



# Policies Addressing Livestock Facilities on Severed Surplus Farm Dwelling Lots in Rural Ontario

---

PRESENTED TO: BRUCE COUNTY

Presented By: Randi Burke, Cameron Watt, Natasha Gaudio Harrison  
RURAL PLANNING AND DEVELOPMENT | UNIVERSITY OF GUELPH

## Table of Contents

<b><i>Introduction and Background</i></b> .....	<b>3</b>
<b><i>The Issue</i></b> .....	<b>4</b>
<b><i>Bruce County’s Current Approach</i></b> .....	<b>6</b>
<b><i>Methodology</i></b> .....	<b>7</b>
<b>Contacts:</b> .....	<b>7</b>
<b><i>Relevant Provincial Legislation</i></b> .....	<b>8</b>
<b>Provincial Policy Statement</b> .....	<b>8</b>
<b>Nutrient Management Act</b> .....	<b>9</b>
<b>Minimum Distance Separation</b> .....	<b>9</b>
<b><i>Stakeholders</i></b> .....	<b>10</b>
<b>Farmers and Agricultural Interests</b> .....	<b>10</b>
<b>Property Owners</b> .....	<b>10</b>
<b>Heritage Interests &amp; Ontario Barn Preservation Society</b> .....	<b>11</b>
<b>The Ministry of Agriculture, Food and Rural Affairs (OMFRA)</b> .....	<b>11</b>
<b><i>Jurisdictional Scan</i></b> .....	<i>Error! Bookmark not defined.</i>
<b><i>Evaluative Matrix</i></b> .....	<b>20</b>
<b><i>Recommendations</i></b> .....	<b>22</b>
<b>Recommended Initiative: Heritage Asset Inventory &amp; Heritage Building CIP</b> .....	<b>22</b>
<b>Recommended Initiative: Case-by-Case Committee</b> .....	<b>23</b>
<b>Recommendation: Make use of Animal Control By-Laws on Rural Residential Lots</b> .....	<b>23</b>
<b><i>Appendix</i></b> .....	<b>24</b>
<b>Grey County: Surplus Farm Dwelling Severance Policies</b> .....	<b>25</b>
<b>Huron County: Surplus Farm Dwelling Severance Policies</b> .....	<b>31</b>
<b>Middlesex County: Surplus Farm Dwelling Policies and Recommendations</b> .....	<b>40</b>
<b>Oxford County: Surplus Farm Dwelling Polices and Recommendations</b> .....	<b>47</b>
<b>Perth County: Surplus Farm Dwelling Polices and Recommendations</b> .....	<b>50</b>

## Introduction and Background

The following document is initiated by Bruce County in relationship with the University of Guelph Master of Science Rural Planning and Development program. The County is seeking a policy framework to address a complex policy area: **Regulating the use of non-conforming livestock facilities on residential lots created by Surplus Farm Dwelling (SFD) severances.**

As per the Provincial Policy Statement, 2020 (PPS), lot creation in agricultural areas is generally discouraged except for under specific circumstances. In this case, “a severance for a residence surplus to a farming operation, as a result of a farm consolidation” (PPS Section 2.3.4.1 c). The key issue surrounding this policy area is that livestock facility capacity is regulated by the Nutrient Management Act (NMA), 2002, S.O., 2002, and Minimum Distance Separation (MDS I) formulae, which are provincially mandated. As the NMA supersedes municipal Zoning By-Laws (ZBLs), municipalities face difficulty regulating the use of leftover livestock facilities on these residential lots. **The project's primary focus is to find a policy-based solution at the County or Municipal level to address the appropriate use of existing barns that does not conflict with the NMA.** To do this, an evaluative matrix of key policy approaches in other Southwest Ontario municipalities is intended to advise Bruce County on this issue.

The project starts with an overview of the issues surrounding surplus farm dwellings (SFD) and livestock facilities and moves into a description of the methodology used through data collection, providing a list of contacts that helped administer information and clarify the issue. Next is a summary of relevant provincial legislation that all municipal Official Plans (OP) and ZBLs must comply with to be consistent with Provincial Policies. Once the background and overview are complete, the paper then moves into a general overview of the jurisdictional scans. Highlighting the main OP and ZBL sections and an interpretation of policy priorities in each municipality listed in our contacts. After that, several recommendations will be made based on the information and policies collected throughout the research process. The paper will finish with an Appendix containing all supplementary materials, including information on each municipality referenced, any relevant Official Plan policies, relevant Zoning By-laws [if any], and additional comments from each individual planner on the issue.

## The Issue

As stated, the Provincial Policy Statement (PPS) prioritizes the preservation and protection of Ontario's Prime Agricultural lands. Lot creation in Prime Agricultural lands is heavily regulated and restricted by the PPS, and is only permitted in several specific scenarios, under PPS Section 2.3.4.1. One scenario is “a severance for a residence surplus to a farming operation, as a result of a farm consolidation” (PPS Section 2.3.4.1 c).

During this severance process, a livestock facility may be located within the immediate vicinity of a farm dwelling, as a part of a larger farm cluster. If a livestock facility remains on the farm/agricultural retained parcel, after the completion of a surplus farm dwelling severance, this can pose a minimum distance separation conflict from the view of the PPS, specifically under Section 2.3.3.3.

Section 2.3.3.3: "New land uses in prime agricultural areas, including creating lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae." In this scenario, the leftover barn/livestock facility no longer has a permitted use or function on the retained farmland parcel. As such, the barn must either be demolished or abandoned, due to its incompatibility with the retained farming parcel, and its conflict with the Provincial MDS requirements. In this way, the PPS does not adequately provide guidance for how barns on SFDs should be handled in municipal policy frameworks.

Many stakeholders throughout Ontario are against the notion of these barns being torn or abandoned, as they feel that these structures contribute to cultural heritage values and interests. They also feel that the barns are seen as rural landmarks and could be used for other purposes besides large-scale farming.

The crux of the issue that Municipalities must contend with is that while the PPS limits lot creation in prime agricultural areas, neither it nor OMAFRA provide adequate guidance to Municipalities on how agricultural buildings, including livestock facilities should be addressed in the event of severances where a residential lot is created. The option exists to include the barn with the severed lot. Depending on the zoning designation of the new lot, the barn could represent an incompatible use of the severed parcel, as Section 2.3.4.1 of the PPS directs that “the new lot will be limited to a minimum size needed to accommodate the use and

appropriate sewage and water services,” which results in a land base that is too small to support a large-scale livestock operation.

In response to this issue, municipalities throughout Ontario are currently implementing innovative policies to preserve and repurpose livestock facilities/barns that are subject to SFD severance. These policies ensure that the use of these buildings is consistent with the policies that exist the PPS, while also maintaining the goals and priorities outlined in their respective Official Plans.

Some of these approaches have included the creation or use of “non-farm” zoning designations, or “rural residential,” limiting permitted uses of the property to primarily residential uses. Designations such as this create an incompatible use in prime agricultural areas, encouraging non-farm residents and limiting use of Prime Agricultural land. Key informant interviews for this project suggest that interest in small-scale agriculture is increasing, and those that purchase severed SFD lots may be interested in the pursuing either small-scale farm operations or engaging in “hobby” farming for personal use. The existing livestock facilities could arguably be used as accessory buildings to the dwelling that may house animals at a smaller scale but ensuring that a reasonable scale of operations or a reasonable number of animals are kept in these facilities is difficult, as there are no provincially mandated limits on livestock beyond Minimum Distance Separation. In theory, one of these SFD lots could be four acres, and there would be no provincial regulation to suggest that a barn on that property could not be filled to its maximum capacity, as long as it adhered to MDS formulae. Key informants for this project noted that a version of this issue has occurred in Huron County, where a livestock facility on an SFD parcel had been filled to capacity by the property owner. In these cases, the Municipality has no tools at its disposal to regulate or enforce limits. The challenge is to find a solution to this issue that satisfies the policy framework, adequately regulates use of the barns, and in a best-case scenario, encourages their adaptive reuse.

## Bruce County’s Current Approach

Bruce County’s Official Plan does not contain policies that directly address leftover livestock facilities on SFDs.

A scan of local municipal Zoning By-Laws within the County suggests a few differing approaches to this issue. Huron-Kinloss’ Comprehensive Zoning By-Law designates surplus farm dwelling severances as AG3, Agricultural Residential Zone. This zoning designation permits: “Accessory Use (Section 4.1), Bed and Breakfast Establishment, Dwelling, Single Detached, Farm Business, Home Business – Domestic and Household Arts, Home Business – Professional” It directly addresses livestock barns on AG3 parcels. Section 8.3 Existing and Proposed Livestock Barns reads:

“Notwithstanding the provisions of Section 8.1 to the contrary, an existing barn may be used, or a new barn may be established subject to the following table:

Minimum Lot Size (Hectares)	Maximum Number of Nutrient Units Permitted	Minimum Distance Separation required from the barn to the nearest residential, commercial, institutional building or structure, excluding uses on the same property
0.4	1	85
0.8	2	85
1.2	3	85
1.6+	4	85

Source: Township of Huron-Kinloss Zoning By-Law # 2018-98, Section 8.3

Other Zoning By-Laws, such as the Municipality of Arran Elderslie’s do not include provisions regarding barns on SFDs specifically, but appear to use a General Agricultural Special designation that limits Nutrient Units on severed properties. For example:

“A1-08-2017 - General Agriculture Special, Concession B Lot 12 to 13 (Arran) (Baer c/o Snobelen / Z-92-16.49) .80 Notwithstanding the General Agriculture (A1) Zone those lands delineated as A1-08-2017a - General Agriculture Special on Schedule 'A' to this By-law shall be used in compliance with the 'A1' zone provisions contained in this by-law, excepting however: i. Residential uses shall be prohibited. .81 Notwithstanding the General Agriculture (A1) Zone,

those lands delineated as AI-08- 2017b - General Agriculture Special on Schedule 'A' to this By-law shall be used in compliance with the 'AI' zone provisions contained in this by-law, excepting however: i. Livestock on the severed parcel shall be limited to no more than 1.25 nutrient units per hectare (0.5 NU per ac). MDS guidelines shall apply.”

This initial scan suggests that Bruce County and its area municipalities’ zoning by-laws may be in conflict with the Nutrient Management Act, as zoning by-laws are unable to limit nutrient units because the NMA supersedes Zoning By-Laws.

## Methodology

The method design for this report consisted of completing literature and jurisdictional scan surrounding the policies associated with SFDs, followed by qualitative interviews with planners throughout Southern Ontario jurisdictions that have dealt with SFD severances and livestock facilities. These interviews helped create a more detailed interpretation of SFD severances and livestock facilities policies to develop a more accurate evaluative matrix and end recommendations based on our findings.

The literature review and jurisdictional scan identified policies surrounding SFD, identifying different practices, strategies, and challenges associated with each municipality’s policy framework. This review helped identify relevant provincial legislation to be analyzed and served to inform the content within the semi-structured interviews.

The interviews were utilized to understand planners' and municipalities' operational and on-the-ground experiences surrounding this topic. Participants of the interviews were based on suggestions by our Bruce County contact, Monica Walker-Bolton, who provided us with the names of planners in Perth County, Huron County, and Grey County, and these interviews led us to other organizations and municipalities that became of significance to the project.

### Contacts:

- Denise Van Amersfoort- Manager of Planning, Huron County
- Marion Cabral- Planner, Middlesex County
- Donald Hilborn & Wesley Wilson – Ontario Barn Preservation Society
- Becky Hillyer- Planner, Grey County

- April Nix, Manager of Planning, Oxford County
- David Marriott – Rural Planner OMAFRA
- Sally McMullen- Manger of Planning, Perth County

## Relevant Provincial Legislation

### Provincial Policy Statement

The Provincial Policy Statement provides “policy direction on matters of provincial interest related to land use planning and development.” There are several sections of the Provincial Policy Statement (PPS) that are relevant to surplus farm dwelling severances and retained livestock facilities. These include:

**Section 2.3.1** *“Prime agricultural areas shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.”*

**Section 2.3.1 protects Prime Agricultural areas for long-term agricultural uses. This is a foundational PPS policy that carefully restricts the use of land in Prime Agricultural areas. A retained livestock facility in an agricultural area must maintain consistency with Section 2.3.1 of the PPS.**

**Section 2.3.4.1** *“Lot Creation in prime agricultural areas is discouraged and may only be permitted for: c) a residence surplus to a farming operation as a result of farm consolidation, provided that:*

- 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
- 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which*

*achieve the same objective; and d) infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.”*

**Section 2.3.4.1 of the PPS restricts lot creation in Prime Agricultural areas. A residence surplus to a farming operation as a result of a farm consolidation is permitted, subject to the conditions of Section 2.2.4.1 c).**

***Section 2.3.3.3:** “New land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.”*

**New land uses (including a new residential parcel) in prime agricultural areas must comply with the minimum distance separation formulae. A livestock facility that is subject to a residence surplus farm dwelling severance must comply with the Provincial MDS separation requirements, as outlined in Section 2.3.3.3 of the PPS.**

### **Nutrient Management Act**

*The Nutrient Management Act manages how raw materials containing nutrients (e.g. manure) can be used, to protect and enhance the natural environment and allow for sustainable agricultural operations and rural development (OMAFRA, Nutrient Management Fact Sheet).*

**The Nutrient Management Act Regulations state: No restriction on farm animal numbers 7. For the purposes of the Act and this Regulation, there shall be no restriction on the numbers of farm animals that may be managed in the course of an agricultural operation, unless imposed expressly or by implication by this Regulation or by an order made under section 29 or 30 of the Act. O. 267/03, s. 7.**

### **Minimum Distance Separation**

The Minimum Distance Separation (MDS) is a Provincial tool, which serves to mitigate potential land use conflicts between livestock facilities and other surrounding land uses. The Provincial Policy Statement enforces the use of the MDS on lands designated Rural and Agricultural, through sections 1.1.5.9 and 2.3.3.3 of the PPS.

An MDS 1 setback is required for a new proposed severance, when a dwelling is located on the same lot as an existing livestock facility or anaerobic digester before a severance, and after the

consent the dwelling is to be located on a separate parcel from that same existing livestock facility. This is enforced as this new development could create an odour conflict, as the dwelling and the existing livestock facility are to be located on separate lots, after the severance approval. This is enforced, regardless of how an individual Municipality chooses to treat livestock facilities located on separate lots. (Minimum Distance Separation Document, OMAFRA). Minimum distance separation is the only regulatory limitation on livestock numbers. In cases where the severed lot includes a barn, the property would still be subject to MDS as if it were a full-sized, 100 acre farm parcel as the MDS formulae is concerned with distance between livestock facilities and other land uses to mitigate nuisance complaints. On a severed lot in the middle of a Prime Ag area, it is possible that the nearest different land use is a significant distance away.

## Stakeholders

### Farmers and Agricultural Interests

The primary stakeholders in these severance scenarios are agricultural property owners that apply for surplus residential severance consents. As the owners of the retained agricultural properties, their interest is to sever and sell the surplus residential property. In some scenarios, as in Grey County, these farm businesses are required to retain the livestock facility but alter it so that it cannot house livestock. These stakeholders may argue that this is an underutilization of these buildings and that the cost to maintain them is unfair.

### Property Owners

Owners of severed residential properties have interest in this issue as their properties may contain or be adjacent to a leftover livestock facility. We heard in key informant interviews with planners from each municipality that many residents who own these properties often seek a rural lifestyle but are not necessarily interested in operating a large-scale farm business. They have, however, in some cases, shown interest in using leftover livestock facilities for animals for personal use, such as a single horse, goats, or chickens, or home-based industries that adapt the livestock facilities into a workshop, such as woodworking or welding.

## Heritage Interests & Ontario Barn Preservation Society

Some of these leftover livestock facilities are older buildings that may have heritage value. These structures are typically timber framed, and some were constructed as early as the 19<sup>th</sup> century. Some of these are two-storey structures known as bank barns, as they were built into the side of a hill providing accessibility to their upper and lower floors. Key informant interviews with planners at Municipalities suggested that there is significant heritage value in some of these structures, as they are an iconic component of Ontario's rural landscape.

. One key organization advocate for the heritage value and preservation of historic barns, called the Ontario Barn Preservation Society. This organization prioritizes the protection and preservation of barns for various reasons, including but not limited to:

- “Barns are seen as rural landmarks in many ways, primarily through the lens of architectural and cultural history
- Barns can be reused in creative and innovative new ways
- Barns provide added value for agritourism
- Barns can represent work ethic and values associated with farming lifestyles
- Barns can be useful for small farm operations if permitted by the municipality
- Barns may contribute to economic development” (Ontario Barn Preservation Society, 2021).

The organization provided the Project Team with a previously distributed Strategic Letter outlining current Provincial Policy issues pertaining to residential surplus dwelling farm severances; these policies will be explained within the **jurisdictional scan** of the document.

## The Ministry of Agriculture, Food and Rural Affairs (OMAFRA)

OMAFRA represents the Ontario government ministry responsible for the food, agriculture, and rural sectors of the Province of Ontario. They are a significant stakeholder in SFD and livestock facilities because the ministry is responsible for overseeing provincial legislation relevant to this issue. The goal of OMAFRA is to advance government efforts to promote a competitive and productive agri-food sector and provide economic growth and opportunities in rural Ontario.

OMAFRA reflects that SFD lots need to satisfy the applicable PPS policy criteria, such as the new lot being limited to a minimum size required to accommodate the use and appropriate water and sewage services.

In a key informant interview for this project, OMAFRA planner David Mariott noted that there are site-specific criteria that will address how an SFD severance is handled, including:

- it may not be possible or practical to keep agricultural buildings with the retained farm parcel; thus, the merits of rezoning the lot to something like a rural residential designation is required
- removing any agricultural buildings from the surplus farm dwelling lot or structurally altering the buildings, so they are no longer capable of housing livestock

It is worth noting that the Ministry relies on the wording of policies within the PPS, so these suggestions are not to be taken as direction from the Province on this matter. As stated previously, the core of this issue is that the Province does not offer concrete direction on what to do with livestock facilities in the cases of SFD severances and so Municipal planners and building officials are left to figure out a solution on their own that is consistent with the PPS and satisfies the policy framework.

Each criterion and relevant legislation policies will be addressed further within the **jurisdictional scan** of the document.

## [Jurisdictional Scan & Key Informant Interviews](#)

### **Bruce County**

As noted in the section 'Bruce County's Current Approach,' Bruce County's Official Plan does not contain policies that address livestock facilities on lots created as a result of surplus farm dwelling severances.

Local municipal Zoning By-Laws approach the designation of these lots in different ways. Two examples of Zoning By-Law approaches can be found in section 4.1 of Huron-Kinloss' Comprehensive Zoning By-Law which describes AG3 parcels – its designation for these severed parcels. Arran-Elderslie Comprehensive Zoning By-Law includes site-specific provisions

regarding “General Agricultural Special” lots in Section 6.4. Each of these ZBLs seek to limit livestock numbers on these parcels, which is in conflict with the NMA.

## Huron County

Huron County OP – Section 2.3 – Agriculture – **Community Policies & Actions #8, #9**

Zoning By-Law designations in all municipalities except Goderich: **Agricultural Small Holding Zone – AG-4**

Huron County’s policy priorities in this regard are to control the use of leftover livestock facilities to an appropriate scale on small acreages. This jurisdiction previously ran into an issue with an owner of an SFD severance parcel using the severed livestock facility at its full capacity for livestock, but the land base was not appropriate to support those livestock numbers. Huron County’s AG-4 provisions include limits on livestock numbers on these parcels based on the total size of the parcel. County Planning and Development staff realized that these provisions were in conflict with the NMA, as ZBLs cannot limit livestock numbers on agricultural parcels.

## Proposed Policy

Huron County Planning and Development staff proposed policy shifts in March 2020 to change its severed lot zoning from AG-4 (Agricultural Small Holding) to RR-1 (Rural Residential), and only allow leftover livestock facilities to remain on the property *if* the ground floor area of the barns and size of parcel were appropriately sized (see appendix table).

## Current Policy

It is worth noting that this proposed policy shift **did not** pass at Council and the County’s current approach is to amend ZBLs to omit any provisions that limit livestock to ensure consistency with the NMA. Planning and Development staff echoed the comments of Council on this matter that they were not necessarily concerned that these lots would be purchased for the purpose of large livestock farm business operations in the future.

The minutes from the Council decision read:

“9.2 AG4 (Agricultural Small Holding) Properties and the Keeping of Livestock (presented by Sandra Weber and Denise Van Amersfoot). Follow-up Report on AG4 (Agricultural

Small Holding) Properties and the Keeping of Livestock. Moved BY: Councillor Klopp and Seconded by: Councillor Harding THAT: The Council of the County of Huron receives support by Denise Van Amersfoort, Senior Planner and Sandra Weber, Director of Planning and Development, dated October 7, 2020, titled AG4 (Agricultural Small Holding) Properties and the Keeping of Livestock, as presented for information; AND FURTHER THAT: The Council of the County of Huron directs staff to update the AG4 (Agricultural Small Holding) Zone in local Municipal Zoning By-laws by removing the provision limiting the number of livestock, in accordance with the Provincial Nutrient Management Act and Regulations”

Source: County of Huron Council Minutes, Council Day 1, Section 9.4. October 7, 2020.

## Oxford County

### Current policies:

The section of Oxford County’s OP that deals with these severances is **Section 3.1.4.5.2 Surplus Farm Residences**. For context, Oxford County’s policy priorities are relatively strict in discouraging the creation of new lots that are not for agricultural use. SFD severances are only allowed in the event that the surplus dwelling is the result of a farm consolidation with a neighbouring farm, and that the dwelling on the parcel was built pre-1995 to discourage the creation of empty lots for new residential builds. The relevant section reads:

“On-farm dwellings are to be considered as part of the farm unit and consent to sever any surplus farm dwellings will not be permitted by the Oxford County Land Division Committee, unless the proposal involves a farm consolidation in accordance with the policies of Section 3.1.4.4.1 and complies with the policies of Section 3.1.5.4.2. EXCEPTION Notwithstanding the above policy, a surplus second or additional farm dwelling may be severed from the farm where such dwelling is located within a designated settlement as shown on Schedule C-3, Settlement Strategy Plan, and satisfies the policies for residential development in the settlement area.”

The ZBL designation for these lots is Rural Residential (RR).

### Proposed policies:

Oxford County is currently undergoing an Official Plan review of its Agricultural Policies. Its proposed policies for SFDs continue to be restricted to severances as a result of a farm consolidation but would no longer require the dwelling to be located within a designated

settlement, as was previously required. These updates may result in increased SFD severances in Agricultural areas where existing barns are an issue. The proposed section reads:

“On-farm dwellings are to be considered as part of the agricultural use and consent to sever any surplus farm dwellings will not be permitted by the Oxford County Land Division Committee, unless the proposal involves the severance of a dwelling that is rendered surplus as a result of a farm consolidation in accordance with the policies of Section 3.1.5.3”

Source: Draft Amendment Number 269, to the County of Oxford Official Plan, 2021.

Planning staff consulted for this project indicated while any surplus farm dwelling consents had previously required barns be demolished or stay with the farm operation, new policies may allow livestock facilities to be severed with the new rural residential lot only if they are suitable to be an **accessory** to a dwelling. All livestock equipment must be removed.

To address livestock numbers, planning staff suggested creation of an animal control by-law that would only apply to Rural Residential (RR-1) lots in agricultural zones to control animal ownership.

## Grey County

Grey County’s policies pertaining to SFD severances can be found in its Official Plan, Section 5.2.3. Section 5.2.3 also deals with Agricultural Development Policies. Our key informant interview with a Planner from Grey County suggested that this jurisdiction has prioritized the heritage value of barns more than the other jurisdictions we spoke to. It has proposed new policies to preserve the barns and the Planner at Grey County expressed that severing the barns with the SFD property is a primary way to preserve the barns. This could be done by increasing the size of the new severed parcel to include any existing livestock facility in the severance consent process. In the event the barn is kept on the retained agricultural property, ensure that any leftover livestock facilities on the agricultural parcel have “decommissioned” status by removing feed troughs or stalls.

## Existing OP Policies:

- Attempt to limit the size of a new parcel, which is to accommodate a surplus farm dwelling and other accessory buildings (including a barn/livestock facility). \*Priority is to minimize the amount of land taken from Agricultural lands.

## New Proposed OP Policies:

- **Option #1:** Expand the total size of the new severed parcel to include any existing barn/livestock facility, which allows the barn to be accessory to the primary surplus dwelling use. This eliminates any potential MDS issues, as the barn is to be included on the same parcel as the new surplus dwelling, as a secondary use.
- **Option #2:** If the Barn/Livestock facility is not included on the new surplus farm dwelling parcel, and it does not meet the MDS standard, then it should be converted to a “decommissioned status”, which will allow the barn/livestock facility to be utilized in a new creative way.

## Perth County

Perth Counties' policies can be found within their Official Plan in Section 5.6.3.1 and have been recently updated in an Official Plan Amendment No 189.

Perth Counties goal is not to reflect what can be done on SFD severances but to remove prescriptive language about what cannot be done. This includes removing the requirement that the farm to which the Surplus Farm Dwelling (SFD) is deemed surplus to must also be located within the County of Perth;

- Remove the text prescribing specific accessory uses and structures in order to allow a rural context to be considered in the evaluation of accessories; and
- Remove references to farm-related uses.
- Aid in the determination of appropriate minimum lot size, taking into account site-specific characteristics;

As well as leaving residential "accessory use" open to interpretation and expanding interpretation of "home industry" encourages the use of accessory buildings, or barns, for home-based business purposes that would see adaptive reuse of livestock facilities.

## Additional Comments:

The approach of leaving residential "accessory use" open to interpretation has the potential to create policy grey areas that must be addressed on a case-by-case basis, impacting planner workload.

## Middlesex County

Middlesex County was contacted via email for this project. Their main stated intentions behind their policies on dealing with leftover livestock facilities in SFD severances was to limit the severed parcel to the minimum size needed to accommodate residential use and servicing, and separate agricultural use on the retained lands from the residential use on the severed lands. The policies that do exist seek to convert change of use to remove the ability to house any livestock, or have the barn removed entirely.

Their relevant policies can be found in the following lower-tier documents:

- Adelaide Metcalfe Official Plan section 3.1.9.6;
- Strathroy Caradoc ; Southwest Middlesex Official Plan section 5.4.1.7;
- North Middlesex Official Plan section 6.2. d) v)

The following table integrates notes from key informant interviews with OMAFRA and the Ontario Barn Preservation Society:

<b>OMAFRA</b>			
<b>OMAFRA</b>	<p><b>Relevant legislation that OMAFRA oversees:</b></p> <ol style="list-style-type: none"> <li>1) PPS Policy 2.3.4.1 c)</li> <li>2) PPS Policy 2.3.5,</li> <li>3) Nutrient Management Act, 2002</li> </ol>	<p><b>Guidance from OMAFRA provided for this project:</b></p> <ol style="list-style-type: none"> <li>1) To create a ‘residential lot’, not an undersized agricultural lot or a hobby farm, when making a decision on a surplus farm dwelling severance.</li> <li>2) This zoning approach would provide those residential uses are the principle use on the surplus farm dwelling lot, where some limited scale of agricultural uses may be permitted as an accessory use.</li> <li>3) NMA may provide several approaches for farm operators to manage nutrients, even on smaller lots. For example, nutrient management could be addressed through a manure agreement with a broker to remove manure from the subject property.</li> </ol>	<p><b>Notes:</b></p> <p>OMAFRA staff do not have a specific preference on how municipalities should address agricultural buildings (e.g., livestock barns) on surplus farm dwelling lots. OMAFRA staff are interested in ensuring that local planning documents (e.g., official plans) include policies and provisions that address lot creation in prime agricultural areas (and on rural lands), which are consistent with the PPS and where applicable conform to the Provincial Plans.</p>
<b>Ontario Barn Preservation Society</b>			
<b>Ontario Barn Preservation Society</b>	<p>Source: Ontario Barns Presentation Society Presentation (OBP)</p> <p>The OBP sent out a Strategic Letter outlining the following current Provincial Policy issues pertaining to residence surplus dwelling farm severances:</p> <p><u>Policy Item #1</u></p> <ul style="list-style-type: none"> <li>• -The organization found that the use of the Provincial MDS formulae was detrimental to the preservation of historic barns. When a barn is retained on the existing agricultural parcel, the barn is typically in immediate violation of the Provincial MDS requirement.</li> <li>• -Alternatively, they believe that barns should be located on the severed surplus dwelling parcel, rather than being retained on the existing farm parcel. This ensures that the barn does not pose an issue with the Provincial MDS requirement. The permitted use of the barn is limited, which means that the barn is typically demolished if it can’t be used.</li> </ul>		

- -Farms may be used for a hobby farm, CSA, farm gate, estate residential, and other adaptive use.

Policy Item #2

PPS Section 2.3.4.1c: “the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services”.

-This often forces the barn to be retained on the agriculture lot, which makes it incredibly vulnerable.

\*Recommended solutions, used by other Municipalities:

- -use a min/max lot size to replace this language in the PPS policy
- -review each severance on a case-by-case basis
- -implement stronger language in the PPS to consider heritage buildings, in site assessments for surplus farm severances

Policy Item #3

- Designation of severed lot to be zoned “non-farm” and permitted uses as non-farm dwelling.
- non-farm designation creates an incompatible use, encouraging non-farm residents and limits small scale farm use of the small land for small scale farm operations in Prime Ag zones.

PPS – agriculture related uses and on farm diversified uses shall not hinder surrounding agricultural operations.

\*possible solutions:

- Encourage diversified uses on new farm lot, to ensure preservation, restoration and reuse
- Update provisions for agricultural and rural designations in official plan documents

Policy Item #4

Mandatory change of use for the building to not permit livestock.

- -No distinction for Ag vs. ag shed in the building code
- -change of use to anything other than agriculture is costly
- -limit livestock in agricultural areas is limiting economic output

solution: make the barn capable of housing animals by removing water connections, stalls etc. making the barn a shed/accessory building.

\*OPA- Official Plan Amendment

## Evaluative Matrix

The Project Team's research findings suggested four overall approaches to regulating leftover livestock facilities on SFD severed lots.

They are:

- Do nothing. If the barns remain on the retained agricultural lot, MDS formulae will limit livestock use as the barn would be too close to the severed dwelling. If the barns are severed with the surplus dwelling, assume that any property owners of these severed lots will likely not engage in large-scale livestock farming operations.
- Require livestock facilities to be demolished as part of the severance consent process.
- Require livestock facilities to remain on retained agricultural lot with all livestock equipment removed
- Integrate preference for barns to be severed with the dwelling, and allow structure to remain only as **accessory** to the dwelling

These four policy options will be assessed against four criteria: their contribution to heritage interests, economic development interests, rural lifestyle interests, and agricultural interests.

<i>Policy Options</i>	<i>Recommended language</i>	<i>Interpretation &amp; Policy Priorities</i>	<i>Contributes to heritage interests.</i>	<i>Contributes to economic development interests.</i>	<i>Contributes to rural lifestyle interests.</i>	<i>Contributes to Agricultural Interests</i>
<i>Do nothing – allow policies to remain as-is and do not attempt to control livestock #s or barn use</i>	N/A	N/A	N/A	N/A	Yes	Yes
<i>Require livestock facilities to be demolished as part of surplus dwelling severance consent process</i>	<b>“Farm buildings deemed surplus to the needs of the farm or incompatible with the proposed residential lot if retained with the farm, may require demolition or removal.”</b>	Avoids conflict with Nutrient Management Act	No	No	No	No
<i>Require livestock facilities to remain on retained agricultural property with livestock equipment removed</i>	“...existing barn or other farm structures where they are suitable to be used as accessory structures to a residential use and have been formally converted such that they are no longer suitable for the housing of livestock or poultry or storage/handling of manure”	Could be used as storage.	Maybe – Only if additional policy frameworks identify and designate existing livestock facilities as heritage assets. The Heritage Act could be triggered here.	No – If leftover livestock facilities remain on retained lot and are made unable to house livestock, they will become underutilized assets to farm business owners.	No	No
<i>Integrate preference for barns to remain on severed lot in upper-tier OP &amp; allow barns to remain only as <b>accessory</b> to residential dwelling</i>	Livestock facility <b>may</b> remain on severed surplus residential lot.	Preservation of barns, encourages residential accessory use of structures.	Yes	Maybe – if adaptive reuse is encouraged i.e. through allowance of home-based industries	Yes	No

## Recommendations

Based on the evaluative matrix exercise, the approach that satisfies all interests and encourages adaptive reuse may be to rezone severed Surplus Farm Dwelling lots to a designation such as “non-farm” or “rural residential,” to acknowledge that the primary use of the lot is not agricultural. This would create clarity around permitted uses. Any provisions under a new residential zoning designation should acknowledge any leftover livestock facilities as accessory to the dwellings, i.e. not intended for large-scale agricultural farm business activity. In Perth County, the introduction of home-based industries acknowledged that these accessory structures could be used for home business purposes that would see an adaptive reuse of the barns for activities such as woodworking or other skilled trades.

This approach can also acknowledge that property owners of severed SFDs may be seeking a rural lifestyle. In these cases, the definition of accessory use can include keeping animals for personal use only. Thus, the Project Team has a preference for the following policy framework:

- Upper Tier OP: utilize language that communicates the **option** for for leftover livestock facilities to be severed with the SFD. E.g. “Livestock facility **may** remain on severed surplus residential lot. “
- Lower Tier OP: Identify that severed lands are considered Rural Residential and cannot contain a farm business.
- Zoning By-Laws: Consider barns accessory to the dwelling, define and permit ‘Home Industries’ that can be executed in accessory buildings, use Animal Control By-Laws to control personal-use animals kept on site.

What follows are additional initiatives that stemmed from the research:

### Recommended Initiative: Heritage Asset Inventory & Heritage Building CIP

If it is decided that preservation of livestock facilities, specifically heritage bank barns, is a priority for Bruce County, a potential initiative would be to undergo an asset inventory and mapping process. Once inventory of all potential heritage barns has been taken, the creation of a Community Improvement Plan or similar grant program could be made available for property owners to encourage basic maintenance of these heritage structures.

### Recommended Initiative: Case-by-Case Committee

Our conversation with Perth County created this recommendation. As Sally McMullen stated, with SFD severances and livestock facilities, leaving grey area in policy such as the interpretation of the definition of 'accessory use,' planners often must use their knowledge and opinion on the proposed lot to decide ultimately. The process is sometimes a case-by-case task in which each proposal will have different outcomes based on the property owners' wants and needs with the facility.

This outlook caused a recommendation initiative that included a Case-By Case Committee for SFD and livestock facilities.

The committee could consist of planners from lower and upper-tier municipalities while including critical stakeholders listed above. Our conversations with municipalities also suggested that these issues can be rare, so this could be a group willing and committed to addressing the issue when it does occur.

This committee would look at the big picture of the proposal while also understanding the policy framework for SFD severance and livestock facilities. As property owners are looking for a building that will fit their lifestyle needs, the committee's role would be to see how that works within the respective municipality.

Ultimately, the decision would be with the respected person/planner but having a committee could help overview the issue.

### Recommendation: Make use of Animal Control By-Laws on Rural Residential Lots

This recommendation would apply in the event that Bruce County opted to create a new Rural Residential (RR-1) zoning designation. In rezoning lots to Rural Residential, municipalities may be able to control numbers of animals via animal control by-laws as are typically used in urban areas. In this way, the barn as accessory structure to the residential dwelling would be respected as if it were to house animals, they would be acknowledged as for strictly personal use and numbers could be regulated and enforced through the zoning by-law.

## Appendix

The Appendix consists of all relevant policies and procedures found within our justice scan and qualitative interviews. This provides a place that Bruce County can quickly locate what other rural municipalities are doing on this issue, including:

- Grey County
- Huron County
- Middlesex County
- Oxford County
- Perth County

## Grey County: Surplus Farm Dwelling Severance Policies

### Grey County Background

Grey County is located in Southwestern Ontario and borders Georgian Bay on Lake Huron. Grey County oversees nine Lower-Tier member Municipalities: Township of Chatsworth, Township of Georgian Bluffs, Municipality of Grey Highlands, Town of Hanover, Municipality of Meaford, City of Owen Sound, Township of Southgate, The Blue Mountains, and the Municipality of West Grey. The Grey County Official Plan outlines the policy vision for the entire County. All lower-tier Official Plan documents must conform to the policy direction of the Upper-Tier Grey County Official Plan.

County Planner Becky Hillyer provided the following PowerPoint slides, which outline policies related to barn preservation and surplus dwelling farm severances in Grey County.

### Existing Grey County Official Plan Consent Policies

#### 5.2.3 Consent Policies

Lot creation in the Agricultural land use type is generally discouraged and may only be permitted for agricultural uses, agricultural-related uses, surplus farmhouse 81 severances, infrastructure, and conservation lots in accordance with section 5.2.3 of this Plan.

1) A consent for one new lot may be permitted provided the original farm parcel is a minimum of 40 hectares. The options for consent would be:

a) One lot severed to create a farm parcel of generally 40 hectares in size, provided both the severed and retained lots are 40 hectares in size and are both intended to be used for agricultural uses. Where a severance is proposed to create a farm lot smaller than 40 hectares, an official plan amendment will not be required, but an Agricultural Report is required by a qualified individual, (which may include an agrologist, agronomist, or a professional agricultural business degree) that addresses the following criteria:

1) Agriculture shall be the proposed use of both the severed and retained lots,

- 2) A farm business plan is required, demonstrating the viability of the severed and retained uses for the farm operations proposed,
- 3) Demonstration that both the severed and retained lots will be economically viable and flexible to respond to economic change. The applicant shall provide information necessary to evaluate the viability of the new farming operations on the parcels of land. Information pertaining to the scale and nature of the operation, projected revenue, expenses, financing, soil quality, water quality and quantity, and any other viability criteria relevant to the proposal shall be provided to the satisfaction of the County, in consultation with the Province,
- 4) Demonstration that nearby lots of similar size and farm capability to the proposed lots are not available and suitable for the intended agricultural use,
- 5) The suitability of both the severed and retained lots should be assessed based on:
  - i. The type and size of agricultural operations common in the area or to the type of agricultural operation proposed, or
  - ii. Demonstration that a new viable form of agriculture is suitable for the area and lot sizes proposed,
- 6) Demonstration that both the severed and retained lots remain sufficiently large to permit a change; in the agricultural product produced, an adjustment in the scale of operation, or diversification; and,
- 7) Both the severed and retained lots shall comply with Provincial MDS Formulae.

b) New residential lots are not permitted in the Agricultural land use type. Where a house is deemed surplus to a farm operation as a result of farm consolidation, a lot may be severed provided that:

- 1) The owner of the lands to be severed is a 'bona fide farmer', or as a condition of the consent application the lands will be sold to a 'bona fide farmer'. For the purposes

of this policy, the 'bona fide farmer' must have a farm business registration number. A 'bona fide farmer' is defined to include a limited company, sole proprietorship, incorporated company, numbered company, partnership, and other similar ownership forms.

2) The lot proposed for the surplus farmhouse (and accessory buildings if applicable) will be limited in area and shall only be of sufficient size to accommodate the surplus farmhouse to the farming operation, accessory buildings (where including accessory buildings does not make the lot excessively large), a well, and a sewage treatment and disposal system, while ensuring that as little land as possible is removed from the agricultural lands.

3) Unless added onto an abutting farm parcel that already contains a dwelling, the remnant farm parcel shall be rezoned to prohibit the future construction of a new residential dwelling of any type.

4) The severance of a surplus farmhouse shall comply with Provincial MDS Formulae. For the purposes of this section, only livestock facilities situated on the farm parcel from which the surplus farmhouse is being severed, shall be used in determining Provincial MDS Formulae compliance

5) Given that no new house can be built as a result of the surplus farmhouse being severed from the land holding, the requirements for an environmental impact study, do not apply; however no new surplus farmhouse severances will be permitted in the Aggregate Resource Areas identified on Schedule B to this Plan; and,

6) The existing farmhouse is habitable at the time of application

## Comments

Existing OP Policies: Attempt to limit the size of a new parcel, which is to accommodate a surplus farm dwelling and other accessory buildings (including a barn/livestock facility). The priority is to minimize the amount of land taken from Agricultural lands.

Consequence: After the severance is completed, an existing barn on the retained parcel may pose an MDS conflict, because of the barn's relative proximity to the new dwelling (on the severed parcel). Additionally, the existing barn does not have any form of "decommissioned status," so the permitted use of the retained structure is incredibly limited. The structure may therefore be forced to be demolished.

**Grey County is undergoing an Official Plan Update, which will read as follows, as provided by our Grey County contact:**



## Current Official Plan Policies

### ▶ **Section 5.2.3 Consent Policies (pertaining to Surplus Farmhouse Severances)**

- 2) The lot proposed for the surplus farmhouse (and accessory buildings if applicable) will be limited in area and shall only be of sufficient size to accommodate the surplus farmhouse to the farming operation, accessory buildings (~~where including accessory buildings~~ **(including any livestock facility**, if this does not make the lot excessively large), a well, and a sewage treatment and disposal system, while ensuring that as little land as possible is removed from the agricultural lands.
- 4) The severance of a surplus farmhouse shall comply with Provincial MDS Formulae. For the purposes of this section, only *livestock facilities* situated on the farm parcel from which the surplus farmhouse is being severed, shall be used in determining Provincial MDS Formulae compliance. **If an existing livestock facility is located within the vicinity of the surplus farmhouse, it is recommended that it be included in the severed parcel with the surplus farmhouse.**
- 7) **If any livestock facility is located on the retained parcel and fails to meet MDS requirements relating to a severed surplus farmhouse, it is recommended that it be converted to a decommissioned livestock facility.**


**New Proposed OP Policies:**

Option #1: Expand the total size of the new severed parcel to include any existing barn/livestock facility, which allows the barn to be accessory to the primary surplus dwelling use. This eliminates any potential MDS issues, as the barn is to be included on the same parcel as the new surplus dwelling, as a secondary use.



## Proposed Official Plan Policies

- ▶ **New Definition:**
- ▶ ***DECOMMISSIONED LIVESTOCK FACILITY*** means a *livestock barn* that has been formally rezoned for uses other than housing livestock (such as dry storage, or an on-farm diversified use); and which has had animal stalls and feeding troughs removed.



Option #2: If the Barn/Livestock facility is not included on the new surplus farm dwelling parcel, and it does not meet the MDS standard, then it should be converted to a “decommissioned status”, which will allow the barn/livestock facility to be utilized in a new creative way.

New Decommissioned Status Definition: a *livestock barn* that has been formally rezoned for uses other than housing livestock (such as dry storage, or an on-farm diversified use); and which has had animal stalls and feeding troughs removed.



## Proposed Official Plan Policies

### ▶ 5.2.2 Agricultural Development Policies

- ▶ 20) As farming practices evolve, there may be built heritage structures (i.e. barns or *dwelling*s) that could disappear as a result of no longer being required for agricultural purposes. **The County recognises the potential cultural heritage and rural aesthetic value of historic farm buildings and encourages adaptive reuse of vacant or under-utilised structures for residential, agricultural-related uses, or on-farm diversified uses. uses is permitted.** Appropriate standards addressing variation in the size due to the architecture of such structures may be implemented through site-specific zoning provisions. **Where appropriate, the County would encourage Municipalities to consider taking inventory of historic farm structures and to develop formal Heritage Designation policies for unique farm buildings to facilitate long-term preservation.** *Building Code* requirements shall be met for the re-use of any existing structure for new purposes.

Other updates are to occur to the Agricultural Development policies in the Official Plan, to encourage lower-tier Municipalities to designate historic barns as formal heritage buildings and to create a comprehensive heritage inventory to track this process. Additionally, lower-tier Municipalities are encouraged to develop policies that address the long-term preservation of historic barn buildings.

## Huron County: Surplus Farm Dwelling Severance Policies

### **Huron County Background**

The County of Huron is located to the south of Bruce County, and is comprised of eight area municipalities. Seven of its member municipalities contain agricultural designated land. Those include Ashfield-Colborne-Wawanosh, South Huron, Huron East, North Huron, Bluewater, Central Huron, and Morris-Turnberry. The Town of Goderich is urban in nature and does not contain any agriculturally designated lands.

Each municipality has an Official Plan that is consistent with the County Official Plan, as well as its own Zoning By-Law.

In March 2020, Huron County's Planning and Development Department made a presentation to County Council regarding its Surplus Farm Severance properties. In Huron County's municipal Zoning By-Laws, these are designated as Agricultural Small Holding Zone (AG-4). Department staff noted that the provisions under the bylaw, in North Huron's case, Section 7.7 as cited below, are in conflict with the Nutrient Management Act. The Nutrient Management Act supersedes local by-laws, and municipalities are unable to restrict livestock on agriculturally zoned lands.

Planning and Development staff proposed two solutions to County Council that would eliminate conflicts between local Zoning By-Laws and the Nutrient Management Act. The first was to eliminate any language that limited livestock numbers on AG-4 zoned properties. The second was to create a Rural Residential zone (RR-1 – Residential Parcel from a Surplus Farm Residence Severance) that would deem any barns on the property as "hobby barns." A hobby barn would be defined as "a building or structure designed, intended or used to house a limited number of animals without expectation of gain or reward, but excludes kennels." In these cases, "definitions of Livestock Facilities, Agricultural Use, etc. would be amended to exclude hobby barns."

Hobby barns would only be permitted as accessory to a dwelling if the building's ground floor area and the size of the parcel were appropriately sized. Department staff proposed the following:

Ground Floor Area, Maximum:	Size of Parcel Maximum [Barn] Size
1.0 to 2.5	Acres 27.9 m2
2.51 to 3.5	Acres 46.4 m2
3.51 to 4.5	Acres 74.3 m2
4.51 Acres and greater	102 m2

This approach would ensure that leftover livestock facilities are exclusively permitted on properties large enough to support livestock for hobby use.

“Notwithstanding any provisions to the contrary, in the area zoned RR-1 the lot/property is deemed to comply with the RR zone provisions. The legally established dwelling is deemed to comply with the RR

zone provisions and the minimum distance separation requirements of this By-law. The existing barn is permitted for storage purposes and a portion of the existing barn is permitted to be used as a hobby barn subject to the size limitations in Chart X.5.1. The hobby barn portion of the existing barn is deemed to comply with minimum distance separation requirements.”

## **Huron County Official Plan**

### **Section 2: Agriculture**

#### **2.3 Community Policies and Actions:**

8. “Lot creation in the prime agricultural area is discouraged and will only be permitted for: agricultural uses; agriculture-related uses provided that the area of the new lot is kept to the minimum size needed to support the use and appropriate servicing; a residence surplus to a farming operation; and, infrastructure or public service utilities which cannot be accommodated through easements or rights-of-ways; subject to the policies of local Plans. The creation of any lot for agricultural purposes must be of a size appropriate for the type of agricultural uses common in the area and sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations. Lot sizes in agricultural areas will be set out in local Plans. Consents for legal or technical reasons that do not result in the creation of a new lot, such as minor lot boundary adjustments, are permitted subject to the policies of Local Plans.

9. Local municipalities may choose to develop policies which permit the severance of an existing residence surplus to a farming operation as a result of the acquisition of an additional farm property. Local Official Plans shall meet or exceed the following criteria:

- a) The residence must be a minimum of 15 years old or has immediately replaced one of a series of residences which were built a minimum of 15 years ago or replaces a house accidentally destroyed by fire or natural disaster.
- b) The residence is habitable, as determined by the Chief Building Official
- c) A new residence is prohibited (through zoning) on any remnant parcel of farmland created by a surplus residence severance.
- d) The area of farmland attached to the surplus house is kept to a minimum size needed for residential purposes, taking into consideration water and sewage services and environmental and topographic features.
- e) Minimum Distance Separation Formulae (MDS) requirements are met.
- f) There has been no previous separation of land for residential purposes from the farm property as it existed on June 28, 1973, other than in a settlement area.
- g) The retained lands are a minimum of 19 hectares unless merged with an abutting farm.
- h) Where the residence is within 300 metres of an existing aggregate operation or aggregate deposit, an assessment of potential impacts may be required (See Section 5.3.10).
- i) For the purposes of this section - - a corporation may be an eligible farming operation provided the same corporation owns at least two farms, each containing a residence, one of which may be severed in accordance with this section; and an unincorporated group of one or more person(s) may be an eligible farming operation provided at least half of the owners, together or individually each own another farm containing a residence, one of which may be severed in accordance with this section; where owners normally reside in the same household, they may be considered as one individual within the group of owners.”

## **Local Official Plans**

Huron County's local Official Plans contain language that permits an Agricultural Holding Zone (AG-4) designation. The language is consistent throughout local official plans. The following is an excerpt from the South Huron Official Plan, Section 13.3.1.1.

### **13.3.1.1. Surplus Farm Dwellings (As amended by OPA #15)**

Where a dwelling is acquired through farm consolidation and is surplus to the needs of the farm operation, it may be severed subject to the following:

1. The residence is surplus to a farm operation resulting from the acquisition of an additional farm containing an existing residence.
2. The residence is a minimum of 15 years old or has immediately replaced one of a series of habitable residences which were built a minimum of 15 years ago or replaces a house accidentally destroyed by fire or natural disaster which was 15 years or older.
3. The residence is habitable, as determined by the Chief Building Official, and is intended to be used as a dwelling;
4. A new residence is prohibited (through zoning) on any remnant parcel of farmland created by a surplus residence severance.
5. Where a barn exists in the immediate vicinity to the surplus residence, Council may require the demolition of the barn or its inclusion with the residential unit prior to approving the severance. The required zoning amendment shall restrict the total number of livestock to be permitted in the severed barn;
6. The property containing the surplus residence shall be rezoned to an Agricultural Small Holding Zone to recognize the residence as the principal use of the severed lot and to limit the number of nutrient units permitted in any accessory structure.
7. Minimum Distance Separation (MDS) formula requirements are met to the surplus house if barn(s) exist on the retained farm lands. MDS does not apply to existing barns on separately titled lots.

8. The area of farmland attached to the surplus house is kept to a minimum size needed for residential purposes, taking into consideration adequate water and sewage services and environmental and topographic features.
9. There has been no previous separation of land for residential purposes from the farm property as it existed on June 28, 1973, other than in a settlement area.
10. The retained lands are a minimum of 19 hectares unless merged with an abutting farm.
11. Where the residence is within 300 metres of an existing aggregate operation or aggregate deposit, an assessment of potential impacts may be required. Locations of aggregate deposits are shown on Appendix 7: Constrained and Unconstrained Aggregate Resources: Aggregate Resources Inventory Plan for the Municipality of South Huron.
12. For the purposes of Section 13.3.1.1:
  - a. a corporation may be an eligible farming operation provided the same corporation owns at least two farms, each containing a residence, one of which may be severed in accordance with this section; and
  - b. an unincorporated group of one or more person(s) may be an eligible farming operation provided a majority of the owners, together or individually each own another farm containing a residence, one of which may be severed in accordance with this section; where owners normally reside in the same household, they may be considered as one individual within the group of owners.

### **Zoning By-Laws**

Huron County's member municipalities designate Surplus Farm Dwelling properties as AG-4 Agricultural Small Holding Zone. The following are the provisions under this designation as it is reflected in section 7 of the Township of North Huron's Zoning By-Law. Note that the policies are similar in each member municipality's Zoning By-Law.

"Within this ZONE, no person shall establish any use of land or building, or erect or alter any building or structure for any purpose except in accordance with the following provisions:

#### **7.1 PERMITTED USES**

- group home in a single detached dwelling

- one single detached residential dwelling
- uses accessory to the permitted uses

## **7.2 ACCESSORY USES**

- agricultural use, limited
- bed and breakfast establishment
- dwelling, converted
- farm produce sales outlet
- home industry
- home occupation
- limited-scale livestock use in accordance with Section 7.7
- second unit in a single detached dwelling
- uses accessory to the permitted uses

## **7.3 PERMITTED STRUCTURES**

- one single detached dwelling, converted dwelling, or a mobile home on a solid masonry foundation wall
- buildings and structures for the permitted uses
- buildings and structures accessory to the permitted uses as per Section 3.3 (as amended by By-law 98-2019)
- barns in accordance with Section 7.7

## **7.4 ZONE PROVISIONS**

LOT AREA (minimum)-4,000 square metres LOT AREA (maximum)-4 hectares LOT FRONTAGE (minimum)-23 metres FRONT YARD (minimum)-17 metres from a municipal road or 25 metres from a County Highway INTERIOR SIDE YARD (minimum)-5 metres EXTERIOR SIDE YARD (minimum)-17 metres from a municipal road or 25 metres from a County Highway REAR YARD (minimum)-7.5 metres LOT COVERAGE (maximum)-30 %

## **7.5 BUILDING REGULATIONS BUILDING HEIGHT**

(maximum)-12 metres Existing Agricultural buildings-30 metres DWELLING UNIT FLOOR AREA (minimum)-84 square metres 7.6 SEPARATION DISTANCE (RESIDENTIAL) Notwithstanding any other provision of this by-law to the contrary, no residential, institutional, commercial,

industrial or recreational building or structure, located on a separate lot shall be established unless it complies with the Minimum Distance Separation (MDS) Formulae.

**7.7 ACCESSORY BARN**

Notwithstanding the provisions of Section 7.1 and 7.2 to the contrary, an accessory barn may be established, or an existing barn may be used subject to the following table:

Lot Size (hectares)	Maximum number of Livestock Units	Minimum separation distance from the barn to the nearest residential, commercial, institutional building or structure excluding uses within the same property
.4	1	85 metres
.8	2	85 metres
1.2	3	85 metres
1.6+	4	85 metres

- Any newly established structure to house animals must maintain the setbacks from an open municipal drain, sinkhole, municipal wells, or natural watercourse as set out in General Provisions Section of this By-law.
- And provided that all other provisions of this By-law are complied with.”

Highlights from the Huron County Planning and Development Department staff recommendation in March 2020:

**County Official Plan Proposed Policy**

Local municipalities may choose to develop policies which permit *to create a non-agricultural residential lot through* the severance of existing residences surplus to a farming operation as a result of the acquisition of an additional farm property. *This plan recognizes such lots as residential uses in the Prime Agricultural Area. Such surplus farm residence lots will be primarily residential.*

## Local Official Plans – Draft Policy

Within the Agriculture designation, lands which are separated from farm holdings through the surplus farm dwelling severance process are considered Rural Residential and cannot contain an agricultural operation.

The Comprehensive Zoning By-law will zone the separated residential parcel as Rural Residential with residential as the primary use and permit minor accessory uses.

## Draft Zoning By-law Provisions

- Similar to existing AG4 permitted uses but remove 'limited livestock' and permit a 'hobby barn'.
- Hobby Barn – “means a building or structure designed, intended or used to house a limited number of animals without expectation of gain or reward, but excludes kennels”.
- Definitions of Livestock Facilities, Agricultural Use, etc. amended to exclude hobby barns.

## Hobby Barn Provisions

A hobby barn is permitted as an accessory use to a dwelling subject to following:

### Ground Floor Area, Maximum

Size of Parcel	Maximum size
1.0 to 2.5 acres	27.9 m2 (300 ft2)
2.51 to 3.5 acres	46.4 m2 (500 ft2)
3.51 to 4.5 acres	74.3 m2 (800 ft2)
4.51 acres and greater	102 m2 (1100 ft2)

Hobby barns must be located a minimum of 10 metres from all property lines.

## Summary

Property Type	Status of Barn	Considerations
<p>New Small Acreages with/without Barns (created through surplus severance process)</p> <p>OP Designation: Rural Residential with Prime Agricultural Area</p> <p>ZBL: RR</p>	<ol style="list-style-type: none"> <li>1) Barn recommended to be removed if in poor condition. Other farm infrastructure (e.g. manure storages) should be removed.</li> <li>2) If desire is to retain the barn, automatic re-zoning to Rural Residential-Special Zone to indicate the existing barn is permitted accessory to residence for the purpose of storage and that a portion can be used as a 'hobby barn'.</li> <li>3) Hobby barns are permitted provided the setbacks to property lines and size limitations in ZBL are maintained. MDS setbacks will apply to these structures.</li> </ol>	<p>A return to the system we believed we had.</p> <p>Increased clarity re: the residential nature of the parcels.</p>

Source: Huron County Planning and Development Department, Presentation to Council Day 1, March 4, 2020.

## **Middlesex County: Surplus Farm Dwelling Policies and Recommendations**

### **Middlesex Background County**

Middlesex County is located in Southwestern Ontario and is comprised of eight municipalities including Township of Adelaide Metcalfe, Township of Lucan Biddulph, Municipality of Middlesex Centre, Municipality of North Middlesex, Municipality of Southwest Middlesex, Municipality of Strathroy-Caradoc, Municipality of Thames Centre, and Village of Newbury. Each of these municipalities follows the goals and objectives set out in the Middlesex County Official Plan but contains an individual Zoning By-law documents.

All documents follow the guidelines and policies laid out in the planning act, R.S.O. 1990, and Provincial Policy Statement (PPS.,2014). Including the PPS stating that consent may be granted for the creation of a lot containing a residence that has been determined to be surplus to a farming operation.

### **Official Documents County of Perth Follows**

The Following documents and sections are recommended by Marion Cabral, Planner Middlesex County regarding Surplus farm Dwellings:

### **County of Middlesex Official Plan**

#### **General Policies**

The severed and retained lots shall be of adequate size for the intended use, having regard for the topography of the land, the siting of proposed buildings and services and points of access.

On the granting of a consent, conditions may be imposed on the severed and retained parcels.

#### **4.5.3.4 Agricultural Area**

Non-farm related uses in the Agricultural Areas can potentially impair the effectiveness of agricultural operations.

In order to protect the Agricultural Area for agricultural uses, the following policies shall apply:

- a) Consent to sever a residence surplus to a farming operation as a result of farm consolidation may be permitted, provided the residence was built prior to January 1, 1999, and provided that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance;
  
- b) consents involving minor boundary adjustments shall be considered provided that non-viable farm parcels are not created, and agricultural activities are not adversely affected;

### **Strathroy-Caradoc Official Plan**

#### **5.3.1.7 Minimum Farm Parcel Size**

In establishing the minimum size in the Zoning By-law for new agricultural parcels created in accordance with this Plan, the following criteria shall be taken into account:

- a) the policies of the County of Middlesex Official Plan which discourage the creation of new agricultural parcels less than 40 ha.
- b) the need to discourage the unwarranted fragmentation of farmland;
- c) the size of agricultural parcels common in the Municipality;
- d) the parcel size established in the original survey of the rural area of the Municipality;
- e) the type of agricultural activity common in the Municipality and its relationship to parcel size;

- f) the viability of cultivating parcels given modern farm machinery and equipment;
- g) the need to discourage the creation of new parcels to be used for residential purposes unrelated to farming;

#### **5.3.1.8 Dwellings Surplus To A Farming Operation**

Dwellings considered surplus to a farming operation as a result of farm consolidation may be severed from the balance of the farm provided the residential dwelling was built prior to January 1, 1999. The following matters shall be considered:

- a) new dwellings: The remaining farmland shall be zoned for agricultural and related or compatible purposes in the Zoning By-law. New dwellings shall be prohibited.
- b) water supply: An adequate and potable water supply shall be available on the proposed lot. The availability of an adequate water supply shall be demonstrated to the satisfaction of the Municipality. Strathroy-Caradoc Official Plan – April 2018 74
- c) sanitary waste disposal: The existing sanitary waste disposal system serving the dwelling shall be up-graded to current standards, if necessary, and wholly contained along with the required setbacks of the proposed lot subject to the approval of the Municipality.
- d) vehicular access: Vehicular access shall be available or made available from a public highway or public road of reasonable construction and maintenance, subject to the approval of the authority having jurisdiction. Access shall not be permitted where safety hazards could result due to poor sight lines; proximity to a traffic intersection or railway crossing; or the traffic flow characteristics of the highway or road. Where the proposed lot has, or would require, access to a County Road, compliance with the policies and requirements of the County of Middlesex shall be required.
- e) proximity to livestock operations: the proposed lot shall satisfy the Minimum Distance Separation (MDS) Formula in accordance with Section 5.3.1.5.
- f) lot frontage, depth and size: The frontage, depth and size of the proposed lot shall be suitable for the purpose intended and shall comply with the requirements of the Zoning

By-law. The loss of productive agricultural land shall be minimized to the greatest extent possible taking into account the location of the dwelling, accessory buildings, driveway, on-site water supply and sanitary waste disposal system.

g) farm buildings: Farm buildings deemed to be surplus to the needs of the farm or which may be incompatible with the disposal of a surplus dwelling may be required to be demolished or removed as a condition of consent. Proximity to the surplus dwelling and proposed lot lines, compliance with the Minimum Distance Separation (MDS) Formula and the heritage quality, structural condition and proposed use of the farm buildings shall be governing factors as to whether demolition or removal will be required. Where such buildings are structurally sound, have potential for alternative and compatible uses and/or are more likely to be maintained, they may be severed along with the surplus dwelling. A rezoning shall be required and site plan control may apply.

## **Township of Adelaide Metcalfe Official Plan**

### **3.1.9 Agricultural Consent Policies**

It is the policy of this Plan to discourage the division of farms into smaller holdings, to encourage continued farm use and prohibit the severance of land for non-agricultural purposes.

#### **3.1.9.6**

The severance of dwellings surplus to a farming operation as a result of farm consolidation shall be permitted provided the following criteria is satisfied:

- a) Farm consolidation occurs or has occurred through the acquisition of an additional farm parcel.
- b) The farming operation consists of at least two farms. The farms can be located in different municipalities and the registered ownership of the farms need not necessarily be in the same name provided it is demonstrated that the farms are operated as a single farming operation.
- c) It is demonstrated that the dwelling is surplus to the needs of the farm operation.
- d) The dwelling was built prior to the timeframe specified by the County of Middlesex Official Plan.

e) The dwelling is habitable and in compliance with the Township's Property Standards By-law to the satisfaction of the Township's Chief Building Official.

f) The proposed lot is the minimum size needed to accommodate the residential use and private on-site services in the form of potable water supply and a septic system. The loss of agricultural land shall also be avoided wherever possible when determining an appropriate lot size. Any substandard servicing shall be brought to the minimum standards to the satisfaction of the Township's Chief Building Official.

g) Farm buildings deemed surplus to the needs of the farm or incompatible with the proposed residential lot if retained with the farm, may require demolition or removal. Proximity to the residential use, proposed lot lines, compliance with Minimum Distance Separation (MDS I) and the structural condition of farm buildings shall be governing factors as to whether demolition or removal is required. Farm buildings shall not be included with the proposed residential lot unless deemed structurally sound and in good condition by the Township's Chief Building Official and provided they do not exceed the requirements implemented through the Township's Comprehensive Zoning By-law.

h) The raising of livestock shall be prohibited on the proposed residential lot and implemented through the Township's Comprehensive Zoning By-law.

i) New and independent vehicular accesses to both the lot to be severed and the remnant farm parcel shall be provided, if necessary.

j) Any new residential use is prohibited on the remnant farm parcel and implemented through the Township's Comprehensive Zoning By-law.

k) A notice is registered on the title of the proposed residential lot specifically notifying owners of normal farm practices, as outlined in the Farming and Food Production Act, 1998, as amended.

## **Southwest Middlesex Official Plan**

### **Section 5.4.1.7 Disposal Of Surplus Farm Dwellings**

Dwellings considered surplus to the needs of a farm as a result of farm consolidation, being the acquisition of additional farm parcels not necessarily contiguous to the home farm or base of

operations, may be severed from the balance of the farm provided that the dwelling was constructed prior to 1999. The following criteria shall be satisfied:

a) new dwellings: The remaining farmland shall be zoned in a manner which prohibits the erection of any new dwelling in the future.

b) farm buildings: Farm buildings deemed to be surplus to the needs of the farm or incompatible with the proposed surplus farm dwelling if retained with the farm, may be required to be demolished or removed as a condition of consent. Proximity to the surplus dwelling and proposed lot lines, compliance with the Minimum Distance Separation (MDS) Formulae and the heritage quality, structural condition and proposed use of the farm building shall be governing factors to whether demolition or removal will be required. Where such buildings are structurally sound, have potential for alternative and compatible uses and/or more likely to be maintained, they may be severed along with the surplus dwelling. A rezoning may be required and site plan control may apply.

c) agricultural land; The loss of productive agricultural land shall be minimized by keeping the size of the lot being created to dispose the surplus farm dwelling or buildings as small as possible taking into account the location of the dwelling, accessory buildings, driveway, natural features and on-site water supply and sanitary waste disposal systems.

g) proximity to neighbouring livestock operations: Creation of the proposed lot shall not be permitted where it would have a detrimental impact on the operation, expansion or flexibility of any nearby livestock operation. Compliance with the Minimum Distance Separation Formula (MDS I) shall not be required. An environmental warning clause may be required on title alerting potential and future purchasers of the dwelling that they may be affected by odours from neighbouring livestock operations.

h) lot frontage, depth and size: The frontage, depth and size of the proposed lot shall be suitable for the purpose intended and shall comply with the requirements of the Zoning By-law. An amendment to the By-law shall be required.

## **North Middlesex Official Plan**

### **Section 6.2 General Policies**

d) With the exception of lands designated as Resource Extraction within the Rural Area, where a dwelling is acquired through farm consolidation and is surplus to the needs of the farm operation it may be severed conditional upon the following criteria:

- iv) The proposed severed lot shall comply with Minimum Distance Separation I;
- v) Where farm buildings and structures exist in the immediate vicinity to the surplus residence and are not required for the farm operation, a condition to the approval of severance may be demolition of the buildings and structures unless they can be made unsuitable for the housing of livestock and do not necessitate an inappropriately sized severed parcel;

### **Comments**

Marion provided general feedback surrounding what Middlesex County has done to regulate livestock limits in barns on surplus severance properties. In which her response was on the severed lands, the County requests that all barns for livestock are converted through a Change of Use Permit under the Ontario Building Code to remove the ability to house any livestock, OR request that the building is removed in its entirety. This intent addresses the intent of the PPS to limit the severed parcel to a minimum size needed to accommodate the [residential] use and servicing; and separate the agricultural use on the retained lands from the residential use on the severed lands. Barns are sometimes held with the retained farm parcel.

## Oxford County: Surplus Farm Dwelling Policies and Recommendations

Oxford County is a primarily rural jurisdiction located along the 401 corridor in Southwest Ontario. It is operating on a two-tier municipal system and is comprised of eight municipalities. It is unique in that local municipalities do not have local official plans. Planning policy in Oxford County is guided by the Oxford County Official Plan which oversees its eight Zoning By-Laws. In October 2021, Oxford County began Phase 1 of its Official Plan update, which included proposed updates to its agricultural policies “to help ensure our agricultural land resources are sustainably managed and protected for the long term.” Among these changes are policies regarding surplus farm dwelling severances and provisions for leftover livestock facilities or barns on new lots. It is worth noting that Oxford County’s policies in this regard are relatively restrictive to the creation of new rural residential lots. The following is an excerpt from a public information sheet that Planning staff developed in October 2021 regarding its proposed OP updates:

“LOT CREATION - NEW RURAL RESIDENTIAL LOTS OF Non-farm rural residential development is considered to be incompatible with agriculture as it removes land from agricultural use and can create conflicts with farming activities. Provincial policy directs new non-farm rural residential development to settlement areas and only allows for the creation of a new rural residential lots in cases where an existing farm dwelling has become surplus as a result of a farm consolidation.

### **PROPOSED POLICY APPROACH**

#### **APPLICABLE FOR:**

1) a proposal to rezone an existing industrial (except aggregate or limestone industrial), commercial, or institutionally zoned lot to residential use, provided such lot does not exceed 1 ha (2.5 ac) in area. Where such lot is larger than 1.0 hectare (2.5 acres) in size, consideration shall be given to rezoning as an agricultural use, or,

2) a proposal to create a lot for a residence surplus to a farm operation as a result of farm consolidation, provided that:

i) the proposal is to retain an existing permanent habitable dwelling that was constructed prior to December 13, 1995, where such dwelling is contained on an agricultural lot which is to be legally consolidated with an abutting agricultural lot, to form one larger agricultural lot under identical ownership, or

ii) the proposal is to retain an existing permanent habitable dwelling where the farm owner owns multiple agricultural lots which may or may not abut, and providing:

a) The lot containing the surplus dwelling proposed to be severed contains a minimum of two existing dwellings and all such dwellings were constructed prior to December 13, 1995,; and,

b) The resulting agricultural lot is owned by the farm owner; and,

c) The resulting agricultural lot shall be rezoned to prohibit the future construction of a new residential dwelling of any type.

#### **KEY REQUIREMENTS:**

- The lots involved in the consolidation must be agriculturally zoned.
- The severance cannot result in the removal of the only dwelling from an agricultural lot.
- New lots must have frontage on a public road with appropriate access, meet minimum distance separation formulae and be appropriately serviced.
- The lot must be the minimum size necessary and not generally exceed 0.8 ha (2.0 ac)."

## **“AGRICULTURAL SERVERANCE POLICIES**

- Any enlarged agricultural lot that would result from a proposal for non-farm rural residential development through farm consolidation shall comply with the applicable polices of Section 3.1.4.2.4 50

## **AGRICULTURAL STRUCTURES**

- The proposed non-farm rural residential lot may only contain an existing barn or other farm structures where they are suitable to be used as accessory structures to a residential use and have been formally converted such that they are no longer suitable for the housing of livestock or poultry or storage/handling of manure, and/or are protected pursuant to the Heritage Act. Further, where a barn or other farm structure exists within the immediate vicinity of a non-farm rural residential lot to be created through a farm consolidation, the demolition or formal conversion of such structure shall be required, to ensure it cannot be used for the housing of livestock or poultry or storage/handling of manure in the future.”

## Perth County: Surplus Farm Dwelling Polices and Recommendations

### County Of Perth Background

The County of Perth is a rich agricultural community located in the center of Southwestern Ontario and is comprised of thriving communities, including four lower-tier municipalities, including **Municipality of North Perth, Municipality of West Perth, Township of Perth East, and the Township of Peth South**. Each of these municipalities follows the goals and objectives set out in the County of Perth's Official Plan but contains an individual Zoning By-law document.

All documents follow the guidelines and policies laid out in the planning act, R.S.O. 1990, and Provincial Policy Statement (PPS.,2014). Including the PPS stating that consent may be granted for the creation of a lot containing a residence that has been determined to be surplus to a farming operation.

### Official Documents County of Perth Follows

#### County of Perth Official Plan

The County of Perth Official Plan (OP) started addressing provisions surrounding Surplus Farm Dwellings (SFD) severances consent in 2016, the current OP sates:

##### **Section 5.6.3.1 Surplus Farm Dwelling Severances**

Farm dwellings made surplus to farm operations as a result of farm consolidation may be considered for severance provided all of the following criteria are satisfied:

- a) The land on which the surplus farm dwelling is situated must be operated, or will be operated as part of the consolidated farm operation. For the purposes of this section of

the Official Plan, a corporation may be an eligible farming operation to sever a surplus farm dwelling provided the same corporation owns at least two farms, each containing a residence, one of which is surplus to the farm operation that may be severed in accordance with this section; and an unincorporated group of one or more person(s) may be an eligible farming operation to sever a surplus farm dwelling provided a majority of the owners in the group, together or individually own another farm containing a residence, one of which may be severed in accordance with this section of the Official Plan; where owners normally reside in the same household, they may be considered as one individual within the group of owners;

(b) The land on which the surplus farm dwelling is situated and the land to which the consolidated farm operation to which the farm dwelling has become surplus must be located within the County of Perth;

(c) The minimum distance separation provisions of MDS I must be satisfied from any livestock facilities on the remnant farm property;

(d) The surplus farm dwelling must be a minimum of ten (10) years old at the date of the application for consent, and must be habitable, as determined by the local Chief Building Official;

(e) The area of land to be severed for the surplus farm dwelling lot shall be limited to the minimum size required for the residential use and to accommodate the appropriate sewage and water services;

(f) The farm property on which a surplus farm dwelling is located must be eligible for the Farm Property Class Tax Rate Program and the property owner must have a valid Farm Business Registration Number;

(g) The proposed lot for the surplus farm dwelling shall not include any barns or structures used for livestock housing purposes;

(h) The proposed lot for the surplus farm dwelling shall only be used for residential purposes including: a dwelling and accessory uses, buildings and structures (i.e. driveway, detached garage, swimming pool); a home occupation; and a bed and breakfast establishment. Farm-related uses including: the raising of livestock; a

secondary farm occupation; a farm vacation establishment; and farm-related commercial and industrial activities shall not be permitted on the proposed lot for the surplus farm dwelling. As a condition of approval, the County of Perth Land Division Committee shall require a Zoning By-law amendment be adopted by the local municipality to regulate the permitted uses on the lot for the surplus farm dwelling as outlined above; and

(i) an amendment to the local municipality's implementing Zoning Bylaw shall be required in order to prohibit any new permanent residential dwellings, with the exception of those permitted by Section 5.5.6.5 (Second Dwelling Units) on the remnant farm property. Further, an agreement for such prohibition of any new permanent residential dwellings shall be registered on the property title of the remnant farm property. The Zoning By-law amendment and the agreement as noted above shall be implemented through conditions imposed by the County of Perth Land Division Committee at the time that provisional consent approval is given to a consent application to sever a lot for a surplus farm dwelling

**Comments: Official Plan**

As per our Jurisdictional scan and conversation with Planning Manger Sally McMullen. The county has initialed an amendment to Section 5.6.3.1 of the County of Perth Official Plan (Official Plan amendment No 189) pertaining to the severance of dwellings surplus to a farming operation. The amendment is aimed at updating the policy to:

- Remove the requirement that the farm to which the Surplus Farm Dwelling (SFD) is deemed surplus to must also be located within the County of Perth;
- Aid in the determination of appropriate minimum lot size, taking into account site specific characteristics;
- Remove the text prescribing specific accessory uses and structures in order to allow a rural context to be considered in evaluation of accessory; and
- Remove references to farm related uses.

There was some resistance surrounding OPA 189, including concerns from a lower tier municipality – The Municipality of North Perth. There concerns surrounding the minimum size

of the lot being created, continuing that surplus farmhouse severances are only for that – surplus farmhouse severances. If North Perth were to follow through with what the new policy suggests, it would be the basis of having larger parcels for surplus farmhouse severances and not the minimum parcel sizes required.

Other concerns include the confusion between secondary home occupation, home industry, and small manufacturing.

These concerns were addressed in the June 7, 2021, meeting in which the City Council provided the County planning staff to provide additional information, including

- 1) A report which shows any other jurisdiction which has OP policies which include a broader range of ‘accessory uses, ‘home industries’, and the keeping of limited quantities of livestock for surplus farmhouse severance lots; and

**A chart presented by Sally McMullen of results summarizing the OP policies and zoning provisions from other jurisdictions is attached.**

After a junctional scan and conversation with the Ministry of Agriculture, Food and Rural Affairs regarding the proposed County OPA:

**The amendment would now read as follows:**

**Section 5.6.3.1**

*Lot creation for a residence surplus to a farming operation as the result of farm consolidation may be permitted provided all of the following criteria are satisfied:*

*a) It is demonstrated that the dwelling is surplus to the needs of a consolidated farm operation. For the purposes of this section of the Official Plan:*

*i. an individual, partnership or corporation owns at least two farm properties, one being the subject property and both properties contain a habitable dwelling;  
and*

*ii. with regards to ownership, it must be demonstrated that common ownership represents the majority share of both farm properties. Where owners normally reside in the same household, they may be considered as one individual in the case of a partnership or corporation; and*

- iii. The majority owner of both properties is engaged in the business of agriculture on the lands, and has a valid farm business registration number*
- b) The surplus farm dwelling must be habitable and it is the intention to use the residence;*
- c) The residence must be a minimum of ten years old on the date of the application for consent, or immediately replaced a dwelling which was originally built a minimum of 10 years ago.*
- d) The new residential lot shall be limited to a minimum size and does not include any more prime agricultural land than what is required for the residential use, accessory uses and accommodation of appropriate sewage and water services. Existing buildings and landscape features such as ponds, gardens and windbreaks may be included in the surplus farm dwelling lot provided they are deemed accessory to the residential use and are in close proximity to the dwelling.*
- e) The minimum distance separation provisions of MDS I must be satisfied from any livestock facilities on the retained farm property to the surplus residence;*
- f) Lots created through this policy shall not permit livestock operations, however local zoning bylaws may permit limited non-commercial raising of livestock as an accessory use.*
- g) An amendment to the local implementing zoning bylaw shall be required to regulate the permitted residential and accessory uses on the surplus dwelling lot;*
- h) An amendment to the implementing zoning bylaw is required for the retained farm lot to prohibit any new permanent residential dwellings. Further, an agreement for such prohibition of any new permanent residential dwellings shall be registered on the property title of the remnant farm property as a condition of the consent.*

**These changes would also include a change to Section 5.5.7. I) which would read as followed:**

*A local municipality may, in its implementing Zoning Bylaw, establish specific provisions to permit vocational uses such as trades (e.g. electrician, plumber, carpenter, painter, welder) or artists (e.g. painter, woodworker, sculptor) to be conducted as an accessory*

*use on non-farm dwelling lots in the Agriculture zone subject to zoning provisions that have the effect of minimizing off-site impacts.*

On July 8, 2021, **the County of Perth Council approved the Official Plan Amendment No 189.** Council members spoke on the issues still being raised by The Municipality of North Perth, stating that You cannot make an OPA for surplus farmhouse severances that would satisfy everyone. Removing the prescriptive language in the Official Plan doesn't mean that you automatically permit whatever is being proposed. Still, the lower tiers can amend their bylaws to look after how restrictive they want to be.

### **Relevant Zoning By-Law Sections**

Each lower-tier municipality within the County of Perth creates its own Zoning By-Laws. Which was recommended at city councils to be used to address how restrictive they feel would create the most beneficial outcome to their communities surrounding SFD.

However, for the sake of time and space allocated to one county within our matrix, Sally McMullen, Manager of Planning at Perth County, provided our group with a Zoning By-Law housekeeping Amendment outline for the Cooperation of The Municipality of West Perth, which encompasses the provision sent out in the past OP amendment NO 189.

### **The ZBL amendment would cause the Zoning By-Law to read as followed:**

#### **6.13.1 A-1**

Explanatory note: This zone is used for lots created by Surplus Farm Dwelling severances.

(a) Location: All lands within the "A-1" zone as shown on Schedule "A" to this By-law.

(b) Notwithstanding the provisions of Section 6.1 and 6.2 of this By-law to the contrary, the only uses, buildings, and structures permitted on the land located in the "A-1" zone shall be:

#### **Permitted Uses:**

- i. A residential use, in the form of a single-detached dwelling
- ii. A second dwelling unit

## Accessory Uses

- i. A home occupation in accordance with Section 3
- ii. A home industry in accordance with Sections 3 and 5
- iii. The keeping of non-commercial animals in accordance with Section 3
- iv. A bed and breakfast establishment in accordance with Section 3
- v. A secondary dwelling unit in accordance with Section 3 and 5.26.1.
- vi. Accessory uses, buildings, and structures in accordance with Sections 3 and 5.

### (c) Zone Provisions for the A-1 zone

Lot area: Where consent for severance has been granted, the lot area approved by the consent shall be the required lot area.

Lot frontage, Minimum: Where consent for severance has been granted, the frontage approved by the consent shall be the required frontage.

Front yard, Minimum: 15 metres

Rear yard, Minimum: 7.5 metres

Exterior side yard, Minimum: 4.5 metres

Interior side yard, Minimum: 4.5 metres

Lot coverage, Maximum: 25 percent

Building height, Maximum: 8 metres

(d) Minimum Distance Separation (Residential) Section 6.4 applies.

(e) Minimum Distance Separation (Non-commercial livestock)

Notwithstanding any other yard or setback provisions of this by-law to the contrary, the keeping of non-commercial livestock shall comply with the Minimum Distance Separation (MDS II) formulae.

(f) All other provisions of this By-law, as amended, shall apply.

#### **3.6.1a Animals, Non-commercial,**

shall mean the keeping of farm animals for personal use accessory to the residential use on a lot in the, such as transportation and/or food production for the residents of said lot. For the purposes of the 'Animals, Non-commercial' definition, the animal species as

listed in the Nutrient Management Tables for Ontario Regulation 267/03 made under the Nutrient Management Act are considered farm animals. A maximum of 2 Nutrient Units are permitted on a lot zoned A-1. All applicable provincial legislation applies.

#### **3.64.4 Home Industry,**

shall mean a small-scale occupation related to trades (e.g. electrician, plumber, carpenter, painter, welder) small manufacturing and/or artistic study (e.g. painter, woodworker, sculptor), accessory to a non-farm residential lot in the A (Agriculture) or A-1 zones and operated in whole or in part within a building that is accessory to the main residential use.

#### **5.7.1 HOME INDUSTRY**

Where permitted by this by-law a home industry will be subject to the following provisions:

- (a) A home industry shall be accessory to the main residential use and does not change the residential character of the lot.
- (b) There shall be no external evidence of the home industry, with the exception of a single sign measuring not greater than 0.85 square metres in area.
- (c) No outdoor storage of goods, materials or equipment unless fully enclosed by a fence or other enclosure which provides visual screening.
- (d) The home industry shall not create nor become a nuisance or hazard to neighbours by reason of noise, vibration, dust, smoke, fumes, odour, heat, debris, refuse, fire, lighting interference, hours of operation, traffic, or parking.
- (e) Not more than two persons are employed.
- (f) A retail store is not permitted.
- (g) The maximum size of an accessory home industry (including building and outdoor storage) shall be maximum of 450 m<sup>2</sup>.
- (h) Home industries shall meet all of the applicable requirements of this By-law, including parking requirements.

**A chart presented by Sally McMullen of results summarizing the OP policies and zoning provisions from other jurisdictions is on the next two pages:**



Notes	SFD policy related to size of SFD lot.	OP document contains Definition for "Home Industries" or similar? (Yes/No)	Are "Home Industries" Permitted on a SFD Lot? (Yes/No)	Are limited forms of Livestock Permitted on a new SFD Lot by the OP document? (Yes/No)	Other	Zoning By-law
Region of Waterloo	the new lot has a maximum area of one hectare, except where natural features or existing lot patterns justify the inclusion of additional lands. (Prime Ag Area)				Policy 6.C.8 supports lower tier municipalities to establish policies in their official plans to permit secondary uses within the Prime Ag Area on farm lots and non-farm lots that are 'clearly secondary', small-scale and compatible with surrounding agricultural operations. Prohibits severance of secondary uses.	NA
Township of Wilmot (Region of Waterloo)	same as Waterloo	Yes. 10.18.1 d) any use, building or structure which is normally incidental and subordinate to a permitted use shall be permitted on the same lot as the permitted use, subject to zoning bylaw..	Not specified or prohibited in OP	Not prohibited by OP. ZBL permits backyard chickens and accessory raising of livestock as long as not commercial.	In Prime Ag Area SFD must be heritage building.	Doesn't prohibit keeping animals. Instead - "No accessory building shall be used in any zone for the housing, breeding or raising of livestock of any kind for commercial purposes unless such use is specifically permitted within the zone."  Zone 1 (1,390 m2 to 1.2 ha) specifically allows backyard chickens. Also, permits Buildings Accessory to a Residential Building when the Accessory Building has a lot coverage not exceeding 10% of the lot area or 75% of the lot coverage of the Residential Building on the lot, whichever is lesser. Permits home occupation which allows occupation in dwelling or accessory building.
Township of Wellesley (Region of Waterloo)	same as Waterloo	Yes	Not specified or prohibited in OP	Not specified or prohibited in OP	In Prime Ag Area SFD must be heritage building.	home occupation limited to dwelling, no definition for home industry.  Small Lot Ag Zone (A2) permits farming, permits home occupation. Lot size 0.8 to 4 ha. Rural mixed use/Ag cluster (MAC) - permits non commercial raising of livestock (max 7 NU), single detached dwelling, any building for 'dry industrial use' (0.4 ha and max 10 employees), many other uses. Lot area 2-4 ha.
County of Oxford		Yes	Yes	Not specified or prohibited in OP. Not clearly permitted in ZBL.	Within the Agricultural Reserve, part of a farm residence or accessory structure may be used for the purpose of a home occupation provided that such home occupation is a small scale business activity which is clearly secondary to the agricultural use of the property and is carried on by a resident of the dwelling. Where more than one dwelling exists on a farm lot, a home occupation may only occupy one dwelling or accessory structure.	Limited Agriculture Zone - not specific to SFD lots. Restricts Nutrient Units based on tillable hectares. Lot area based on existing at date of passing of zoning bylaw.  Rural Residential Zone - allows home occupation (def includes in accessory structures). Min Lot size is 2,800m2.
County of Middlesex	typically a maximum of one hectare'	Yes	Yes	Not specified or prohibited in OP		Home occupation limited to dwelling, no definition for home industry.  Small Lot Ag Zone (A2) permits farming, permits home occupation. Lot size 0.8 to 4 ha. Rural mixed use/Ag cluster (MAC) - permits non commercial raising of livestock (max 7 NU), sing
County of Huron	The area of farmland attached to the surplus house is kept to a minimum size needed for residential purposes, taking into consideration water and sewage services and environmental and topographic features.		Left to Local Official Plans			

Township of Ashfield-Colborne-Wawanosh (Huron County)	Same as Huron OP	Yes	Yes	Yes		Ag Small Holding Zone (AG4) permits: limited ag use, B&B, farm produce sales, home industry, home occupation, livestock (Max 4NU), buildings and structures for accessory uses.
Municipality of South Huron (Huron County)	Same as Huron OP	Yes	Yes	Yes		Generally same as ACW above.
Municipality of Huron East (Huron County)	Same as Huron OP	Yes	In ZBL			Generally same as ACW above.
Municipality of Bluewater (Huron County)	For surplus farm residence severances in the Agriculture or Extractive Resources designation the maximum property area is 4 hectares;	Permits Home Occupation - as per zoning bylaw		In ZBL	Manure storage facilities are required to be decommissioned to the satisfaction of the municipality; and Agricultural infrastructure (such as grain bins, silos, etc.) on the parcel containing the dwelling <u>may</u> be required to be removed.	Generally same as ACW above.
Township of Howick (Huron County)	Same as Huron OP	Yes	In ZBL			Generally same as ACW above.
Municipality of Morris-Turnberry (Huron County)	Same as Huron OP	Yes	In ZBL			Generally same as ACW above.
Township of North Huron (Huron County)	Same as Huron OP	Yes	Yes	In ZBL		Generally same as ACW above.
Municipality of Central Huron (Huron County)	Same as Huron OP	Yes	Yes	Yes		Generally same as ACW above.
<b>County of Wellington</b>	The severance should be limited to the minimum size needed to accommodate the dwelling, including existing and reserve areas for individual sewage and water services.	Yes	Yes	In ZBL		Hobby Barn shall mean a building designed, intended or used to house domestic animals for personal use and pleasure, including the boarding of horses, but excludes a kennel as defined herein.  Home Industry not defined but granted in several special exception zones/amendments.  6.1.3 in General Agriculture Zone - 'Reduced Lot Area Regulations' Township may pass an Animal Control Bylaw which regulates keeping of livestock on a parcel with an area less than 10 ha. Min Lot Area 0.4ha (1 acre).
<b>County of Bruce</b>	The lot proposed for the residence and buildings surplus to the farming operation shall be limited in area and shall only be of sufficient size to accommodate the residence surplus to the farming operation, accessory buildings (where including accessory buildings does not render the lot excessively large in the opinion of the Land Division Committee), a well and a sewage disposal system, while ensuring that as little land as possible is removed from the agricultural lands.	Yes	Not specified in OP, but Home Industry definition is found in Agriculture Designation Policies.	Not specified or prohibited in OP		Huron Kinloss example: Farm Home Industry - specific to farms/Ag zones.  Section 8 - Agricultural Residential Zone (AG3) permits: Accessory use, B&B, Farm Business (Ag related use), Home Business (vocational use conducted as secondary to dwelling unit).  Lot Area min 0.4ha (1 ac).  Allows existing or new 'barn' baed on lot size up to max of 4 NU.
<b>County of Grey</b>	will be limited in area and shall only be of sufficient size to accommodate the surplus farmhouse to the farming operation, accessory buildings (where including accessory buildings does not make the lot excessively large), a well, and a sewage treatment and disposal system, while ensuring that as little land as possible is removed from the agricultural lands	Yes	Not Specified in OP.	Not specified or prohibited in OP	Bed and breakfasts and/or home rural occupations within the dwelling only.	Grey Highlands Example: Home Occupation and Home Industry only permitted in certain zones.  Rural Residential Zone - Min Lot Area 0.8 ha (2ac) permits: home occupation, home industry and accessory uses.