

Land Use Planning for Livestock Development



In Manitoba, The Planning Act and the Provincial Planning Regulation guide the development of agricultural land, especially with respect to the livestock industry. At the local level, municipalities and planning districts are the planning authorities responsible for land use planning and decision making in their designated planning areas.

The Planning Act

The Planning Act sets the legislative framework for land use planning in Manitoba. It requires local planning authorities to prepare a development plan and zoning by-law for the entire planning area.

Provincial Planning Regulation and the Provincial Land Use Policies

The Provincial Planning Regulation contains the Provincial Land Use Policies (PLUPs), which state the province's goals for land use and development, including agriculture. The PLUPs serve as a guide to local planning authorities who must prepare, review and amend development plans. Development plans represent an agreement between the province and the local planning authority as to how and where development should occur. Therefore, they must be generally consistent with the PLUPs as adopted under the Provincial Planning Regulation.

According to the PLUPs, agricultural land should be prioritized for agricultural activities and agricultural operations should be protected from encroachment by non-farm uses. The PLUPs direct local planning authorities to designate areas in their development plans 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 or expand an operation.

Part 5 of the Provincial Planning Regulation is specific to livestock operations. It defines terms related to the siting of livestock operations, including animal units, and contains the minimum provincial separation distances between livestock facilities and residences or designated residential areas.

Development Plans and the Livestock Operation Policy

Development plans must include a livestock operation policy. The livestock operation policy identifies areas where expansion or development of livestock operations may be allowed; may be allowed up to a maximum size; or will not be allowed.

Local planning authorities 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 vulnerable groundwater identified by the provincial government (recharge areas and areas with a high water table)
- low agricultural capability soils (no new livestock operations should be accommodated 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

Zoning By-law

The Planning Act requires all planning authorities in Manitoba to adopt a zoning by-law that is generally consistent with the development plan. The zoning by-law contains the specific rules for development that are enforceable by the local planning authority.

Separation Distances

Separation distances between livestock operations and residences or designated areas are set out in the zoning by-law. Although the separation distances must be at least the minimum distances as stated in the Provincial Planning Regulation, local planning authorities may set them higher. These distances are meant to reduce the potential for conflict between livestock and non-farm uses, and must be applied mutually to both non-farm and livestock development.

Conditional Use Thresholds

In areas where new or expanding livestock operations are allowed, local planning authorities must specify the size at which livestock operations are permitted uses or conditional uses in their zoning by-law. Prior to 2018, all livestock expansions or new developments that were 300 animal units (AU) or greater were deemed conditional uses. Changes to The Planning Act in 2018 allow planning authorities to set the conditional use threshold higher than 300 AU. As well, existing producers that renew or modernize their livestock infrastructure have the opportunity for limited expansion of their operations by up to 15 per cent without requiring conditional use approval.

All conditional use applications require a public hearing and decision from the planning authority. Regardless of the conditional use threshold, livestock operations must meet all environmental safeguards and provincial regulatory requirements.



Provincial Technical Review

Provincial technical review is triggered by the requirement for conditional use approval for any livestock development that is 300 AU or greater. The livestock technical review process requires proponents to submit a detailed site assessment outlining the project. The site assessment is posted on a public registry and a notification is published in a local newspaper. As a courtesy, municipalities or planning districts are encouraged to mail the newspaper notice to every landowner within three kilometres of the project site. The information remains on the public registry for 30 days to allow for public comments. Following this, the Technical Review Committee (TRC) issues a report to the planning authority to aid in their decision.

Decisions of the Local Planning Authority

Local planning authorities may approve or reject a conditional use livestock application. They may also include conditions on the approval, but are limited in the types of conditions they may set regarding manure management.

Under The Planning Act, the province is responsible for environmental protection, while local planning authorities are responsible for land use regulation including conformity with the local development plans and zoning by-laws. Under no circumstances can local



planning authorities set conditions on manure storage, application, transportation or use because these aspects are regulated provincially. Local planning authorities may, however, impose conditions regarding manure storage covers, shelter belts and recommendations made by the Technical Review Committee, if applicable.

Local planning authorities may also enter into a development agreement with the producer to deal with things like the timing of construction, construction or maintenance of roads, drains and landscaping.

Appeals Concerning Conditional Use Livestock Operations

Planning authorities must make decisions to approve or deny livestock operations within the framework of their development plans and local separation distance requirements. Any conditions of approval should be relevant and reasonable. As of 2019, livestock operation applicants have the ability to appeal the denial of a conditional use proposal or any condition set out in an approval that they believe is unreasonable. The appeal mechanism allows proponents to have their case heard by The Municipal Board, whose decision is final.

Non-conforming Use or Building

Existing livestock housing (including barns or outdoor structures where livestock are kept) will become a **non-conforming building** if 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 planning authorities agree to make an exception to the separation distance requirements (see Variances).

A legally existing livestock operation may become a **non-conforming use** if, in a new development plan, it is:

- (i) located in an area where livestock operations are prohibited, or
- (ii) larger than the maximum size allowed in an area where operation size is limited.

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

discontinued for more than 12 consecutive months, it cannot resume except in conformity with the zoning by-law.

Livestock operators can apply to the municipality for a certificate of non-conformity 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 the certificate. They may do this as long as they comply with all other acts, regulations and terms and conditions of any permit or licence they hold.



Variances

Local planning authorities can vary 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 producer may apply to local planning authority for a variance to adjust the separation distance requirement. The local planning authority can make a variance order to either reject or approve the variance, with or without conditions of approval.

If the size of the variance being applied for is 15 per cent or less, it is deemed a minor variance and does not require a hearing or council decision.

Manitoba Agriculture's Role in Agricultural Land Use Planning

Manitoba Agriculture participates in all stages of local land use planning across the province and takes part in provincial technical reviews. The department 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. It also ensures that each livestock development proposal undergoing technical review has sufficient suitable land for the application of manure.

The Producer's Role

Development plans and zoning by-laws are used to guide development and can have significant impacts on existing livestock operations and on livestock development opportunities. Public notification and public hearings are required for adoption of, and amendments to, development plans and zoning by-laws.

This provides the public, including livestock producers, the opportunity to participate in the planning process. Livestock producers should attend public hearings to ask questions, offer input and be a part of the planning process.

For more information on land use planning, contact your local Manitoba Agriculture and MASC (Manitoba Agriculture Services Corporation) Service Centres or your local Municipal Relations Community Planning Office.

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

