

Obtaining Regulatory Approvals and Responding to Community Resistance

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▪ Outline of the Regulatory Process

There are three primary areas of regulatory approval for hog production facilities: municipal development permits, provincial agricultural permits, and provincial environmental approvals depending on the province in which you are operating. It is important that you check with your municipal government and provincial departments of agriculture and environment to determine what approvals are required for your proposed operation.

Municipal approval typically involves obtaining a development permit from the local municipality under the municipality's land use bylaw. Agricultural approval involves ensuring that the province's requirements for intensive livestock operations, such as minimum set back requirements, manure storage, and manure management are met. Finally, some provinces require environmental approvals for manure lagoons and water licenses for the water your operation plans to consume.

▪ Navigating the Process

The first step in obtaining municipal approval for your hog production facility starts well before you submit your application for the development permit. You should first review the land use bylaw of the municipality in which you plan to operate. Your review should include checking the requirements of the land use bylaw. If the requirements appear onerous or the bylaw appears problematic, you may want to consider locating your proposed operation in a different municipality. Knowing at the start that there are potential problems with the requirements or the bylaw can ultimately save you time and money.

After you have reviewed the land use bylaw, you should review the requirements, if any, of the province's agriculture department. Not all provinces

have fixed requirements for intensive livestock operations, but most have, at minimum, suggested guidelines for the intensive operations to follow. This is the case in Saskatchewan and Manitoba.

Alberta Agriculture, Food and Rural Development has drafted guidelines which are found in the *Code of Practice for Safe and Economical Handling of Animal Manures*. These guidelines address minimum manure storage capacity, minimum land availability for manure spreading, and minimum set back distances from other occupied dwellings. Because some municipalities have adopted these guidelines into their bylaws, it is important that you review these guidelines before you apply for your development permit to ensure your operation can meet the guidelines.

Once you have reviewed the land use bylaw and the agricultural department's guidelines or requirements, you should develop your plans for the proposed hog production facility, and organize the information for the development permit application. Your plans and the information for the development permit application should address all of the requirements and/or guidelines set out in the land use bylaw and by Alberta Agriculture. The more detail you can include in the development permit application about your proposed operation and plans, the more likely you will be granted your permit, and the less likely an appeal of your development permit will be successful. In fact, it is highly advantageous to have a Manure Management Plan, prepared by a qualified agrologist. Water studies should also be included in your application.

When developing your plans and compiling the information for your development permit application, it is important to be aware of the your province's environmental laws and regulations. This is important even if you are not required to have an environmental risk assessment performed on the proposed site for the operation.

All provinces have rules dealing with the impacts that your operation can have once you are up and running. For example, the *Alberta Environmental Protection and Enhancement Act* ("AEPEA") has a number of provisions that apply to hog production. AEPEA prohibits you from releasing anything into the environment that can cause an "adverse effect" on the environment. "Adverse effect" is broadly defined to include impairment of or damage to the surface water, ground water, human health or safety or property. Furthermore, under the federal *Fisheries Act*, which governs the protection of fish habitats, it is an offence to release anything into a creek, river or lake that could kill or harm fish. If you apply your manure too close to a creek, and the manure runs into the creek, you could be charged under your provincial environmental legislation and/or the federal *Fisheries Act*. The maximum fines under the provincial environmental legislation and the federal *Fisheries Act* can be as high as \$1,000,000. As a result, you will want to develop your plans for your proposed

hog operation (especially your manure management plan) with these laws in mind.

Once your application is submitted to the municipality, either the development officer or the municipal planning commission will make the decision as to whether your application is approved or not. However, the decision of the development officer or Municipal Planning Commission is not the end of the municipal approval process: there is a right of appeal to the municipalities' Development Appeal Board.

If you are not granted a development permit or a neighbour of the proposed operation appeals the granting of the development permit, the municipality's Development Appeal Board ("Board") will meet to hear the appeal. The Board has the power to consider the development permit application "afresh" and to make its own decision on the proposed operation based upon the merits of the evidence submitted to the Board.

Finally, the Board's decision is subject to appeal to the province's Court of Appeal on a question of law or jurisdiction, if the question of law or jurisdiction is of significant importance to merit review by the court. If the Board's decision is appealed to the Court of Appeal, the Court will look at what kind of information the Board had before it when it made its decision. As a result, it is important at the application stage—and certainly at the development appeal board stage—to have provided plenty of detail and supporting documentation for your proposed operation.

▪ **Role of Community Relations within the Process**

If you are successful in obtaining a development permit from the development officer or the municipal planning commission, the most likely people to appeal this decision will be your neighbours. As a result, it is important that you talk to your neighbours **early** regarding the proposed operation. Your chances of turning a neighbour into a supporter of the proposed hog operation are increased if they first hear about the project from you. It is also important that you understand and respond to your neighbours' fears regarding quality of life, increased traffic, nuisance, odour, water contamination, etc.

The approach you take in dealing with your neighbours can greatly influence your success in obtaining regulatory approval for your hog operation. Maintaining positive community relations is also important once your operation is up and running since most enforcement actions under environmental laws are initiated as a result of a complaint from a neighbour.