



CLEAR HILLS COUNTY

File No. 61-02-02

October 28, 2019

Nathan Shirley
Approval Officer
NRCB
Provincial Building #201
10008-107 Street
Morinville, Alberta T8R 1L3

Dear Nathan:

**Re: Application FA19003 – Written Comments
1577912 Alberta Ltd. (Hines Creek Farms)
NE 4-85-5-W6M**

Regarding Application FA19003 please see below Clear Hills County's response to the October 8, 2019 letter seeking comments on specific items related to land use planning:

1. This application is consistent with the Clear Hills County MDP. Section 3.1 of the MDP states that the County strongly supports the intent of the *Agricultural Operations Practices Act*, and similar "right to farm" legislation which exempts agricultural operations from nuisance claims provided the farming operation follows generally accepted practices, and is in compliance with the County's vision.

This application is not consistent with the minimum setbacks from existing rural residential development as set out in 3.1.2. (h) of the MDP. Further to the minimum setbacks from development Schedule G Confined Feeding Operations Permitted and Exclusion Areas is attached for your reference.

The area covered by the application is not affected by an area structure plan or Inter-municipal development plan.

2. The land zoning of this application and surrounding lands within 1600 meters of the proposed site under the Land Use Bylaw (LUB) is Agricultural District 1 (AG1).
 - a. The status of the proposed development in the application under the Agricultural District 1 (AG1) classification is not listed.
 - b. There is a Confined Feeding Operations (CFO) district in the Land Use Bylaw. This district is for the purpose of regulating the development of provincially approved CFO's with the County.

Should this application be approved by NRCB the County will require the parcel be rezoned to CFO from AG1.



CLEAR HILLS COUNTY

3. This application does not meet the required municipal setbacks of the Land Use Bylaw.
Section 9.4 (8) (e) requires a Rural Residential Use (non-urban) setback of 3.2 km (2 miles) from a residence in a rural area to a CFO facility. A dwelling associated with the operation of a CFO may be considered within that setback.
Further to not meeting the required municipal setbacks refer to the MDP Schedule G Confined Feeding Operations Permitted and Exclusion areas referenced above in comment 1.
4. Land Use Planning documents referenced:
Municipal Development Plan Bylaw No. 243-19, adopted September 10, 2019.
Land Use Bylaw No. 189-16 adopted August 17, 2016.
5. Attachments:
 1. MDP Section 3.1 Agriculture (includes 3.1.2 Confined Feeding Operations (CFOs))
 2. MDP Schedule G Confined Feeding Operations Permitted and Exclusion Area.
 3. LUB Section 9.4 Confined Feeding Operations
 4. LUB Section 10.3 Confined Feeding Operations District (CFO)
 5. LUB Section 10.4 Agricultural District -1 (AG1)

In closing Clear Hills County is recommending that this application be denied as it does not meet the required minimum municipal setbacks of the Municipal Development Plan or the Land Use Bylaw to existing rural residences.

If you have any questions, or require more information please contact me at 780-685-3925 or by email at audrey@clearhillscounty.ab.ca.

Sincerely,

Audrey Bjorklund, CLGM
Community Development Manager
Acting Development Officer.

/alb

Attachments



Part 3 Policy Areas

Part 3 of the MDP establishes subject area-specific goals, objectives and policies to provide direction with respect to future decision-making and priority setting within the County.

Under section 622 of the *Municipal Government Act*, statutory plans must be consistent with the Alberta Land Use Policies. Part 3 of the MDP aligns the land-use planning and development policies for Clear Hills County with the Land Use Policies.

3.1 Agriculture

Agriculture is the largest use class within the White Area of the County and the second largest land use class in the County as a whole. It accounts for more than 16 percent of the County, based on current land use districting. The agricultural sector provides employment and income to many County residents.

The County strongly supports the intent of the *Agricultural Operations Practices Act*, and similar “right to farm” legislation which exempts agricultural operations from nuisance claims provided the farming operation follows generally accepted practices, and is in compliance with the County’s vision. This perspective is consistent with the direction set by the Section 6.1 of the Alberta Land Use Policies. The County is committed to supporting the preservation and diversification of agricultural industries, including the lands, activities and people who depend on this industry. The County believes in limiting land fragmentation and the conversion of farmlands to other land uses. This section of the MDP provides policies concerning agricultural lands and their development.

GOAL

Clear Hills County aims to protect and preserve the agricultural sector and encourage developments that actively support agricultural activities and a rural lifestyle.

OBJECTIVES

1. To protect *better agricultural lands* from non-agricultural uses.
2. To support the responsible development of agricultural operations.
3. To minimize conflict between agricultural and non-agricultural uses within agricultural districts.
4. To provide guidance on the development of Confined Feeding Operations (CFO’s).

3.1.1 General Agricultural Policies

- (a) In accordance with the principle that agricultural and activities associated with sustainable agricultural practices in all its forms have priority in rural areas, no legitimate activity, related to the production of agricultural products *should* be curtailed solely because of objections of near-by residents. The production of agricultural products *may* involve the use of irrigation pumps and equipment, aerial and ground seeding and spraying, tractors and motors, the raising of livestock and poultry, and the application of such inputs as chemical and natural fertilizers, and pesticides including insecticides, herbicides and fungicides. When conducted in accordance with generally accepted agricultural practices, these activities *may* occur on holidays, Sundays, and weekdays, at night and in the day; and noise



odours, dust and fumes caused by them are permitted as part of the activities directed to the production of agricultural products. This statement is a reminder to those who live in the County that they **should** be aware that agriculture is of vital importance and that agricultural operations **shall** be permitted to do those things necessary for the production of agricultural products.

- (b) The County **should** regard *better agricultural lands* as Classes 2 to 4 of Canadian Land Inventory as shown in Schedule D1 or Classes 2 to 4 of Land Suitability Rating System as shown in Schedule D2.
- (c) The County **should** not allow a proposed subdivision on *better agricultural lands* unless the proposed subdivision is for:
 - i. extensive agriculture;
 - ii. farmstead separation;
 - iii. first parcel out for residential development;
 - iv. a CFO or other intensive agricultural use in accordance with the policies below (section 3.1.2);
 - v. public uses or utility;
 - vi. agricultural industries which directly benefit and serve the agricultural area; or
 - vii. uses which are site specific such as natural resource extractive industries.
- (d) Notwithstanding policy 3.1.1(b), the County **may** consider the subdivision of a fragmented parcel subject to the following:
 - i. the proposed parcel cannot be used for agriculture due to inaccessibility from the balance of the existing titled area by a road, railway, waterbody, watercourse, gully or ravine, or in the opinion of the County, difficult to farm;
 - ii. legal and physical access is available;
 - iii. the proposed use will not disrupt with the continued agricultural use of the remaining and adjacent lands;
 - iv. the proposed parcel can accommodate on-site sewage disposal and water services; and
 - v. the proposed parcel is not subject to erosion, flooding or sinking.
- (e) The County **may** consider a multi-parcel subdivision on *Better Agricultural Lands*, and **will** require the preparation of an Area Structure Plan (ASP) or Outline Plan (OP) prior to its subdivision.
- (f) The County **should** encourage farm operators to engage in different types and sizes of agricultural operations.
- (g) The County **should** identify and evaluate potential impacts of proposed development on existing agricultural activities.



- (h) The County **should** encourage the development of agricultural-tourism and agricultural home-based businesses to enhance the diversity of the agricultural sector.
- (i) The County **should** encourage the:
 - i. preservation of top soil;
 - ii. development of proper drainage for storm water, run-off; and
 - iii. retention or creation of riparian areas, *wetlands*, *windbreaks* and *shelterbelts*.
 - iv. adherence to all federal and provincial wetland legislation
- (j) The County **should** reduce the impacts of non-agricultural uses on agricultural lands by:
 - i. siting non-agricultural uses away from *better agricultural lands* where possible;
 - ii. assessing the impacts of proposed non-agricultural uses on existing agricultural operations; and
 - iii. minimizing identified impacts.

3.1.2 Confined Feeding Operations (CFOs)

- (a) The proponents of the proposed Confined Feeding Operations (CFOs) **shall** abide with relevant policies and guidelines of all other land uses contained in this Plan, and all relevant Provincial policies and regulations.
- (b) All applications for a CFO that are referred to the County by the NCRB **shall** be reviewed by the Development Officer and Municipal Planning Commission.
- (c) When the County is notified of a CFO application by the Natural Resources Conservation Board (NRCB), the notification or referral process **should** refer to the County's Public Participation Policy.
- (d) The County **will** not support applications of CFOs to the NRCB, if:
 - i. the proposed development is incompatible with adjacent land uses; and
 - ii. the proposed development causes adverse health and/or environment impacts.
- (e) The County **may** protect existing CFOs by refusing development permits or subdivision applications for new residential development located within the minimum distance separation, as determined by the *Agricultural Operation Practices Act (AOPA)*;
 - i. The County **should** amend the Land Use Bylaw (LUB) to be consistent with this policy.
- (f) The development of the CFO's **may** be encouraged in areas that are not impacted by the exclusionary zones map or other restrictive policies.
 - i. The exclusion zones for confined feeding operations (CFO) **shall** be established by Schedule G.



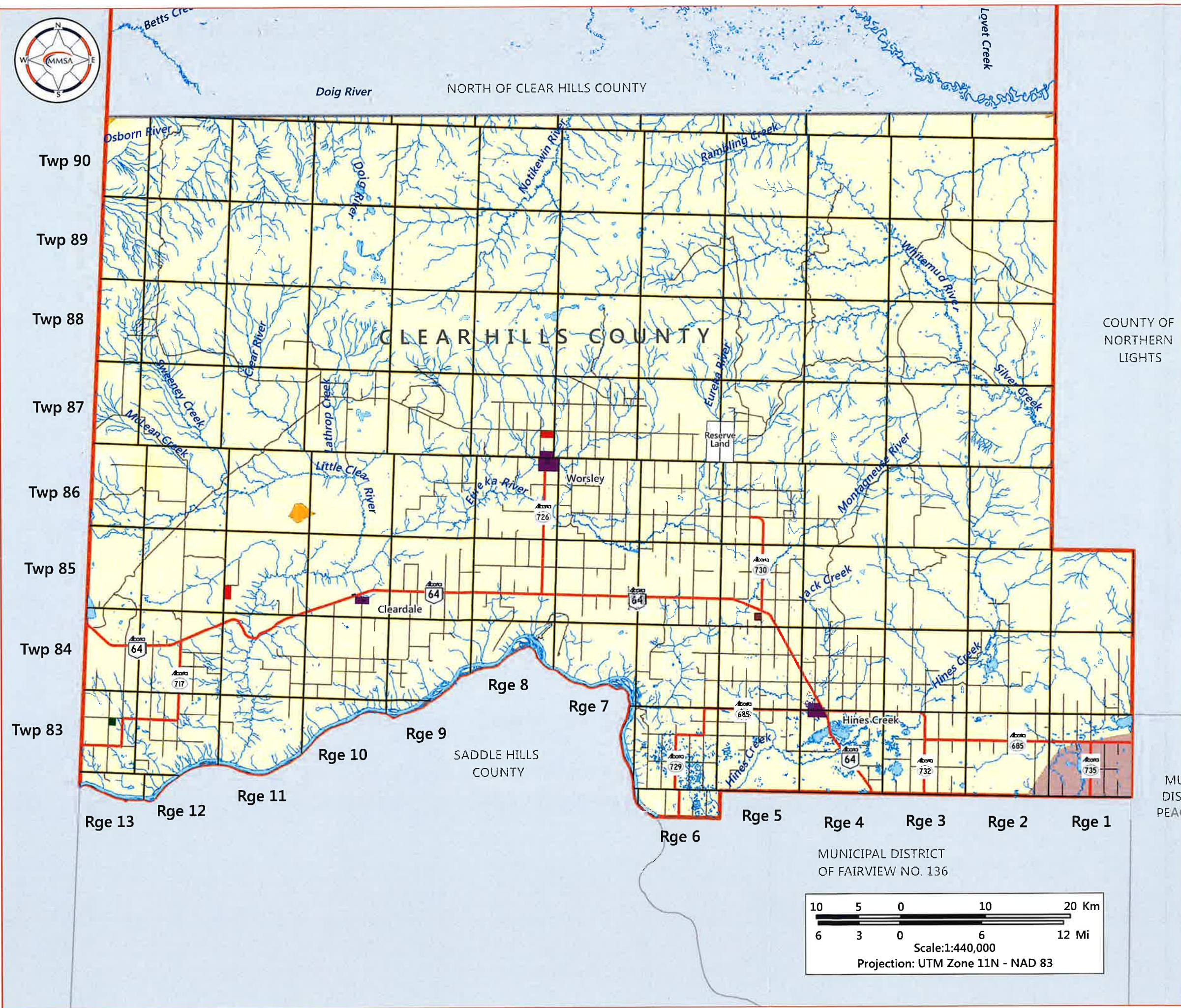
- ii. Notwithstanding the above, the County **may** relax the setback requirements if the proposal includes mitigative measures to limit negative impacts to adjacent land owners or environmental features, and to lessen the cumulative effects from nearby CFOs, as identified within an environmental assessment prepared by a qualified environmental professional.
 - iii. These provisions **shall** be in addition to provincial requirements within the *Agricultural Operation Practices Act* and Regulations, including the Agricultural Operation Practices Act (AOPA) R.S.A. 2000 C A-7, (AOPA) Administrative Procedures Regulation A.R. 106/2017, (AOPA) Standards and Administration Regulation A.R. 267/2001, AOPA Agricultural Operations - Part 2 Matters Regulation A.R. 257/2001, and the Manure Characteristics and Land Base Code, as amended from time to time.
- (g) All setbacks **shall** be measured from the outer boundaries of the subjects outlined within this Plan, meaning:
- i. the *top of the bank* watercourses;
 - ii. the *high water mark* for waterbodies;
 - iii. the incorporated boundaries for the village and hamlets boundaries;
 - iv. the road Right-Of-Way boundaries; and
 - v. the outer boundary of identified recreation sites.
- (h) The County **may** recommend to restrict the development of a new Confined Feeding Operations (CFO) to a minimum of 3.2 km from an existing country residential development and an intensive recreation area unless the proponent provides proof of measures to be used on site that would mitigate negative impacts to the existing country residential development, as identified within the required environmental assessment prepared by a qualified environmental professional.
- (i) Further to Policy 3.1.2(e), the County **may** restrict the development of a single parcel country residential to a minimum of 3.2 km from the boundary of a parcel of land containing an existing CFO.
- (j) Further to Policy 3.1.2 (e), the County **may** restrict development of multi-parcel country to a minimum of 3.2 km from the boundary of a parcel of land containing a CFO.



Clear Hills County
Municipal Development Plan

Schedule G

**Confined Feeding Operations
Permitted and Exclusion Areas**



COUNTY OF
NORTHERN
LIGHTS

- CFO Exclusion Area
- CFO Permitted Area
- Aboriginal Land Reserve
- Village/Hamlet
- Abandoned CFO
- Existing CFO
- Pending CFO
- Grimshaw Gravels
- Major Rivers, Lakes
- Rivers, Streams, Creeks
- Provincial Highway
- Local Road

Setbacks are based on:

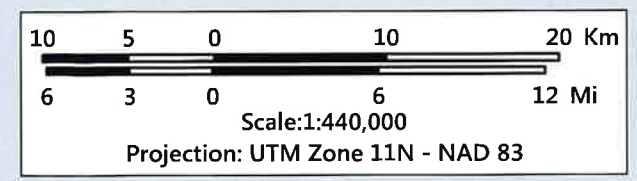
- 152.4 m from roads
- 3.2 km from residence
- 3.2 km from licensed CFO
- 3.2 km from Water bodies, rivers, streams, tributaries, wetlands
- 3.2 km from Town/Hamlet
- 3.2 km from Grimshaw Gravels Aquifer
- 3.2 km from Intensive Recreation Area
- 3.2 km from Environmental Sensitive Area

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Data Source: AltaLIS Ltd
Clear Hills County
Prepared by: O. B.
Reviewed by:
Date: 04/03/2019



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- (2) While considering an application for a development in proximity to an aquifer, the Development Authority:
 - (a) Will evaluate all subdivisions and development proposals in the aquifer against any potentially negative effects on the environment;
 - (b) May require environmental impact assessments to determine setbacks and any other negative environmental impacts on the aquifer; and/or
 - (c) May request additional information for all developments and subdivision proposals in the aquifer to assess the impacts on the groundwater characteristics.

9.3 Home Occupations

- (1) In hamlets, may be required to screen from view outside storage of materials, commodities, or finished products.
- (2) Shall not create a nuisance by way of dust, noise, smell, smoke or traffic generation.
- (3) Employ any more than three (3) persons in addition to the residents of the principal dwelling, unless approved at the discretion of the Development Authority.
- (4) Display in hamlets, more than one sign per dwelling, the size of which does not exceed 1.1 m² (12 ft²) in area.

9.4 Confined Feeding Operations

- (1) Some of the Clear Hills County lands are under Provincial and Federal jurisdiction.
- (2) All referrals for Confined Feeding Operations shall be reviewed and decided by the Development Authority on a site specific basis considering, but not limited to; site selection, waste disposal, proximity to existing residential uses, the distance from water features, and roads and highways.
- (3) Proposed CFO's are to conform to provisions within the Agricultural Operation Practices Act and Regulations, including the Agricultural Operation Practices Act (AOPA) R.S.A. 2000 C A-7, AOPA Board Administrative Procedures Regulation A.R. 268/2001 and (AOPA) Standards and Administration Regulation A.R. 267/2001, as amended from time to time.
- (4) Additional Provincial policies need to be adhered to including the release of substances – referenced within S. 108 (1) (Releases of Substances Generally) of the Environmental Protection and Enhancement Act R.S.A. 2000, c. E-12, drift disturbance – referenced in S. 3 Disturbance Standards within the Public Lands Act–Public Lands Administration Regulation A.R. 187/2011 and water protection – referenced in Table 5 – Guidelines for the Application of Municipal Wastewater Sludges to Agricultural Lands, Alberta



Environment March 2001 and S. 38 Issuance of Approvals, S. 42 Approval Amendments, S. 99 Terms of Order, S. 105 Emergency Measures, S. 142 Offences within the Water Act R.S.A. 2000, c. W-3.

(5) Maximum livestock numbers have been set through the AOPA regulations, based on significant potential nuisance and environmental impact(s) and/or significant investment in facility structure. The maximum numbers are intended to be used as a guide for development permit applications. The Development Authority may consider any number of livestock as confined. Applicants shall be required to submit a specific application designed for confined feeding operations.

(6) The impact of the CFO on infrastructure including power and the impact on roads from vehicles moving material and goods to and from the site.

(7) Community Engagement:

At the time of a formal CFO application, the applicant is required to demonstrate that they have formed a committee of primarily adjacent landowners who will be requested to provide feedback on the proposed CFO, identifying any issues and/or concerns.

(8) Setbacks:

(a) All setbacks apply to all of the lands within the County.

(b) Consideration may be given by the Development Authority for the reduction of setbacks if the operator can propose and demonstrate long term use of effective odour reducing technology best suited to the operation and site specific conditions, to ensure that the CFO and its associated activities do not interfere with existing and/or future land uses; amenities of adjacent and nearby neighbours; and the use, enjoyment, and value of adjacent and nearby properties.

(c) 100 m (328 ft) from parcel boundaries.

(d) Communities

(i) Min. 3.2 km (2 mi) from a Town or Hamlet. This setback would be measured from the CFO facility (includes both structures and farming operation area) to the boundaries of the Town or Hamlet, as described in the current Area Structure Plan (ASP).

(ii) For expansion of existing CFO's, the setback requirement from a Town or Hamlet may be waived. Prevailing winds are to be considered in siting CFO's, to minimize odours. All other requirements apply to the consideration of the CFO expansion.

(e) Rural Residential Use (non-urban)

3.2 km (2 mi) from a residence in a rural area to the CFO facility. A dwelling associated with the operation of a CFO may be considered by the Approval



Authority within a setback from the CFO.

- (f) Environmentally Significant Features
 - (i) 3.2 km (2 mi) from the identified “edge” of environmentally significant features with the exception of Grimshaw Gravels Aquifer area.
 - (ii) 3.2 km (2 mi) from the Grimshaw Gravels Aquifer area and any other identified aquifers within the County.
- (g) Intensive Recreation Areas
3.2 km (2 mi) from the identified perimeter of the intensive recreation area.
- (h) Road rights-of-way, including undeveloped road allowances:
152.4 m (500 ft)
- (i) Water bodies and water features
3.2 km (2 mi) from the top of bank for water bodies, streams, rivers, (and their tributaries) and from wetlands. The setback will be measured from the outer boundary of the wetland and in the case of a stream, the edge of the bank or water catchment area.

(9) Landscaping and Screening:

Buffering shall be provided between the CFO site and the road, as well as adjacent and nearby incompatible uses using existing trees, if possible, and other buffering plants, berms, or materials.

9.5 Oil/Gas Development Setbacks

- (1) All proposed oil/gas development shall require approval prior to construction either in the form of a development permit or letter of authorization with conditions pertaining to the specific development. These conditions may vary due to site-specific features such as zoning, geography, the location of water (surface or subsurface), other impacting features or as varied by the Development Authority.
- (2) The following are guidelines pertaining to oil/gas development:
 - (a) Sites are to comply with all regulations as required by Alberta Environment and Parks and/or Alberta Energy Regulator (A.E.R.);
 - (b) All sites shall conform to any standards as set by the County;
 - (c) All permanent structures including well heads shall be located a minimum of 40.8 m (134 ft) from the property line adjacent to all surveyed road allowances;
 - (d) All sump pits shall be located a minimum of 20 m (66 ft) from the property line adjacent to a surveyed road allowance;



10.3 Confined Feeding Operations District (CFO)

(1) PURPOSE:

The purpose of this district is to regulate the development of provincially approved CFO's within the County.

(2) USES:

No person shall use any lot or erect, alter or use any building or structure for any purpose except one or more of the following:

In alphabetical order:

(a) Permitted Uses:	(b) Discretionary Uses:
- sign	- accessory building or structure
	- agricultural industry
	- confined feeding operation (CFO)
	- dwelling, caretaker's
	- dwelling, manufactured home
	- dwelling, modular home
	- dwelling, single-detached
	- highway maintenance yard
	- public use
	- trucking operation
	- trucking or freight terminal

(3) SITE PROVISIONS:

- (a) As per Alberta Agriculture and Forestry Approvals; and
- (b) Applications submitted for Confined Feeding Operations must satisfy all of the requirements listed under Special Land Use Provisions, Section 9.4 for Confined Feeding Operations of this Bylaw.



10.4 Agricultural District – 1 (AG-1)

(1) PURPOSE:

The purpose of this agricultural district is to regulate a wide range of agricultural land uses and discourage all land uses conflicting with the intent of conserving extensive areas of prime agricultural land, thus maintaining the agricultural integrity and the rural character of the County.

(2) USES:

No person shall use any lot or erect, alter or use any building or structure for any purpose except one or more of the following:

In alphabetical order:

(a) Permitted Uses:	(b) Discretionary Uses:
- accessory building or structure	- abattoir
- dugout or water reservoir	- agricultural industry
- dwelling, manufactured home	- agricultural use, intensive
- dwelling, modular home	- airport
- dwelling, single-detached	- building or site storage facility
- farm building	- business, contractor's
- farmstead	- business, handicraft
- game farm	- business, tradesman's
- public use	- cemetery
- public utility	- communication tower with building
- sign	- community hall or clubhouse
	- dwelling, caretaker's
	- dwelling, secondary suite
	- equipment rental shop
	- farming operation
	- golf course
	- heliport
	- highway maintenance yard
	- home occupation
	- institutional building or use
	- kennel
	- manse
	- natural resource extraction or processing industry
	- place of worship
	- public building



(a) Permitted Uses:	(b) Discretionary Uses:
	- recreational facility and use, indoor
	- recreational use, extensive
	- recreational use, intensive
	- sawmill or planing mill
	- sea can
	- sewage treatment facility
	- store
	- vehicle weigh scale
	- veterinary clinic
	- waste transfer station
	- water treatment facility
	- welding shop
	- work camp

(3) **SITE PROVISIONS:**

In addition to the General Land Use Provisions and Special Land Use Provisions contained in Sections 8 and 9; the following regulations shall apply to every development in this district.

(a) **Parcel Size:**

(i) **Residential uses:**

1. Farmstead Separation: 1.2 ha (3 ac) minimum, 4 ha (10 ac) maximum.
2. Country Residential: 4.05 ha (10 ac) maximum.
3. In the case of parcels larger than the permitted parcel size, the approval is at the discretion of the Development Authority, based on the need to accommodate related farm buildings, improvements, existing and proposed services and site characteristics.

(ii) **All other uses:**

To be determined by the Development Authority, based on the use.

(b) **Parcel Density Per Quarter Section (maximum):**

- (i) One (1) parcel, being the quarter section.
- (ii) In the case of a farmstead or a country residential use, the maximum parcel density per quarter section shall be increased to two (2) parcels with the balance of the quarter being one of the parcels.
- (iii) For uses other than residential: Maximum parcel density at the discretion of the Development Authority.
- (iv) Notwithstanding the above, the parcel density may be increased to

**Bylaw No. 215-17
April 11, 2017**