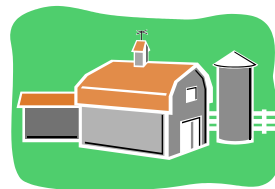


# RM OF WHITEHEAD ZONING BY-LAW



**RURAL MUNICIPALITY  
OF  
WHITEHEAD**

**ZONING BY-LAW NO. 2123**

**THE RURAL MUNICIPALITY OF WHITEHEAD**

**BY-LAW NO. 2123**

BEING A by-law of the RURAL MUNICIPALITY OF WHITEHEAD to regulate the use and development of land.

WHEREAS, Section 68 of The Planning Act provides that the council of a municipality may enact a zoning by-law which is generally consistent with a development plan in effect in the municipality;

AND WHEREAS, pursuant to the provisions of Part 4 of The Planning Act, the Council of the Rural Municipality of Whitehead has adopted a Development Plan;

AND WHEREAS, the Council of the Rural Municipality of Whitehead rescinds existing Rural Municipality of Whitehead Zoning By-law Number 1832;

NOW THEREFORE, the Council of the RURAL MUNICIPALITY OF WHITEHEAD, in meeting duly assembled, enacts By-law 2123 as follows:

**R.M. OF WHITEHEAD ZONING BY-LAW 2123**  
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## **PART 1 INTRODUCTORY PROVISIONS**

- 1.1 This By-law shall be known as “The Rural Municipality of Whitehead Zoning By-Law”.
- 1.2 This By-law applies to all lands in the Rural Municipality of Whitehead, and shall come into full force and effect on the date of third reading.

### **General Intent**

- 1.3 This By-law is intended to implement the objectives and policies of the R.M. of Whitehead Development Plan, and specifically regulates:
- (a) the construction, erection or placing of all buildings and structures occurring hereafter;
  - (b) all enlargements or alteration of existing buildings and structures occurring hereafter; and
  - (c) the establishment, change, alteration or enlargement of uses of land, occurring hereafter.

### **Fundamental Zoning Provisions and Requirements**

- 1.4 The following zones are hereby established in the Rural Municipality of Whitehead:

- (a) “AG” Agricultural (General) Zone;
- (b) “AL” Agricultural (Limited) Zone
- (c) “AR” Agricultural (Restricted) Zone
- (d) “AC” Agricultural (Conservation) Overlay Zone;
- (e) “RR2” Rural Residential 2 Zone;
- (f) “RR5” Rural Residential 5 Zone;
- (g) “GD” General Development Zone;
- (h) “RG” Residential (General) Zone;
- (i) “RMH” Residential (Mobile Home) Zone;
- (j) “CG” Commercial (General) Zone;
- (k) “CH” Commercial (Highway) Zone;
- (l) “MG” Industrial (General) Zone; and
- (m) “OS” Open Space Zone

and the areas affected by these zones are shown on a series of maps attached as Appendix A to this By-law.

- 1.5 The permitted and conditional uses of land within each zone are those set out in the Use and Bulk Tables of this By-law.
- 1.6 No land, building or structure shall be used or occupied, and no building or structure shall be constructed, erected, altered, enlarged or placed, except in accordance with this By-law, and only after all required permits have been obtained by the owner or his authorized representative.

## **Application of Other Regulations and Requirements**

- 1.7 Whenever a provision of another by-law or of a law or regulation of the provincial or federal government contains a restriction governing the same subject matter contained in this By-law, or imposes contradictory regulations with respect to uses, buildings or structures, the most restrictive or highest standard shall prevail.
- 1.8 In addition to the provisions of this By-law, it shall be an obligation of any person to comply with the provisions of any other municipal, provincial or federal regulation regarding the use and development of land, buildings and structures, including obtaining all required permits and approvals prior to the commencement of construction. This shall include, but not be limited to the following:
- (a) Any building by-law, building code, and/or fire code;
  - (b) Any environmental regulation, including an approval for the following:
    - (i) any confined livestock area of 300 animal units or larger,
    - (ii) any private wastewater or sewage management or disposal system,
    - (iii) any expansion or extension of a municipal water distribution or sewage collection system;
    - (iv) any proposed commercial or industrial development which may require a license under the Environment Act,
    - (v) or any permit for development close to waterways or water bodies;
  - (c) Any regulation related to development in the vicinity of provincial highways and provincial roads. This would include matters such as the placement of any building or structure, the construction of any driveway access, the establishment of any planting or a change in land use within the highway control areas adjacent to provincial highways and provincial roads, and which are under the jurisdiction of provincial highways authorities.

## **Provincial Review of Certain Development Proposals**

- 1.9 The municipality shall refer certain development proposals to appropriate departments of the provincial government for review and comment, prior to the issuance of any approval:
- (a) Proposals for large livestock operations (of 300 animal units or larger) shall be referred to the provincial technical review committee, as required by The Planning Act;
  - (b) Development proposals in the vicinity of all waterways shall be referred to Fisheries and Oceans Canada, Manitoba Conservation and Manitoba Water Stewardship for review and comment, where there is potential concern with regard to impacts on the waterway; and
  - (c) Development proposals in the vicinity of Provincial Trunk Highways and Provincial Roads, including applications for conditional use and significant home based businesses, shall be referred to Manitoba Infrastructure and



Transportation for review and comment, where there is potential concern with regard to highway access and traffic safety issues.

## **PART 2 AGRICULTURAL ZONES**

- 2.1 The "AG" Agricultural (General) Zone established in this Zoning By-Law is primarily intended to;
- (a) Support and strengthen farming activities within the Rural Municipality of Whitehead and to provide flexibility for farm operators to engage in a variety of farming operations; and
  - (b) Protect the agricultural sector and its land resources in recognition of agriculture's contribution to the economy, lifestyle and character of the Rural Municipality of Whitehead.
- 2.2 In accordance with the provisions of Section 42(2) of The Planning Act, Manitoba Regulation 193/2005 and the Rural Municipality of Whitehead Development Plan, additional limitations and restrictions on livestock operations are required for areas in the vicinity of areas which are designated for residential development, and therefore the following additional zones are established:
- (a) The Agricultural (Restricted) Zone provides for many types of general agricultural activities, along with very restricted capacity for the establishment or expansion of livestock confinement facilities in close proximity to residential areas; and
  - (b) The Agricultural (Limited) Zone provides for many types of general agricultural activities, along with limited capacity for the establishment or expansion of livestock operations in proximity to residential areas.
- In addition, the 3 agricultural zones described above will provide for a variety of non-agricultural uses, as conditional uses, which are generally considered appropriate or acceptable in a rural area, primarily due to the nature of the use (such as a quasi-agricultural use, or a use that provides direct support to agricultural enterprise) and/or its need for a rural location (due to the land requirements for the proposed use, or due to compatibility concerns of the use within populated areas.)
- 2.3 The "AC" Agricultural (Conservation) Overlay Zone established in this Zoning By-Law is intended to establish additional provisions governing the use and development of sensitive lands, which are unable to support a full range of agricultural activities, in accordance with PART FOUR of the Rural Municipality of Whitehead Development Plan.

### **Agricultural (General) Zone and Agricultural (Limited) Zone - General Requirements**

- 2.4 TABLE 2-1: AGRICULTURAL (GENERAL) ZONE & AGRICULTURAL (LIMITED) ZONE - USE AND BULK TABLE lists all uses that are permitted and conditional in the "AG" Agricultural (General) Zone and the "AL" Agricultural (Limited) Zone, along with the minimum bulk requirements.
- 2.5 No land shall be used or occupied and no structure shall be erected, altered, used or occupied hereafter for any use in the "AG" Agricultural (General) Zone or the "AL" Agricultural (Limited) Zone, other than a use that is listed in TABLE 2-1.

**TABLE 2-1: AGRICULTURAL (GENERAL) ZONE & AGRICULTURAL (LIMITED) ZONE - USE & BULK TABLE**

	(a) MINIMUM REQUIREMENTS				
	SITE SIZE		REQUIRED YARDS		
	Site Area (Acres)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
<b>PERMITTED PRINCIPAL USES</b>					
Agricultural Activities, General	80	1,000	125(d)	25(d)	25(d)
Agricultural Activities, Specialized (c)	20	300	125	25	25
Livestock Operations (See PART 3)	80	1,000	(d)	25(d)	25(d)
<b>CONDITIONAL USES</b>					
Aircraft Landing Facilities	10	99	125	25	25
Auction Marts	2(e)	200	125(d)	25(d)	25(d)
Cemeteries	3(e)	200	125	25	25
Earth Moving Contractors	3(e)	200	125	25	25
Establishments for the storage, handling or processing of agricultural produce, including grain storage elevators, vegetable storage structures, abattoirs, seed plants, feed mills, and similar uses	3	200	125	25(f)	25(f)
Farm Bulk Chemical Supply and/or Bulk Fuel Supply Establishments	2(e)	200	125(g)	25(f,g)	25(f,g)
Fur Farms or Kennels	2(e)	200	125	25	25
Livestock Operations (See PART 3)	80	1,000	(d)	(d)	(d)
Motor Vehicle or Agricultural Equipment Salvage or Wrecking Establishments, and Existing Auto Body Repair Shop at the date of adoption of this By-law	2(e)	200	125	25	25
Museums or Historic Sites	2(e)	200	125	25	25
Non-Farm Dwellings, including mobile homes or modular homes	2(e)	200	125	25	25
Public Utilities, Public Works Compounds or Buildings	2(e)	200	125	25	25
Recreation Facilities, Exterior, such as golf courses, campgrounds, exhibition grounds, race tracks, rifle ranges, parks, and similar types of uses	2(e)	200	125	25	25
Riding Academies and Stables	10	500	125(d)	25(d)	25(d)
Sewage Treatment Facilities	5	200	125	25	25
Surface Mining Operations, including gravel pits	2	200	125	25	25
Telecommunications Towers (h)	2(e)	200	125(h)	25(h)	25(h)
Vacation Farms, Bed and Breakfast Facilities (with more than 2 revenue suites)	80	1000	125	25	25
Veterinary Clinics	2(e)	200	125	25	25
Waste Disposal Sites	10	500	125	25	25
Water Supply and /or Treatment Facilities	2(e)	200	125	25	25
Wind Turbines for Commercial Power Generation (j)	7	550	125(i)	125(i)	125(i)
<b>ACCESSORY USES, BUILDINGS, AND STRUCTURES (Also See Sections 2.15 &amp; 2.16)</b>	-	-	125(d)	25(d,f)	25(d,f)

The following footnotes form part of TABLE 2-1:

- (a) In addition to the minimum requirements of this TABLE, the following requirements shall also apply:
  - (i) Maximum allowable height for all buildings and structures shall be 30 feet, with the exception of silos, grain or fuel storage structures, telecommunications towers, wind turbines for electrical power generation, water towers, church spires and flagpoles.
  - (ii) Minimum dwelling unit area shall be 700 square feet for a single family dwelling, mobile home or modular home.
- (b) The required yards shall be modified as follows:
  - (i) Where a site line is adjacent to a Provincial Trunk Highway or Provincial Road, the provincial highway authority will have jurisdiction of all matters related to setback from the highway, along with construction of access to the property and the planting of trees, and the provisions of this TABLE shall not apply to the required yard along the property boundary adjacent to the highway, and
  - (ii) Buildings and structures shall have a minimum side and/or rear yard of one hundred and twenty-five (125) feet when the yard is adjacent to a Government Road Allowance under the jurisdiction of the municipality, with the exception of incidental accessory structures such as fences, signs, private wells and sewage disposal systems, and small bus shelters for children.
- (c) Apiaries shall be considered as a conditional use when proposed to be located within 1 mile of a residential area, or within 1/2 mile of a dwelling not associated with the operation.
- (d) See Section 3.26 for required yards (setback requirements) for barns, feedlots and high density seasonal feeding areas.
- (e) The maximum site area shall be 10 acres, except for golf courses, unless physical features of the site, such as natural drains, shelterbelts, etc. indicate that a larger site would be appropriate.
- (f) Where it is necessary to place a building or structure adjacent to a railway for purposes of railway service (loading), then the minimum side and/or rear yard requirement for that building or structure shall be 0 feet.
- (g) Anhydrous ammonia storage facilities shall be set back 330 feet from any public roadway, shall be separated by a distance of 2,640 feet from any designated residential area and by a distance of 1,320 feet from any individual dwelling.
- (h) Towers less than 100 ft. in height are deemed to be a permitted use. The separation distance between a telecommunication tower and a habitable building not located on the same site shall be 110 percent of the height of the tower.

- (i) No portion of the tower, including a rotating blade, shall extend beyond any site line, unless the owner of the adjacent property has provided written authorization. All tower yards shall be one (1.5) times the total height of the tower plus rotor from any other titled property boundary, including the boundary of a railway right-of-way, government road allowance, or Provincial highway, unless within highway control areas and then subject to Provincial approval. All tower yards that do not coincide with a title property boundary shall be 125 feet in depth. All accessory uses yards associated with the tower shall be 125 feet in depth. A proposal for a multiple tower project may be considered under one application with each tower meeting the site requirements.
- (j) Separation Distances: (These distances are mutual for both land uses in each clause.)
  - i) The tower base shall be 1.5 times the total height of the tower plus rotor from dwellings associated with the tower company.
  - ii) The minimum separation distance between a wind turbine tower and a habitable building shall be 1,640 feet, measured from the base of the tower.
  - iii) The tower base shall be 2640 feet from an urban area, rural residential area or seasonal recreation area.
  - iv) The tower base shall be a minimum of 100 feet from a water course or lake.

### **Agricultural (Restricted) Zone - General Requirements**

2.6 TABLE 2-2: AGRICULTURAL (RESTRICTED) ZONE - USE AND BULK TABLE lists all uses that are permitted and conditional in the "AR" Agricultural (Restricted) Zone, along with the minimum bulk requirements.

2.7 No land shall be used or occupied and no structure shall be erected, altered, used or occupied hereafter for any use in the "AR" Agricultural (Restricted) Zone other than a use that is listed in TABLE 2-2.

**TABLE 2-2: AGRICULTURAL (RESTRICTED) ZONE - USE & BULK TABLE**

	(a) MINIMUM REQUIREMENTS				
	SITE SIZE		REQUIRED YARDS		
	Site Area (Acres)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
<b>PERMITTED PRINCIPAL USES</b>					
Agricultural Activities, General (c)	80	1,000	125	25	25
Agricultural Activities, Specialized (d)	20	300	125	25	25
<b>CONDITIONAL USES</b>					
Auction Marts	2(f)	200	125(e)	25(e)	25(e)
Cemeteries	3(f)	200	125	25	25
Establishments for the storage, handling or processing of agricultural produce, including grain storage elevators, vegetable storage structures, abattoirs, seed plants, feed mills, and similar uses	3	200	125	25(g)	25(g)
Museums or Historic Sites	2(f)	200	125	25	25

Non-Farm Dwellings, including mobile homes or modular homes	2(f)	200	125	25	25
Public Utilities, Public Works Compounds and Maintenance Buildings	2(f)	200	125	25	25
Recreation Facilities, Exterior, such as golf courses, campgrounds, exhibition grounds, race tracks, rifle ranges, parks, and similar types of uses	2(f)	200	125	25	25
Riding Academies and Stables	10	500	125(e)	25(e)	25(e)
Surface Mining Operations, including gravel pits	2	200	125	25	25
Telecommunications Towers (h)	2(f)	200	125(h)	25(h)	25(h)
Vacation Farms, Bed and Breakfast Facilities (with more than 2 revenue suites)	2(f)	200	125	25	25
Veterinary Clinics	2(f)	200	125	25	25
Water Supply and /or Treatment Facilities	2(f)	200	125	25	25
<b>ACCESSORY USES, BUILDINGS, AND STRUCTURES (Also See Sections 2.15 &amp; 2.16)</b>	-	-	125	25(g)	25(g)

The following footnotes form part of TABLE 2-2:

- (a) In addition to the minimum requirements of this TABLE, the following requirements shall also apply:
  - (i) Maximum allowable height for all buildings and structures shall be 30 feet, with the exception of silos, grain or fuel storage structures, telecommunications towers, water towers, church spires and flagpoles.
  - (ii) Minimum dwelling unit area shall be 700 square feet for a single family dwelling, mobile home or modular home.
- (b) The required yards shall be modified as follows:
  - (i) Where a site line is adjacent to a Provincial Trunk Highway or Provincial Road, the provincial highway authority will have jurisdiction of all matters related to setback from the highway, along with construction of access to the property and the planting of trees, and the provisions of this TABLE shall not apply to the required yard along the property boundary adjacent to the highway, and
  - (ii) Buildings and structures shall have a minimum side and/or rear yard of one hundred and twenty-five (125) feet when the yard is adjacent to a Government Road Allowance under the jurisdiction of the municipality, with the exception of incidental accessory structures such as fences, signs, private wells and sewage disposal systems, and small bus shelters for children.
- (c) Where an agricultural area is considered by Council to be an open space area within a designated Rural Residential Development, there shall be no keeping of livestock within the agricultural area.
- (d) Apiaries shall be considered as a conditional use when proposed to be located in the "AR" Agricultural (Restricted) Zone.
- (e) See Section 3.28 for required yards (setback requirements) for livestock confinement facilities.

- (f) The maximum site area shall be 10 acres, except for golf courses that may be larger, unless physical features of the site, such as natural drains, shelterbelts, etc. indicate that a larger site would be appropriate.
- (g) Where it is necessary to place a building or structure adjacent to a railway for purposes of railway service (loading), then the minimum side and/or rear yard requirement for that building or structure shall be 0 feet.
- (h) Towers less than 100 ft. in height are deemed to be a permitted use. The separation distance between a telecommunication tower and a habitable building not located on the same site shall be 110 percent of the height of the tower.

## **Agricultural (Conservation) Overlay Zone - Special Provisions**

- 2.8 In addition to the provisions established for the Agricultural Zones by other Sections of this By-law, the following special provisions shall apply to land which is located within the Agricultural (Conservation) Overlay Zone, as indicated on the Zoning Maps in APPENDIX A of this By-law:
- (a) Non-Farm dwelling sites may only be allowed in situations where an existing farm yard is being subdivided from an agricultural parcel; and
  - (b) Any proposal to clear land and remove existing tree cover within any area of land in excess of 3 acres within the “AC” Agricultural (Conservation) Overlay Zone shall be subject to the following provisions:
    - (i) The proposal shall be subject to review and approval by Council prior to the commencement of tree clearing;
    - (ii) Council may require the proponent to submit a technical report in support of the proposal;
    - (iii) Council may refer the proposal to any department of the provincial or federal government for a recommendation; and
    - (iv) Council may impose any conditions of approval that are considered appropriate under the circumstances.

## **General Conformance Requirements for all Agricultural Zones**

- 2.9 Where land is being subdivided into smaller parcels in any Agricultural Zone, each parcel shall be in conformance with the minimum site size requirements for the zone where the land is located, as specified in the relevant TABLE for that zone.
- 2.10 Where a building or structure is being erected, located or enlarged within any Agricultural Zone, it shall be in conformance with the minimum bulk requirements for the zone where the land is located, as specified in the relevant TABLE for that zone.
- 2.11 All required yards specified for any use shall be located on the same site as the use, and shall be maintained as open space. Projecting features of buildings and other landscaping features are permitted in required yards, as specified in Section 7.22.
- 2.12 No existing yard shall be reduced below the minimum requirement for the yard for the zone wherein the land is located, as specified in the relevant TABLE for that zone.

## **Open Space along Municipal Roadways**

- 2.13 Areas adjacent to rural roads under the jurisdiction of the municipality shall be kept clear of features which would contribute to snow drifting problems on the roadway, or which would represent a safety hazard to motorists. Within the Agricultural Zones, the following provisions shall apply to any required front yard, side yard or rear yard which is



adjacent to an improved or unimproved government road allowance under municipal jurisdiction:

- (a) No building or structure shall be constructed or located within the required yard, except for electric fences, barbed wire fences, chain link fences, wooden rail fences which are at least 75 percent open in character and not higher than 7 feet, signs not exceeding 64 square feet in surface area, private water supply and sewage disposal facilities, and small shelters for children at school bus stops;
- (b) No excavation such as a dugout or gravel pit shall be located within the required yard, unless specifically approved by Council;
- (c) No substantial planting, such as a shelterbelt or hedge exceeding a height of 3 feet shall be located within the required yard, except for shelterbelts around existing dwellings, unless specifically approved by Council; and
- (d) No substantial stockpiling of materials, such as soil, gravel, bales or logs shall be located within the required yard, unless specifically approved by Council.

#### **General Restriction for Shelterbelts along Quarter Section Boundaries**

- 2.14 No shelterbelt shall be established within a distance of 25 feet of an internal quarter section boundary (excluding road allowances).

#### **Accessory Uses Buildings and Structures as Permitted Uses**

- 2.15 The following accessory uses, buildings or structures shall be permitted within the Agricultural Zones, subject to the provisions of the preceding TABLES, unless otherwise provided in this By-law:

- (a) Buildings or structures for the operation and maintenance of an agricultural activity, including;
  - (i) Shelters or enclosures for livestock produced by the agricultural activity, including corrals and barns, subject to the provisions of PART 3;
  - (ii) Storage of supplies and equipment utilized by the activity, including machine sheds, livestock feed, fuel and fertilizer storage structures; and
  - (iii) Storage of agricultural commodities produced by the operation, including vegetable storage buildings, grain bins and similar structures.
- (b) A farm dwelling to include a single-family dwelling, mobile home or a modular home when on the same site with a permitted or approved agricultural activity;
- (c) A staff dwelling, to include a single-family dwelling, two-family dwelling, dormitory, mobile home, or modular home when on the same site with permitted or approved uses where, in the opinion of the Council, said dwelling is essential for the maintenance, operation and care of the permitted or approved use;

- (d) Domestic accessory uses, buildings and structures, including garages, carports, garden sheds, swimming pools, children's playhouses, greenhouses, and similar structures;
- (e) Clubhouses, maintenance buildings, and other similar structures on the grounds of golf courses, and other similar permitted or approved recreational facilities;
- (f) Incidental structures for the storage of supplies, equipment or product associated with a business, provided that the structures do not substantially contribute to an expansion of the capacity of a business classified as a conditional use, and business signs up to a maximum of 200 square feet in surface area;
- (g) Accessory landscaping features, such as shelterbelts, laneways, driveways, lighting structures, antennae, fences up to a maximum height of 7 feet, and signs up to a maximum size of 64 square feet.;
- (h) Irrigation wells, private water supply wells, sewage disposal systems, waste incinerators, and private wind energy generation facilities, subject to any provincial approvals that may be required;
- (i) Home Based Businesses, subject to the provisions of Section 2.17;
- (j) Communal dwellings, churches and school facilities as part of a Hutterite Colony;
- (k) Vacation farms, Bed and Breakfast Establishments, or Boarding Houses with up to 2 revenue suites;
- (l) Home day care facilities for up to 8 children; and
- (m) Residential Care Facilities for 4 or fewer persons who may be post mentally ill, mentally impaired, physically handicapped, infirm or otherwise disabled.

### **Accessory Uses Buildings and Structures as Conditional Uses**

2.16 The following accessory uses shall be considered as conditional accessory uses, and subject to the provisions of Sections 8.22 to 8.30 of this By-law and the appropriate provisions of The Planning Act.

- (a) Accessory buildings associated with an approved conditional use which provide additional storage, or production capacity or otherwise contribute to an expansion or intensification of the conditional use;
- (b) Aircraft landing facilities and related structures;
- (c) Private or communal sewage treatment lagoons;
- (d) Private or communal cemeteries;

- (e) Group day care facilities for 9 children or more; and
- (f) Residential Care Facilities providing residential services, care and supervision for more than 4 persons who may be post mentally ill, mentally impaired or otherwise developmentally delayed.

## **Home-Based Businesses**

2.17 A home-based business is an accessory use which is carried on for financial gain by an occupant of a dwelling, and which shall be incidental or secondary to the principal residential use, subject to the following requirements:

- (a) the business activity shall be conducted either within the dwelling, within an accessory building, or elsewhere on the same site, subject to the provisions of this By-law;
- (b) the business activity shall be conducted by a person or persons residing in the dwelling, and persons employed or otherwise engaged on the same site as the business who do not reside in the dwelling may not exceed 2;
- (c) the location of all exterior processing and storage facilities within 350 feet of a property boundary shall be subject to Council approval;
- (d) a maximum of 2,000 square feet of floor area is devoted to the business or a maximum of 4,000 square feet in a machinery storage building;
- (e) one business sign, either freestanding or affixed to the wall of a principal or accessory building, is permitted, not exceeding 64 square feet;
- (f) the business activity shall not generate undue traffic or congestion, adversely affect existing municipal infrastructure, adversely affect the amenity and convenience of the surrounding area, or create a nuisance.

## **Additional Requirements Governing Location of Dwellings and Other Buildings**

2.18 **Near Livestock Operations** - A new dwelling, including a farm dwelling, shall be separated from barns, feedlots and high density seasonal feeding areas in the surrounding area by the appropriate mutual separation distance factor as specified in TABLE 3-3 (in PART 3), except where the dwelling is associated with the livestock operation.

2.19 **Near Railways** - No dwelling, mobile home or modular home shall be located within 300 feet of the edge of the right-of-way of any railway, unless the structure is required for railway operations, or requires railway service.

2.20 **Near Gravel Deposits & Pits** - No building, dwelling, mobile home or farm building or structure shall be constructed or located within an area which has been designated as a high or medium quality aggregate area by the Mines Branch, nor within 500 feet of the

boundary of such an area, unless the site has been further reviewed by that Branch and a recommendation provided which would allow development to proceed. Where the proposed building is a dwelling or mobile home, a separation distance of five hundred (500) feet shall be provided between the building location and any active mining area.

- 2.21 **Near Anhydrous Ammonia Tanks** - No dwelling or mobile home or other habitable building shall be constructed or located within 1,320 feet of an anhydrous ammonia storage tank or a farm bulk chemical supply facility.
- 2.22 **Near Towers** - No dwelling, mobile home or other habitable buildings shall be constructed or located within 1,640 feet of a commercial wind turbine tower, nor within a distance equivalent to 110 percent of the height of any telecommunications tower.
- 2.23 **Near Waste Disposal Sites** - No dwelling or mobile home or other habitable building shall be constructed or located within 1,320 feet of an existing or abandoned waste disposal site, unless in the case of an abandoned waste disposal site, it can be demonstrated to the satisfaction of Manitoba Environmental Operations Branch, that there will be no significant problems arising from methane gas or groundwater contamination generated by buried waste material.
- 2.24 **Near Sewage Lagoons** - No dwelling or mobile home or other habitable building shall be constructed or located within 1,500 feet of any municipal sewage lagoon, and this distance shall be increased to 2,000 feet in the probable direction of future expansion of the sewage lagoon.

### **Airfield Protection**

- 2.25 Any proposal to establish any building, structure, mobile home or farm building or structure which exceeds a building height of 10 feet, or to plant trees or establish any other feature which might be a hazard to aviation within the flight approaches of any aircraft landing area for a distance of 0.5 mile, shall be deemed to be a conditional use and subject to review and approval by Council.
- 2.26 Any proposal to establish a structure or tree planting in close proximity to an airfield and its aerial approaches may be referred to the federal aviation authority for a recommendation.

## **PART 3 LIVESTOCK PROVISIONS**

- 3.1 The provisions of this PART shall apply to the establishment or enlargement of livestock operations, and shall also apply to the keeping of livestock on rural residential parcels and other similar uses, in all Agricultural Zones, within the R.M. of Whitehead.

### **Existing Operations**

- 3.2 Existing livestock operations which due to their size and/or location, would be considered as a conditional use in accordance with the provisions of this PART, shall be deemed to be a legally established conditional use, and any expansion of the operation shall be administered by the provisions of The Planning Act and this By-law pertaining to conditional uses.
- 3.3 Existing livestock operations which exceed any maximum size requirements established by this By-law, are deemed to be non-conforming uses as of the date of adoption of this By-law, and may continue to exist and operate at the level of production at which they existed on that date, and expansion of the operation will be administered by the provisions of The Planning Act and this By-law pertaining to non-conformities. [Note that expansion is not allowed under current legislation at the time of adoption of this By-law.]
- 3.4 Any conditional use order for an existing livestock operation, or variation of a requirement approved under a previous zoning by-law, will continue to be in full force and effect.

### **General Provisions**

- 3.5 Where two or more existing or proposed livestock operations involving the production of the same species of livestock are either:
- a) located within ½ mile (800 m) of one another and are owned by the same individual, corporate, partnership or other entity, or
  - b) located within ½ mile (800) of one another and share a common manure storage facility (regardless of ownership)
- they are deemed to be a single livestock operation, and the total number of existing or proposed animal units in each operation shall be added together for the purposes of interpreting the requirements of this by-law.
- 3.6 For the purposes of determining the size of livestock operations and related facilities, the system of “animal units” as adopted by the Province of Manitoba shall be used. The conversion factors for animal units are provided for general reference in TABLE 3-1, and may be altered from time to time by provincial authorities, without requiring an amendment to this By-law, provided that the change to any conversion factor does not exceed 5 percent of the previously published information.
- 3.7 Requirements for setback and separation distances, as provided for in this PART, shall be measured from the closest point of the barn, feedlot or high density seasonal feeding

area, including any related manure storage facility, to the property boundary, residence or zoning area boundary, as the case may be.

**TABLE 3-1: ANIMAL UNIT CONVERSION FACTORS**

<b>Type of Livestock</b>		<b>A.U. Produced By One Livestock</b>
<b>Dairy</b>	Milking Cows, including associated livestock	2.000
<b>Beef</b>	Beef Cows, including associated livestock (cow/calf pair)	1.250
	Backgrounders	0.500
	Summer Pasture, Replacement Heifers *	0.625*
	Feeder Cattle	0.769
<b>Hogs</b>	Sows, farrow to finish	1.250
	Sows, farrow to weanling	0.250
	Sows, farrow to nursery	0.313
	Weanlings	0.033
	Feeders	0.143
<b>Chickens</b>	Broilers	0.0050
	Roasters	0.0100
	Layers	0.0083
	Pullets	0.0033
	Broiler Breeder Pullets	0.0033
	Broiler Breeder Hens	0.0100
<b>Turkeys</b>	Broilers	0.010
	Heavy Toms	0.020
	Heavy Hens	0.010
<b>Horses (PMU)</b>	Mares, including associated livestock	1.333
<b>Sheep</b>	Ewes, including associated livestock	0.200
	Feeder Lambs	0.063
<b>Other Livestock and Poultry</b>		As determined by Manitoba Agriculture

\* For the purposes of this By-law, the size of a high density seasonal feeding area shall be determined by a conversion factor of 0.625

### **Within the “AG” AGRICULTURAL (GENERAL) ZONE**

- 3.8 Within those areas which are zoned as Agricultural (General) Zone, the provisions of Sections 3.9 to 3.13 and Sections 3.26 to 3.31 shall apply to the establishment or enlargement of livestock operations and the keeping of livestock on any small acreage parcel.
- 3.9 Any livestock operation of up to 250 Animal Units in capacity and/or occupancy shall be deemed to be a permitted use.
- 3.10 Any proposal for the establishment or expansion of a livestock operation larger than 250 Animal Units in capacity or occupancy shall be deemed to be a conditional use and shall be administered in accordance with The Planning Act and Sections 8.22 to 8.30 of this By-law.
- 3.11 Where the density of livestock in a grazing or pasture area reaches the point where manure build-up occur to an extent which is in excess of crop nutrient requirements, and mechanical removal is required to retain soil nutrient levels within acceptable parameters, then the situation shall be viewed as a high density seasonal feeding area. High density seasonal feeding areas are subject to other requirements of this By-law, such as an application for conditional use where the operation exceeds 250 Animal Units, as well as the separation and setback requirements of Sections 3.26 and 3.27.
- 3.12 The maximum amount of livestock as a permitted use within rural residential parcels or small agricultural parcels shall be 1 Animal Unit per acre of land contained within the parcel. Proposals to establish more livestock may be considered as a conditional use.
- 3.13 Any proposal for a new or expanding barn, feedlot and/or high density seasonal feeding area shall be in compliance with the setback and separation requirements as outlined in Sections 3.26 to 3.28, and the special provisions of Section 3.29.

### **Within the “AL” AGRICULTURAL (LIMITED) ZONE**

- 3.14 Within those areas which are zoned as Agricultural (Limited) Zone, the provisions of Sections 3.15 to 3.20 and Sections 3.26 to 3.31 shall apply to the establishment or enlargement of livestock operations, and the keeping of livestock on small acreage parcels.
- 3.15 Any livestock operation of up to 50 Animal Units in capacity and/or occupancy shall be deemed to be a permitted use.
- 3.16 Any proposal for the establishment or expansion of a livestock operation larger than 50 Animal Units in capacity and/or occupancy, shall be deemed to be a conditional use and shall be administered in accordance with The Planning Act and Sections 8.22 to 8.30 of this By-law.
- 3.17 The maximum capacity and/or occupancy of any livestock operation shall be 250 Animal Units, except for existing operations at the date of adoption of this By-law which are at a



size of 100 Animal Units or larger, and which may be allowed to expand to a maximum size of 400 Animal Units, subject to the process described in Section 3.16.

- 3.18 Where the density of livestock in a grazing or pasture area reaches the point where manure build-up occur to an extent which is in excess of crop nutrient requirements, and mechanical removal is required to retain soil nutrient levels within acceptable parameters, then the situation shall be viewed as a high density seasonal feeding area. High density seasonal feeding areas are subject to other requirements of this By-law, such as an application for conditional use where the operation exceeds 50 Animal Units, as well as the separation and setback requirements of Sections 3.26 and 3.27.
- 3.19 The maximum amount of livestock as a permitted use within rural residential parcels or small agricultural parcels shall be 1 Animal Unit per acre of land contained within the parcel. Proposals to establish more livestock may be considered as a conditional use.
- 3.20 Any proposal for a new or expanding barn, feedlot and/or high density seasonal feeding area shall be in compliance with the setback and separation requirements as outlined in Sections 3.26 to 3.28, and the special provisions of Section 3.29.

#### **Within the “AR” AGRICULTURAL (RESTRICTED) ZONE**

- 3.21 Within those areas which are zoned as Agricultural (Restricted) Zone, the provisions of Sections 3.22 to 3.31 shall apply to the establishment or enlargement of livestock operations and the keeping of livestock on small acreage parcels.
- 3.22 The maximum capacity for the keeping of livestock shall be 9 Animal Units.
- 3.23 Where the density of livestock in a grazing or pasture area reaches the point where manure build-up occur to an extent which is in excess of crop nutrient requirements, and mechanical removal is required to retain soil nutrient levels within acceptable parameters, then the situation shall be viewed as a high density seasonal feeding area. High density seasonal feeding areas are subject to other requirements of this By-law, such as an application for conditional use where the operation exceeds 10 Animal Units, as well as the separation and setback requirements of Sections 3.26 and 3.27.
- 3.24 The maximum amount of livestock as a permitted use within rural residential parcels or small agricultural parcels shall be 1 Animal Unit per acre of land contained within the parcel up to a maximum of 9 animal Units. For any parcel less than 10 acres in size, a proposal to establish more livestock may be considered as a conditional use, to a maximum of 9 Animal Units.
- 3.25 Any proposal for a new or expanding barn, feedlot and/or high density seasonal feeding area shall be in compliance with the setback and separation requirements as outlined in Sections 3.26 and the special provisions of Section 3.29.

## Minimum Setback Requirement from Property Boundaries for Barns, Feedlots and High Density Seasonal Feeding Areas

- 3.26 The minimum setback requirements from any property boundary of TABLE 3-2 shall apply to the establishment or expansion of any barn, feedlot or high density seasonal feeding area, within any Agricultural Zone.

**TABLE 3-2: MINIMUM SETBACK DISTANCE REQUIREMENTS**

Size of Capacity of Barn, Feedlot and/or High Density Seasonal Feeding Area (animal units)	Minimum Setback Distance from Property Boundaries
Up to 10 AU	125 feet from road allowances, and 25 feet from all other boundaries
Any Feedlot or High Density Seasonal Feeding Area over 10 AU	330 feet from all boundaries *
Any Barn over 10 AU	165 feet from all boundaries

\*No application for variation of the 330 ft. setback distance may be approved by Council, unless prior approval for a reduced setback distance is obtained from provincial authorities."

## Minimum Separation Distance Requirements

- 3.27 The minimum separation distance requirements of TABLE 3-3 and TABLE 3-4 shall apply to the establishment or expansion of any barn, feedlot or high density seasonal feeding area, within any Agricultural Zone. The minimum separation distances shall mutually apply to the establishment of any new or expanding designated rural residential area or rural community area (community), and to any new residence in the Rural Municipality, excluding a residence associated with the livestock operation or facility.

**TABLE 3-3: MINIMUM SEPARATION DISTANCE REQUIREMENTS TO ANY DWELLING**

Size of Livestock Operation (Animal Units)	Separation Distance From Single Dwelling (ft.)*	
	To Feedlot and/or Earthen Manure Storage Facility	To Barn and/or High Density Seasonal Feeding Area and/or non-earthen manure storage facility
10 to 100	1,312	656
101 to 200	1,968	984
201 to 300	2,624	1,312
301 to 400	2,952	1,476
401 to 800	3,280	1,640
801 to 1,600	3,936	1,968
1,601 to 3,200	4,594	2,296
3,201 to 6,400	5,250	2,624
6,401 - 12,800	5,906	2,952
Over 12,801	6,562	3,280

\* Does not include any dwelling or mobile home associated with the operation of the livestock facility.

**TABLE 3-4: MINIMUM SEPARATION DISTANCE REQUIREMENTS TO ANY DESIGNATED AREA**

Size of Livestock Operation (Animal Units)	Separation Distance From Designated Area (ft.)	
	To Feedlot and/or Earthen Manure Storage Facility	To Barn and/or High Density Seasonal Feeding Area and/or non-earthen manure storage facility
10 to 100	2,625	1,760
101 to 200	3,937	2,625
201 to 300	5,249	3,511
301 to 400	5,906	3,937
401 to 800	6,561	4,364
801 to 1,600	7,874	5,249
1,601 to 3,200	9,186	6,135
3,201 to 6,400	10,499	6,988
6,401 - 12,800	11,811	7,874
Over 12,801	13,123	8,760

***“Designated Area” means any area that is zoned “GD” General Development Zone, “UR” Urban Residential Zone, or “UN” Urban Non-Residential Zone.***

### **Exceptions to Setback and Separation Requirements**

- 3.28 (a) Any existing barn, feedlot or high density seasonal feeding area which does not comply with the requirements of Section 3.26 may be expanded, provided that the expansion area occurs in a direction away from the property boundary applicable to the setback, and provided that any provincial approval that may be required has been obtained.
- (b) Any existing barn or feedlot which does not comply with the requirements of Sections 3.26 and 3.27, and which is damaged or destroyed by an occurrence such as wind or tornado or a fire not intentionally started by the owner, may be rebuilt at the existing location, in accordance with Section 8.4 of this By-law, without the need for any variation order for setback or separation distance, provided that any provincial approval that may be required has been obtained.

### **Special Provisions related to Livestock Operations**

- 3.29 In addition to the requirements described above, the following requirements shall also apply to the establishment or expansion of any barn, feedlot or high density seasonal feeding area:
- (a) No barn, feedlot or high density seasonal feeding area shall be established or expanded within a distance of 330 feet of the ordinary high water mark of any

surface watercourse, and if a variation is being considered for a lesser distance, provincial approval would also be required.

- (b) No barn, feedlot or high density seasonal feeding area shall be established or expanded in an area which is subject to flooding. The municipality may refer proposals to the appropriate provincial authority for a recommendation in situations where there may be doubt about the application of this requirement.
- (c) No barn, feedlot or high density seasonal feeding area for more than 10 Animal Units shall be established or expanded in an area which is classified as a Class 6 or Class 7 or unimproved organic soil for agriculture, based on the Canada Land Inventory classification system. Where detailed soils investigation is undertaken for a proposed site, and demonstrates that a higher soils classification exists (eg. Class 1 to Class 5) then the facility may be allowed, subject to all other requirements of this By-law.

### **Approval Requirements**

3.30 Proposals to establish any barn, feedlot or high density seasonal feeding area over 250 animal units shall be subject to the following conditions of approval:

- (a) Provision of a suitable cover on any earthen manure storage facility; and
- (b) Provision of a double shelter belt of deciduous trees, within the first year after completion of construction of the facility.

### **Information Requirements**

3.31 In addition to any other information required to be submitted in accordance with Section 8.10, an application to establish any barn, feedlot and/or high density seasonal feeding area, shall be accompanied by a site plan showing the following information:

- (a) the size and location of any and/or all proposed barns, feedlots, and/or high density seasonal feeding areas, including related manure storage facilities,
- (b) distances to property boundaries from all of these structures and/or facilities, and
- (c) existing and proposed drainage features in the vicinity of these structures and/or facilities.

There shall also be written information provided with regard to the type and number of livestock to be contained, the typical time period each year of the livestock confinement in the facilities, and estimated distances to the nearest 2 dwellings.

**PART 4**  
**RURAL RESIDENTIAL ZONES**

- 4.1 The "RR" Rural Residential Zones established in this By-law are intended to provide for rural residential development within specified areas, as follows:
- (a) The "RR2" Rural Residential 2 Zone provides for clusters of rural residential development on small rural acreage parcels, and the keeping of livestock shall not be permitted on such parcels; and
  - (b) The "RR5" Rural Residential 5 Zone provides for clusters of rural residential development on larger acreage parcels, with provision for the keeping of livestock in some areas on a limited basis.

**General Conformance Requirements**

- 4.2 TABLE 4-1: RURAL RESIDENTIAL ZONES - USE AND BULK TABLE lists all uses that are permitted and conditional in the Rural Residential Zones, along with the minimum bulk requirements.
- 4.3 No land shall be used or occupied and no structure shall be erected, altered, used or occupied hereafter for any use in the Rural Residential Zones other than a use that is listed in TABLE 4-1.
- 4.4 Where land is being subdivided into smaller parcels in the Rural Residential Zones, each parcel shall be in conformance with the minimum site size requirements as specified in TABLE 4-1.
- 4.5 Where a building or structure is being erected, located or enlarged within the Rural Residential Zones, it shall be in conformance with the minimum bulk requirements as specified in TABLE 4-1.
- 4.6 All required yards specified for any use shall be located on the same site as the use, and shall be maintained as open space. Projecting features of buildings and other landscaping features are permitted in required yards, as specified in Section 7.22.
- 4.7 No existing yard shall be reduced below the minimum requirement for the yard, as specified in TABLE 4-1.

**TABLE 4-1 'RR' RURAL RESIDENTIAL ZONES - USE & BULK TABLE**

	ZONE	MINIMUM REQUIREMENTS (a)				
		SITE SIZE		REQUIRED YARDS		
		Site Area (Acres)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
PERMITTED PRINCIPAL USES						
Dwellings, Single-Family	RR2	2(c)	150	60	25	25
	RR5	5(c)	300	60	25	25
CONDITIONAL USES						
Group Day Care Facilities for 9 or more children	RR2	2(c)	150	60	25	25
	RR5	5(c)	300	60	25	25
Mobile Homes or Modular Homes	RR2	2(c)	150	60	25	25
	RR5	5(c)	300	60	25	25
Residential Care Facilities for more than 4 children or more than 2 adults	RR2	2(c)	150	60	25	25
	RR5	5(c)	300	60	25	25
ACCESSORY USES, BUILDINGS AND STRUCTURES	RR2	-	-	60	15(d,e)	15(e)
	RR5	-	-	60	15(d,e,f)	15(e,f)

The following footnotes form part of TABLE 4-1:

- (a) In addition to the minimum requirements of this TABLE, the following requirements shall also apply:
- (i) Maximum allowable height for all principal buildings and structures shall be 30 feet.
  - (ii) Maximum allowable height for all accessory buildings and structures shall be 15 feet, with the exception of private communications antennae and flagpoles, and
  - (iii) Minimum dwelling unit area shall be 900 square feet for a single family dwelling, mobile home or modular home.
- (b) The required yards shall be modified as follows:
- (i) Where a site line is adjacent to a Provincial Trunk Highway or Provincial Road, the provincial highway authority will have jurisdiction of all matters related to setback from the highway, along with construction of access to the property and the planting of trees, and the provisions of this TABLE shall not apply to the required yard along the property boundary adjacent to the highway, and
  - (ii) Buildings and structures shall have a minimum front, side and/or rear yard of 125 feet when the yard is adjacent to a Government Road Allowance under the jurisdiction of the municipality, with the exception of incidental accessory structures such as fences, signs, private wells and sewage disposal systems.

- (c) Notwithstanding the minimum site area requirement as specified in TABLE 4-1, Council may require a larger site area requirement at locations where, in the opinion of Council, adverse terrain conditions or topography present significant problems for development and use of the site.
- (d) Where an accessory building is located to the side of a main building, the required side yard for the main building shall be maintained along the side site line, and shall be the required side yard for the accessory building.
- (e) See Section 7.22(h) for portable buildings less than 100 square feet.
- (f) An accessory building or structure of any size for the housing of livestock shall have a minimum separation distance of 100 feet from any property boundary and 200 feet from any pre-existing dwelling owned by another person. Also, there shall be a minimum separation distance of 50 feet between the dwelling and this type of accessory building or structure on the same zoning site.

### **Accessory Uses, Buildings and Structures as Permitted Uses**

- 4.8 In the case of residential uses on subdivided or surveyed residential parcels, accessory uses, buildings, or structures include but are not limited to the following:
  - (a) Domestic accessory uses, buildings and structures, as defined in Section 10.9;
  - (b) A home based business, subject to the provisions of Section 4.10;
  - (c) Home day care services for up to a maximum of 8 children;
  - (d) Residential Care Facilities for four or fewer children or two or fewer adults who may be physically or mentally impaired, infirm or otherwise disabled; and
  - (e) Within all "RR5" Rural Residential 5 Zones, except those located in Section 32-9-20 WPM and Section 6-10-20 WPM, the keeping of livestock for recreational use by the family residing on the premises, up to a maximum of 1 Animal Unit (as determined by TABLE 3-1) per 2 acres of site area, subject to the following conditions:
    - (i) the keeping of such livestock shall not create any unacceptable nuisance factors, in the opinion of Council;
    - (ii) the livestock shall be maintained in a manner which does not result in overgrazing of the premises, in the opinion of Council; and
    - (iii) livestock confinement facilities and grazing areas shall be maintained in a reasonably sanitary condition, particularly with respect to manure management practices, in the opinion of Council.

Note that the keeping of livestock is not permitted within any "RR2" Rural Residential 2 Zones, nor within those "RR5" Rural Residential 5 Zones located in Section 32-9-20 WPM and Section 6-10-20 WPM.

### **Accessory Uses, Buildings and Structures as Conditional Uses**

- 4.9 The following accessory uses shall be considered as conditional accessory uses, and subject to the provisions of Sections 8.22 to 8.30 of this By-law and the appropriate provisions of The Planning Act:
- (a) Home based businesses with exterior processing or storage operations, subject to the provisions of Section 4.10;
  - (b) Home day care services for more than 8 children; and
  - (c) Residential Care Facilities for more than four children or two adults who may be post mentally ill, mentally impaired, physically handicapped, infirm or otherwise disabled.

### **Home-Based Businesses**

- 4.10 A home-based business is an accessory use which is carried on for financial gain by an occupant of a dwelling, and which shall be incidental or secondary to the principal residential use, subject to the following requirements:
- (a) the business activity shall be conducted either within the dwelling, within an accessory building, or if approved by Council, elsewhere on the same site;
  - (b) the business activity shall be conducted by a person or persons residing in the dwelling, with no more than 1 additional employee on the premises;
  - (c) a maximum of 300 square feet of floor area is devoted to the business activity;
  - (d) one business sign, either freestanding or affixed to the wall of a principal or accessory building, is permitted, no exceeding 32 square feet;
  - (e) the residential character of the property shall be maintained; and
  - (f) the business activity shall not generate undue traffic or congestion, adversely affect existing municipal infrastructure, adversely affect the amenity and convenience of the surrounding area, or create a nuisance.

### **Special regulations governing fences and signs**

- 4.11 The following special regulation shall govern the construction or installation of fences in the "RR2 and "RR5" Rural Residential Zones:



- (a) No solid fence or chain link fence shall be allowed within any required front yard, and no fence shall exceed a height of three (3) feet within any required front yard; and
- (b) No fence shall exceed a height of 6 feet within any required side yard or required rear yard;
- (c) No electric fence or razor wire fence shall be allowed; and
- (d) A maximum of one identification sign up to a maximum size of 16 square feet is allowed per residential parcel, and otherwise, no other signs shall be allowed, except for one sign for a home based business, as provided for in Section 4.10(d).

### **Preservation of Natural Vegetation in the "RR5" RURAL RESIDENTIAL ZONE**

- 4.12 Where areas containing significant treed acreage have been subdivided for rural residential uses in the "RR5" Rural Residential 5 Zone, at least eighty (80) percent of the site shall remain under existing vegetative cover. Up to two (2) acres or twenty (20) percent of the site, whichever is the lesser, may be cleared for development of building sites, access driveways, and private recreation space, unless otherwise approved by Council.
- 4.13 Development permit applications within the "RR5" ZONE shall be accompanied by a separate drawing illustrating areas which are proposed to be cleared and areas which are to remain under existing vegetative cover, along with an indication of the total acreage to be cleared.
- 4.14 Where land is being developed for fence lines or similar features, the existing vegetative ground cover shall remain in an undisturbed condition, and trees and shrubs may be cut off above ground level to a width of twelve (12) feet from the fence line.
- 4.15 Where an excessive amount of existing vegetation has been removed from any particular area, or where significant areas of natural soil (excluding gardens) remain exposed for extended periods of time, Council may obtain expert opinion and take the necessary action to cause the situation to be corrected, and may seek to recover any costs incurred from the owner.

### **Special Provisions for Riparian Areas**

- 4.16 Where a rural residential subdivision is proposed near a water course, the following provisions shall apply:
  - (a) All development activities (include residence siting, onsite wastewater management systems, access roads, trails, etc.) shall be sited as far back from the water course as possible, with effective erosion control measures implemented to minimize sedimentation and runoff from entering the watercourse, both during construction, and after the site has been developed;
  - (b) Mature woody vegetation and shrubbery, not affected by subdivision design, shall remain in place to promote bank stability and to reduce erosion risk; and

- (c) Existing vegetation along the water course should remain in place to filter runoff, promote water quality, protect the aquatic ecosystem, and provide cover habitat for wildlife.

**PART 5**  
**GENERAL DEVELOPMENT ZONE**

- 5.1 The "GD" General Development Zone established in this by-law is intended to provide for community development within the communities of Kemnay and Beresford, in accordance with the provisions of the R.M. of Whitehead Development Plan.
- 5.2 The provisions of this PART shall be specifically applicable to all land within the "GD" General Development Zone.

**General Conformance Requirements**

- 5.3 TABLE 5-1 GENERAL DEVELOPMENT ZONE USE AND BULK TABLE lists all uses that are permitted and conditional in the "GD" General Development Zone, along with the minimum bulk requirements.
- 5.4 No land shall be used or occupied and no structure shall be erected, altered, used or occupied hereafter for any use in the General Development Zone other than a use that is listed as a permitted use or as a conditional use in TABLE 5-1.
- 5.5 Where a use is listed as a conditional use, the proposal shall be subject to the review and approval by Council, as provided for in Sections 8.22 to 8.30 of this By-law and the provisions of the Planning Act, prior to the commencement of construction or establishment of the use.
- 5.6 Where land is being subdivided into smaller parcels, each parcel shall be in conformance with the minimum site size requirements as specified in TABLE 5-1..
- 5.7 Where a building or structure is being erected, located or enlarged, it shall be in conformance with the minimum bulk requirements as specified in TABLE 5-1.
- 5.8 All required yards specified for any use shall be located on the same site as the use, and shall be maintained as open space. Projecting features of buildings and other landscaping features are permitted in required yards, as specified in Section 7.22.
- 5.9 No existing yard shall be reduced below the minimum requirement for the yard, as specified in TABLE 5-1.

**TABLE 5-1 “GD” GENERAL DEVELOPMENT ZONE - USE & BULK TABLE**

	MINIMUM REQUIREMENTS (a)				
	SITE SIZE		REQUIRED YARDS		
	Site Area (acres)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
<b>PERMITTED PRINCIPAL USES</b>					
Clubs, Private or Public	1.0(c)	150(c)	25(d)	15(c)	25
Cultural Facilities, such as auditoriums, community clubs and halls, libraries, museums, theatres, or historic sites	2.0(c)	150(c)	25(d)	15(c)	25
Dwellings, single-family	2.0(c)	150(c)	25(d)	15(c)	25
Parks or Playgrounds	0.1	20	-	-	-
Public Parking Areas	0.25	50	-	-	-
Public Utilities	1.0(c,f)	150(f)	25(f)	15(f)	25(f)
Recreation Facilities	1.0(c)	150(c)	25(d)	15(c)	25
Religious Institutions	1.0(c)	150(c)	25(d)	15(c)	25
<b>CONDITIONAL USES</b>					
Automobile service stations, sales or repair establishments	1.0(c)	150	25	15	25
Bed and Breakfast Establishments, Boarding or Rooming Houses (more than 2 suites)	2.0(c)	150(c)	25	15(c)	25
Building Contractor's Establishments	1.0(c)	150	25	15	25
Convenience Stores	2.0(c)	150(c)	25(d)	15(c)	25
Day Care Facilities (9 children or more)	2.0(c)	150(c)	25(d)	15(c)	25
Dwellings, Mobile Home or Modular Home	2.0(c)	150(c)	25(d)	15(c,e)	10
Dwellings, Two-Family	2.0 (c)	150(c)	25	15(c)	25(i)
Food or Beverage Service Establishments	2.0(c)	150(c)	25(d)	15(c)	25
Manufacturing, Fabricating, Machining, Processing or Repair Establishments	1.0(c)	150	25	15	25
Residential Care Facilities, providing service to more than 4 persons	2.0(c)	150	25	15	25
<b>ACCESSORY USES, BUILDINGS AND STRUCTURES</b>	-	-	(g)	5 (h)(i)	5(h)(i)

The following footnotes form part of this TABLE 5-1:

- (a) In addition to the minimum requirements of this TABLE, the following requirements shall also apply:

- (i) The maximum allowable height for all principal buildings and structures shall be 30 feet, except for grain storage structures, fuel and fertilizer storage tanks, church steeples, and telecommunication towers.
  - (ii) The maximum allowable height for all accessory buildings and structures shall be 12 feet, if accessory to a residence, and 20 feet if accessory to a non-residential use, except for grain storage structures, fuel and fertilizer storage tanks, and private telecommunications towers.
  - (iii) The minimum dwelling unit area shall be 900 square feet for a residential building, and 400 square feet for an accessory residential suite within a commercial building.
- (b) Where a site line is adjacent to a Provincial Trunk Highway or Provincial Road, the provincial highway authority will have jurisdiction of all matters related to setback from the highway, along with construction of access to the property and the planting of trees, and the provisions of this TABLE shall not apply to the required yard along the property boundary adjacent to the highway,
- (c) Where the site is serviced by a municipal sewer system or a private holding tank approved by provincial authorities, the minimum bulk requirements where the floor area of the principal building is less than 2,000 square feet, shall be adjusted as follows:
- Minimum required site area - (municipal sewer system service use) - 9000 square feet, and (holding tank use) - 15,000 square feet.
  - Minimum required site width – (municipal sewer system service use)- 75 feet, and (holding tank use ) – 100 feet.
  - (iii) Minimum required side yard –(municipal sewer system service use) -10 feet, and (holding tank use ) - 15 feet.
- In addition, where Provincial health or environmental authorities determine that the site area is too small, then a larger site area shall be required, as determined by the Provincial authority.
- (d) Where existing buildings on both adjacent sites (or in the case of a corner site, the adjacent site) have an existing front yard which is less than the requirement of this table, then the minimum required front yard shall be the average of the existing front yards of the adjacent sites.
- (e) For mobile home sites, there shall be an open space at least 20 ft. by 50 ft. adjacent to the side of the mobile home containing either the entrance or the main living room window, to be utilized for household exterior recreational use.
- (f) Where the proposed development consists of a building or structure, except a hydro substation, less than 100 square feet in floor area, a smaller site may be approved, provided that the site is not adjacent to a required front yard of a residential site, and provided that a separation distance of 7 feet is maintained from all site lines.
- (g) The minimum required front yard for accessory buildings and structures shall be the same as the minimum required front yard for the principal building on the same site.

- (h) Where an accessory building is used for the storage of a motor vehicle, the wall which contains the vehicular access door shall be set back a minimum distance of 10 feet from a public street to the side or rear of the site.
- (i) Accessory buildings that are attached to the principal building shall have the same size yard requirement as the principal building.

### **Accessory Uses, Buildings and Structures as Permitted Uses**

5.10 In the case of residential uses, permitted accessory uses, buildings, or structures include but are not limited to the following:

- (a) Domestic accessory uses, buildings and structures, as defined in Section 10.9;
- (b) A home based business subject to the provision of Section 5.13;
- (c) Bed and Breakfast Establishments or Boarding Houses with up to 2 revenue suites;
- (d) Home day care services for up to a maximum of 8 children; and
- (e) Residential Care Facilities for four or fewer persons who may be post mentally ill, mentally impaired, physically handicapped, infirm or otherwise disabled.

5.11 For non-residential uses, permitted accessory uses, buildings, or structures include but are not limited to the following:

- (a) Facilities (buildings and structures) for the storage of supplies, product, machinery or equipment associated with a business,
- (b) Facilities for the production, processing, cleaning, servicing, altering, testing, repair or storage of merchandise normally incidental to a business or personal service or mercantile occupancy if conducted by the same ownership as the principal use;
- (c) Structures associated with the operation, maintenance or administration of a cultural, institutional or recreational facility,
- (d) A suite in a commercial or industrial building or mobile home for a watchman or caretaker whose presence on a permitted or approved commercial or industrial site is necessary at all times;
- (e) Dwelling units or suites, when incidental to, and located above and/or to the rear of a permitted or approved commercial use;
- (f) Accessory landscaping features, such as driveways, patios, sidewalks, lighting structures, fences, walls, and signs, subject to the provisions of Section 5.15; and
- (g) Accessory private water supply and sewage disposal systems, and which shall be subject to the approval of appropriate provincial authorities.

## **Accessory Uses Buildings and Structures as Conditional Uses**

- 5.12 The following accessory uses shall be considered as conditional uses, and subject to the provisions of Section 8.22 to 8.30 of this By-law and the appropriate provisions of The Planning Act.
- (a) Home based businesses with exterior processing operations or exterior storage; and
  - (b) Accessory buildings or structures associated with an approved conditional use which provide additional storage, or production capacity or otherwise contribute to an expansion or intensification of the conditional use.

## **Home-Based Businesses**

- 5.13 A home-based business is an accessory use which is carried on for financial gain by an occupant of a dwelling, and which shall be incidental or secondary to the principal residential use, subject to the following requirements:
- (a) the business activity shall be conducted either within the dwelling, within an accessory building ;
  - (b) the business activity shall be conducted by a person or persons residing in the dwelling, with no more than 1 additional employee on the premises;
  - (c) a maximum of 300 square feet of floor area is devoted to the business;
  - (d) one business sign, either freestanding or affixed to the wall of a principal or accessory building, is permitted, not exceeding 32 square feet;
  - (e) the residential character of the property shall be maintained; and
  - (f) the business activity shall not generate undue traffic or congestion, adversely affect existing municipal infrastructure, adversely affect the amenity and convenience of the surrounding area, or create a nuisance.

## **Fences and Signs**

- 5.15 Fences and signs shall be governed by the following provisions, in addition to the general provisions of Section s 7.24 to 7.26:
- (a) No fence or hedge within any required front yard shall exceed a height of 3 feet above grade;
  - (b) No fence or hedge within any required side yard or required rear yard shall exceed a height of 6 feet above grade;

- (c) No electric fence or razor wire is allowed in the "GD" General Development Zone;
- (d) No identification sign for a residential use shall exceed a size of 6 square feet;
- (e) On-site business signs for any business, or signs for any non-residential uses shall not exceed a size of 32 square feet;
- (f) Off site business advertising signs (billboards) shall be subject to the approval of Council with regard to location and size of sign; and
- (g) Temporary signs, such as real estate signs or construction signs shall not exceed a size of thirty-two (32) square feet.

### **Keeping of Livestock**

- 5.16 The keeping of livestock shall not be permitted within the "GD" General Development Zone.



## **PART 6 ALEXANDER ZONES**

- 6.1 The provisions of this PART are intended to create the following separate zones within the community of Alexander to provide for specific types of community development within each zone, in accordance with the provisions of the R.M. of Whitehead Development Plan:
- (a) “RG” Residential (General) Zone - which is primarily intended to provide for single-family dwellings on lots which are serviced by municipal sewer and water systems;
  - (b) “RMH” Residential (Mobile Home) Zone - which is primarily intended to provide for mobile home development within specified areas of the community, which are serviced by municipal sewer and water systems;
  - (c) “CG” Commercial (General) Zone - which is primarily intended to provide for appropriate types of commercial development in the central portion of the community;
  - (d) “CH” Commercial (Highway) Zone - which is primarily intended to provide for appropriate types of commercial development in that portion of the community which is south of and in close proximity to the western exit to the community from the Trans Canada Highway;
  - (e) “MG” Industrial (General) Zone - is primarily intended to provide for various types of industrial development in the eastern portion of the community; and
  - (f) “OS” Open Space Zone - is primarily intended to provide for open space at significant locations within the community, such as along the C.P. Railway.
- 6.2 The provisions of this PART shall be specifically applicable to all land within the community of Alexander, as illustrated on ZONING MAP FIVE.

### **General Conformance Requirements**

- 6.3 TABLE 6-1 ALEXANDER ZONES - USE AND BULK TABLE lists all uses that are permitted uses and conditional uses in the various zones established in Alexander, along with the minimum bulk requirements.
- 6.4 No land shall be used or occupied and no structure shall be erected, altered, used or occupied hereafter for any use in any Zone other than a use that is listed as a permitted use or as a conditional use for that specific zone in TABLE 6-1.
- 6.5 Where a use is listed as a conditional use, the proposal shall be subject to the review and approval by Council, as provided for in Sections 8.22 to 8.30 of this By-law and the provisions of the Planning Act, prior to the commencement of construction or establishment of the use.

**TABLE 6-1  
ALEXANDER ZONES - USE & BULK TABLE**

	MINIMUM REQUIREMENTS (a)				
	SITE SIZE		REQUIRED YARDS		
	Site Area (sq. ft.)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
<b>PERMITTED ACCESSORY USES, BUILDINGS AND STRUCTURES IN ALL ZONES</b>	-	-	(c)	2.5 (d)	2.5 (d)
<b>PERMITTED PRINCIPAL USES in the RESIDENTIAL (GENERAL) ZONE</b>					
Dwellings, single-family (m)	7,500(k)	75(k)	25(e)	5	25
Institutional Buildings, such as schools, personal care homes, senior citizen homes, or public buildings (m)	20,000	200	25(e)	5	25
Parks or Playgrounds	1,000	25	25(e)	5	25
Public Utilities (f)	7,500	75	25(e)	5	25
Recreation Facilities	7,500	75	25(e)	5	25
Religious Institutions	7,500	75	25(e)	5	25
<b>CONDITIONAL USES IN THE RESIDENTIAL (GENERAL) ZONE</b>					
Bed and Breakfast Establishments, Boarding or Rooming Houses (more than 2 suites) (m)	7,500	75	25(e)	5	25
Clubs, Private or Public	7,500	75	25(e)	5	25
Cultural Facilities, such as auditoriums, community clubs and halls, libraries, museums, theatres, or historic sites	10,000	75	25(e)	5	25
Day care Facilities (9 children or more) (m)	7,500	75	25(e)	5	25
Dwellings, Multiple-family (h)(m)	(i)	75	25(e)	5	25
Dwellings, Two-Family (h)(m)	7,500	75	25(e)	5	25
Residential Care Facilities, providing service to more than 4 persons(m)	10,000	75	25(e)	5	25
<b>PERMITTED PRINCIPAL USES IN THE RESIDENTIAL (MOBILE HOME) ZONE</b>					
Dwellings, mobile home or modular home (l)(m)	7,500(k)	75(k)	25	5(g)	25
Parks or Playgrounds	1,000	25	25	5	25

**TABLE 6-1  
ALEXANDER ZONES - USE & BULK TABLE**

	MINIMUM REQUIREMENTS (a)				
	SITE SIZE		REQUIRED YARDS		
	Site Area (sq. ft.)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
Public Utilities (f)	7,500	75	25	5	25
<b>CONDITIONAL USES IN THE (MOBILE HOME) ZONE</b>					
Dwelling, single-family (m)	7,500 (k)	75(k)	25	5(g)	25
<b>PERMITTED USES IN THE COMMERCIAL (CENTRAL) ZONE</b>					
Accommodation Facilities, such as Hotels or Motels	10,000	100	0	0	10
Establishments for the sale of goods or services, provided that all storage is within a fully enclosed building	3,500	27	0	0	10
Establishments for the provision of personal services, such as financial institutions, clinics, salons, day care facilities or funeral homes	3,500	27	0	0	10
Food or Beverage Service Establishments	3,500	27	0	0	10
Office Buildings and Fire Halls	3,500	27	0	0	10
<b>CONDITIONAL USES IN THE COMMERCIAL (CENTRAL) ZONE</b>					
Automobile service stations, sales or repair establishments	12,000	100	25	10	10
Building Contractor's Establishments	10,000	100	25	10	10
Establishments for the storage, handling or processing of agricultural produce	12,000	100	25	10	10(j)
Establishments for the sales, storage, service or distribution of agricultural supplies, equipment or structures	10,000	100	25	10	10(j)
Establishments for the sale of goods or services, where there is exterior storage of products	12,000	100	25	10	10
Manufacturing, Fabricating, Machining, Processing or Repair Establishments	10,000	100	25	10	10

**TABLE 6-1  
ALEXANDER ZONES - USE & BULK TABLE**

	MINIMUM REQUIREMENTS (a)				
	SITE SIZE		REQUIRED YARDS		
	Site Area (sq. ft.)	Site Width (feet)	Front Yard (feet) (b)	Side Yard (feet) (b)	Rear Yard (feet) (b)
<b>PERMITTED USES IN THE COMMERCIAL (HIGHWAY) ZONE</b>					
Automobile Service Stations	20,000	100	25	10	10
Food Service Establishments	20,000	100	25	10	10
<b>CONDITIONAL USES IN THE COMMERCIAL (HIGHWAY) ZONE</b>					
Establishments for the sales, storage, service or distribution of agricultural supplies, equipment or structures	20,000	100	25	15	25
Establishments for the sale of goods or services, where there is exterior storage of products	20,000	100	25	15	25
<b>PERMITTED PRINCIPAL USES IN THE INDUSTRIAL (GENERAL) ZONE</b>					
Automobile service stations, sales or repair establishments	20,000	100	25	15	25
Building Contractor's Establishments	20,000	100	25	15	25
Establishments for the sales, storage, service or distribution of agricultural supplies, equipment or structures	20,000	100	25	15	25(j)
Food or Beverage Service Establishments	20,000	100	25	15	25
Nurseries or Greenhouses	20,000	100	25	15	25
Public Works Compounds or Maintenance Buildings	20,000	100	25	15	25
Veterinary Clinics	20,000	100	25	15	25
<b>CONDITIONAL USES IN THE INDUSTRIAL (GENERAL) ZONE</b>					
Establishments for the storage, handling or processing of agricultural produce	40,000	150	25	15	25
Establishments for the sale of goods or services, where there is exterior storage of products	20,000	100	25	15	25(j)

**TABLE 6-1  
ALEXANDER ZONES - USE & BULK TABLE**

	<b>MINIMUM REQUIREMENTS (a)</b>				
	<b>SITE SIZE</b>		<b>REQUIRED YARDS</b>		
	<b>Site Area (sq. ft.)</b>	<b>Site Width (feet)</b>	<b>Front Yard (feet) (b)</b>	<b>Side Yard (feet) (b)</b>	<b>Rear Yard (feet) (b)</b>
Earth Moving Contractors or Ready-Mix Concrete Suppliers	40,000	150	25	15	25
Fuel Sales and Storage Establishments	20,000	100	25	15	25
Manufacturing, Fabricating, Machining, Processing or Repair Establishments	20,000	100	25	15	25
Storage Buildings, Warehouses or Compounds, non-hazardous materials	20,000	100	25	15	25
Trucking Establishments	20,000	100	25	15	25
<b>PRINCIPAL USES IN THE “OS” OPEN SPACE ZONE</b>					
Parks, parking lots, and similar open space areas shall be permitted uses.	To be determined by Council				
Exterior Storage areas, shall be deemed to be conditional uses.	To be determined by Council				

The following footnotes form part of TABLE 6-1:

- (a) In addition to the minimum requirements of this TABLE, the following requirements shall also apply:
- (i) The maximum allowable height for all principal buildings and structures shall be 30 feet, except for grain storage structures, fuel and fertilizer storage tanks, church steeples, and telecommunication towers;
  - (ii) The maximum allowable height for all accessory buildings and structures shall be 12 feet, if accessory to a residence, and 20 feet if accessory to a non-residential use, except for grain storage structures, fuel and fertilizer storage tanks, and private telecommunications towers; and
  - (iii) The minimum dwelling unit area shall be 900 square feet for a residential building, and 400 square feet for an accessory residential suite within a commercial building.
- (b) Where a site line is adjacent to a Provincial Trunk Highway or Provincial Road, the provincial highway authority will have jurisdiction of all matters related to setback from the highway, along with construction of access to the property and the planting of trees,

and the provisions of this TABLE shall not apply to the required yard along the property boundary adjacent to the highway.

- (c) The minimum required front yard for accessory buildings and structures shall be the same as the minimum required front yard for the principal building on the same site.
- (d) See Section 7.22(h) for portable buildings less than 100 square feet. When an accessory building or structure is located to the side of the principal building, the minimum side yard requirement shall be the same as the side yard requirement for the principal building. Where an accessory building is used for the storage of a motor vehicle, the wall which contains the vehicular access door shall be set back a minimum distance of 10 feet from a public street at the side or rear of the site.
- (e) Where existing dwellings on both adjacent sites (or in the case of a corner site, the adjacent site) in the "RG" Residential (General) Zone have an existing front yard which is less than the requirement of this table, then the minimum required front yard shall be the average of the existing front yards of the adjacent dwellings.
- (f) Where the proposed development consists of a building or structure less than 100 square feet in floor area, a smaller site may be approved, provided that the site is not adjacent to a required front yard of a residential site, and provided that a separation distance of 7 feet is maintained from all site lines.
- (g) For mobile home sites, there shall be an open space at least 20 ft. by 50 ft. adjacent to the side of the mobile home containing either the entrance or the main living room window, to be utilized for household exterior recreational use.
- (h) Where a two-family dwelling or a multiple-family dwelling on serviced land is to be divided in a manner to create a separate zoning site for each dwelling unit, the minimum required site area for each unit shall be 3,500 square feet, the minimum required site width for each unit shall be 35 feet, and the minimum required side yard shall be 5 feet where there is no party wall, and 0 feet where there is a party wall.
- (i) The minimum required site area for the first 3 dwelling units shall be 10,000 square feet and the minimum required site area shall increase by an additional 1,000 square feet for each additional dwelling unit above 3 units.
- (j) For property adjacent to the C.P. Railway in Alexander, where a building or structure is to be serviced by a railway for loading or unloading of materials, then the minimum required rear yard shall be 0 feet.
- (k) The minimum required site area requirement of 7,500 square feet and the minimum required site width of 75 feet shall apply to new lots which are surveyed as an expansion of existing residential areas of Alexander. For existing lots which are being considered for development on an infilling basis, the minimum site area requirement shall be 6,000 square feet and the minimum site width requirement shall be 50 feet.
- (l) Mobile homes and modular homes that are being moved into the community and being placed on residential lots must be no more than five (5) years old and have a floor area of a minimum of one thousand (1000) square feet.

- (m) The base of all dwelling foundations shall be raised by fill above the water table, as required by the Manitoba Building Code. In the case of land subject to periodic flooding section 7.9 to 7.12 inclusive, Part 7 General Provisions, of this By-law will apply, as well. If a basement or crawl space is proposed for the dwelling unit, and Engineering study, prepared by a qualified Engineer, will be required by Council to determine; a) if the proposed building site can support a basement, b) an engineered design for the basement and site drainage for the dwelling, and c) what construction methods and materials must be used. This study must be approved by Council and required to be used in the construction of the dwelling.

#### **General Conformance Requirements (Continued)**

- 6.6 Where land is being subdivided into smaller parcels, each parcel shall be in conformance with the minimum site size requirements for the Zone as specified in TABLE 6-1.
- 6.7 Where a building or structure is being erected, located or enlarged, it shall be in conformance with the minimum bulk requirements as specified in TABLE 6-1.
- 6.8 All required yards specified for any use shall be located on the same site as the use, and shall be maintained as open space. Projecting features of buildings and other landscaping features are permitted in required yards, as specified in Section 7.22.
- 6.9 No existing yard shall be reduced below the minimum requirement for the yard, as specified in TABLE 6-1, unless a variation order is approved by Council.

#### **Accessory Uses, Buildings and Structures as Permitted Uses**

- 6.10 In the case of residential uses, accessory uses, buildings, or structures include but are not limited to the following:
- (a) Domestic accessory uses, buildings and structures, as defined in Section 10.9;
  - (b) A home based business subject to the provision of Section 6.13;
  - (c) Bed and breakfast establishments or boarding facilities with 2 or less revenue suites;
  - (d) Home day care services for up to a maximum of 8 children; and
  - (e) Residential Care Facilities for four or fewer persons who may be post mentally ill, mentally impaired, physically handicapped, infirm or otherwise disabled.
- 6.11 For non-residential uses, accessory uses, buildings, or structures include but are not limited to the following:
- (a) Structures for the storage of supplies, product, machinery or equipment associated with a business;

- (b) Facilities for the production, processing, cleaning, servicing, altering, testing, repair or storage of merchandise normally incidental to a business or personal service or mercantile occupancy if conducted by the same ownership as the principal use;
- (c) Structures associated with the operation, maintenance or administration of a cultural, institutional or recreational facility,
- (d) A suite in a commercial or industrial building or mobile home for a watchman or caretaker whose presence on a permitted or approved commercial or industrial site is necessary at all times;
- (e) Dwelling units, when incidental to, and located above and/or to the rear of a permitted or approved commercial use;
- (f) Accessory landscaping features, such as driveways, parking and loading areas, patios, sidewalks, lighting structures, fences, walls, and signs, subject to the provisions of Section 6.14; and
- (g) Accessory private water supply and individual sewage disposal systems, only where municipal systems are not readily available, and which shall be subject to the approval of appropriate provincial authorities.

### **Accessory Uses Buildings and Structures as Conditional Uses**

6.12 The following accessory uses shall be considered as conditional uses, and subject to the provisions of Sections 8.22 to 8.30 of this By-law and the appropriate provisions of The Planning Act.

- (a) Home based businesses with exterior processing operations or exterior storage;
- (b) Bed and breakfast establishments or boarding facilities with more than 2 revenue suites;
- (c) Day care services for more than 8 children;
- (d) Residential Care Facilities for more than four persons who may be post mentally ill, mentally impaired, physically handicapped, infirm or otherwise disabled; and
- (e) Accessory buildings or structures associated with an approved conditional use which provide additional storage, or production capacity or otherwise contribute to an expansion or intensification of the conditional use.



## **Home-Based Businesses**

- 6.13 A home-based business is an accessory use which is carried on for financial gain by an occupant of a dwelling, and which shall be incidental or secondary to the principal residential use, subject to the following requirements:
- (a) the business activity shall be conducted either within the dwelling, within an accessory building;
  - (b) the business activity shall be conducted by a person or persons residing in the dwelling, with no more than 1 additional employee on the premises;
  - (c) a maximum of 300 square feet of floor area is devoted to the business activity;
  - (d) one business sign, either freestanding or affixed to the wall of a principal or accessory building, is permitted, not exceeding 16 square feet;
  - (e) the residential character of the property shall be maintained; and
  - (f) the business activity shall not generate undue traffic or congestion, adversely affect existing municipal infrastructure, adversely affect the amenity and convenience of the surrounding area, or create a nuisance.

## **Fences and Signs**

- 6.14 Fences and signs shall be governed by the following provisions, in addition to the general provisions of Section 7. 24 to 7.26:
- (a) No fence or hedge within any required front yard shall exceed a height of 3 feet above grade.
  - (b) No fence or hedge within any required side yard or required rear yard shall exceed a height of 6 feet above grade.
  - (c) No electric fence or razor wire fence is allowed in any of the Alexander Zones described in this PART.
  - (d) No identification sign for a residential use shall exceed a size of six (6) square feet, provided that a sign for a home based business may be as large as sixteen (16) square feet.
  - (e) On-site business signs for any business, or signs for any non-residential uses shall not exceed a size of 100 square feet, unless otherwise approved by Council.; and

- (f) Off site business advertising signs (billboards) shall be subject to the approval of Council with regard to location and size of sign.

### **Keeping of Livestock**

- 6.15 The keeping of livestock shall not be permitted within any of the zones described in this PART, unless specifically approved by Council.

## **PART 7 GENERAL PROVISIONS**

- 7.1 The provisions of this PART shall be generally applicable to all Zones in the Rural Municipality of Whitehead.

### **Road Access**

- 7.2 Notwithstanding any other provision of this By-law, no permanent building may be constructed or placed on a site, which does not have legal access to an all-weather public road, unless otherwise approved by Council. Where it may deem appropriate, Council may require an agreement with a property owner with respect to any cost-sharing arrangement that the municipality may require with respect the provision of a suitable all-weather public road.

### **Service Connections**

- 7.3 Where a site is served by municipal piped sewer or water, no permanent principal building shall be constructed or placed unless it is connected to such services.

### **Number of Dwellings per Site**

- 7.4 There shall be a maximum of one dwelling unit per site or parcel of land, except for the following:
- (a) Dwelling units which are required for employees or family members, who in the opinion of Council, will be actively involved in an agricultural operation; and
  - (b) Communal farm dwellings for cultural groups such as traditional religious colonies.

### **Multiple Buildings or Uses per Parcel**

- 7.5 In unique situations where there is more than one non-residential use, building or structure on a parcel of land, each use along with its related buildings and structures, shall be established as though it existed on a separate parcel of land, and the minimum required yards as required by this By-law shall be provided; and for the purposes of building separation, the separation distance shall be the total of the required yards for each building or use.

### **Moving and Removing Buildings**

- 7.6 Where a building or structure is moved or re-located, it shall be in total compliance with all of the provisions of this By-law with respect to the use of the building, the setback from property boundaries (required yards), and any other separation requirement or other general requirement that is provided for in this By-law.

- 7.7 Upon completion of removal or demolition of a building or structure, any excavation shall be filled, the ground shall be levelled and the site shall be put in a safe condition to the satisfaction of the Development Officer. Council may require that the former foundation be removed to provide suitable conditions for the construction of a new building.

### **Development Near Water Bodies**

- 7.8 No permanent building or structure, greater than 100 square feet in floor area and no storage containers for fuels, chemicals or other potential contaminants shall be constructed or located within a horizontal distance of 200 feet from the crest of any natural channel bank or any other permanently flowing water body and 100 feet from the high water mark of a lake, unless an engineering study indicates that this distance may be reduced.

In any case, a 100 foot buffer, from the channel or lake crest, shall remain in natural vegetation, except for 25 percent that may be cleared for access and approved structures.

- 7.9 In the case of land which is subject to flooding:

- (a) No permanent buildings or structures, other than wire fences, shall be allowed where the depth of flooding by a hundred-year flood exceeds 3.3 feet
- (b) Where the depth of flooding is less than 3.3 feet below the hundred-year flood elevation, all permanent buildings and structure other than fences shall be located on land which has been raised by fill to an elevation at least 2 feet above the hundred- year flood elevation.

- 7.10 Where development is proposed on a site which is, in the opinion of the Development Officer, subject to ponding due to snowmelt or heavy rainfall events, the owner must provide additional measures, including sufficient fill around the building, to provide an additional measure of protection from water damage, to the satisfaction of the Development Officer.

- 7.11 No permanent building shall be constructed or placed on land which is subject to subsidence or erosion by water, or is marshy or unstable, or is otherwise unsuitable or hazardous by virtue of its soil or topography, unless it is demonstrated to the satisfaction of the Council that proper measures will be taken to deal with the unsuitability or hazard.

- 7.12 Where Council deems appropriate, an applicant shall submit evidence prepared by a licensed professional engineer to support the application for development in the vicinity of any water body. Such evidence could include evaluation of erosion, bank stability, design of flood prevention works, and evaluation of effects of flood stages and velocities.

### **Altering Land Gradients**

- 7.13 Existing land gradients shall be maintained within a horizontal distance of 4 feet of all property boundaries, unless otherwise approved by Council.

- 7.14 Where major earthworks involving excavations or retaining walls are being proposed, Council may require the owner to submit evidence prepared by a professional engineer to support the application for development.

### **Application & Exemptions for Public Utilities, Railways and Monuments**

- 7.15 This By-law shall be interpreted so as not to interfere with the construction, erection and location of transportation facilities related to any railway or pipeline, or to the transmission or distribution facilities of a public utility, except for public telecommunication towers over 100 feet in height. Office buildings, warehouses, maintenance or storage compounds and public telecommunications towers operated by a public utility or railway shall be subject to the provisions of this By-law.
- 7.16 The installation of electric transmission lines and structures, communications lines, and pipelines are deemed to be in compliance with this By-law if they are carried out, constructed and operated in accordance with federal and provincial law.
- 7.17 Nothing in this by-law shall be so interpreted as to interfere with the establishment or public monuments and cairns, provided that such structures do not create a hazard for nearby roadways or development, in the opinion of Council.
- 7.18 Where another municipality proposes to establish public works or public utilities within the R.M. of Whitehead, the proposal shall be subject to review and approval by the Council of the R.M. of Whitehead.

### **Accessory Uses**

- 7.19 No accessory use shall be established, and no accessory building or structure shall be constructed or erected, prior to the establishment of the use of land, building or structure to which it is accessory, except for an accessory garage or storage building which may be constructed or erected for the purpose of storage of materials and equipment for use during construction of the main building, provided that a development permit as has been issued for the main building.
- 7.20 Where an accessory building or structure contributes significantly to an intensification or expansion of a conditional use, it shall not be constructed or located on the site prior to review and approval by Council, under sections 8.22 to 8.30 of this By-law.
- 7.21 Accessory buildings and structures, except as otherwise regulated in the By-law, shall be subject to the following regulations:
- (a) Where the accessory building is attached to a main building, it shall be subject to, and shall conform to, all regulations of this By-law applicable to the main building; and

- (b) Where an accessory building is located to the side of a main building, the required side yard for the main building shall be maintained along the side site line.

### **Permitted Projections and Features in Required Yards**

7.22 The following features are permitted to be located within required yards in any Zone, unless otherwise provided for in this By-law:

- (a) Open terraces and decks, and exterior stairs and landings, up to 4 feet above grade and not covered by a roof or canopy, may project from a building up to a distance of:
  - (i) 10 feet into any required front yard;
  - (ii) 5 feet into any required side yard, provided that a minimum distance of 2 feet from any property boundary is provided ; and
  - (iii) 10 feet into any required rear yard.
- (b) Eaves, gutters, canopies, awnings, and other similar building elements, may project from a building up to a distance of 2.5 feet into any required yard which is 5 ft. or greater; and where the required yard is less than 5 feet, the maximum projection shall be 50 percent of the required yard;
- (c) Chimneys, alcoves, bay windows and similar features may project from a building up to a distance of 2.5 feet into any required yard, provided that a minimum distance of 2 feet from any property boundary is provided for anything built of combustible materials; and provided that the maximum floor area of such projecting elements along any one wall does not exceed 15 square feet;
- (d) Uncovered sidewalks and patios, driveways and accessory parking spaces and loading spaces;
- (e) Trees, shrubs, trellises, arbours, retaining walls, wheelchair access ramps, flagpoles, lighting fixtures, private antennae, signs, and similar landscaping features;
- (f) Fences, walls and hedges, provided that the height of these features does not exceed 3 feet within any required front or corner side yard, or 6 feet within any interior side yard or rear yard;
- (g) Private water supply and sewage disposal systems, provided that any above ground structure associated with these systems does not exceed a height of 3 feet, and provided that they conform with provincial requirements; and
- (h) Portable buildings not exceeding 100 square feet in floor area for the storage of domestic equipment may be located within any required interior side yard or required rear yard, provided that a separation distance of 1 foot is maintained from the site line or 10 feet from a rear property line that is adjacent to a rear lane.

## **Corner Vision Triangles**

7.23 The following requirement within Alexander, the "GD" General Development Zones and "RR" Rural Residential Zones, is established to provide for a measure of traffic safety: as follows:

- (a) No building, structure, vehicular parking space, shelterbelt, hedge or stockpiling of materials exceeding a height of 3 feet above grade shall be located within a triangular area of any site adjacent to an intersection of two public streets, with the sides of the triangular area being measured a distance of 10 feet along each property boundary from the point of intersection.

## **General Provisions Governing Signs**

7.24 The following signs are permitted without the issuance of any permits:

- (a) "No Trespassing" and "No Hunting" signs not exceeding 3 square feet;
- (b) Temporary signs such as real estate and construction signs, up to a maximum size of 16 square feet, as well as election campaign signs and similar signs;
- (c) Other temporary signs as may be authorized by Council; and
- (d) Signs posted by public authorities, including traffic control signs and directional signs.

7.25 The following signs may be allowed in any Agricultural Zone, subject to the approval of Council:

- (a) Advertising signs (billboards) exceeding a size of 200 square feet; and
- (b) Business signs exceeding a size of 200 square feet.

## **General Requirements for Signs**

7.26 The installation of all signs, whether or not a permit is required, shall be governed by the following general requirements:

- (a) The placing of any sign within the control areas adjacent to a Provincial Road or Provincial Trunk Highway shall require the approval of the appropriate provincial authority;
- (b) No sign or sign structures shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device;

- (c) No sign or sign structure shall be located in such a manner as to impair the view of any street or highway intersection, or a railroad grade crossing;
- (d) No flashing light, rotating beacon or beam shall be used in connection with any sign, nor shall any device resembling traffic control devices be incorporated into any sign;
- (e) No sign shall be erected within or above any public road allowance or other right-of-way under the jurisdiction of the Municipality, with the exception of signs required for public safety, or the direction of traffic; and
- (f) All signs and sign structures shall be kept in good repair and in proper state of preservation. Signs, which have become obsolete because of discontinuance of the business service or activity, and have not been removed or relocated within 30 days following such condition, may be removed by the Municipality at the owner's expense.

### **Temporary Buildings & Uses**

7.27 Temporary buildings, structures and uses of land are permitted on a site under the following circumstances, and subject to the issuance of a development permit:

- (a) Storage buildings related to a construction project;
- (b) Offices or temporary accommodations related to a large scale construction project;
- (c) A trailer or mobile home, related to the construction of a new dwelling on the same site;
- (d) Production equipment for concrete or asphalt, provided that a minimum separation distance of 1,000 feet is provided to the nearest habitable building; and
- (e) Any other temporary purpose as may be specially approved by Council, provided that it does not create any unacceptable traffic problems on nearby roadways, nor any unacceptable nuisances for nearby residents.

7.28 A temporary building or structure shall not exceed 1,000 square feet in area, unless otherwise authorized by Council.

7.29 Each development permit issued for a temporary building, structure or use shall be valid for a maximum period of not more than **1** year, unless otherwise authorized by Council.

### **Unconventional or Land Locked Sites**

7.30 Where a site is of such a unique configuration that the required yards cannot be ascertained in accordance with the definitions of this By-law, the Development Officer



may designate the location of the required yards, provided that the yards so designated are generally consistent with the intent of this By-law.

- 7.31 In unique circumstances, Council may authorize the development of a land locked parcel of land, provided that there is an arrangement satisfactory to Council for the provision of vehicular access and other services to the property.

### **Site Reduced by Road Widening or Public Works**

- 7.32 Where the site area or site width of a parcel of land has been reduced as a result of land acquired for the establishment or widening of a public road or drain, or for any other public work, the land which has been acquired shall be deemed to part of the site for purposes of determining compliance with the minimum site area and site width requirements and required yards for existing buildings as specified by this By-law. However, where new buildings or structures are proposed, the required yards shall be determined by the location of actual site boundaries.

## **PART 8 ADMINISTRATION**

### **Administration and Enforcement**

- 8.1 In the administration and enforcement of this By-law, the municipality shall have all of the powers of inspection, remedy and enforcement provided under Division 3, Part 7 of The Municipal Act and Division 2, Part 12 of The Planning Act.

### **Existing Uses, Buildings and Structures**

- 8.2 An existing use, building or structure which is classified as a permitted use, building or structure in this By-law shall be allowed to continue to exist, and may be enlarged or expanded, may be changed to another permitted use, or may be replaced if destroyed. The enlargement, expansion, change in use, or replacement of an existing use, building or structure shall be subject to the issuance of a development permit, and shall conform to all requirements of this By-law.
- 8.3 An existing use, building or structure which is classified as a conditional use in this By-law, and which existed as a permitted use under a previous zoning by-law, shall be deemed to be an approved conditional use, building or structure and shall be allowed to continue to exist, may be changed to a permitted use, or may be replaced if destroyed, provided that the replacement does not increase the size or intensity of the previously existing use.
- (a) In these circumstances, the change in use or replacement shall be subject to the issuance of a development permit, and shall conform with all requirements of this By-law; and
  - (b) Where an enlargement or expansion of such a use is proposed, it shall require the specific approval of Council, in accordance with Sections 8.22 to 8.30 of this By-law.
- 8.4 An existing use, building or structure which is not classified as a permitted or conditional use, building or structure in this By-law shall be considered as a non-conforming use, building or structure, and shall be allowed to continue to exist, subject to the provisions of The Planning Act governing non-conformities, and the following:
- (a) A non-conforming use may be changed to a permitted use.
  - (b) Additions may be constructed for non-conforming mobile homes in Alexander;
  - (c) Where Council determines that the cost of repairing or rebuilding a non-conforming building or structure which has been substantially damaged is more than 90 percent of the cost of constructing an equivalent new building or structure in any Agricultural Zone, or more than 50 percent of the cost of constructing an equivalent new building or structure in any other Zone, then the

building or structure must not be rebuilt, unless it complies with this By-law and any variation order that might be approved.

### **Permitted Uses, Buildings and Structures**

- 8.5 Where a use, building or structure is provided for as a permitted use by this By-law, the owner shall normally be entitled to establish, expand or enlarge the use, building or structure, subject to the issuance of a development permit as provided for in Sections 8.6 to 8.13 of this By-law, and provided that the use, building or structure complies with all requirements of this By-law and any other by-law of the R.M. of Whitehead. Where a use appears in the Use and Bulk Tables as a permitted use, it shall not be construed to include any use which appears as a conditional use for the same zoning designation.

### **Development Permits**

- 8.6 A development permit is required for any the following:
- (a) the erection, construction, enlargement, structural alteration, placing or relocation of a building, structure or mobile home, other than those described in Section 8.7;
  - (b) the establishment of a use of land or a building or structure, including a board corral structure for a livestock operation;
  - (c) the change of a use of land or a building or structure; and
  - (d) the alteration, enlargement or expansion of an approved permitted or conditional use.
- 8.7 A development permit is not required for the following:
- (a) the erection, construction, enlargement, structural alteration or placing of any accessory agricultural building less than 100 square feet in floor area;
  - (b) the erection, construction, enlargement, structural alteration or placing of the following as accessory structures:
    - (i) fences,
    - (ii) signs, other than those described by Section 7.25,
    - (iii) light poles,
    - (iv) flagpoles,
    - (v) accessory domestic structures, including sheds and buildings for the storage of domestic equipment and supplies, which are less than 100 square feet in floor area,
    - (vi) private communications aerials or antennas,
    - (vii) garden houses or children's playhouses,
    - (viii) water supply wells and private sewage disposal systems,
    - (ix) unenclosed patios, sidewalks, driveways, and other at grade landscaping features;

- (c) the maintenance, replacement or restoration of building components and finishes, provided that the size of the building or structure is not materially increased, or the structural load carrying capacity of any component is not reduced.
- 8.8 Despite not requiring a development permit, all things listed in Section 8.7 shall be subject to the requirements of this By-law.
- 8.9 An application for a development permit shall be made by the owner or owners of the site in question, or by a person authorized in writing by them.
- 8.10 An application for a development permit shall be accompanied by a scaled drawing showing the following:
- (a) the shape and dimensions of the site to be used or built on;
  - (b) the location and dimensions of existing buildings and structures within 50 feet on the same site;
  - (c) the location and dimensions of the proposed building, structure, enlargement or alteration, including separation distances from site boundaries;
  - (d) the use or uses of each existing and proposed building and structure, or of the land, and the area to be occupied by each use;
  - (e) vehicular access and utility connections that may be required to service the building; and
  - (f) the proposed location and type of water supply and wastewater management systems.
- and shall include any other information required by the development officer to determine compliance with, and to provide for administration and enforcement of this By-law.
- 8.11 An application for a development permit shall be accompanied by the fee prescribed by Council.
- 8.12 Despite apparent compliance with this by-law, the development officer may refuse to issue a development permit where the proposed building, structure or use does not, to the development officer's knowledge, comply with the building by-law or with any other law, subject to Sections 9.6 and 9.7.
- 8.13 All construction and development shall be in accordance with the application and drawings submitted to and approved by the development officer, and no work shall vary from the approved application and drawings without the prior written authorization of the development officer.

### **Duties of the Owner**

- 8.14 Every owner shall be required to obtain a development permit prior to the commencement of development, including the commencement of construction or relocation of any building or structure, except as provided in Section 8.7. The issuance of a development permit in respect of a building or structure does not affect the owner's obligation to obtain a building permit or other permit where they are required under the building by-law for such a building or structure, nor does it relieve the owner from the

responsibility of obtaining any other permit or approval that may be required by any other administrative body, including business licences, environmental approvals, highway access and structure approvals and similar approvals.

- 8.15 The owner shall permit the development officer to enter any building or premises at any reasonable time for the purpose of administering or enforcing this By-law as provided in Section 9.1.
- 8.16 The owner shall ensure that all development is completed in accordance with the approved development permit, unless written authorization has been received from the development officer for alterations.
- 8.17 No person shall use or occupy any land, building or structure, or erect, construct, enlarge, alter or place any building or structure, except in accordance with an approved development permit (where required), and with this By-law.

### **Application for Amendments or Changes to this By-law**

- 8.18 An amendment to this By-law may be initiated by the Council of the R.M. of Whitehead, or by an application for an amendment to this By-law submitted to the development officer by the owner or owners of the land proposed to be rezoned, or by a person authorized in writing by them.
- 8.19 An application for amendment shall be accompanied by the fee prescribed by Council, a written description of any development that may be proposed, and a scaled drawing showing the size and location of the property which is affected by the proposed amendment.
- 8.20 The application shall be submitted to council, which shall decide whether or not to start the procedures for enactment of an amendment, and which shall include a referral to the Province of Manitoba for review and comment, in accordance with the provisions of The Planning Act.
- 8.21 An amendment to this By-law shall be in general conformance with the Rural Municipality of Whitehead Development Plan, and shall be processed in the manner prescribed by The Planning Act.

### **Applications for Variations & Conditional Uses**

- 8.22 The classification of uses as conditional uses is intended to provide for a special process of review and approval for certain types of development which, due to their inherent characteristics, may have potential adverse impacts on nearby properties or resources. Where a use, building or structure is provided for as a conditional use by this By-law, the establishment, enlargement or expansion of the use, building or structure shall be subject to Sections 8.23 to 8.30 of this By-law and the appropriate provisions of The Planning Act.
- 8.23 An application for a variation or approval of a conditional use shall be submitted to the development officer by the owner or owners of the site, or by a person authorized in writing by them.

- 8.24 An application for a variation or approval of a conditional use shall be accompanied by the following:
- (a) the plans and information described in Section 8.10;
  - (b) the fee prescribed by Council; and
  - (c) in the case of a livestock production operation, by the information described in Section 3.31.
- 8.25 Where an application for a variation or conditional use has been submitted, it shall be processed in accordance with the requirements of The Planning Act, and a public hearing shall be held by the Council, to receive public representations with respect to the proposal.
- 8.26 On receipt of an application for a variation or approval of a conditional use in proper form, the municipality may, prior to the hearing date prescribed under The Planning Act, refer the application to any other government department or authority for its review and comment.
- 8.27 Council shall either approve or deny the variation or conditional use, and may establish conditions of approval appropriate to the circumstances, including a requirement for a development agreement, in accordance with the provisions of The Planning Act.
- 8.28 Council may subsequently revoke any approved conditional use as a consequence of any violation of conditions specified at the time of approval.
- 8.29 Any substantial change to a conditional use, particularly an expansion or an intensification of the use, shall be subject to the same approval process as if the use were being established for the first time.
- 8.30 The validity of a conditional use or a variation order shall expire and cease to have any effect if it is not substantially acted upon within 12 months of the date of approval by Council, unless it is renewed prior to the expiry date at the discretion of Council for one additional 12 month period.

### **Development Officer**

- 8.31 The development officer shall be the person appointed as such by the Council of the R.M. of Whitehead, and shall be a designated officer for the purposes of The Municipal Act and Planning Act.
- 8.32 The development officer, on behalf of the municipality, shall issue development permits and otherwise administer and enforce the provisions of this By-law, the Rural Municipality of Whitehead Development Plan, and The Planning Act, where applicable.
- 8.33 The development officer shall exercise the powers of remedy and enforcement set out in Division 3, Part 7 of The Municipal Act, Division 2, Part 12 of The Planning Act and PART 9 of this By-law.
- 8.34 The development officer may revoke a development permit:

- (a) where any information accompanying the development application is incorrect or incomplete and an existing or proposed building, structure or use is thereafter found to be in contravention of this By-law, the building by-law, or any other law; or
- (b) where the development permit was issued in error.

8.35 The development officer is authorized to grant or refuse, in his or her discretion, a minor variation not to exceed 10 percent of any height, separation or setback distance (including minimum required yards), or area requirement specified in this By-law.

### **Fee Schedule**

8.36 The Council of the R.M. of Whitehead shall establish a schedule of fees for various procedures related to the administration of this By-law.

### **Repeal of Zoning By-law No. 1832**

8.37 The R.M of Whitehead Zoning By-law No. 1832, and all amendments thereto, are hereby repealed.

### **Previous Violations**

8.38 Any existing building, structure or use which was illegal under the provisions of any zoning by-law in force immediately prior to the enactment of this By-law, shall not become or be made legal solely by reason of the adoption of this By-law; and to the extent that the said illegal building, structure, or use is in conflict with the requirements of this By-law, the said building, structure or use remains illegal hereunder.

## **PART 9 ENFORCEMENT**

### **Entry for Inspection and Other Purposes**

- 9.1 The development officer may, after giving reasonable notice to the owner or occupier of land or a building or other structure to be entered:
- (a) enter the land, building or structure at any reasonable time for the purpose of inspection, enforcement and/or action authorized by this By-law or The Planning Act;
  - (b) request that anything be produced to assist in inspection, remedy, enforcement or authorized action; and
  - (c) make copies of anything related to the inspection, remedy, enforcement or authorized action.
- 9.2 The development officer must display or produce on request identification showing his or her official capacity.
- 9.3 In an emergency or in extraordinary circumstances, the development officer need not give reasonable notice or enter at a reasonable time and may do the things referred to in 9.1(a) and (c) without the consent of the owner or occupant.

### **Order to Remedy Contravention**

- 9.4 If the development officer finds that a person is contravening this By-law or The Planning Act, the development officer may by written order require the person responsible for the contravention to remedy it if, in the opinion of the development officer, the circumstances so require.
- 9.5 The order may:
- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
  - (b) direct a person to take any action necessary to remedy the contravention, including the removal or demolition of a building or structure or portion thereof that has been constructed, erected or placed in contravention and, if necessary to prevent a reoccurrence of the contravention;
  - (c) state a time within which the person must comply with the directions; and
  - (d) state that if the person does not comply with the directions within the time stated, the municipality will take the action or measure at the expense of the person.

### **Review by Council**

- 9.6 A person who receives an order under Section 9.4 or who is refused a permit under Section 8.12 may request the Council to review the matter, by written notice given within 14 days after the date the order under Section 9.4 or decision under Section 8.12 is made.



- 9.7 After giving the person a reasonable opportunity to be heard, the Council may confirm, vary, substitute or cancel the order or decision.

## **PART 10      INTERPRETIVE INFORMATION**

### **Interpretation of Zoning Maps**

- 10.1 The location and the boundaries of the zones established by this By-Law are shown upon a series of Zoning Maps attached hereto, marked as APPENDIX "A" and which forms part of this By-law. All notations, references and other information shown thereon, together with any amendments made by amending By-laws from time to time and shown thereon, together with any amendments to boundaries in the case of any street, lane or public utility right-of-way closing, shall be as much a part of this By-law as if the matters and information set forth by the said Zoning Maps were fully described herein.
- 10.2 The scale and all dimensions of the Zoning Maps are in feet and/or miles.
- 10.3 All plan references on the Zoning Maps pertain to registered plans filed in the Brandon Land Titles Office.
- 10.4 The abbreviations noted on the Zoning Map mean the following:
- (a) "Blk." means Block;
  - (b) "Gov't. Rd. All'ce." means Government Road Allowance;
  - (c) "Pcl." means Parcel;
  - (d) "Pt." means Part;
  - (e) "Rge." means Range;
  - (f) "R.M. of Whitehead" means the Rural Municipality of Whitehead;
  - (g) "Sec." means Section;
  - (h) "Twp." means Township;
  - (i) "W.P.M." or "W" means West of the Principal Meridian;
  - (j) "P.R." means Provincial Road; and
  - (k) "P.T.H." means Provincial Trunk Highway.

### **Interpreting Zoning Boundaries**

- 10.5 In the interpretation of the boundaries of the zones as shown on the Zoning Maps, the following rules shall apply:
- (a) Heavy solid lines represent zoning district boundaries;
  - (b) Boundaries indicated as following the centrelines of rivers, roadways or railways shall be construed to follow such centrelines;
  - (c) Boundaries indicated as following quarter section lines, or following lot, site or property holding lines on a registered plan shall be construed as following such quarter section lines and lot, site and property holding lines; and
  - (d) Boundaries indicated as following the Rural Municipality limits shall be construed as following the Rural Municipality limits.

- 10.6 **Boundaries of “AR” Agricultural (Restricted) Zones** - Boundaries of areas which are zoned as “AR” Agricultural (Restricted) Zones are established at a distance of 1,760 feet from the boundaries of areas which are zoned as community boundaries or as boundaries of rural residential areas. Where the zoning boundary appears as a curved line, the curve is established by a radius of 1,760 ft. from a corner of the zoned residential or community area. The primary intention of these specific zoning boundaries is to control the location of livestock operations and related facilities, and they are not intended to be used as a basis for establishing property boundaries.

### **Application of Zoning to Public Rights-of-Way**

- 10.7 Notwithstanding that streets, lanes and public utility rights-of-way may be within zoning district boundaries, the regulations contained in this By-law shall not be deemed to be applicable to said streets, lanes and public utility rights-of-way. If a street, lane or government road allowance is lawfully closed, then the land formerly comprising the street, lane or government road allowance shall be included within the zone of the land, which surrounds it. If the said street lane or government road allowance was a zone boundary between two or more different zones, then the new zone boundary shall be the former centreline of the closed street, lane or government road allowance.

### **Definitions**

- 10.8 Terms not defined in this by-law which are defined in The Planning Act, have the meaning provided in that Act.
- 10.9 Where the following terms appear in this By-law they have the meaning provided as follows:

**accessory** - where used to describe a use, building or structure, means that the use, building or structure is naturally and normally incidental, subordinate in purpose or area, or both, and exclusively devoted to the use, building or structure to which it is accessory, but a use shown as a conditional use in the Use and Bulk Tables cannot be accessory to a use shown as a permitted use for the same zoning designation.

**accessory buildings and structures, domestic** - includes, but is not limited to, a variety of structures and features, including garages for storage of personal vehicles, carports, sheds and similar storage buildings, private swimming pools, play structures and other family recreational facilities, household telecommunications antennae, private wells and septic systems, and landscaping features such as fences, walls, driveways, sidewalks, patios, decks, trellises, gazeboes, trees, shrubs, gardens, flagpoles, lighting features and signs.

**advertising sign** - means a sign directing attention to a business, commodity, service, entertainment or other matter, not conducted, sold, offered or carried out on the same site (or on an adjacent site under the same ownership) where the sign is maintained.

**agricultural activities, general** - means a use of land for agricultural purposes, including farming, pasture, agriculture, apiculture, floriculture, and horticulture, and the

necessary accessory uses for packing, storing or treating the produce, but does not include the following:

- (a) livestock operations deemed to be conditional uses by the provisions of PART 3 of this By-law;
- (b) storage, handling or processing of agricultural products for the general public in return for remuneration, or
- (c) sales or servicing of agricultural equipment in return for remuneration.

**agricultural activities, specialized** -means agricultural activities such as apiculture, floriculture, horticulture, nurseries, market gardening, and activities of a like nature which do not require large acreages of land, and which provide a major component of household income.

**aircraft landing area** - means an area for the landing and departure of aircraft, and includes all open spaces, taxi-ways, buildings and structures used in connection with the landing or take-off of aircraft.

**animal unit** - means an animal unit as defined in Manitoba Regulation 42/98 being the Livestock manure and Mortalities Management Regulation, and which is used as a means of measuring the size of various livestock production operations..

**barn** - means a building used for the sheltering and confinement of livestock

**building** - for the purposes of this By-law, means any structure containing a partially or fully enclosed space which is intended to be used for sheltering or supporting any use or occupancy, and is deemed to include a mobile home or modular home.

**building, height of** - means the vertical distance measured from grade to the highest point of the roof surface of a flat roof, to the deck of a mansard roof, and to the average height level between eaves and ridge for a gable, hip or gambrel roof.

**bulk** - means the size of buildings or structures (based on floor area and height), the site area and site width upon which a use, building or structure is located, the location of exterior walls of a building in relation to site lines, and all open spaces required along site lines.

**dwelling, farm** - means a dwelling which is the principal residence of the owner or operator of a permitted or conditional agricultural activity, and which is located on the same site as the agricultural activity.

**dwelling, communal farm** - means a residence in connection with a farm operation carried out on the same or an adjacent site by a religious colony or other association by or on behalf of the occupants of the residence, and includes all associated cooking, eating, living, sleeping and sanitary facilities.

**dwelling unit** - means one or more rooms used or intended to be used as a single housekeeping unit with cooking, sleeping and sanitary facilities.

**dwelling, multiple-family** - means a building containing three or more dwelling units, with each unit designed for and used by one family, with each family having exclusive occupancy of a dwelling unit.

**dwelling, single-family** - means a detached building designed for and used by only one family.

**dwelling, two-family** - means a detached or semi-detached building designed for and used by 2 families, with each family having exclusive occupancy of a dwelling unit.

**family** - means a natural family of persons related by blood, adoption, marriage or common-law marriage, or a group of no more than five unrelated persons living together as a single housekeeping unit.

**farm building** - means any building or structure used primarily for agricultural activities undertaken by the same owner or operator of the land upon which it is located, but does not include a dwelling.

**feedlot** - means a fenced area where livestock are confined solely for the purpose of growing or finishing, and are sustained by means other than grazing.

**grazing or pasture area** - means an area of land where the vegetation is harvested directly by livestock, either through managed or unmanaged grazing practices.

**high density feeding area** - means a fenced non-grazing area where livestock are kept and fed on a seasonal basis and where manure build-up occurs to the point where it is in excess of crop nutrient requirements, and mechanical removal is required to retain soil nutrient levels within acceptable parameters.

**hundred-year flood** - means a flood that can be expected to occur, on average, once in 100 years, or specifically a flood that has a one percent chance of being equalled or exceeded in any year.

**kennel** - means premises upon which more than 5 dogs or 10 cats, not including animals less than 4 months of age, are boarded, bred, trained or cared for in return for remuneration or are kept for the purpose of sale.

**livestock** - means cattle, swine, horses, sheep, poultry, rabbits and other animals or poultry which are not kept exclusively as pets living within a dwelling.

**livestock operation** – means an agricultural operation where livestock are produced and/or raised as a business enterprise, and includes a permanent or semi-permanent facility or non-grazing area where at least 10 animal units are kept or raised either indoors or outdoors, and includes all associated manure collection facilities. Livestock production operations do not include auction facilities, veterinary clinics, abattoirs, public agricultural exhibition grounds, and similar uses where livestock are confined on a short term basis.

**mobile home** - means a portable dwelling unit which is designed or used for residential occupancy, built upon or having a frame or chassis to which wheels may be

attached by which it may be moved upon a highway, whether or not such structure actually has at any time such wheels attached, or is jacked up or skirted and which conforms to the Buildings and Mobile Homes Act.

**modular home** - means a portable prefabricated dwelling unit similar to but distinct from a mobile home, in that it does not have a chassis designed to accommodate wheels, and which may be folded, collapsed or telescoped when in tow.

**public utility** - means a system furnishing water, sewage collection, electricity, telecommunication services, gas or similar services to properties by means of pipes, lines and other equipment located on or under public roads and other rights-of-way.

**residential care facility** - means a building in which residential accommodation, plus supervision, care or treatment, is provided to persons who may be post mentally ill, mentally impaired or otherwise developmentally delayed, by a person or persons employed for that purpose.

**site** - means an area of land which:

- (a) is occupied or intended to be occupied by a principal use or by a use of a building or group of buildings, together with accessory buildings and structures as are provided for herein, along with required yards;
- (b) has frontage on a street which has a minimum right-of-way width of 50 feet, or has any lawful means of access satisfactory to Council, or as otherwise provided for herein; and
- (c) is of sufficient size to provide for the minimum requirements of this By-law for a permitted or conditional use in a zone where the use is located.

**site area** - means the computed area contained within the site lines.

**site, corner** - means a site situated at the intersection of 2 streets.

**site depth** - means the horizontal distance between the centre points in the front and rear site lines.

**site, interior** - means a site other than a corner site.

**site lines -**

**front site line -** means:

- (a) the boundary of a site along a street or highway;
- (b) for a corner site, the narrowest frontage, or the continuation of the front site line of the abutting interior site.

**rear site line -** means:

- (a) that boundary of a site, which is most nearly parallel to the front site line;
- (b) where the side site lines intersect, a line 10 feet in length within the site, parallel to and at the maximum distance from the front site line.

**side site line -** means any boundary of a site, which is not a front or rear site line.

Where it is not possible to determine site lines according to these definitions, the development officer shall determine them.

**site width -** means the horizontal distance between the side site lines, measured at right angles to the site depth at a point midway between the front and rear site lines, or at a setback from the front site line, whichever is less. In communities, the setback for measurement of site width shall be 40 feet, and in rural areas the setback for measurement of site width shall be 100 feet. In the case of non-rectangular parcels in the Agricultural Zones, the site width shall be measured at the existing or proposed location of the principal building.

**street -** means, for the purposes of this By-law, a public thoroughfare over 50 feet in width, the title of which is vested in Her Majesty the Queen in right of the Province of Manitoba, and which provides the principal means of access to abutting property.

**structure -** means a thing constructed or erected with a fixed location on or below the ground or attached to something with such a fixed location, and includes but is not limited to buildings, walls, fences, signs, billboards, light standards and antennas.

**surface watercourse -** means the channel in or bed on which surface water flows or stands, whether continuously or intermittently, but does not include a dugout reservoir, intermittent slough, drainage ditch or intermittent stream that is completely surrounded by private land controlled by the owner or operator of an agricultural operation and that has no outflow going beyond the private land.

**use -** means any purpose for which a building, structure or site may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building, structure or on a site.

**yard, required -** means an open area on the same site with a building or structure, within which no building or any part of a building or structure may be located, except as provided in this By-law. A required yard extends along a site line to a depth or width (measured from the site line) specified in the yard requirement for the zone, in which such site is located.

**Yard, required, front** - means a yard extending along the full length of the front site line between the side site lines.

**Yard, required, rear** - means a yard extending along the full length of the rear site line between the side site lines.

**Yard, required, side** - means a yard extending along the side site line from the required front yard to the required rear yard.

THIS BY-LAW is hereby adopted and shall come into force on, from, and after the date on which it receives third reading by the Council.

DONE AND PASSED in Council duly assembled at the Rural Municipality of Whitehead, in Alexander Manitoba this 15<sup>th</sup> of JUNE, 2010 A.D.

  
Reeve

  
Chief Administrative Officer

Received First Reading this 8th day of February, 2010

Received Second Reading this 10th day of May 2010

Received Third Reading this 15<sup>th</sup> day of JUNE 2010

CERTIFIED A TRUE COPY OF BY-LAW No. 2123 OF  
THE MUNICIPALITY.

  
JOHN B. MILLER  
R. M. OF WHITEHEAD



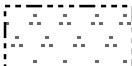


# Rural Municipality of Whitehead

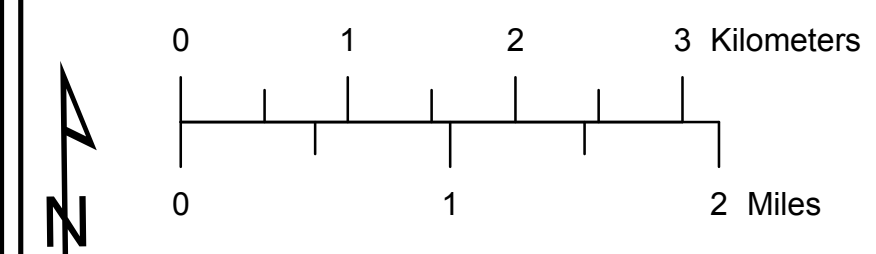
## ZONING MAP ONE

Forming part of  
**APPENDIX A of**  
**By-law No. 2123**

### Legend

-  Agricultural (Conservation) Overlay Zone
- AG** Agricultural (General) Zone
- AL** Agricultural (Limited) Zone
- AR** Agricultural (Restricted) Zone
- GD** General Development Zone
- RR2** Rural Residential 2 Zone
- RR5** Rural Residential 5 Zone

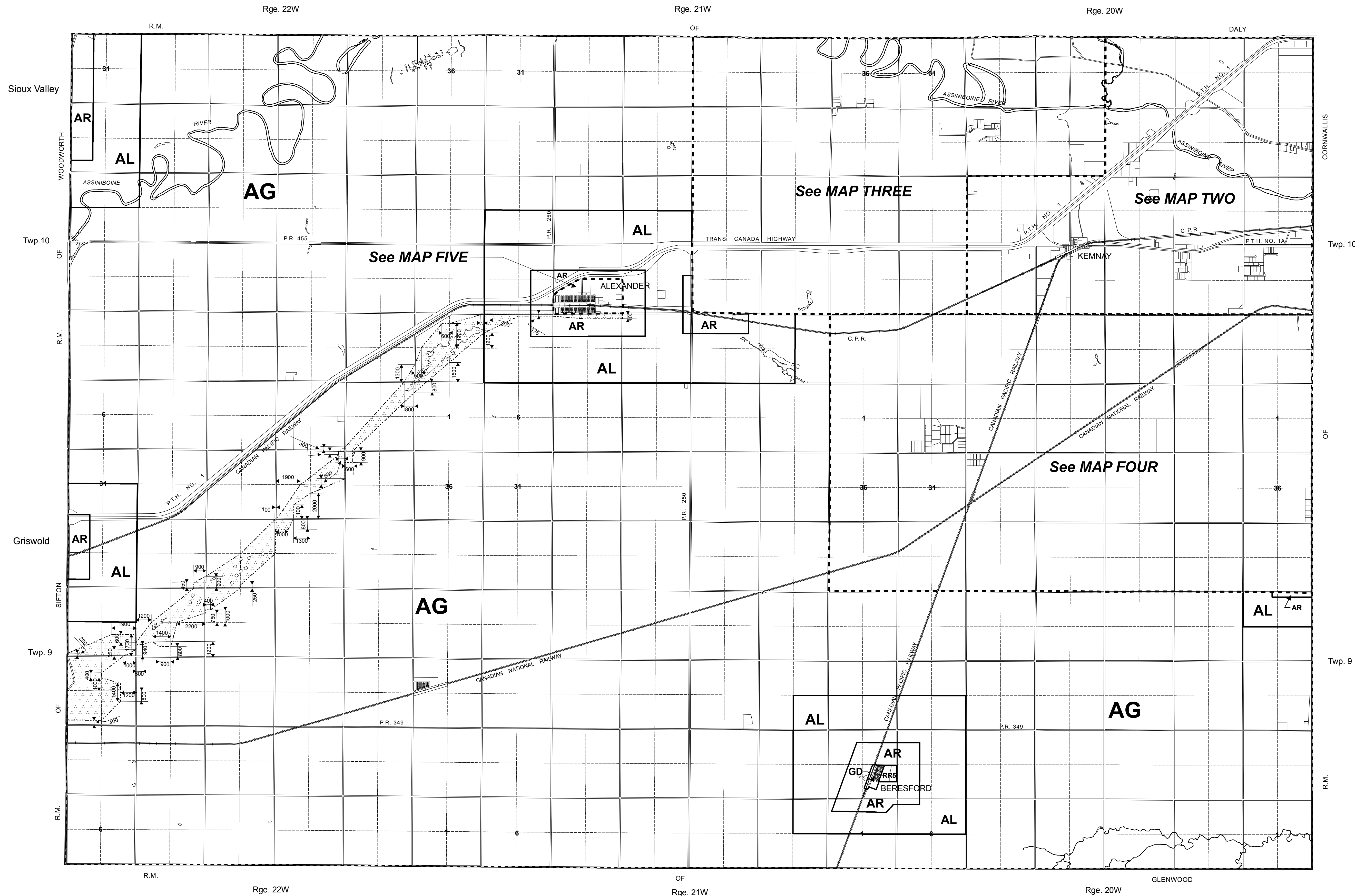
Note: Refer to Section 10.5 and 10.6  
for Interpretation of Zone Boundaries

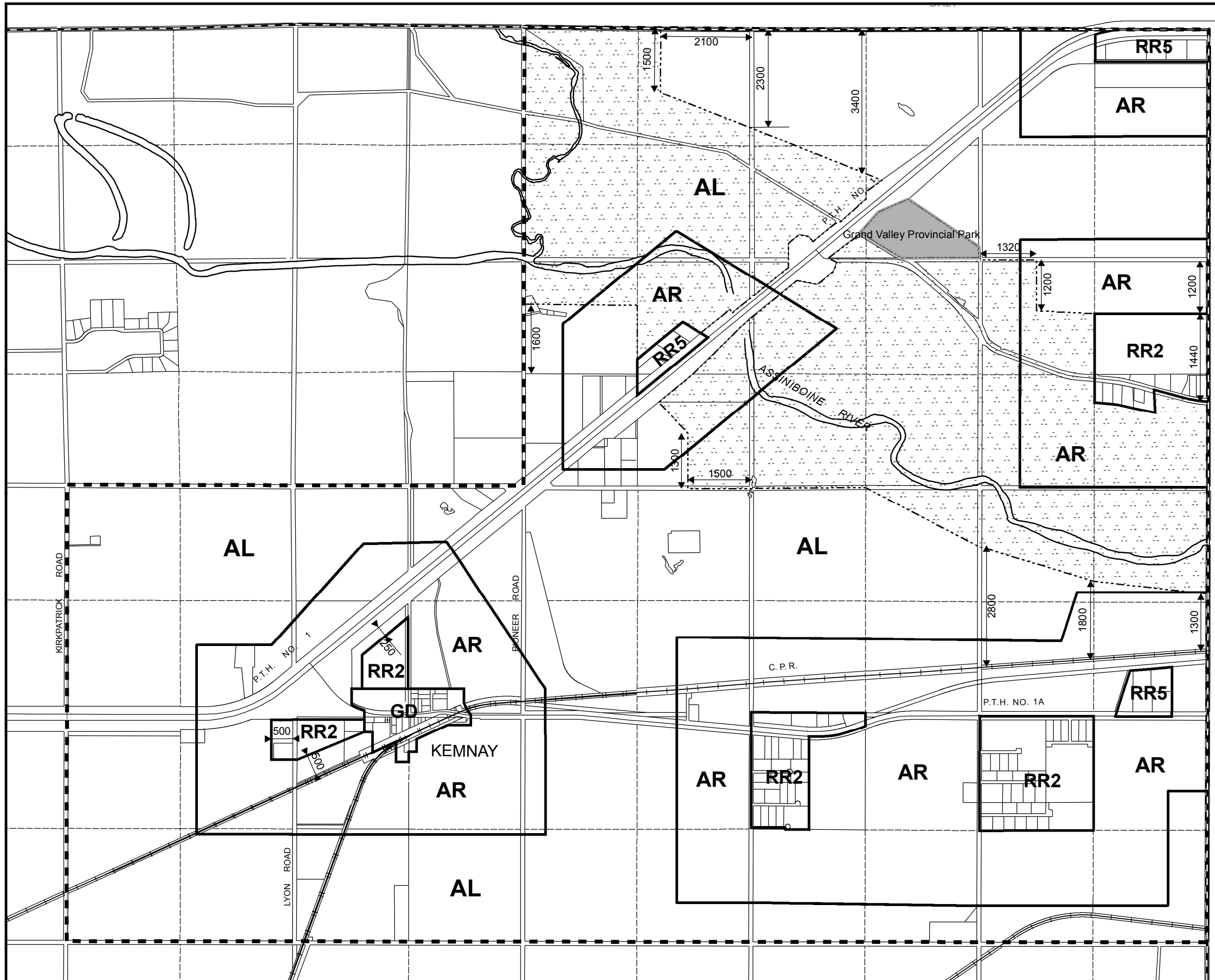


**Source:**  
Manitoba  
Intergovernmental Affairs and Trade  
Community Planning Services  
Data current as of March 15, 2006  
UTM Projection, NAD 83 Zone 14 N



Author: Celeste Lowe  
GIS Technician, MARCD  
July 4, 2006





# Rural Municipality of Whitehead

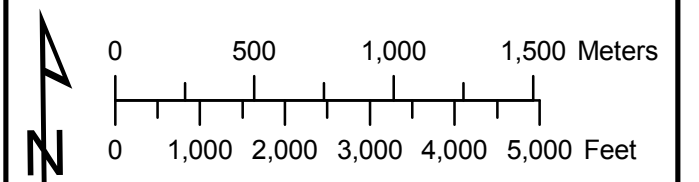
## ZONING MAP TWO

Forming part of  
**APPENDIX A of**  
By-law No. 2123

### Legend

- Agricultural (Conservation) Overlay Zone
- Agricultural Limited Zone
- Agricultural Restricted Zone
- General Development Zone
- Rural Residential 2 Zone
- Rural Residential 5 Zone
- Limits of Zones within MAP TWO

Note: Refer to Section 10.5 and 10.6  
for Interpretation of Zone Boundaries

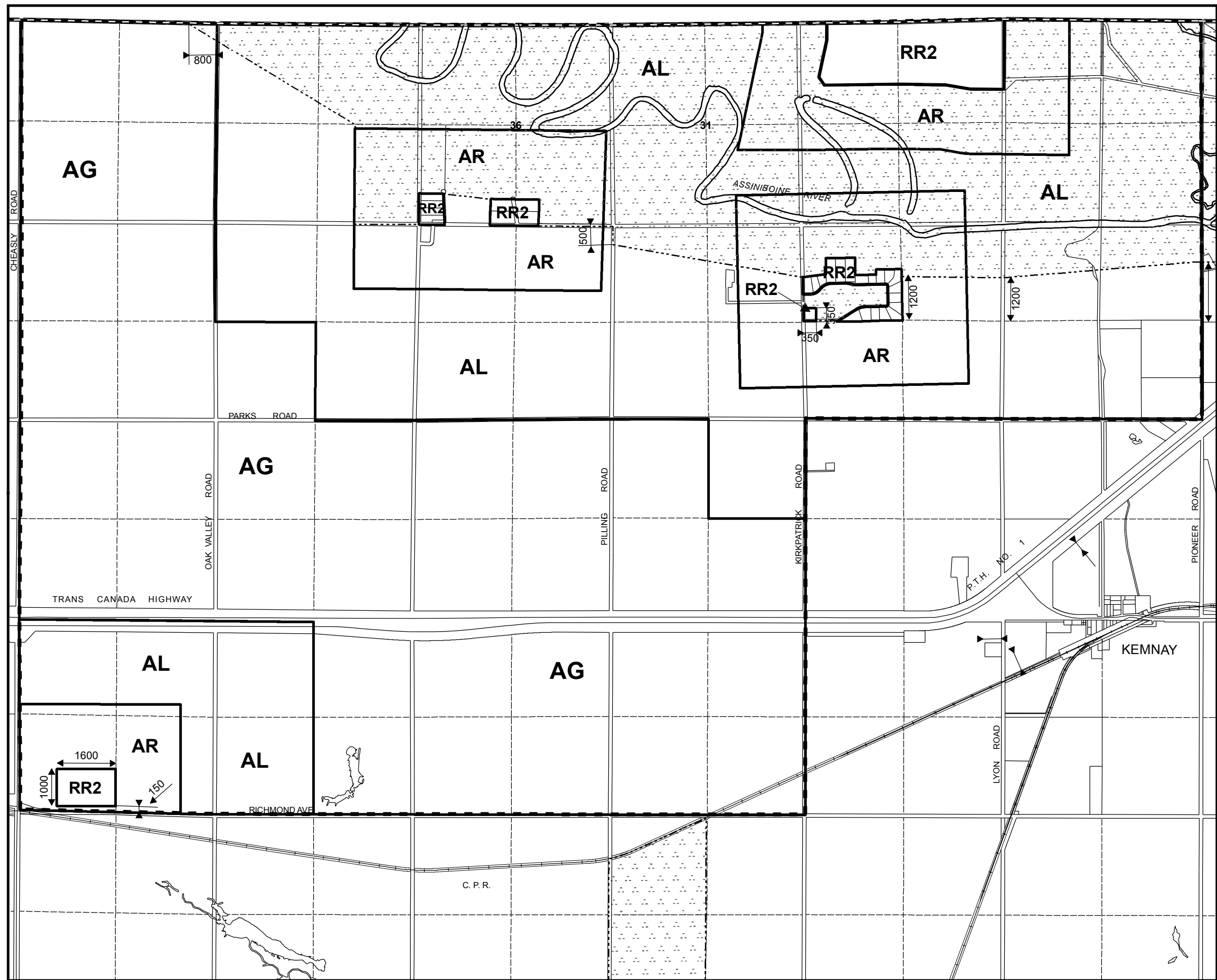


Source: Manitoba  
Intergovernmental Affairs and Trade  
Community Planning Services  
Data current as of March 15, 2006  
UTM Projection, NAD 83 Zone 14N



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July 4, 2006





Rural  
Municipality  
of Whitehead

ZONING MAP THREE

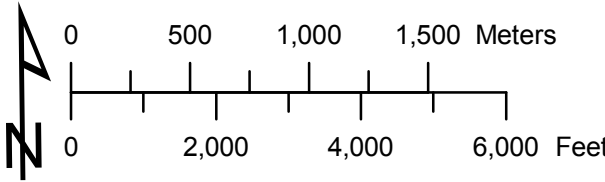
Forming part of  
**APPENDIX A** of  
By-law No. 2123

Legend

Whitehead zoning text\_map3

- Agricultural (Conservation) Overlay Zone
- AG** Agricultural (General) Zone
- AL** Agricultural (Limited) Zone
- AR** Agricultural (Restricted) Zone
- RR2** Rural Residential 2 Zone
- Limits of Zones within MAP THREE

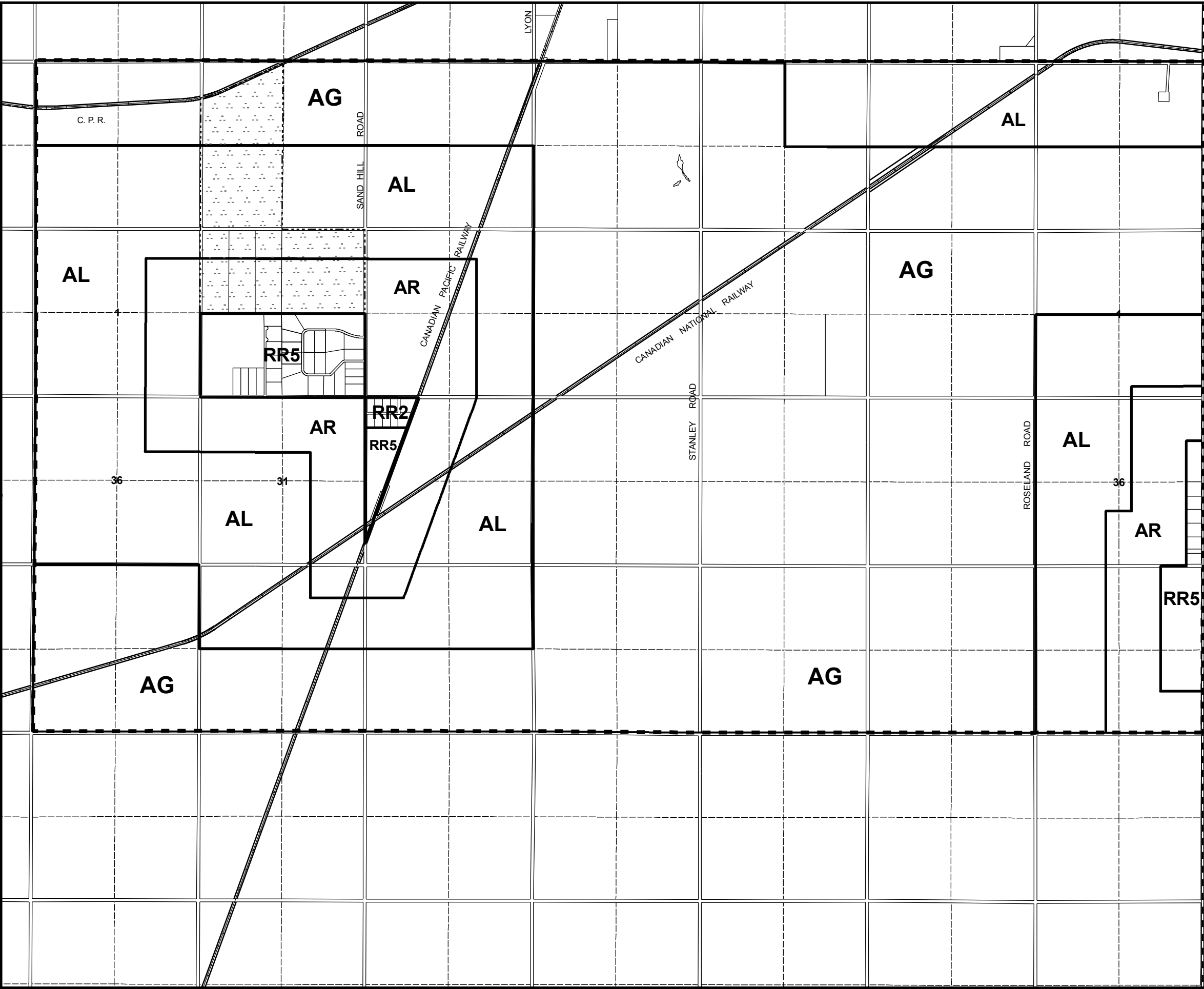
Note: Refer to Sections 10.5 and 10.6  
for Interpretation of Zone Boundaries



Source: Manitoba  
Intergovernmental Affairs and Trade  
Community Planning Services  
Data current as of March 15, 2006  
UTM Projection, NAD 83 Zone 14N



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Rural Municipality of Whitehead

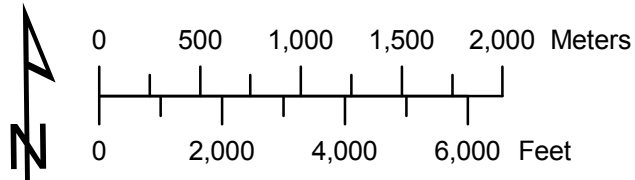
ZONING MAP FOUR

Forming part of  
APPENDIX A of  
By-law No. 2123

Legend

- Agricultural (Conservation) Overlay Zone
- Agricultural (General) Zone
- Agricultural (Limited) Zone
- Agricultural (Restricted) Zone
- Rural Residential 2 Zone
- Rural Residential 5 Zone
- Limits of Zones within MAP FOUR

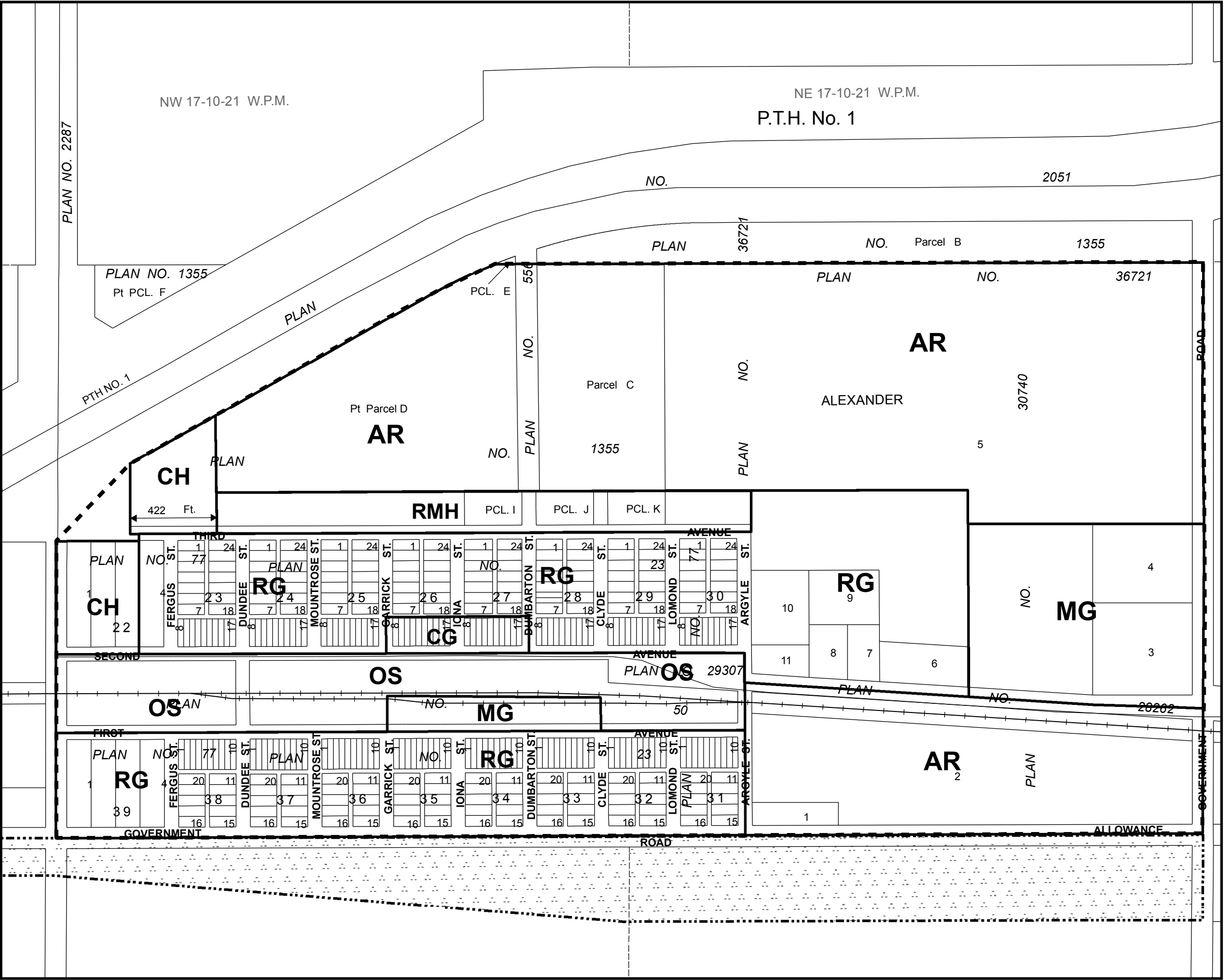
Note: Refer to Sections 10.5 and 10.6  
for Interpretation of Zone Boundaries



Source: Manitoba  
Intergovernmental Affairs and Trade  
Community Planning Services  
Data current as of March 15, 2006  
UTM Projection, NAD 83 Zone 14N



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July 4, 2006



Rural Municipality of Whitehead

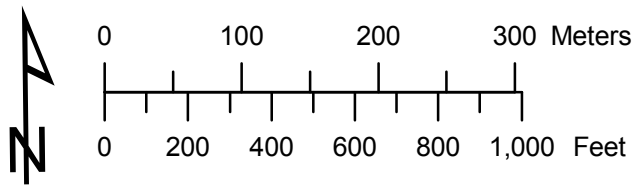
ZONING MAP FIVE

Forming part of APPENDIX A of By-law No. 2123

ALEXANDER

Legend

- Agricultural (Conservation) Overlay Zone
- Agricultural (Restricted) Zone
- Commercial (General) Zone
- Commercial (Highway) Zone
- Industrial (General) Zone
- Residential (General) Zone
- Residential (Mobile Home) Zone
- Open Space Zone
- Limits of zones within MAP FIVE



Source: Manitoba Intergovernmental Affairs and Trade Community Planning Services Data current as of March 15, 2006 UTM Projection, NAD 83 Zone 14N



Author: Celeste Lowe GIS Technician, MARCD July 4, 2006