



## THE RURAL MUNICIPALITY OF MACDONALD

### BY-LAW NO. 8/20

BEING A BY-LAW of the Rural Municipality of Macdonald for the prevention and the control of open-air fires within the Municipality.

WHEREAS Section 232 (1) of *The Municipal Act* provides that a Council may pass by-laws for municipal purposes respecting the following matters:

- a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (c) subject to section 233, activities or things in or on private property;
- (i) preventing and fighting fires;
- (o) the enforcement of by-laws.

AND WHEREAS the Council of the Rural Municipality of Macdonald deems it advisable and in the best interest of the residents of the Municipality to pass a By-Law for the purpose of the prevention and the control of open-air fires within the Municipality;

NOW THEREFORE, the Council of The Rural Municipality of Macdonald, in Council duly assembled, enacts as follows:

#### TITLE

1. This By-law may be referred to as the Burning By-Law.

#### DEFINITIONS

2. In this By-Law:
  - a) **“approved receptacle”** means a fire pit, outdoor barbeque, outdoor fireplace, or outdoor warming fire receptacle meeting the requirements for the respective receptacle set out in sections 15-17.
  - b) **“open-air fire”** means a fire set outdoors for any purpose, including cooking, recreation, generation of heat, the disposal of wood, stubble, or crop residue and for religious or ceremonial purposes.
  - c) **“operate”** in relation to a portable barbeque, includes lighting, igniting, maintaining an open-air fire within, and cooking on a portable barbeque.
  - d) **“occupier”** means occupier as defined in The Municipal Assessment Act.
  - e) **“owner”** means a person who
    - i) is the owner of an estate in fee simple in land that is subject to the Real Property Act,
    - ii) is the owner of an estate in fee simple in land that is not subject

to the Real Property Act and who is the grantee named in a valid conveyance of land that is registered under the Registry Act, or

iii) is the registered owner of a unit under the Condominium Act.

- f) **“person in charge of an open-air fire”** includes a person who ignites an open-air fire and the owner, occupier, or person in charge of any premises on which an open-air fire is set.
- g) **“person in charge of a portable barbeque”** includes a person who ignites a portable barbeque, the owner of the portable barbeque and the owner, occupier, or person in charge of any premises on which a portable barbeque is operated.
- h) **“portable barbeque”** means any appliance used for the purpose of cooking food outdoors and designed to burn propane, natural gas, wood, or charcoal briquettes or to use electricity as a heat source.

### **PROHIBITIONS**

- 3. No person may set an open-air fire and the owner, occupier, or person in charge of any premises may not permit an open-air fire to be set or to remain lit on any premises of which he or she is the owner, occupier, or person in charge, unless the open-air fire meets the requirements of this By-law.
- 4. Despite section 3, a person may set an open-air fire for agricultural purposes that is in compliance with the Burning of Crop Residue and Non-Crop Herbage Regulation.
- 5. No person may set an open-air fire within the boundaries of the communities of La Salle, Oak Bluff, Sanford and Starbuck as shown outlined by a heavy broken line on the attached Schedules “A”, “B”, “C” and “D” unless it is within an approved receptacle.
- 6. No person shall burn or place or deposit for the purposes of burning upon any private or public property anything that may cause an environmental hazard or an unsafe condition.

### **ENFORCEMENT**

- 7. The position of an Officer is established. The Officer shall be the person appointed by the Municipality as its By-Law Enforcement Officer.
- 8. The Officer may conduct inspections and take steps to administer and enforce this By-Law or to remedy a contravention of this By-Law, and for those purposes shall be a designated officer and have the powers of a designated officer under the Act, of a by-law enforcement officer under the Municipal By-Law Enforcement Act, and of an enforcement officer under the Provincial Offences Act.
- 9. The Officer may enter property and buildings to carry out the administration and enforcement of this By-Law including for determining what actions or measures a person must take in connection with any matter under this By-Law, whether the actions or measures have been taken, to prevent the contravention of this By-Law, to remedy a contravention of this By-Law and to prevent a re-occurrence of a contravention.
- 10. The costs of actions or measures taken by the Municipality to carry out the

terms of an order issued by the Officer are an amount owing to the Municipality by the owner or occupier of the property or a person responsible for a violation under this by-law. In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.

11. In the event the Fire Department is called out to extinguish an open-air fire set in violation of this By-law, the Municipality's costs of extinguishing the fire may, in addition to all other rights of collection which the Municipality may have at law, be collected by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.
12. In this section "order" refers to an order under section 242 of the Act. The Officer may do the following:
  - a) Make orders directing the owners or occupiers of property, or any operators of an open-air fire, to comply with this By-Law, including to bring any open-air fire into compliance with this By-law;
  - b) Prevent improper and potentially hazardous material from being added to an open-air fire or an open-air fire to be started;
  - c) Call on the Office of the Fire Commissioner if a person is burning waste in contravention of the Wildfires Act or any other applicable provincial legislation; and
  - d) Order the owner or occupier or operator to immediately extinguish an open-air fire and for there to be compliance with this By-Law.
13. The Officer may commence a prosecution under the Act, the Municipal By-Law Enforcement Act or the Provincial Offences Act for the purpose of enforcing a contravention of this By-Law through an offence.

#### **RULES REGARDING AN OPEN-AIR FIRE**

14. A person in charge of an open-air fire must ensure:
  - a) the open-air fire is supervised at all times unless it is fully extinguished;
  - b) the open-air fire is always kept under control;
  - c) all precautions are taken that are reasonably necessary to protect persons and property from the open-air fire, the open-air fire can be kept under control, and only when weather conditions are conducive to preventing an open-air fire from burning out of control;
  - d) smoke shall not pose unreasonable hazard to the health of any person, cause a nuisance or irritation to people on adjacent properties or reduce the visibility on any road or highway;
  - e) the open-air fire is not started or maintained when windy conditions exist;
  - f) sufficient water supply or other means of fire suppression capable of extinguishing the open-air fire based on its fuel loading and size are readily accessible on site; and
  - g) the open-air fire cannot result in a rapid spread of fire through grass or brushed area.

15. In addition to the requirements under Section 3, a person in charge of an open-air fire within the areas identified in Schedules “A”, “B”, “C” or “D” must ensure that:
- a) the open-air fire is maintained within an approved receptacle;
  - b) the open-air fire is maintained on a flat non-combustible base and at a minimum of 3 metres (10 feet), as measured from the nearest edge of the open-air fire, from any combustible buildings or structures, combustible fences, trees, and overhead wires;
  - c) only clean, dry, unpainted, and untreated wood is burned and no grass, leaves, brush or tree pruning’s are burned in the open-air fire.
16. In addition to the requirements under Section 3, a person in charge of an open-air fire set for agricultural purposes must:
- a) ensure the property on which the open-air fire is started is surrounded by a fire guard consisting of
    - i. a strip of land free of flammable material, or of sufficient width to control the open-air fire;
    - ii. natural or man-made barriers, water; or
    - iii. a combination of (a) and (b).
  - b) notify the Municipality’s Fire Department of their intent prior to starting an open-air fire.

## **REQUIREMENTS FOR APPROVED RECEPTICLES**

### **17. FIRE PITS**

An approved fire pit must:

- a) be enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials acceptable to the Fire Chief;
- b) have a spark arrestor, grille, or mesh and constructed of a non-combustible material, which is used to cover the entire area of the open-air fire pit opening; and
- c) not be used for commercial or industrial applications.

### **18. OUTDOOR BARBEQUES**

An approved outdoor barbeque must:

- a) be constructed of masonry, concrete, heavy gauge metal or other non-combustible materials acceptable to the Fire Chief;
- b) be enclosed on all sides, except for any opening completely covered by a removable, non-combustible spark arrestor, grille, or mesh;
- c) not be used for commercial or industrial applications.

## 19. OUTDOOR FIREPLACES

An approved outdoor fireplace must:

- a) be constructed of masonry, concrete, heavy gauge metal or mesh or other non-combustible materials acceptable to the Fire Chief;
- b) have a chimney designed and constructed as a proportional and integral part of the fireplace to ensure that an adequate draft is created;
- c) have its chimney opening entirely covered by a non-combustible spark arrestor, grille, or mesh;
- d) have a side opening to the fire chamber which does not exceed 0.84 square meters (9 square feet) in area;
- e) has its side opening entirely covered by a non-combustible spark arrestor, grille or mesh; and
- f) not used for commercial or industrial applications.

## 20. OUTDOOR WARMING RECEPTACLES

An approved outdoor warming fire receptacle must be a metal receptacle in good repair that has a maximum capacity of 205 litres (45 gallons). All openings must be entirely covered by removable, non-combustible spark arrestors, grilles, or mesh with openings no larger than 12 mm (½ inch).

## **OBILIGATIONS CONCERNING PORTABLE BARBEQUES**

21. A person in charge of a portable barbeque must ensure that it is:

- a) operated only outdoors in a well, ventilated area;
- b) operated and maintained in accordance with the manufacturer's instructions;
- c) not operated within 1 metre (39"), or such greater distance as may be recommended by the manufacturer of the portable barbeque, of combustible materials; and
- d) not left unattended when lit.
- e) not operated within 20 feet of any building unless it:
  - i. is located in the yard of a single-family dwelling;
  - ii. uses electricity or natural gas as a heat source; or
  - iii. uses propane as fuel and equipped with a Quick Connect coupling Valve (Q.C.C.1) and an Overfill Protection Device (O.P.D.).
- f) not operated on a balcony, patio, or deck of a multiple family dwelling if it uses solid fuel.

## **STORAGE OF PROPANE CYLINDERS**

22. A person in charge of a portable barbeque and the owner of a propane cylinder must ensure that, whether attached to a portable barbeque or not, the cylinder is:

- a) maintained in an upright position at all times;
- b) shut off at the valve when not in use;
- c) not stored in a vehicle or below grade; and
- d) unless attached to a portable barbeque, not stored within 2 metres (6.5 feet) of a portable barbeque.

### **STORAGE OF PROPANE CYLNDERS ON BALCONIES**

23. A person in charge of a portable barbeque and the owner of a propane cylinder must ensure that the cylinder is only stored on a balcony if:
  - a) the balcony is not enclosed by screen or glass;
  - b) no more than two 20 pound tanks are to be stored on any balcony, including any tank attached to a portable barbecue and second tank to be stored as far from the barbeque as possible; and
  - c) tank valves are not nearer than 1 metre (39 inches) from any door or window that is lower than the valve.

### **PERMIT AUTHORIZING VARIATIONS OF GENERAL RULES**

24. A designated employee may issue a permit, with or without conditions, authorizing an open-air fire that does not strictly comply with this by-law where the designated employee is satisfied that doing so will not expose people or property to undue risk.
25. Authorization under section 25 to conduct an open-air fire, brush and/or grass burning does not exempt or excuse a person from the responsibility, consequences, damages, or injuries resulting from the authorized burning and does not excuse a person from complying with this By-Law, other applicable laws, or regulations.

### **BURNING BAN**

26. The Municipality's chief administrative officer, upon the recommendation of the Fire Chief may ban **ANY or ALL OPEN-AIR FIRES** (including an open-air fire contained within fire pits and solid fuel burning appliances) in all or specific areas in the Municipality if conditions exist where, in the opinion of the Fire Chief, an open-air fire is of high risk, and such a ban is necessary for the safety, health and protection of its residents or property.

### **OFFENCE**

27. A person who contravenes this By-Law is guilty of an offence and is liable on summary conviction to a fine not of not more than \$1,000.00. Any costs associated with or resulting from enforcing this By-Law are in addition to any such fine, and are an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced under the Act.

**TRANSITIONAL**

28. This By-Law repeals By-Law No. 13/14, except in respect of an offence committed before this By-Law comes into force. By-Law No. 13/14 remains in effect to the extent required to enforce the violation under By-Law No. 13/14.

DONE AND PASSED by the Council of the Rural Municipality of Macdonald, in Council duly assembled, at Sanford, Manitoba this 22<sup>nd</sup> day of September A.D., 2020.

**THE RURAL MUNICIPALITY OF MACDONALD**

*Original Signed by*

*"B. Erb"*

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Brad Erb  
Reeve

*"D. Hrehirchuk"*

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Daryl Hrehirchuk, CMMA  
Chief Administrative Officer

*Read a First time this 26<sup>th</sup> day of May A.D., 2020*

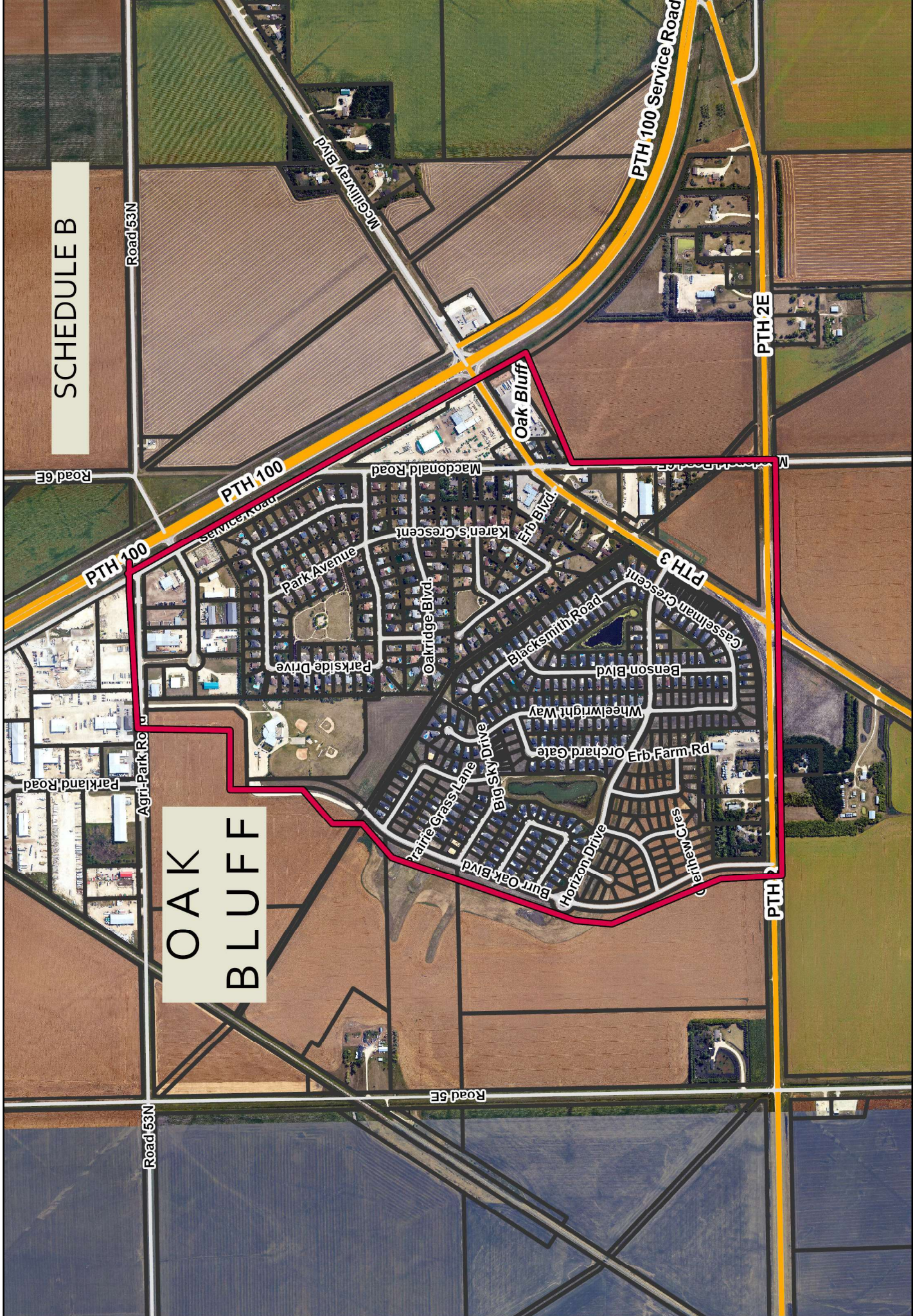
*Read a Second time this 22<sup>nd</sup> day of September A.D., 2020*

*Read a Third time this 22<sup>nd</sup> day of September A.D., 2020*



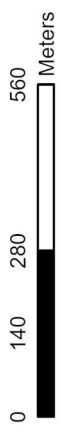






SCHEDULE B

OAK  
BLUFF





# SANFORD

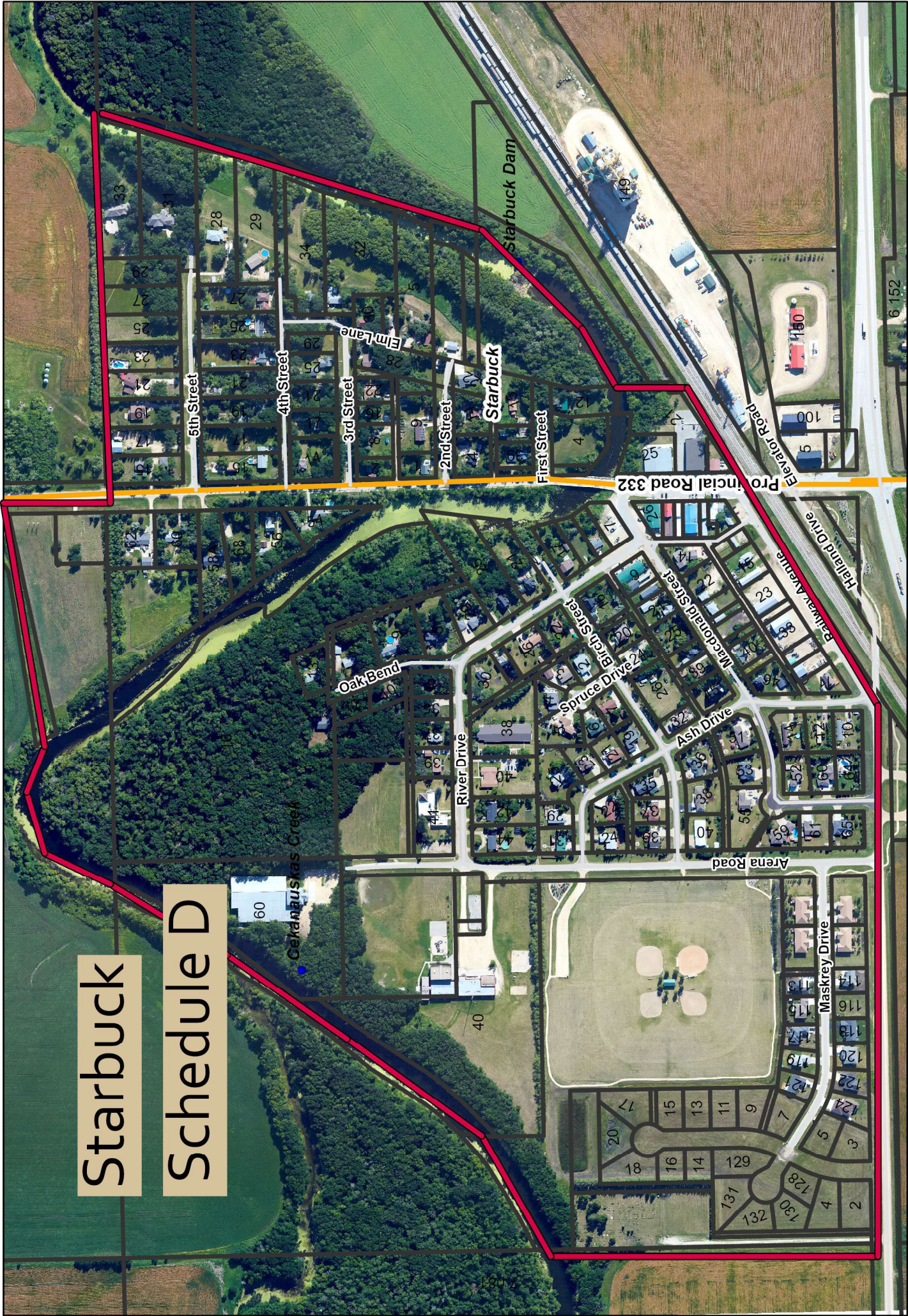
## SCHEDULE C





# Starbuck

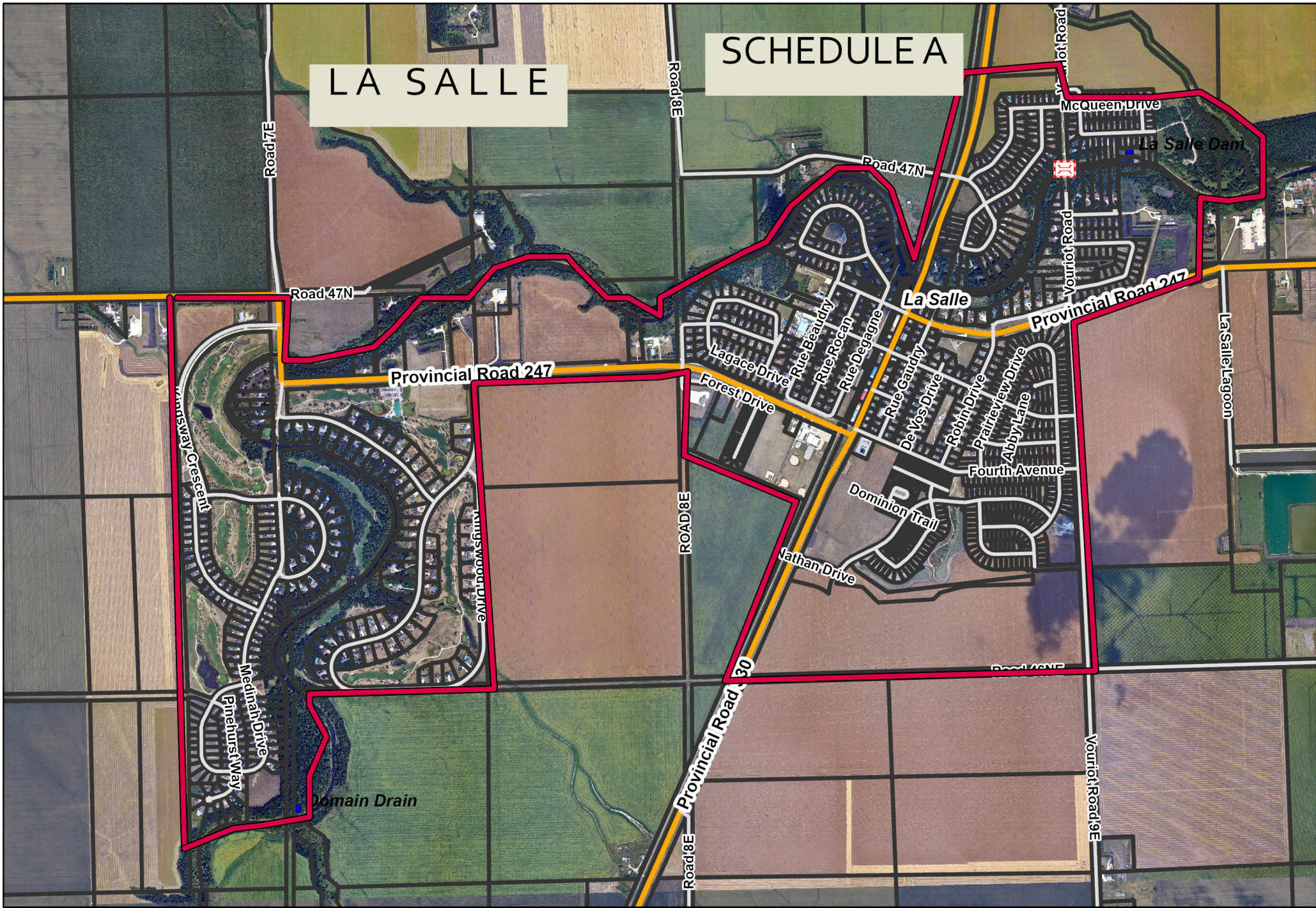
# Schedule D



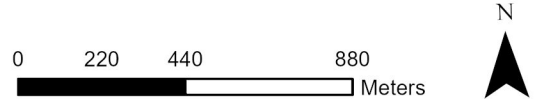
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Rural Municipality of Macdonald  
Date: 5/29/2020



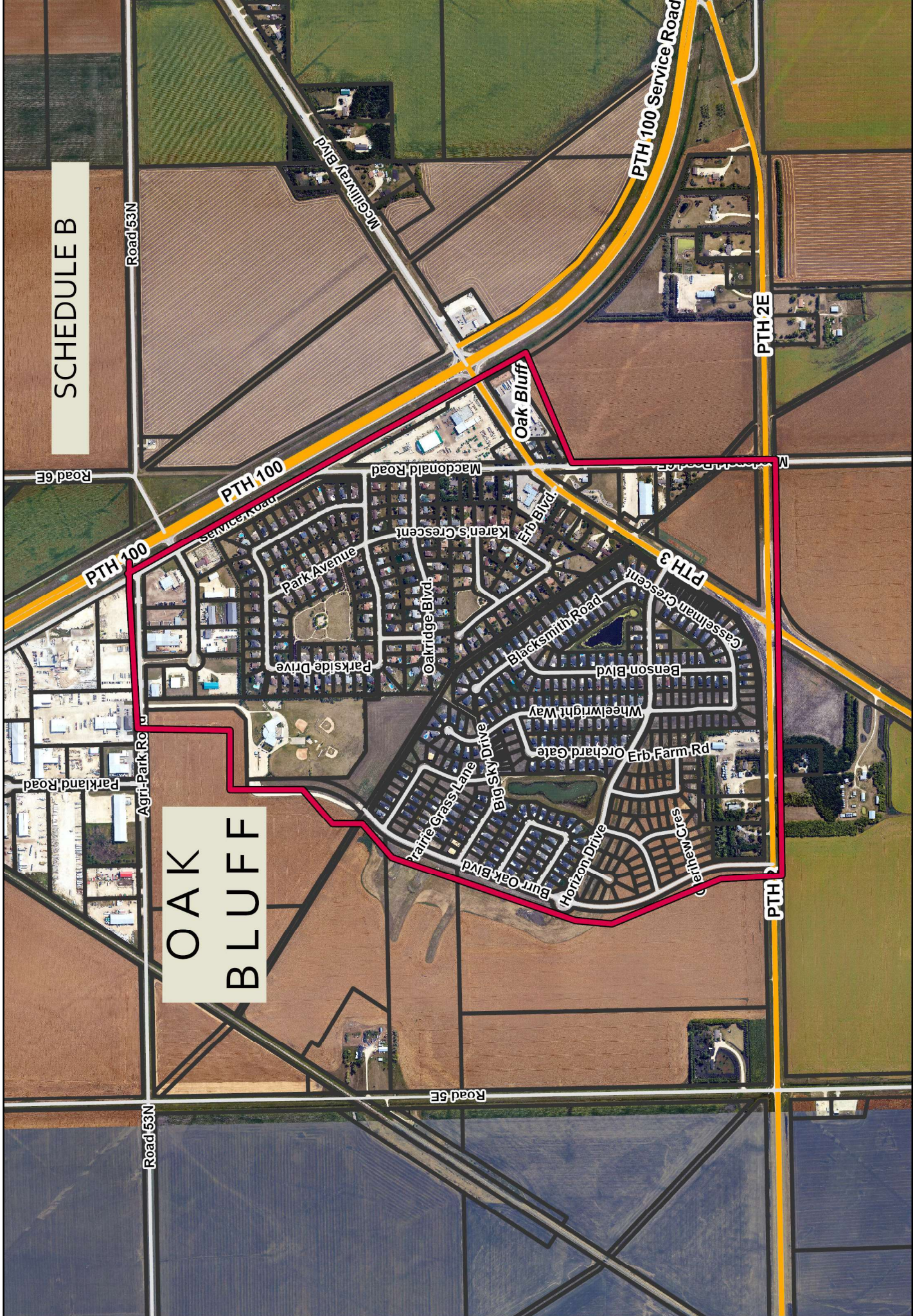




**Map**  
 Rural Municipality of Macdonald  
 Date: 5/20/2020

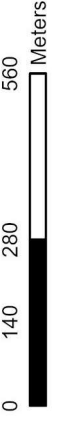






SCHEDULE B

OAK  
BLUFF





# SANFORD

## SCHEDULE C





# Starbuck

# Schedule D

