



2021 Division Road North  
Kingsville, Ontario N9Y 2Y9  
(519) 733-2305  
[www.kingsville.ca](http://www.kingsville.ca)  
[kingsvilleworks@kingsville.ca](mailto:kingsvilleworks@kingsville.ca)

**Date:** April 11, 2022  
**To:** Mayor and Council  
**Author:** John Norton, CAO  
**RE:** Temporary Foreign Worker Housing  
**Report No.:** CAO-2022-01

---

## **RECOMMENDED ACTION**

1. That, on a temporary basis, foreign worker housing **BE PERMITTED** “off the farm” in non-urban rural areas up to a maximum of four persons per house, subject to registration with the Town; and,
2. Administration **BE DIRECTED** to continue work with the “Foreign Worker Housing Study” Consultant to bring forward recommendations to Council to address the issues raised in this report.

## **DISCUSSION**

### **1. Past Practice in the Town of Kingsville**

The Town’s position in past years was to allow up to a maximum of four foreign workers in a house off the farm.

The Town’s position of allowing up to a maximum of four foreign workers in an off-farm house was adopted for good reason. Many of the houses purchased for foreign worker housing were utilized previously for single family usage. The question posed by Town Administrators internally was, how could a family of four use this house but not a group of four foreign workers? Town staff thought it too difficult to distinguish between a small group of foreign workers and a single family. The question of “what is a family” has been litigated in Ontario with the result that a “family” now has a very broad definition. There was concern by some staff that trying to distinguish between small groups of workers and families would raise human rights questions and concerns about the right to housing for all.

In addition, there was confusion about how to interpret the Town’s Zoning By-law in relation to the Ontario Building Code and Fire Code.

The Building Code and Fire Code are provincial laws which Council cannot amend and which municipal employees must enforce. Under the Building Code and Fire Code, no additional requirements are imposed for worker housing that is restricted to “four or less” workers in a residential house. Worker housing that exceeds four people in a house triggers mandatory safety upgrades. From a strictly Building Code or Fire Code perspective, there is no requirement for any approvals or upgrades if there are only going to be “four or less” workers living in a house.

Therefore, the Town’s position in past years was to allow “four or less” workers in off-farm houses. There was no requirement for a Zoning By-law Amendment or Council approval.

Houses in Kingsville have been purchased by employers on the belief that they could place up to four workers in the house without the need for a Zoning By-law Amendment. This was permitted in both rural and urban areas.

If the employer wants to use a house for more than four workers a Zoning By-law Amendment was required, as well as safety upgrades determined by the Fire and Building Codes. Only then would larger numbers of workers be allowed to live in the house.

It should be noted that before vaccination was available, there was a surge of COVID-19 infections amongst the temporary foreign worker population. There was a need to house infected workers separate and apart from those who were not infected. During that time, the Town’s focus was on approving housing that would accomplish that goal. Allowing up to four workers in off-farm housing helped to accomplish this goal.

## **2. Change in Interpretation**

Administration is now interpreting the Zoning By-law differently. The Zoning By-law prohibits all off-farm housing of workers in residential houses. The only exception is if a site specific Zoning By-law Amendment is approved by Council or the Ontario Land Tribunal.

It is clear that the Town’s previous interpretation was based on a misunderstanding of the Town’s Zoning By-law and the nature of foreign workers’ employment and housing. The housing of foreign workers is the responsibility of the employer who must provide adequate and safe housing for foreign workers as a condition of bringing the foreign workers into the country.

The Town’s Zoning By-law considers housing for foreign workers as a type of housing which requires separate zoning approval. A house can be used for single family use but, without zoning approval, cannot be used for housing foreign workers in the same way a house cannot be used for other unapproved purposes, such as a hotel.

The Zoning By-law, even prior to the Interim Control By-law, prohibited off-farm housing except where a Zoning By-law Amendment was obtained from Council or the Ontario Land Tribunal. The change in interpretation of the Zoning By-law was not influenced by the Interim Control By-law. However, the Interim Control By-law adds further complication to the issue of off-farm housing for foreign workers because it removes the opportunity for employers to seek a Zoning By-law Amendment.

### **3. Immediate Impacts**

The change in interpretation of the Zoning By-law means that all employers who have purchased off-farm housing for four or less workers must now obtain a Zoning By-law Amendment. However, employers who have purchased off-farm housing for four or less workers cannot obtain a Zoning By-law Amendment while the Interim Control By-law is in place.

It is estimated that there are between 25 and 35 houses being used in Kingsville for housing of up to four foreign workers. Some of these houses are in urban areas but the majority are in rural areas. These would now be prohibited unless Council directs otherwise.

Only about 6 off-farm houses were previously approved for a Zoning By-law Amendment by Council or the Ontario Land Tribunal. All other houses being used for foreign workers are not in compliance with the Zoning Bylaw.

Some employers are suggesting that this is a significant change that will result in a substantial burden on the agricultural industry in Kingsville, especially in the short-term until more on-farm housing is constructed or permission is granted by Council for more off-farm housing of foreign workers.

Some employers have indicated to Administration that foreign worker housing on the farm is ideal, but also that they cannot build on-farm housing fast enough to meet their needs. In addition, a lack of septic sewers results in having to construct very expensive septic systems. These septic systems also require long waits for approval from the Ministry of the Environment.

The region expects to receive between 5,000 and 8,000 foreign workers. Many of these workers were expected to be housed in off-farm housing in Kingsville.

If foreign workers are forced out of existing off-farm housing, the workers may be put into substandard housing in other locations. In addition, social service experts and the consulates of foreign workers support off-farm housing on the basis that foreign workers have better mental health outcomes if they can live in a location separate from where they work.

Kingsville has a housing crisis of affordability, with demand outstripping supply and driving up the price of housing. Use of existing single family housing for foreign worker housing diminishes the supply and increases costs. It is Council's wish that foreign

workers are provided high quality housing on the land where the workers are employed. This helps shift the responsibility for housing foreign workers to those who gain from their employment. It helps ameliorate traffic concerns by eliminating the need for worker transportation. Importantly, on-site worker housing ensures that existing single family housing is not reduced in supply and affordability.

Increasing on-farm housing is needed to meet the needs of the increasing numbers of foreign workers being employed in Kingsville.

#### **4. Enforcement**

If Council allows up to four workers in an off-farm house, Administration advises that it will be very difficult to enforce the limit of only four workers living in the house. The Town has only one dedicated By-law Enforcement Officer who is otherwise fully tasked on enforcing other By-laws. It would not be possible for him to effectively inspect all permitted off-site worker housing locations for compliance for four or less workers.

Additionally, there is no right of entry into a dwelling house. If the residents did not consent to an inspection, it would be nearly impossible to prove that more than four workers are residing in the house.

If Council's direction is to continue with a complete ban on all off-site worker housing, the risk is that potentially hundreds of workers will be denied entry into Canada and the losses to the greenhouse industry will be substantial.

Alternatively, the workers will live in houses throughout the community unknown to the Town. That housing would be illegal and potentially unsafe or substandard.

#### **5. Interim Control By-law and Foreign Worker Housing Study**

On August 16, 2021, pursuant to subsection 38(1) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, Council passed Interim Control By-law 68-2021 that has the effect of prohibiting any agricultural worker housing on lands situated off the agricultural lands where those workers are employed. The Interim Control By-law is effective for a twelve (12) month period while the Town undertakes a study.

The Interim Control By-law was approved after an unfavourable Ontario Land Tribunal (OLT) decision that granted two rezoning applications to convert residential dwellings to non-accessory bunkhouses that had previously been denied by Council.

The OLT rejected the Town's position that the Official Plan prohibited off-site housing and noted "the pressures of needed guest worker housing in the Town, combined with the goals of both the County and Town OP, promoting and protecting its agricultural uses." The OLT commented that applying a prohibitive interpretation to the Official Plan would in essence frustrate the goals of the Official Plan. The OLT concluded that the proposed Zoning By-law amendments were consistent with the Provincial Policy

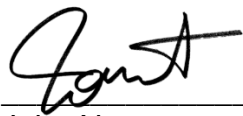
Statement, conformed with both the County and Town's Official Plans and represented good land use planning in the public interest.

The temporary foreign worker housing study is currently underway. When the consultant's report is finalized, Administration will bring it forward for Council's consideration. The report will make recommendations on amendments to the Town's Official Plan and Zoning By-law related to temporary foreign worker housing.

## **CONSULTATIONS**

Senior Management Team  
Fire Inspector  
Chief Building Official

PREPARED BY:



---

John Norton  
**Chief Administrative Officer**

## **LINK TO STRATEGIC PLAN**

### **Link to Council 2021-2022 Priorities**

- ☒ COVID-19 and the health and safety of the community
- ☐ Customer Service: Training, Technology, Staff, Review Standards/Level of service
- ☐ Housing: Affordability (lot sizes, developer incentives, second dwellings, density, etc.)
- ☐ Greenhouse: lights & dark sky, odours (site plan compliance, bylaws, other tools)
- ☐ Programming Increase: Youth and Seniors
- ☐ A development plan for Downtown Kingsville / Main Street
- ☐ Financial savings: Schools closings, Migration Hall
- ☐ Economic Development: strengthen tourism/hospitality
- ☐ COVID - economic recovery
- ☐ Communications: Strategy – Policy (social media), Website refresh and other tools, Public engagement
- ☒ Housing: Migrant Worker Housing – Inspections (Building/Fire), regulate, reduce, or increase
- ☐ Committees / Boards: Review and Report
- ☐ Policy Update: Procedural Bylaw

- ☐ Economic Development: diversify the economy, create local jobs, industrial, Cottam
- ☐ Infrastructure (non-Municipal): Union Water expansion & governance
- ☐ Infrastructure (Municipal): Asset Management Plan update, the infrastructure funding deficit
- ☐ No direct link to Council priorities