that the animal is not a Restricted Animal.
- 13(5) Where the person has failed or refused to dispose of the Restricted Animal within the time frame contemplated by the notice, the Animal Control Officer may enter upon the property where the Restricted Animal is being kept or harboured for the purpose of removing and disposing of the Restricted Animal but shall not enter any dwelling or house located on the land without the consent of the owner. The Animal Control Officer may, if he or she requires, be assisted by any other person to apprehend the Restricted Animal.
- 13(6) If the person keeping or harbouring a Restricted Animal believes, on reasonable grounds, that the animal is not a Restricted Animal, he or she shall not be guilty of an offence under this section. The bona fides or reasonableness of the belief shall not, however, prevent the removal of the Restricted Animal pursuant to this section.

Animal Control Officers and Pound-Keeper

14(1) Council may, by resolution:

- (a) appoint an Animal Control Officer to carry out and enforce this by-law;
- (b) approve or ratify an agreement respecting an Animal Control Officer's appointment;
- (c) establish premises for the confinement of animals apprehended pursuant to any provisions of this by-law;
- (d) appoint a pound-keeper to carry out and enforce by-law; and
- (e) approve or ratify an agreement respecting a pound-keeper's appointment.

14(2) In addition to any other duties and responsibilities under this by-law, an Animal Control Officer shall:

- (a) be responsible for enforcing this by-law in accordance with the General Enforcement By-law of the Municipality; and
- (b) prepare and deliver to Council a monthly report setting out such information as Council may require from time to time.

14(3) In addition to any other duties and responsibilities under this by-law, a pound-keeper shall:

- (a) establish and maintain an Animal Pound for the confinement of animals apprehended and impounded pursuant to this by-law;
- (b) care for and protect all animals during the period of their confinement, including ensuring that the animals are properly housed, fed, watered and provided with appropriate veterinary care; and
- (c) prepare and deliver to Council a monthly report setting out such information as Council may require from time to time.

14(4) No liability shall attach to the Animal Control Officer, the pound-keeper or the Municipality for any animal destroyed or injured pursuant to any action undertaken by the Animal Control Officer or the pound-keeper pursuant to his or her enforcement activities including, without limitation, the apprehension or impoundment of an animal.

Interference with Enforcement

15(1) No person shall:

- (a) interfere with or attempt to obstruct an Animal Control Officer or the pound-keeper who is attempting to capture or who has captured an animal which is subject to impoundment under this by-law;
- (b) release or attempt to release an animal from a vehicle in which an animal that has been captured by an Animal Control Officer is being held for impoundment; or
- (c) remove or attempt to remove any animal from the possession of an Animal Control Officer or a pound-keeper.

15(2) When an Animal Control Officer intends to issue a document related to enforcement of this by-law or a contravention thereof, the individual must at the request of the Animal Control Officer provide identification sufficient to establish the individual's name and address.

Enforcement, Contravention and Fines

16(1) This by-law shall be enforced pursuant to the Municipality's General Enforcement By-law, as amended from time to time.

16(2) Without restricting the general authority given in subsection 16(1), Animal Control Officers have the authority, after providing reasonable notice to the occupant of the property, to enter onto or into a property to examine an animal or to capture and impound an animal in order to administer and enforce this by-law.

16(3) Because it is impractical or impossible to give notice to the occupant of property when in pursuit of an animal running at large, Animal Control Officers who are in pursuit of an animal running at large are hereby

authorized to enter property, other than a building, without the requirement to give notice to the occupant of the property before the entry.

- 16(4) Any person may allege a violation of this by-law by filing a written complaint with an Officer in such form and with such particulars as the Officer may from time to time require, and/or the Officer may investigate based on his/her regular patrol of the Municipality.
- 16(5) Where an Officer determines that a contravention of any provision of this by-law has occurred, the Officer may commence enforcement proceedings and issue and serve a notice of contravention and, if required, an order to remedy a contravention pursuant to the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
- 16(6) A person who receives an order to remedy a contravention may appeal such order in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures. Council's decision on the issue is final and not subject to further appeal.
- 16(7) The Municipality and/or the Officer may take whatever action or measures are necessary to remedy a contravention of this by-law in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
- 16(8) Any person who contravenes or disobeys or refuses or neglects to obey or comply with any provision of this by-law or any order made under this by-law and/or the Municipality's General Enforcement By-law, as amended from time to time, is guilty of an offence and is liable to fines and penalties as set out in the Municipality's General Enforcement By-law, as amended from time to time.


General Provisions

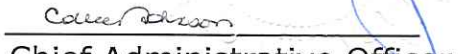
- 17(1) By-Law No. 694/16 of the Municipality and any amendments thereto are hereby repealed and shall hereafter cease to have effect.
- 17(2) This By-Law shall come into force and effect on the day it receives third and final reading by Council.

DONE AND PASSED by the Council of the Rural Municipality of Whitemouth, in Council duly assembled, at Whitemouth, Manitoba, this 23rd day of April, 2021.

For: Against:

**RURAL MUNICIPALITY OF
WHITEMOUTH**


Reeve

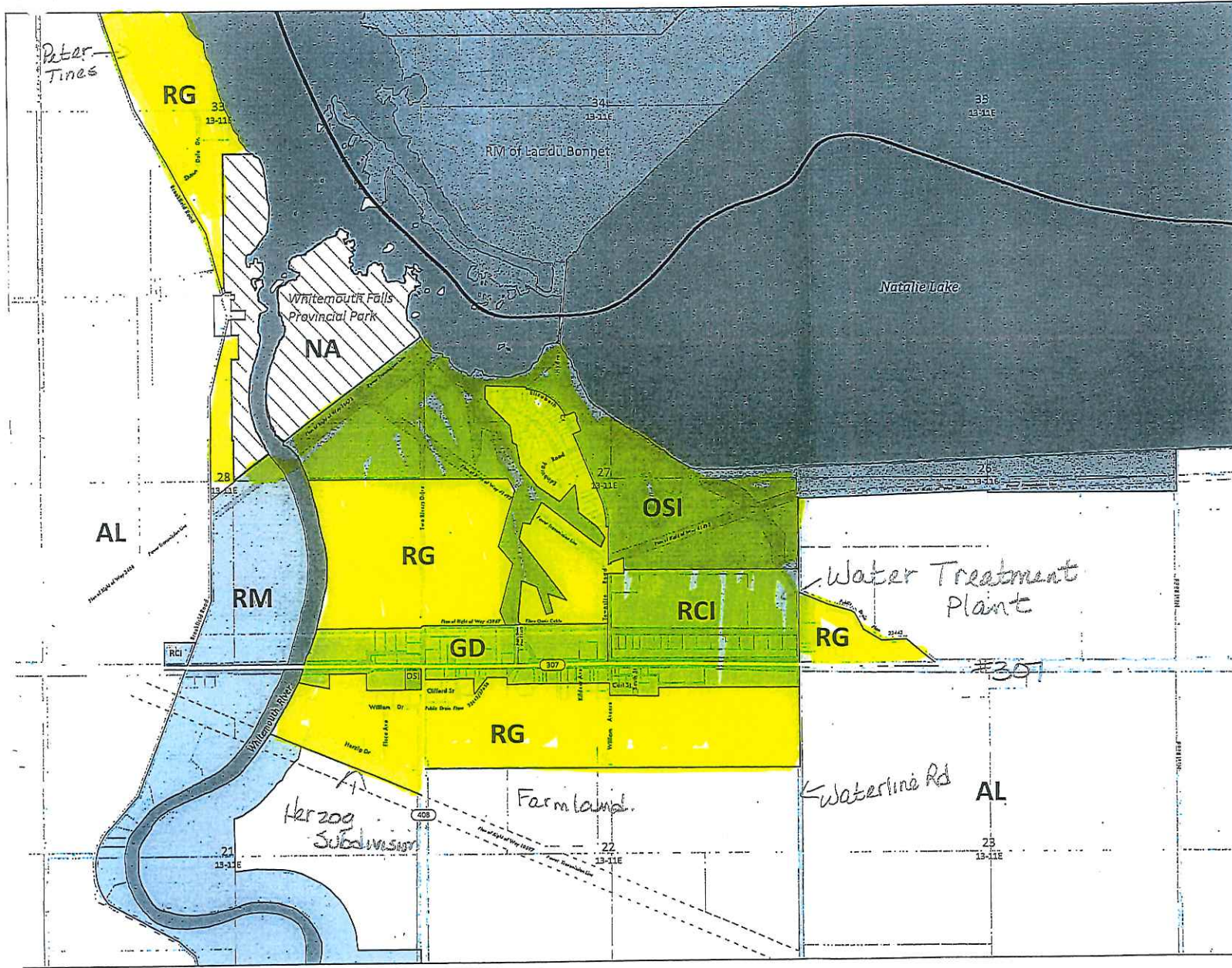

Chief Administrative Officer

Read a First time this 23rd day of March, 2021.

Read a Second time this 23rd day of March, 2021.

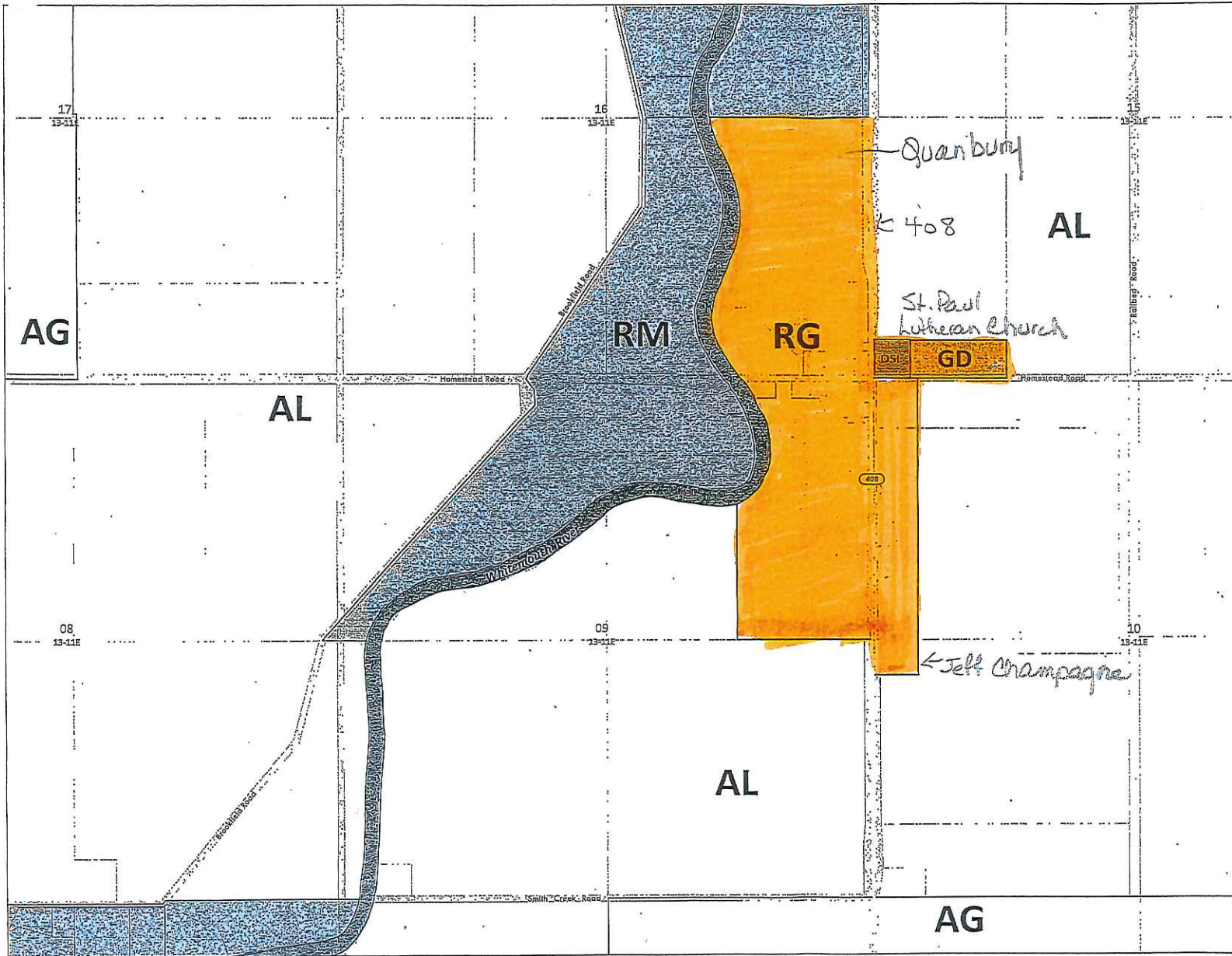
Read a Third time this 13th day of April, 2021

SCHEDULE "A"



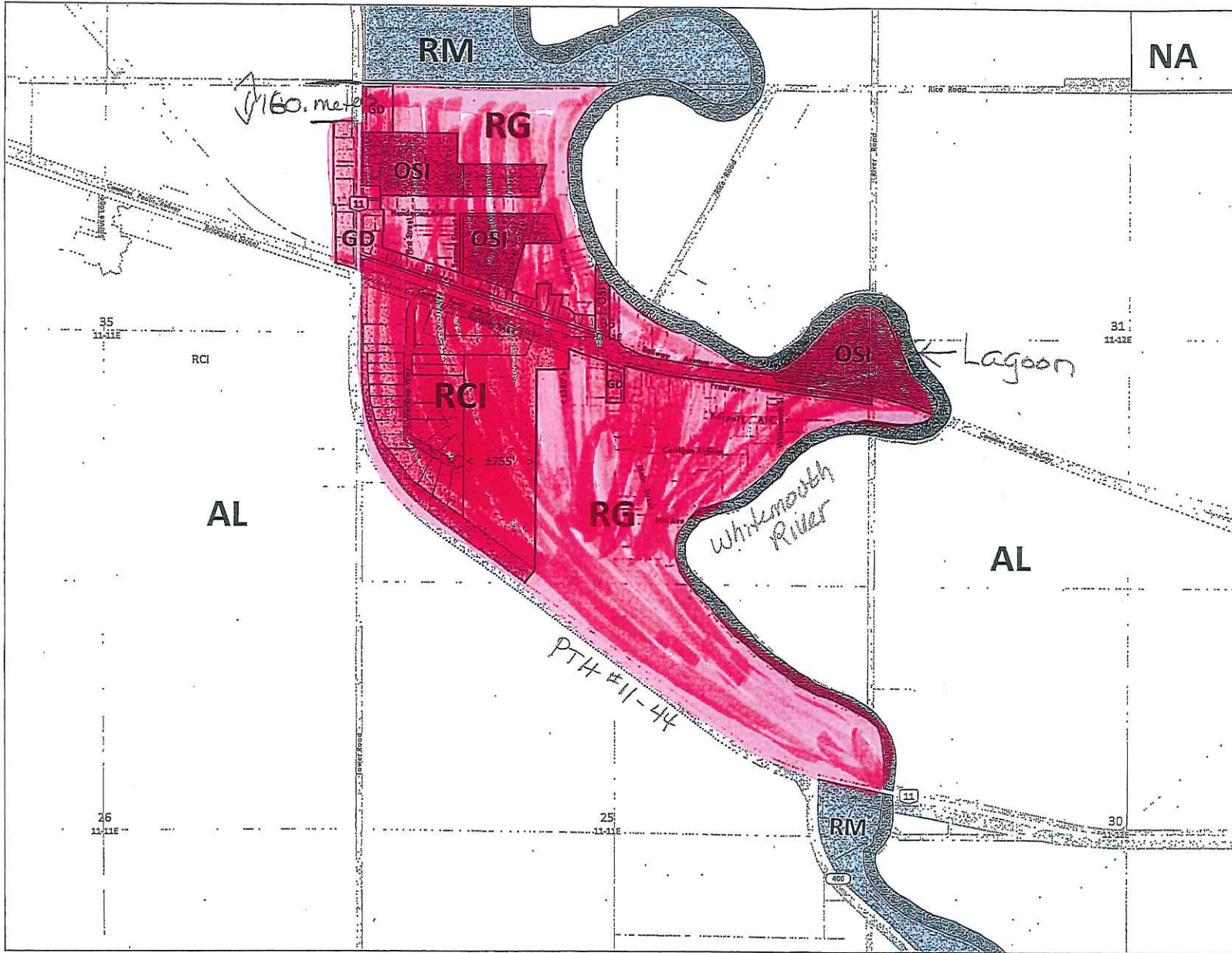
**Seven Sisters Falls
Principal Centre Area**

SCHEDULE "A"



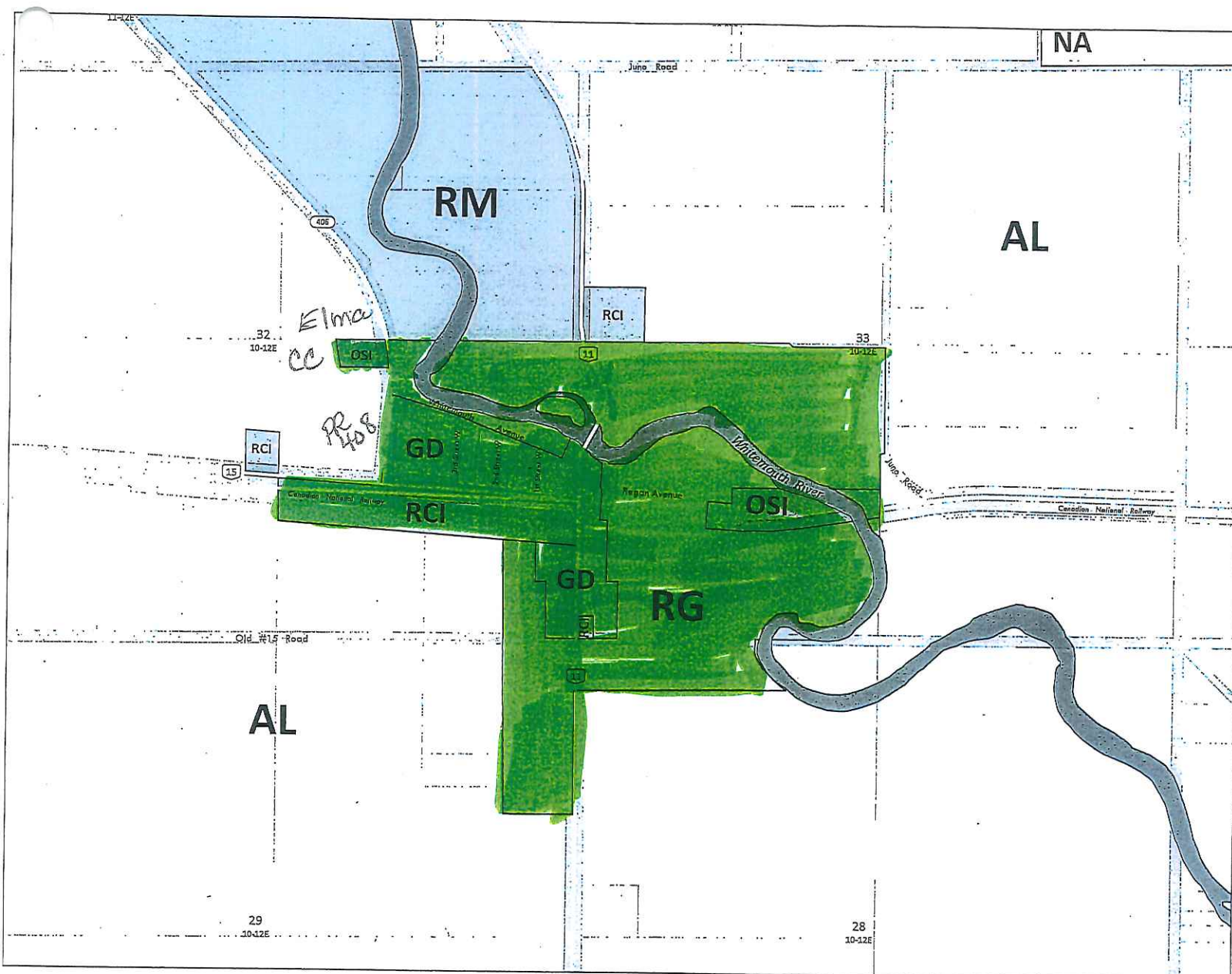
**River Hills
Settlement Centre Area**

SCHEDULE "A"



**Whitemouth
Principal Centre Area**

SCHEDULE "A"



**Elma
Principal Centre Area**