



Land Use Planning for Livestock Development

Local land use plans set the direction for development in Manitoba municipalities, including the development of agricultural land. Local governments are responsible for creating, administering and enforcing their land use plans. Recent changes to *The Planning Act* will influence the direction of agricultural development in Manitoba, especially development of the livestock industry.

Livestock producers are encouraged to get involved in the local planning process to help local governments create plans that protect existing livestock operations and provide future food production and agricultural diversification opportunities.

This fact sheet highlights some of the changes under *The Planning Act* and outlines how you can represent agriculture during development of local land use plans. For more information on how these changes will affect livestock development in your community, contact your municipal office or local Manitoba Agriculture, Food and Rural Initiatives GO Office.

Highlights

- All municipal governments must adopt a development plan by January 1, 2008. Once this plan is in place, they must adopt or amend a zoning by-law within one year.
- Municipal governments must include a livestock operation policy in all development plans.
- The conditional use and technical review requirement has been reduced from 400 to 300 animal units.

Manitoba's Goals for Use of Agricultural Land

The province's goals for use of land in agricultural areas are outlined in the Provincial Land Use Policies Regulation (PLUP). The PLUP regulation is used to guide municipalities in creating land use plans that support the province's goals of preserving agricultural land for agricultural uses, and protecting agricultural operations from encroachment by non-farm uses. The regulation directs local governments to set aside areas where existing agricultural land use will be protected and new agricultural opportunities will be encouraged. This is particularly important for livestock operations, where non-farm uses may restrict a farmer's ability to manage, expand, or carry out normal farming practices.

Livestock Operation Policy

The livestock operation policy must identify areas in the municipality where expansion or development of livestock operations may be allowed; may be allowed up to a maximum size; or will not be allowed.

Local governments may choose to restrict or prohibit livestock operations based on social and environmental factors such as:

- proximity to significant surface water resources (lakes, rivers, wetlands) or flood risk areas identified by the provincial government
- protection of groundwater vulnerability areas identified by the provincial government (recharge areas and areas with a high water table)
- agricultural capability of soils (no livestock operations are permitted on soils determined by detailed soil survey to be Class 6, Class 7 or unimproved organic soils)
- proximity to urban or settlement centres, designated rural and seasonal residential areas, designated recreational areas or parks

The livestock operation policy must also set out the general standards for separation distances between livestock operations and residential or recreational uses that will be established in the municipal zoning by-law. Although the separation distances must be based on minimum requirements set out by the province in the PLUP, municipalities can set them higher. These distances are meant to reduce the potential for conflict between livestock and non-farm uses, and should be applied mutually to both non-farm and livestock development.

Conditional Use and Technical Review

In areas where the local government will allow new or expanding livestock operations, those with **300 or more** animal units must be considered conditional uses in the zoning by-law. The zoning by-law may specify operations with **fewer than 300** animal units as either permitted or conditional uses. The local government must hold public hearings for conditional use applications. Every property owner within three kilometres of a large scale, conditional use livestock operation (300 or more animal units) must be notified of the proposed development by mail. New or expanding operations that will be 300 or more animal units are also subject to a technical review.

The Planning Act clarifies that the province is responsible for environmental protection, while local governments are responsible for land use regulation (conformity with the local development plans and zoning by-laws.) Local governments may approve or reject a conditional use livestock operation, but are limited in the types of conditions they may set. *The Planning Act* outlines the types of conditions local governments may consider, depending on operation size. Eligible conditions include:

- for operations with fewer than 300 animal units, manure storage covers and shelter belts
- for operations with 300 or more animal units, manure storage covers, shelter belts, and implementation of recommendations made by the Technical Review Committee
- for any operation, requiring the owner to enter into a development agreement dealing with the timing of construction, construction or maintenance of roads, drains, landscaping, etc.

Under no circumstances can local governments set conditions on storage, application, transportation or use of manure, other than requiring a manure storage cover.

Local governments have the final say on approval of livestock operations. They must exercise their authority within the framework of their development plans, provincial and local separation distance requirements, and relevant, reasonable conditions.

Non-Conforming Use or Building

Non-conformity is an important concept for livestock producers. Existing **livestock housing** (including barns or outdoor areas where livestock are kept) becomes a **non-conforming building** when it no longer meets the separation distance requirements in a new zoning by-law. Livestock operations with non-conforming buildings may be allowed to expand, but only if their local governments agree to make an exception to the separation distance requirements (see the section on 'Variances').

A legally existing **livestock operation** may become a **non-conforming use** when:

- it is located in an area in which livestock operations are prohibited in a new development plan
- it is already larger than the maximum size allowed in an area where operation size is limited

The Planning Act protects the right of non-conforming uses or buildings to continue operating, but there are some limitations. For example, livestock operations that are non-conforming uses are prohibited from expanding.

Livestock operators can apply to the municipality for a certificate confirming that the use lawfully existed before the new development plan or zoning by-law was adopted. The certificate will ensure livestock producers can continue operating legally at the size stated on their certificates. They may do this as long as they comply with all other acts, regulations, terms and conditions of any permit or licence they hold.

Variances

Local governments have the authority to make exceptions to certain zoning by-law requirements, including separation distances between livestock operations and residential uses. For example, if a proposed livestock building will not meet the required separation distance from a residential dwelling, the operator may apply to local government for a variance to adjust the separation distance requirement. Following a public hearing, the local government can make an order to either reject or approve the variance, with or without conditions of approval. However, Variance Orders cannot be used to approve the expansion of a livestock operation that is a non-conforming use.

Transition Period

Existing by-laws and development plans that do not comply with *The Planning Act* will have to be changed. Existing plans will apply until the required changes are made. During the transition period, the following provisions apply:

- All new or expanding livestock operations of 300 or more animal units are considered to be *conditional uses* and are subject to provincial technical review. This applies even in municipalities that do not have a development plan or zoning by-law.
- Requirements in existing zoning by-laws that regulate or prohibit the storage, application and use of livestock manure do not apply to an operation that is complying with all other Acts and regulations regarding livestock manure.



Manitoba Agriculture, Food and Rural Initiatives' (MAFRI) Role

MAFRI participates in all stages of local land use planning across the province and takes part in technical reviews. MAFRI carefully reviews all municipal development plans and zoning by-laws to make sure the province's goals for land use in agricultural areas are upheld in local land use plans. The province's goals include protection of agricultural operations from encroachment by incompatible land uses, and preservation of agricultural land for agricultural production and development opportunities.

The Producer's Role

Once your local government adopts its land use plans, they are used to guide future development in your community. Land use plans can have a significant impact on existing livestock operations and on livestock development opportunities. The local planning process is a public process. Municipal governments must give public notice about public hearings for initial approval and any changes to development plans and zoning by-laws. Attend public hearings to ask questions, offer input and be a part of the planning process. These plans will set the direction of agricultural development in your community and influence the future of your livestock operation. Check your local newspapers and message boards for notices of proposed land use changes in your area.

Producers should note that *The Planning Act* is only one of several that affect livestock operations. Others include *The Pesticides and Fertilizers Control Act*, *The Water Protection Act* and *The Environment Act*. To find out more about legislation affecting your operations go to:

<http://web2.gov.mb.ca/laws/statutes/index.php>

For further information on land use planning contact your local Manitoba Agriculture, Food and Rural Initiatives GO office or your local Community Planning Services Regional office.

Prepared by Manitoba Agriculture, Food and Rural Initiatives.

