

## CORPORATION OF THE COUNTY OF HURON

### Planning and Development Department

**To:** Warden and Members of County Council – Day 1

**From:** Sandra Weber, Director

**Date:** October 25, 2018

**Subject:** **AG4 (Agricultural Small Holding) Properties and the Keeping of Livestock**

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### RECOMMENDATION

That the report be received for information.

And further that the report be circulated to the local municipalities.

### BACKGROUND

A section of the local municipal by-laws appears to now be in conflict with the Nutrient Management Act. Municipal Zoning By-laws across the County currently limit the number of livestock (referred to as nutrient units) on properties zoned AG4 (Agricultural Small Holding Zone). The limits are based on the size of the parcel and typically equal 1 nutrient unit per acre to a maximum of 4 to 5 nutrient units. This limitation appears to be inoperable in that the Nutrient Management Act Regulation 267/03 states there shall be no restriction on the number of farm animals that may be managed in the course of an agricultural operation (unless imposed by the Regulation). The Nutrient Management Act supercedes a municipal by-law if it addresses the same subject matter as the Regulation.

### COMMENTS

Municipal by-laws in Huron have utilized this zoning approach for a number of years. The intent was to allow small parcels in the agricultural area (created through the retirement residence, surplus residence consent processes, etc.) to have a few livestock units rather than requiring the existing barns to be demolished or renovated for storage purposes only. This responded to the requests to have small hobby farms and created a reasonable relationship between the number of livestock and the size of the property. It was our understanding at the time of implementing this approach that municipalities were able to address the keeping of livestock equal to or less than 5 Nutrient Units which is the threshold for the Nutrient Management Act. We are now aware that the Act does not permit zoning by-laws to regulate the keeping of livestock in Agricultural Zones. The current AG4 zone permits a residential use and uses accessory to the permitted uses (home industrial use, home occupation use, agricultural use limited, bed and breakfast, group home). There is a special notwithstanding provision for existing and new barns subject to the following:

| Minimum Lot Area<br>(Hectares) | Maximum Number of<br>Nutrient Units Permitted | Minimum Distance Separation<br>Requirement |
|--------------------------------|---|--|
| 0.4                            | 1   | 85 metres                                  |
| 0.8                            | 2   | 85 metres                                  |
| 1.2                            | 3   | 85 metres                                  |
| 1.6+                           | 4   | 85 metres                                  |

In terms of the number of properties affected by this issue, MPAC data shows that there are 1818 properties zoned AG4 across Huron County with approximately 807 (44%) that have an existing barn. Geographically, the properties are dispersed throughout the County relatively equally (see Chart 1).

**Chart 1: Number of AG4 Zones in each Local Municipality**

| <b>Municipality</b> | <b>Number of AG4 zones</b> |
|---------------------|----------------------------|
| ACW                 | 225                        |
| Bluewater           | 305                        |
| Central Huron       | 269                        |
| Howick              | 104                        |
| Huron East          | 361                        |
| Morris-Turnberry    | 217                        |
| North Huron         | 67                         |
| South Huron         | 270                        |

**Implications of Policy Shift:**

1. Number of livestock cannot be limited through zoning on AG4 zoned properties. Where a building permit is required, the requirements of Minimum Distance Separation and setbacks to lot lines will be implemented and a Nutrient Management Strategy may be required (depending on the size of operation). It is important to note that AG4 properties with existing barns may not require a building permit and may not trigger the requirement for a Nutrient Management Strategy.
2. Municipal By-laws are required to be silent on the keeping of livestock in Agricultural Zones. It appears the limitations within urban settlement areas are operable.
3. Farm operations of every size are required to maintain sound farming practices. If a resident/neighbour is concerned about manure management or other farm practices on an agricultural parcel, there is a complaint process through OMAFRA and/or the Normal Farm Practices Board.
4. For surplus residence consents, where the severed parcel contains a barn, the structure must either be: a) demolished or b) altered such that it is not able to house livestock. In recent years, the approach in Huron County has been to allow well maintained barns to remain with the severed residence. The concern with this approach is that if the barn can house livestock (an unlimited number of livestock in light of recent information), this could be interpreted as the creation of a small farm as opposed to the severance of a surplus house.

**Recommended option:**

1. Maintain the AG4 zoning on existing AG4 parcels and update the zone provisions to remove the restriction on nutrient units.

New applications for severance of a surplus residence would include a condition to either have the barn demolished, or altered so that it is no longer capable of housing livestock, to the satisfaction of the municipality. This may require the removal of the infrastructure such as manure storage, feed bins, mangers, stalls, etc. This would not prohibit livestock on the property in the future or the conversion of the former barn to a livestock use, however, structural changes to the building to accommodate livestock would require a Building Permit which would trigger a Nutrient Management Strategy to be prepared.

Some neighbouring municipalities use a Rural Residential zone for lots created through the surplus farm dwelling consent process. The permitted uses and structures in this zone would be residential and non-farm accessory structures. This would prohibit the keeping of livestock on any future lots created through surplus farm residence severance. If this approach were preferred, the Official Plans would also need to be amended to include a policy in the Agricultural Section that lots created as a result of a surplus farm residence severance will be zoned Rural Residential and are considered a residential lot and not an agricultural operation.

The Planning Department is not recommending this option because the keeping of a few animals on AG4 properties is a common practice within the County that has not led to significant complaints and/or issues.

**OTHERS CONSULTED** – Greg Stewart, County Solicitor; Ontario Ministry of Agriculture Food and Rural Affairs; Ministry of Municipal Affairs and Housing; County Planning Directors; Kirk Livingston, CBO; Planners

### **BUDGET IMPACTS**

Staff resources to prepare amendments within current budget.

Original Signed by

Sandra Weber  
Director

Original Signed by

Meighan Wark  
CAO