

THE RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 551/10

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO AUTHORIZE THE ENTERING INTO AND EXECUTION OF AN AGREEMENT WITH KENTON GENE PENNER AND NANCY JAYNE PENNER

WHEREAS Section 250(2) of Part 8, Division 1 of The Municipal Act provides in part as follows:

250(2) Without limiting the generality of subsection (1), a municipality may for municipal purposes do the following:

- (d) enter into agreements with a person, with an agency of the Government of Manitoba or the Government of Canada, or with another municipality, including a municipality in another province, to do with or on behalf of the municipality anything the municipality has the power to do within the municipality;

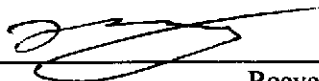
AND WHEREAS it is deemed expedient and in the best interests of the residents of The Rural Municipality of Whitemouth that The Rural Municipality of Whitemouth enter into an agreement with Kenton Gene Penner and Nancy Jayne Penner;

AND WHEREAS the terms of the agreement have been settled and are contained in the agreement attached hereto as Schedule "A";


NOW THEREFORE BE IT AND IT IS HEREBY ENACTED that the Council of The Rural Municipality of Whitemouth, duly assembled, enact as follows:

1. **THAT** the entering into the proposed Agreement attached hereto as Schedule "A" is hereby approved and authorized.
2. **THAT** the Reeve and the Chief Administrative Officer of The Rural Municipality of Whitemouth are hereby authorized and instructed to execute the agreement, as set out in Schedule "A" attached hereto, for and on behalf of the Municipality.

DONE AND PASSED by the Council of The Rural Municipality of Whitemouth in regular session assembled, this 13th day of June, AD., 2012.



Reeve



Chief Administrative Officer

Read a first time this 23rd day of May, AD. 2012
Read a second time this 13th day of June, AD. 2012
Read a third time this 13th day of June, AD., 2012

THE RURAL MUNICIPALITY OF WHITEMOUTH

THIS AGREEMENT MADE IN DUPLICATE THIS 13th DAY OF JUNE 2012

BETWEEN:

KENTON GENE PENNER AND NANCY JAYNE PENNER
("Penner")

- and -

THE RURAL MUNICIPALITY OF WHITEMOUTH
("Municipality")

WHEREAS Section 135 of *The Planning Act* provides in part as follows:

135 "A subdivision of land may be approved subject to one or more of the following conditions..."

(7) "a condition that the applicant enter into a development agreement with the government, the municipality, or the planning district as required, whereby the applicant agrees to conditions limiting, regulating or prohibiting any use, activity or development on the land."

AND WHEREAS Section 151 of *The Planning Act* provides that the agreement may run with the land and a caveat with the agreement attached may be filed in the land title's office.

AND WHEREAS

A. Penner is the registered owner of land in the Municipality legally described as:

ALL THAT PORTION OF W ½ OF SW ¼ 22-10-12 EPM WHICH LIES WEST OF WHITEMOUTH RIVER SUBJECT TO THE RESERVATIONS AND PROVISIOES CONTAINED IN THE GRANT FROM THE CROWN

B. Penner has applied to subdivide his land and the Municipality has conditionally approved the subdivision, subject, among other things, to the entering into of this Agreement;

C. Upon the subdivision of his land, Penner will own four parcels legally described as:

Parcels A through D, Deposit 51/2012 WLTO

NOW THEREFORE in consideration of the sum of \$1 and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Penner and the Municipality agree as follows:

1. Except as set out in Sections 2 and 3 below, within the portion of The Land 100 feet of the Ordinary High Water Mark of the Whitemouth River ("the Restricted Area"):
 - a. no building or structure may be erected or placed;
 - b. no excavation shall be made;
 - c. no cultivation or grazing of livestock shall take place;

d. no use or activity shall be carried out that will have a significant adverse effect on the stability of the riverbank or the quality of the water.

2. Section 1 above shall not prevent:

a. the erection or placing of small structures in keeping with recreational activities commonly conducted on riverfront property, such as fire pits, walking trails, pleasure craft launch facilities, and docks;

b. the removal of plants, trees, and shrubs in small quantities in order to maintain the ecological health and integrity of the Restricted Area;

c. the planting of native trees, plants, and grass, and the removal of noxious weeds;

d. the erection of a fence satisfactory to the Municipality along the boundaries of the Restricted Area to prevent livestock from entering the Restricted Area or accessing the Whitemouth River from the Restricted Area;

provided that such work, structures and uses do not compromise bank stability or water quality or significantly alter the natural character of the Restricted Area.

3. Work may be carried out to stabilize the riverbank in order to maintain the bank in its current condition and location.

4. The Municipality may, upon giving reasonable notice to the owners, access The Land and carry out an inspection to determine if the terms of this Agreement are being complied with.

5. This Agreement shall run with The Land. A caveat in respect of this Agreement may be registered in the land titles office.

6. This Agreement may be varied in respect of all or part of The Land by means of an amending agreement between the Municipality and the owner of the affected land, after following the variation procedure under *The Planning Act*. The Municipality may register a caveat in respect of the amending agreement and may discharge a caveat registered by virtue of this Agreement.

7. The Municipality may terminate this Agreement and discharge a caveat registered by virtue of this Agreement after following the variation procedure under *The Planning Act*.

IN WITNESS WHEREOF Penner and the Municipality have executed this Agreement as of the date first written above.



Witness



Witness

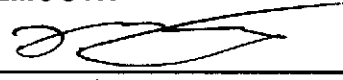


Kenton Gene Penner



Nancy Jayne Penner

**THE RURAL MUNICIPALITY OF
WHITEMOUTH**



Reeve



Chief Administrative Officer