

## Appendix 5: Agricultural Scenario

### Introduction

The purpose of this appendix is to provide an example of: (1) referential clarity<sup>1</sup> and (2) how the proposed terminological changes and their interrelations with use call outs impact planning practice. The examples will be based on a series of land use scenarios provided below. Each scenario will then be comparatively described by the way the proposed land use would be handled under the current zoning regulations for the Agricultural (A) Districts and under the proposed regulations for the the Mixed Use – 20 (MU-20) and the Mixed Use – 40 (MU-40) Districts. The scenarios provided in the table below assume that all other relevant requirements for the use in the scenario are met. For example, set back requirements, minimum lot size, etc. Furthermore, each land use will take place on a single lot. Following the table below a discussion will be provided on the results of the table.

No.	Land Use Scenario	Agricultural	Mixed Use - 20	Mixed Use - 40
1	Livestock feedlot with no more than 299 beef cattle that will be stabled or maintained for a total of 45 days or more in any 12-month period. (an AFO as defined in 40 CFR 122.23 (b)(1) and §75-5-801(1), MCA)	SUP under §7.2.4(7) “Commercially operated feedlots or concentrated animal feeding facilities...”	Not an allowed use	SUP under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...”
2	Livestock feedlot with between 300 and 999 beef cattle that will be stabled or maintained for a total of 45 days or more in any 12-month period. (a medium CAFO as defined in 40 CFR 122.23 (b)(6) and §75-5-801(4), MCA)	SUP under §7.2.4(7) “Commercially operated feedlots or concentrated animal feeding facilities...”	Not an allowed use	SUP under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...”
3	Livestock feedlot with 1000 or more beef cattle that will be stabled or maintained for a total of 45 days or more in any 12-month period. (a large CAFO as defined in 40 CFR 122.23 (b)(4) and §75-5-801(3), MCA)	SUP under §7.2.4(7) “Commercially operated feedlots or concentrated animal feeding facilities...”	Not an allowed use	SUP under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...”
4	A beef cattle slaughterhouse facility with a beef cattle AFO	SUP under §7.2.4(25) “Commercial propagation, boarding, grazing, or butchering of animals and fowl... the operation can be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, and the like.”	Not an allowed use	Two SUPs: one under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...” and another under §7.7.11(27) “Slaughterhouse”

<sup>1</sup> Referential clarity is one of the primary reasons for making terminological changes. These changes are described in the staff report in SECTION 2.2 and assigned to particular changes in Appendix 1.

5	A beef cattle slaughterhouse facility with a beef cattle CAFO	SUP under §7.2.4(25) “Commercial propagation, boarding, grazing, or butchering of animals and fowl... the operation can be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, and the like.”	Not an allowed use	Two SUPs: one under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...” and another under §7.7.11(27) “Slaughterhouse...”
6	A beef cattle slaughterhouse facility with a beef cattle CAFO and rendering plant	SUP under §7.2.4(25) “Commercial propagation, boarding, grazing, or butchering of animals and fowl... the operation can be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, and the like.”	Not an allowed use	Three SUPs: one under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...”; the second under §7.7.11(27) “Slaughterhouse...”; the third under §7.7.11(28) “Rendering Plant”
7	Dairy products manufacturing plant	L/C Permit under §7.2.2 (1) “Agricultural uses of land” or SUP under §7.2.4(27) “Value-added Agricultural Commodity Processing Facility”	SUP under §7.6.11(39) “Value-added agricultural commodity processing facility”	L/C Permit under §7.7.9(18) “Value-added Agricultural Commodity Processing Facility”
8	A chicken slaughterhouse facility with a chicken AFO.	SUP under §7.2.4(25) “Commercial propagation, boarding, grazing, or butchering of animals and fowl... the operation can be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, and the like.”	Not an allowed use	Two SUPs: one under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...” and another under §7.7.11(27) “Slaughterhouse...”
9	A chicken slaughterhouse facility with a chicken CAFO.	SUP under §7.2.4(25) “Commercial propagation, boarding, grazing, or butchering of animals and fowl... the operation can be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, and the like.”	Not an allowed use	Two SUPs: one under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...” and another under §7.7.11(27) “Slaughterhouse...”
10	A chicken slaughterhouse facility with a chicken CAFO and a rendering plant.	SUP under §7.2.4(25) “Commercial propagation, boarding, grazing, or butchering of animals and fowl... the operation can be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, and the like.”	Not an allowed use	Three SUPs: one under §7.7.11(4) “Commercial Feedlot or Concentrated Animal Feeding Operation (CAFO)...”; the second under §7.7.11(27) “Slaughterhouse...”; the third under §7.7.11(28) “Rendering Plant”

## Discussion

### Scenarios 1 through 3

Scenarios 1 through 3 show that feedlot operations, regardless of size, have the same call out and fall under the same special use permit (SUP) process. The terms “commercial feedlot” and “concentrated animal feeding operation (CAFO)” have been revised to clarify the relationship between different sizes of operations and their relation to state and federal regulations (refer to Appendix 4). This is why the term “animal feeding operation (AFO)” was added and utilized in the definition of “commercial feedlot.” In this case, however, this distinction doesn’t have an impact on the way the use would be permitted. In any case, a feedlot must go through the special use permit process. Additionally, the table shows that the proposed regulations reduce where these kinds of use may operate since the use is not allowed in the MU-20 district. This translates to a total of over 187,000 acres of land in the county where this use would no longer be allowed under the proposed regulations. As described in Appendix 2, the MU-20 district is characterized by higher densities of residential use and clusters of smaller parcels. The intent here is to protect these statistically determined areas from this type of development. Additionally, this would protect over 54,000 acres of prime farmland from AFO and CAFO developments.

### Scenarios 4 through 6 and 8 through 10

Scenarios 4 through 6 and 8 through 10, show that the proposed regulations change the way a combination slaughterhouse and qualifying AFO or CAFO would be handled. Under the current regulations, a slaughter house facility where animals will be stabled on-site in such a way as to qualify as an AFO or CAFO would only need one SUP. Additionally, the same operation could have a rendering plant as well and not need an additional permit. Under the proposed regulations, each of these uses would have to be permitted separately under two or three special use permits. This change is in accordance with the general provisions for special use permits, pursuant to §10.1 of the current and proposed regulations, that “each specific use shall be considered as an individual case.” Planning staff view the call out in §7.2.4(25) of the current regulations to be too broad and against the spirit of the general provision for special use permits of §10.1. As was the case above for scenarios 1 through 3, the table shows that the proposed regulations reduce where these kinds of uses may operate since the use is not allowed in the MU-20 district.

Referential clarity is further exemplified by comparing scenarios 8 through 10 to §7.2.4(6) of the current regulations. This callout has been made redundant by the overly broad call out of §7.2.4(25). The former is for “small animals and fowl” but does not allow a “wholesale feedlot” or “meat packing” use. However, under any circumstance in which a chicken CAFO and slaughter facility is the proposed use, such an operation would be able to go in under §7.2.4(25).

The allowance of §7.2.4(6) appears to consist of AFO or CAFO and butchering but it does not allow for “wholesale feedlot” or “meat packing” use. Those definitions can be found in Appendix 4 and a review of those definitions presents difficulty in interpreting what would be allowed under this use callout. Since “propagation,” “boarding,” and “grazing” are not currently defined in the regulations, they have the meaning they have in common usage, pursuant to “General” under §2 of the current regulations. An authority on common usage is a dictionary and planning staff use the Oxford English Dictionary (OED). According to the OED, in this context the terms are defined as the following:

- Propagation: “the action of causing a plant, animal, etc., to produce offspring or multiply by natural processes.”
  - “propagation, n.” *OED Online*, Oxford University Press, March 2019, [www.oed.com/view/Entry/152614](http://www.oed.com/view/Entry/152614). Accessed 5 March 2019.
- Boarding: “to put up and feed (an animal).”
  - “board, v.” *OED Online*, Oxford University Press, March 2019, [www.oed.com/view/Entry/20732](http://www.oed.com/view/Entry/20732). Accessed 5 March 2019.
- Grazing: “to feed on growing grass and other herbage.”
  - “graze, v.1.” *OED Online*, Oxford University Press, March 2019, [www.oed.com/view/Entry/81081](http://www.oed.com/view/Entry/81081). Accessed 5 March 2019.

Given the serial disjunction used in §7.2.4(6), any and/or all of “commercial propagation, boarding, grazing, or butchering of small animals and fowl” could be applicable in a proposed use “provided that the animals may not be

stabled or processed within two hundred (200) feet from any property line and the operation is not considered a wholesale feed lot or meat packing use.” To be considered a “wholesale feedlot” requires boarding animals, prior to marketing or slaughter, owned by another party for a fee. This means that it would be possible for a chicken feedlot and slaughter facility to go in under §7.2.4(6) as long as the animals were owned by the operator or the boarding of the animals did not involve a fee ,however, no packaging of the meat could occur since that would qualify as “meat packing use.” A review of all these definitions reveals a significant amount of overlap and this leads to confusion and it makes it difficult for planners to carry out their practice. For the sake of referential clarity, staff have proposed to delete §7.2.4(6), §7.2.4(25), and definitions for “wholesale feedlot,” and “meat packing plant.” Instead, “slaughterhouse,” “commercial feedlot,” and “concentrated animal feeding operation (CAFO)” have been revised and utilized in such a way that separates the uses and results in the practical impact of each use requiring review through the special use permit application process. Furthermore, §2.1 of the proposed regulations states that “where terms are specifically defined and called out in these Regulations and also interpreted as a component of another general term, the specific shall take precedence over the general” and this prevents the allowance for temporary stabling under the “slaughterhouse” term to escape consideration as a commercial feedlot or CAFO. It also prevents a slaughter facility from going in as a “value-added agricultural commodity processing facility.”

### Scenario 7

Scenario 7 shows another example of an interpretive problem rooted in terminological issues which can lead to different planning practice outputs. Refer to Appendix 4 for the definition of “Agricultural Use” which informs §7.2.2(1) of the current regulations. Under that definition, a proposal for a facility that turns dairy milk into butter and cheese products could go in as a permitted principal use pursuant to §7.2.2(1).It could also go in as a special use as a “value-added agricultural commodity processing facility” pursuant to §7.2.4(27). This ambiguity is resolved under the proposed regulations through revisions to the relevant terms and the interpretive requirements of §2.1 mentioned in the paragraph above.