

**Town of Kingsville
Temporary Farm Worker
Housing Study
Final Report**

June 2022

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Glossary of Terms

CZBL – Comprehensive Zoning By-law

ICBL – Interim Control By-law

LMIA – Labour Market Impact Assessment

Off-site – Located on a different property as an agricultural operation

On-site – Located on the same property as an agricultural operation

OP – Official Plan

PPS – Provincial Policy Statement, 2020

TFW – Temporary Farm Worker (also, Temporary Foreign Worker)

Note: The terms “temporary farm worker”, “temporary foreign worker”, “migrant worker”, “migrant labourer”, “farm help”, “seasonal worker”, among others, are used interchangeably depending on the jurisdiction.

TFWP – Temporary Foreign Workers Program (Government of Canada)

WECHU – Windsor-Essex County Health Unit

1.0 Introduction

A photograph of four farm workers in a strawberry field. They are wearing raincoats and hats, bending over to pick strawberries. White buckets are visible on the ground. The background shows a dense line of trees.

Kingsville's agricultural sector is rapidly growing.

The length of the growing season in Canada increased by 29% from 62.8 days in 1950 to 88.3 days in 2010 due to climate change¹; it is projected that the growing season will be another 20-40 days longer by the end of the 21st century. This drastic change in the growing season may increase plant productivity and allow for new planting opportunities in agricultural and forestry settings. Further, greenhouse farming is growing in the Province of Ontario; Ontario's greenhouse sector grows by approximately 150 acres per year, with greenhouses making up a total of 3,900 acres across the province². Greenhouses allow agricultural operators to grow a wider range of plants than would be possible in traditional farming, and labour demand is increasing substantially.

Increasingly, temporary work is becoming long term work. Each year thousands of temporary farm workers (TFWs) travel from their homes in Mexico or the

Caribbean to work on farms or in greenhouse operations in Essex County, primarily in Leamington and Kingsville. As in other parts of Ontario where temporary foreign workers are employed, the typical approach in Kingsville to housing workers has been to provide housing on-site where they work, usually in the form of bunkhouses. The number of workers coming each year to Kingsville has risen substantially with the expansion of the greenhouse industry, and the COVID-19 pandemic has created the need for more space to allow for isolation and separation of sick workers. Employers, as well as third-party providers, have turned to buying up existing dwellings in both agricultural and urban areas in the Town to convert to housing for TFWs.

In August 2021, Kingsville Town Council passed an Interim Control By-law (ICBL) under Section 38 of the Ontario *Planning Act* to restrict off-site dwellings for TFWs, and directed that this study be undertaken to

¹ Natural Resources Canada (2020). "Growing season". <https://www.nrcan.gc.ca/climate-change/impacts-adaptations/climate-change-impacts-forests/forest-change-indicators/growing-season/18470>

² Ontario Ministry of Agriculture, Food and Rural Affairs (2018). "Ontario Helping Greenhouse Farmers Innovate and Succeed". <https://news.ontario.ca/en/release/50582/ontario-helping-greenhouse-farmers-innovate-and-succeed>

determine the best approach for TFW housing in Kingsville.

This report is the primary document to record the development of various options for TFW housing in the Town of Kingsville. It includes documentation of:

- the existing local context for TFW housing in Kingsville, including the approximate number of structures or buildings designed to housing workers, and the overall potential capacity for workers in the Town;
- the summary of a Neighbourhood Audit undertaken by the consultant team, which involved observations from the street of several types of TFW housing in various locations throughout the Town;
- the summary of consultation sessions undertaken with Town staff, employers of TFWs in the Town, third-party housing providers, and representatives of TFWs;
- a review of all relevant policies, statutes, regulations, or programs at the federal, provincial, County, and Town level;
- a scan of best practices and varying approaches to TFW housing within Ontario, as well as in British Columbia and parts of the United States;
- a summary of options for approaching TFW housing in Kingsville from a land use perspective; and,
- recommendations for the implementation of those options.



2.0 Local Context and Engagement

2.1 Local Context

The Town of Kingsville economy is dominated by the agricultural sector. Together with its neighbour to the east, the Municipality of Leamington, the Town has the largest conglomeration of agricultural greenhouse operations in North America. Having seen rapid growth in greenhouse development over the past five years, there are over 550 hectares of greenhouses in Kingsville³ which produce tomatoes, cucumbers, peppers, strawberries, flowers, and potted plants, primarily for export to the United States.

The agricultural industry in Kingsville has a vast demand for labour which cannot be met domestically, and for years growers in the area have relied on temporary farm workers (TFWs) who travel to the area from Mexico and the Caribbean to work on eight-month or two-year work permits. Approximately 8,000

to 10,000 TFWs come to the Windsor-Essex region annually, most of whom are employed in Kingsville and Leamington.

Under the Canadian government's program allowing for the employment of TFWs, housing for the workers is required to be provided by the employer. Typically this has been achieved through the building of bunkhouses on the property where workers are employed (i.e. "on-site"), but in recent years employers have turned to buying single-detached dwellings nearby on rural residential properties (or renting homes from third parties) to convert to housing for TFWs (i.e. "off-site"). According to data from the Windsor-Essex County Health Unit, there are approximately 150 TFW housing facilities, on-site and off-site, spread around the Town (see **Figure 1**: Map of TFW Housing Facilities in Kingsville).

³ Note: 2020 numbers. From Hill, Sharon. "Unprecedented greenhouse growth won't slow down in 2020". *The Windsor Star*. [https://windsorstar.com/news/local-news/unprecedented-](https://windsorstar.com/news/local-news/unprecedented-greenhouse-growth-wont-slow-down-in-2020#:~:text=Kingsville%20has%20about%201%2C400%20acres,added%20since%202014%20in%20Kingsville)

[greenhouse-growth-wont-slow-down-in-2020#:~:text=Kingsville%20has%20about%201%2C400%20acres,added%20since%202014%20in%20Kingsville](https://windsorstar.com/news/local-news/unprecedented-greenhouse-growth-wont-slow-down-in-2020#:~:text=Kingsville%20has%20about%201%2C400%20acres,added%20since%202014%20in%20Kingsville).

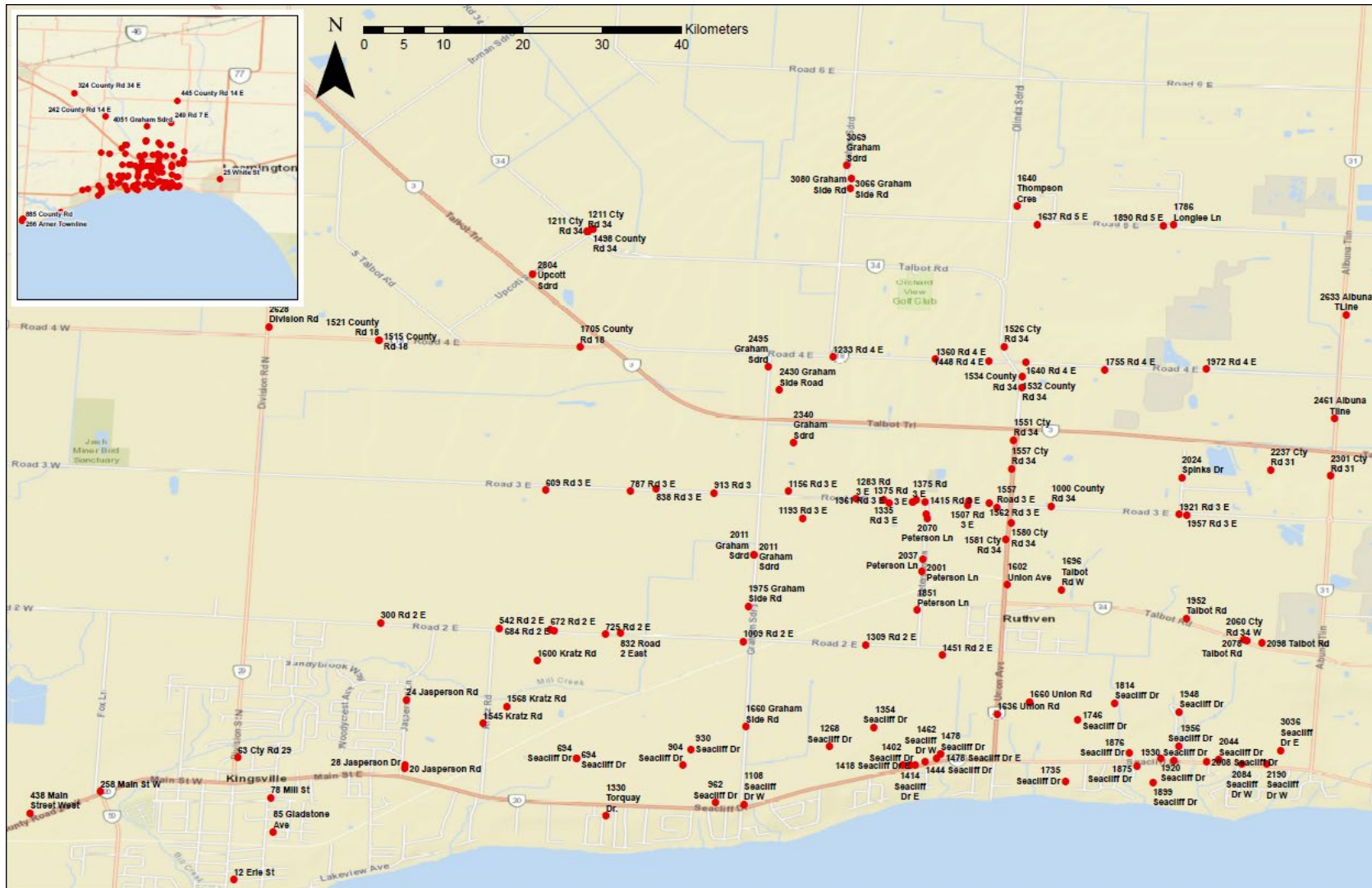


Figure 1: Map of TFW Housing Facilities in Kingsville

2.2 Engagement Summary

Technical Meeting

In January 2022, the consultant team met with staff from the Town of Kingsville to undertake an information-gathering exercise on the existing context of TFW housing in the Town. The Town's Planning, Fire, and Building departments were represented.

What we heard:

- The primary form of TFW housing in the town is bunkhouses, which are generally located on the same property as the farm or greenhouse where the workers living in the bunkhouse are working. Bunkhouses vary in capacity, from twenty people to more than 100 people, with rows of bunkbeds (often stacked), and shared kitchen and bathroom facilities.
- Bunkhouses are required to be provided alongside all new greenhouse developments in the town.
- Since the onset of the COVID-19 pandemic, many bunkhouses have been divided into ad-hoc suites to improve separation and distancing
- The other predominant form of TFW housing is converted single-detached dwellings, mostly within the agricultural area (although there are small number in the urban area). A common practice is for an agricultural operator to purchase a dwelling on a former "mom and pop" farm to convert to use for TFW housing.
- Converted detached dwellings range in quality, but staff indicated that generally, there are problems with overcrowding and ensuring sufficient water and wastewater servicing. For example, a septic system for an existing farmhouse that was designed for a family of five or six is not capable of supporting fifteen to twenty people living in that same house.

- Staff noted that there are more stringent requirements under fire and building codes for a building housing ten to twenty workers than a single family.
- There are instances of TFW housing in the Town that are not satisfactory. These include cases of housing that are co-located in buildings like packing facilities, or even cases of “underground” housing, which have not been reported or inspected.
- Inspections pose a difficult problem for staff. There are four local/regional inspection authorities (Windsor-Essex County Health Unit, Kingsville Fire Department, Kingsville Building Services, and Kingsville Planning Services) that in the past have had some communication issues.
 - These three authorities are inspecting different aspects of a building: for example, a building could pass inspection under the Health Unit’s authority that would not pass inspection under the Town’s Fire or Building departments. This leads to complications for achieving compliance with fire and building codes and erodes the authority of competing inspection regimes.
- It was noted that establishing a standard process for inspections could help improve these issues, or even a licensing system.
- Generally, TFWs in Kingsville still access essential services like groceries, banking, and medical care in neighbouring Leamington.
- Some staff voiced the opinion that the impact from TFW housing on the community in Kingsville is no different than the impact of any other residential use. Converted dwellings are not obviously TFW housing from the outside, and there is no evidence of increased crime, garbage, noise, or loitering.
- Staff noted that existing Zoning By-law definitions relevant to TFW housing are unclear and can lead to confusion.

Employer/Housing Provider Stakeholder Session

In February 2022, the consultant team led a session with representatives of the agricultural operators (also known as “growers”) in Kingsville, as well as Ontario Greenhouse Vegetable Growers (OGVG) and potential third-party housing providers in the Town. Also present were Town staff from the planning, fire, and building departments, as well as representation from the Windsor-Essex County Health Unit.

What we heard:

- Some stakeholders suggested that a minimum requirement be established for number of beds per acre for new greenhouse developments
- Several growers expressed that on-site housing (whether in bunkhouses or converted buildings) is the preferable option, for several reasons:
 - No need to transport workers to and from the site for the workday
 - Better financially for growers – no property tax to pay on off-site dwellings, and on-site housing adds value to a farm
 - Having all the workers for a farm living on-site, rather than off-site and/or in congregate settings with workers from other farms, reduces chance of cross-contamination of crop pests or disease between farms
- Despite the preference for on-site housing, growers also articulated certain difficulties in housing workers on-site, including:
 - Requirement to obtain approval from the Ontario Ministry of the Environment, Conservation, and Parks (MECP) to operate a septic system with a design capacity greater than 10,000 litres per day.
 - Difficulty housing workers and abiding by COVID-19 restrictions set by WECHU
- It was repeatedly noted that the number of TFWs required in the Town is increasing due to increased local labour shortages resulting from

- the pandemic, as well as the switch many growers are making to crops that require more labour (for example, strawberries)
- Concerns were noted that housing farm workers within the urban area may face backlash from the community, and in some cases even discrimination.
- It was suggested that existing housing could be legacy-permitted under updated fire/building/heath guidelines.
- A case was made for providing off-site housing (either purpose-built or converted buildings) located in the urban area, owned operated by third parties, to offset the ad-hoc buying of dwellings in the Town by growers.
 - A development of this type has been built in Leamington to house approximately 600 TFWs employed by Highline Mushroom Farms. The development, which consists of has a lower residential density than a typical bunkhouse or converted dwelling (maximum two workers per bedroom/bathroom).

Worker Stakeholder Session

Also in February 2022, the consultant team led an engagement session with select representatives of TFWs in the Town, including staff from the Consulate of Mexico in Leamington and South Essex Community Council. Other worker support agencies were invited but unable to attend.

What we heard:

- Concerns were expressed around both on- and off-site housing, including:
 - Too many people per dwelling
 - Fire safety
 - Proximity to potentially harmful or irritating farm materials
 - Lack of space to convalesce from sickness or injury
 - Co-location of TFW housing with work buildings (for example, housing on the second floor of a packing facility)

- Consulate staff noted that:
 - The consulate only can audit housing once workers are living there, not before, and cannot affect the permit process.
 - Staff reiterated the concern raised by Town staff that sometimes housing passes a WECHU inspection that may not be up to fire or building code, and that a combined inspection process would be preferable.
- The minimum standard for TFW housing established through various codes and regulations is often still not actually truly a livable standard
- Stakeholders acknowledged the benefits to workers for off-site housing, especially in purpose-built apartment complexes like in Leamington, including for the following reasons:
 - Workers are closer to being real tenants, allowing for more autonomy
 - Workers have more space and privacy due to less crowding
- Allows for workers to feel like they are part of the community
- Workers cannot be asked to work outside normal hours or experience unfair surveillance from employers
- The ideal location for TFWs to live is in the urban centres, where they have easy access to essential services like grocery stores, banking, and restaurants
 - Due to the long work hours and limited kitchen facilities, workers living in on-site housing often rely on food delivery services for meals
- It was noted that TFWs do not have good access to community health and counselling or other mental health services, and may not be supported in using these services by their employers.
- Opportunities to safely exercise are needed for TFWs:
 - Some employers provide ad-hoc soccer fields for workers, but this does not allow

- for workers to properly decompress away from their work environment
- During the warmer months, cycling is the primary transportation mode for TFWs, but there is still a lack of safe cycling facilities in the Town. County Road 20 (Seacliff Drive) has great new shoulder lanes, but the secondary roads (Roads 2 and 3, especially) are used more by TFWs and to date have had little to no infrastructure for cycling and are unlit at night⁴.
 - Consulate staff also noted that cycling safety education could be better dispersed to TFWs, and that offering educational materials and cycling signage in Spanish, as well as English, would be helpful.
- While some employers use buses to transport TFWs between housing, work, and services, many do not.
- Workers often struggle with transportation, especially in the winter months, when cycling is not an option. Many rely on taxis, and the high demand for and low supply of licensed taxis has resulted in the proliferation of unlicensed taxi services. These services commonly prey on workers who have no other option and use price-gouging practices.
 - It was suggested during the session that an ideal transportation scenario for TFWs would be the provision of a bus service between Kingsville and Leamington that routes through the greenhouse cluster in Ruthven. These services could be offered by minibus.
- It was noted that an unintended consequence of using existing residential dwellings for TFW housing is the removal of those dwellings as potential affordable housing in Kingsville.

⁴ Note: Road 2 between Graham Sideroad and Union Avenue is undergoing a reconstruction project scheduled for completion in 2022 which features the addition of a multi-use path. This multi-

use path will eventually be extended to County Road 29/Division Street, connecting with multi-use paths on Division and the new Jasperson Drive alignment.

- Consulate staff expressed the belief that ultimately, the location of housing for TFWs is secondary to improving the space per person, privacy, and health and safety of housing.'

Community Engagement Session

In early June 2022, the Town hosted a public community engagement session, where the consultant team presented an overview of the background and engagement work undertaken to date, and a summary of the options being considered for implementation. Community members in attendance were asked to share their thoughts on the study and how to better integrate TFWs into the Kingsville community.

What we heard:

- Several community members noted that they have developed friendships with TFWs and expressed support for the study. They also noted that supporting the mental health of workers is important for many Kingsville residents

- Suggestions for supporting workers included hosting a festival to celebrate the various cultures and backgrounds represented by workers in Kingsville; offering free language classes widely; and partnering with local higher-education institutions to offer mental health support;
- It was suggested that the Town could consider adapting one of the soon-to-be-vacant schools for TFW housing;
- Support was expressed for allowing TFW housing for four or fewer people as of right;
- Concern was expressed that TFW housing needs could put even more pressure on housing availability and affordability in the Town;
- Support was expressed for providing better access for TFWs to Town amenities like the recreation centre.

2.3 Windshield Survey

In March 2022, the consultant team conducted a short survey of Kingsville by car to observe various locations of TFW housing. The goal of this tour was to get an “on-the-ground” idea of the relationship between TFW housing and their sites and surrounding land uses. Based on housing locations and data provided by the Windsor-Essex County Health Unit, our team plotted a route through Kingsville to enable us to see a cross-section of housing types, including bunkhouses, mobile homes, and converted dwellings in both the rural and urban areas of the Town.

This tour was conducted completely on public land **and for privacy reasons, at no point did any member of the team enter private property or photograph a TFW housing facility.** The intent of the tour was not to evaluate individual housing facilities, but to build a picture of the impact of TFW housing on the community of Kingsville.

What we learned:

- No matter the form it takes, TFW housing in Kingsville is generally non-descript in nature. Many on-farm bunkhouses were difficult to view, tucked away behind other farm buildings, and even on sites where the bunkhouses were close to the road, they were not obvious as such. Similarly, dwellings that have been converted for use as TFW housing were not easily discernible from regular dwellings, including those the team observed in the Town’s urban area. The only indication that workers were living in these buildings was the presence of bicycles outside.
- There were no observable encroachments from TFW housing facilities on surrounding properties or the public right-of-way, nor were there any visible signs of other impacts such as garbage. It is important to note the caveat that the tour did not take place during the busiest part of the growing season when the most workers are present.
- Many TFW housing facilities have ad-hoc soccer fields adjacent to them.

- The site contexts of some of the bunkhouse facilities we observed were problematic. For example, at least one on-site bunkhouse is located directly next to a packing facility, and another is located on lands which are zoned for industrial use and is surrounded by various manufacturing and fabrication uses, some of which are shown in **Figure 2**: Industrial uses adjacent to a bunkhouse.



Figure 2: Industrial uses adjacent to a bunkhouse.



3.0 Policy and Regulatory Context

Policy, statutory, and regulatory regimes exist at the federal, provincial, and local level that govern the provision of housing for temporary farm workers in Canada.

The provision of housing for temporary farm workers in Canada is a somewhat complicated situation, as it represents the combination of several sectors over which the federal and provincial governments (and thus municipalities, through the provinces) share powers. Under subsection 94A and section 95 of the *Constitution Acts, 1867 to 1982*, the Government of Canada and the provinces and territories have concurrent powers over both immigration and agriculture. The federal government issues work permits for temporary workers while the provinces have jurisdiction over land use and housing standards.

Figure 3: Role of levels of government in the TFW housing process illustrates the role of various levels of government in the provision of temporary farm worker housing.

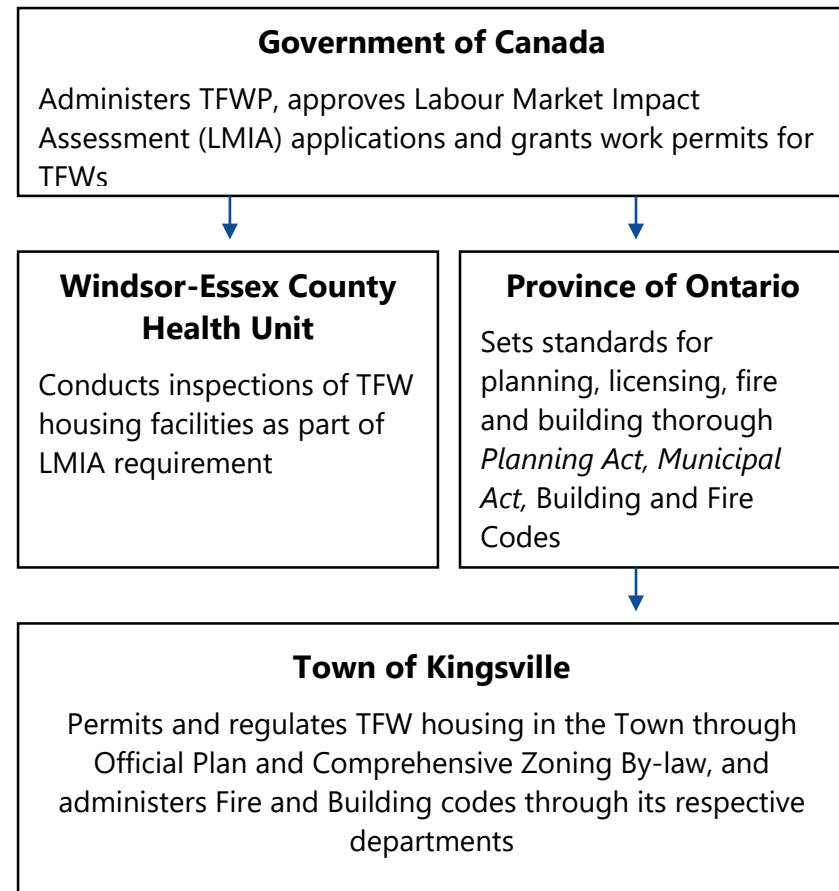


Figure 3: Role of levels of government in the TFW housing process

3.1 Government of Canada

In the case of temporary farm workers, the Federal government controls the issuing of visas for workers through its Temporary Foreign Worker Program (TFWP). This program allows employers to hire foreign workers on a temporary basis when Canadian citizens or permanent residents are not available. Workers hired for agriculture must be employed for work in primary agriculture, which includes the following:

- Work within the boundaries of a farm, nursery, or greenhouse, and
- Work that involves at least one activity, such as:
 - operation of agricultural machinery
 - boarding, care, breeding, sanitation, or other handling of animals, other than fish, for the purpose of obtaining raw animal products for market
 - collection, handling and assessment of those raw products, or the planting, care,

Canada

harvesting or preparation of crops, trees, sod, or other plants for market

Employers can hire temporary agricultural workers under four streams, two of which are relevant to this study, as they relate to agricultural operations producing national commodities (including fruits and vegetables).

Seasonal Agricultural Worker Program Stream

The Seasonal Agricultural Worker Program (SAWP) stream of the TFWP allows employers to hire workers for a maximum of eight months, who must be citizens of Mexico or one of the following Caribbean countries:

- | | |
|-----------------------|----------------------------------|
| – Anguilla | – Montserrat |
| – Antigua and Barbuda | – St. Kitts-Nevis |
| – Barbados | – St. Lucia |
| – Dominica | – St. Vincent and the Grenadines |
| – Grenada | – Trinidad and Tobago |
| – Jamaica | |

The SAWP is run as a bilateral program between Canada and the countries listed above. The foreign governments are responsible for recruiting and maintaining a pool of qualified workers, ensuring the workers have all the necessary documents required to travel to and work in Canada, and appointing representatives in Canada to support the workers.

Agricultural Stream

The Agricultural stream of the TFWP is like the Seasonal Agricultural Worker Program in that the workers must be employed for agricultural production in sectors on the National Commodity List, but the work term can be up to twenty-four months, instead of eight, and the workers can be from any country. Additionally, while the SAWP has standardized and

expedited processes for recruitment, visas, contracts, housing, and health coverage that have been developed in partnership with the workers' home countries, employers hiring TFWs under the Agricultural stream are independently responsible for all the above.

Employer Obligations

Under the SAWP, employers are required to apply for a Labour Market Impact Assessment (LMIA), which shows that:

- The employer is engaged in the production of an agricultural commodity on the approved list
- There is a demand for farm labourers that cannot be met by the Canadian workforce (Citizens or permanent residents)
- The employer has made effort in good faith to recruit Canadian workers within the 3 months prior to submitting the LMIA application
- The employer can provide suitable housing for the labourers, and that the housing has been inspected by a provincial or local official within eight months of submitting the application

The SAWP does not have a formal housing inspection regime in place and employers are simply required to provide proof of an inspection.

In 2021 the Federal government undertook consultation on its Temporary Foreign Worker Program, which is summarized in Section 0 of this report.

Key Findings:

- While land use planning decisions do not fall under Federal jurisdiction, there is a direct impact from the role of the Federal government in facilitating the recruitment of TFWs on the need to provide TFW housing in municipalities
- The Town of Kingsville has no direct control over how many TFWs are hired by employers in its jurisdiction, but has the responsibility to ensure that housing for workers is compliant with all applicable laws, codes, regulations, and by-laws.

- The LMIA process proceeds the Town's involvement in housing inspections, and the Town is often unaware of an employer's housing commitment until after an application has already been approved.
- There may be a need for further advocacy by Kingsville and other municipalities for the Federal government to involve itself more directly in the provision of housing for TFWs. This could come in several ways:
 - Developing a more formal inspection regime in cooperation with Provincial and municipal authorities
 - Dedicated funding for municipalities to undertake inspections
 - Subsidies or grants (either directly, or through Province/municipalities) for TFW housing

3.2 Province of Ontario

Land use planning in Canada falls under the jurisdiction of the provinces. Over time, land use planning in Ontario has become more streamlined across the province, with an overarching policy regime that is implemented at the local level through specific set of statutory tools for municipalities. This section will outline the direction provided by the province that could apply to housing for TFWs.

Planning Act

Ontario's *Planning Act* is the statutory basis for all land use planning decisions in the province, from which all provincial and municipal policy flows, and the enabler of various planning tools that municipalities can use to guide the use of land in their jurisdictions.

Section 2 of the *Planning Act* sets out a list of matters of provincial interest which all planning authorities in the province must have regard to in undertaking planning decisions. Several matters of provincial



interest are relevant to the question of housing for s. 2(h), "the orderly development of safe and healthy communities";

- s. 2(j), "the adequate provision of a full range of housing, including affordable housing";
- s. 2(k), "the adequate provision of employment opportunities;" and
- s. 2(n), "the resolution of planning conflicts involving public and private interests".

It is important to note that the *Planning Act* does not differentiate between groups of people in the province. Thus, it cannot be interpreted that matters of provincial interest apply only to residents of a specific municipality, or only to Canadian citizens or permanent residents. S. 2(j) refers only to the provision of housing, which includes housing for

those who are not in permanent residence in a municipality.

The *Planning Act* also outlines tools that municipalities may use for controlling the use of land within their boundaries. Section 16 directs that municipalities adopt Official Plans, which must contain, among other things:

- goals, objectives, and policies to guide any physical changes to land or its use, and the effect on the municipality’s social, economic, built, and natural environment
- policies to ensure the provision of affordable housing

The Official Plan sets out the municipality’s vision for its growth and development, but the actual control of land use is implemented through Zoning By-laws (s. 34 of the *Planning Act*), which allow municipalities to control, among other things:

- the use of land (s. 34(2)1)
- the erection, location, or use of buildings (s. 34(2)2)

- the construction of building and structures, including but not limited to height, size, location, and character (s.34(2)4)

While municipalities have the ability through Zoning By-laws to regulate the use of land and buildings, they cannot regulate *who* lives on those lands or in those buildings. Section 35 of the *Planning Act* states the following:

The authority to pass a [zoning by-law or other land use control by-law] does not include the authority to pass a by-law that **has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building** or structure or a part of a building or structure, including the occupancy or use as a single housekeeping unit.

The regulation of housing for agricultural workers thus strays into a slight grey area in terms of the powers of municipalities under the *Planning Act*. While municipalities can control the location, size, etc. of the type of building normally used to house

agricultural workers, they cannot make planning decisions that regulate where TFWs can live based solely on their person.

Key Findings:

- The *Planning Act* provides clear direction that the Province prioritizes the planning of safe and healthy communities with adequate housing and employment opportunities
- Municipalities must plan for *uses*, not *users*
- In creating planning policies and making decisions regarding TFW housing in Kingsville, the Town must consider:
- Whether the policy framework for TFW housing will result in a healthy and safe community for both permanent residents of the Town and the workers themselves.
- Whether the policy framework will enable the provision of more and better housing for workers.
- The potential effect of TFW housing on the Town's permanent housing supply.

- The potential effect of TFW housing on the Town's economy, including agriculture, industrial, office, or commercial employment, retail, and potential growth.

Municipal Act

Municipalities, while "creatures of the Province" and not technically a level of government unto themselves, still have broad range of powers (besides land use planning) which they can use within their jurisdictions. The provincial *Municipal Act* outlines these powers, several of which may be relevant to the regulation of TFW housing in Kingsville.

One of the primary powers a municipality has under Part VII of the *Municipal Act* is the ability to impose taxes or levies within the municipality to generate revenue, which is used to fund the services a municipality provides. Property taxes make up the bulk of this revenue, but in Ontario property taxation is favourable to agriculture: a maximum tax rate of 0.25 is prescribed for farm properties under section 308.1(3) of the *Municipal Act*.

Another power granted to municipalities under Part IV of the *Municipal Act* is the ability to enact a licensing system for a business (defined in the *Act* as “any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality”). Municipalities may prohibit the operation of a business without a license, impose certain requirements or restrictions on a business to obtain or maintain a license, and “license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it” (s. 151(1)(f)).

Key Findings:

- The Town has substantial potential powers under the *Municipal Act* to encourage the provision of high-quality housing for TFWs.
- Alternatively, the Town could consider imposing a flexible tax rate on farm properties that include TFW housing, with

increasing tax relief for increased space provided per worker.

- Consideration could be given to enacting a licensing system for agricultural operations that employ TFWs, with requirements around housing, including inspection regularity, minimum requirements for space and amenities, etc.

Provincial Policy Statement, 2020

The Provincial Policy Statement, 2020 (“PPS”) provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario’s policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land.

Policy 1.1.1 directs that communities be made healthy, liveable, and safe by:

“...b) accommodating an appropriate affordable and market-based range and mix of residential types (including

single-detached, additional residential units, multi-unit housing, affordable housing, and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries, and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;

c) avoiding development and land use patterns which may cause environmental or public health and safety concerns...

Policies in section 1.1.3 (Settlement Areas) direct that development should make as efficient use as possible of existing municipal services. Intensification and redevelopment are the preferred method of growth. The PPS's definition of intensification is:

“the development of a property, site or area at a higher density than currently exists through:

- a) redevelopment, including the reuse of brownfield sites;
- b) the development of vacant and/or underutilized lots within previously developed areas;
- c) infill development; and
- d) the expansion or conversion of existing buildings.

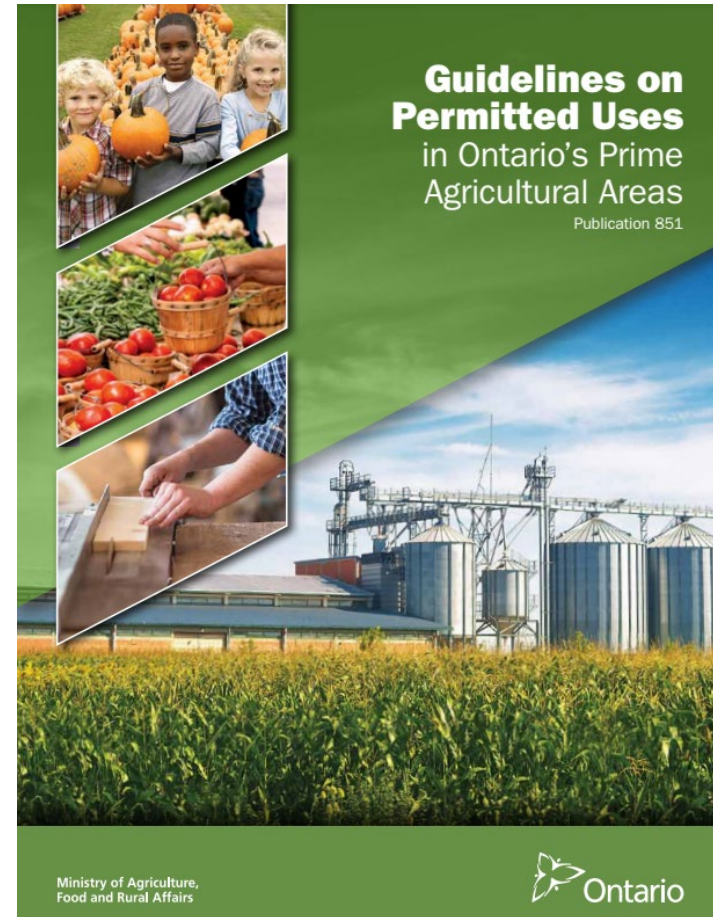
It can be interpreted that the redevelopment of existing buildings or vacant or underused lands for worker housing, whether in rural or settlement areas, would be supported by provincial policy.


Sections 1.1.4 and 1.1.5 of the PPS deal with rural areas and rural lands, respectively, in municipalities. The PPS directs that the distinct character of rural areas should be protected and enhanced wherever possible, to leverage their resources and assets while protecting agriculture and the environment. In particular, policies 1.1.4.1(c) and (d) encourage the provision, accommodation, and redevelopment of existing housing in rural areas, and policy 1.1.4.19(i) directs that economic opportunities should be

provided in prime agricultural areas. The latter is expanded upon by policy 1.1.5.7, which states that “opportunities to support a diversified rural economy should be promoted by **protecting agricultural and other resource-related uses** and directing non-related development to areas where it will minimize constraints on these uses”.

The protection of agricultural areas is further dealt with in Section 2.3 of the PPS. Policy 2.3.1 states that “Prime agricultural areas shall be protected for long-term use for agriculture.” Section 2.3.3 expands on the land uses that are permitted in prime agricultural areas, which include agriculture, agriculture-related uses, and on-farm diversified uses.

The PPS definition of agricultural uses includes “accommodation for full-time farm labour when the size and nature of the operation requires additional employment”, and the PPS policies are further explained in the Province’s *Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas* (2016), hereafter referred to as the “Guidelines”:





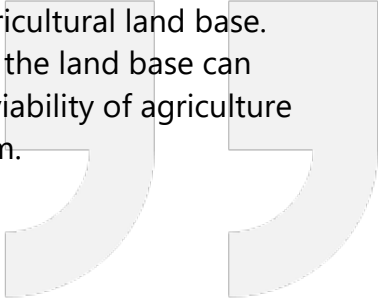
PPS policy allows “accommodation for full-time farm labour when additional labour is required” in prime agricultural areas. This applies to farms of a size and nature requiring additional labour on a year-round basis for the day-to-day operation of the farm (e.g., livestock operations) or on a seasonal basis over an extended growing season (e.g., horticultural operations that require labour for several months each year to amend the soil, and to plant, transplant, prune, weed and harvest crops). To minimize impacts on agriculture, locate housing for full-time farm labour within the farm building cluster. If this is not possible, place housing on lower-priority agricultural lands that meet the province’s minimum distance separation (MDS) formulae requirements and take as little land out of agricultural production as possible.

While the PPS permits accommodation for farm help, the labour needs of farms may change over time. A **best practice is for farmers to consider alternatives to building a new, separate, permanent dwelling for farm help.**

Alternatives include:

- a second dwelling unit within an existing building on the farm
- a temporary structure, such as a trailer or other portable dwelling unit
- an existing dwelling on a parcel of land that is part of the extended farm operation, **or located in a nearby settlement area or on a rural lot**

Severance of land with housing for farm labour is not permitted as land division fragments the agricultural land base. Fragmentation of the land base can affect the future viability of agriculture over the long term.



The Guidelines go on to note that farms requiring TFWs for just a few weeks a year, rather than requiring labour year-round or for months at a time, must provide housing that is not a new permanent dwelling. Examples of this type of housing could be the adaptive re-use of unused buildings on the farm, temporary dwellings like trailers, or off-farm housing, provided the housing meets minimum health, safety, and living conditions, and any local zoning or building requirements.

Key Findings:

- The PPS gives clear direction that municipalities are to prioritize livability in planning decisions, including providing safe and adequate housing, access to services, and ensuring that public health and safety are protected
- The PPS does not differentiate between members of the public based on status of citizenship or residence.

- The efficient use of land and buildings is strongly encouraged the PPS, thus the redevelopment of underused or vacant buildings or properties for TFW housing is supported by Provincial policy. Within rural areas, the redevelopment of housing is explicitly encouraged.
- The PPS aims to protect the agricultural economy by restricting non-agricultural uses on agricultural lands wherever possible
- While the PPS considers on-site TFW accommodation as an agricultural use, based on further guidance from the Province, on-site accommodation should be clustered with other farm buildings or located on less viable agricultural lands.
- Through the *Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas*, the Province encourages locating TFW housing off-site on nearby parcels, or in settlement areas.

Ontario Building and Fire Codes

While this study is focused on the land-use side of TFW housing, the treatment in the provincial Building and Fire codes of rooming/boarding/lodging houses is important to note, as it has historically been relied on in Kingsville to determine whether TFW housing requires additional approvals.

Both the Building and Fire Code define boarding/lodging/rooming houses as buildings which meet all of the following criteria:

- No more than three stories in height and 600 square meters in floor area;
- Occupied by more than four people who pay rent or provide a service in exchange, or both; and
- Lodging rooms do not have both kitchen and bathroom facilities for the exclusive use of the room's occupant(s).



Case Study: Lakelee Orchards Limited v. Lincoln Fire Services (Ontario Fire Safety Commission)

In 2019, Lakelee Orchards, a fruit farm located in the Town of Lincoln, Ontario, appealed five inspection orders made by the Lincoln Fire Rescue and Emergency Services regarding residential buildings it owned and operated as TFW housing. The crux of the appeal was whether the Fire Marshall had erred in categorizing the buildings as "boarding, lodging, or rooming house" rather than "dwelling unit" under the Fire Code, and thus imposed unfair requirements on the owners (installation of fire separation materials, exit signage, self-closing doors, etc.).

Ultimately, the Commission dismissed the appeal, upholding the characterization of the TFW housing buildings as boarding houses. The decision was based on a set of criteria for determining a boarding, lodging or rooming house established through a previous precedent case, which include, among other things:

- The level of control the residents have over the building. Given that a temporary farm worker's housing is arranged for directly by their employment, they have no control over major decisions for the household.
- Individual leases or contracts, versus a collective agreement with a landlord. Even though TFWs living together may also know and work with each other, they are housed and employed as individuals, thus there is no collective relationship within the household.

While this decision was not made under the *Planning Act*, it is highly useful in illustrating the unique nature of TFW housing as a modified sort of boarding or rooming house. This issue will be returned to in the options analysis in Section 5.0 of this report.

3.3 County of Essex/Windsor-Essex Region

County of Essex Official Plan

The County of Essex Official Plan implements the PPS and *Planning Act* at a County level and outlines a policy framework for planning and development for lower-tier municipalities in the County, like the Town of Kingsville. Municipalities within the County of Essex must develop their own Official Plans and Zoning By-laws in conformity with the County of Essex Official Plan.

Section 1.5 of the County Official Plan outlines 'goals for a healthy county', including several housing specific goals related to affordable housing, diversity of housing options and intensification

“...F) To provide a broad range of housing choices, employment, and leisure opportunities for a growing and aging population...”

These goals do not explicitly mention housing for temporary or migrant workers. A 'broad range of housing choices' can be interpreted as inclusionary of housing for TFW.

Section 3.2 describes the goals and policies for settlement areas. This includes consideration of housing, with a focus on affordable and diverse forms of housing. Section 3.2.8 outlines policies for the provision of affordable housing, which includes:

- Requiring lower tier municipalities achieve a minimum affordable housing target of 20% for new development
- Generally permitting second dwelling units within all single detached, semi-detached, and townhouse dwelling units where a residential unit is not permitted in an ancillary structure to those house types on the property. If the principle residential dwelling on the property contains only a single residential unit, then an accessory structure may contain the second dwelling unit on the property.

Agricultural Lands

Agricultural lands make up most of the land within Essex County. Section 3.3.1 states that "all lands outside of those designated as 'Settlement Areas' and 'Natural Environment' are considered the County's prime agricultural area in accordance with Provincial Policy."

The goals for agricultural lands are described in section 3.3.2 and include the protection of prime agricultural areas, protection of agricultural uses, and to discourage lot creation.

Section 3.3.3.1 outlines permitted uses for Agricultural Lands in Essex County:

- a) Agricultural Uses, Secondary Uses and Agriculture-Related Uses.
- b) Forestry, conservation uses, wildlife and fisheries management.
- c) Watershed management and flood and erosion control projects carried out or supervised by a public agency.

d) A single detached dwelling in conjunction with an agricultural use, on an existing lot of record, and on a newly created lot approved as a residence surplus to a farming operation.

e) Accessory farm accommodation, in accordance with Section 3.3.3.5 of this Plan.

f) Passive recreational uses such as pedestrian trails.

Item e) permits the use of accessory farm accommodation for temporary farm workers. This is further described in Section 3.3.3.5 on accessory farm accommodation, which discusses temporary housing measures for TFW:

“Accessory farm accommodation is permitted for full time or seasonal farm help where:

a) The size and/or nature of the farm operations makes the employment of such help necessary.

b) Such additional dwellings do not have a significant effect on the tillable area of the farm or its viability.

c) Permitted in the local Official Plan.

d) The lands are appropriately zoned.

The preferred method for accommodating accessory farm accommodation is within temporary structures such as garden suites. In addition, future severances of the lands that are the site of accessory farm accommodation shall not be permitted.”

As described above, the County permits the construction of housing for TFW within the Agricultural designation, with a preference for temporary structures. The glossary of the OP defines a temporary residential unit as “a dwelling erected in such a way as to allow for its removal at a later date without leaving a foundation or other permanent services and / or facilities”.

Key Findings:

- The County Official Plan, like the PPS, encourages the efficient use of land and services, as well as the protection of agricultural lands for farming, wherever possible. The County also directs that a broad range of housing choices is provided, which can be interpreted to include housing for TFWs
- While permitting TFW housing in agricultural areas, the County Official Plan prefers temporary housing solutions to permanent ones. This is notable given the amount of TFW housing in Kingsville provided through permanent bunk houses.

Windsor-Essex Housing and Homelessness Plan

The Windsor-Essex Housing and Homelessness Plan establishes goals and strategies to reduce homelessness in the region. The vision is “Windsor Essex is an inclusive community where everyone has a

safe, affordable, accessible, and quality home, and everyone lives where they can actively participate”. This vision, and the Plan at large, does not explicitly describe where housing should be located aside from broader connections between housing and supportive services in general.

Strategy I of Goal 1 in the Plan is to “adjust municipal land use planning regulations and offer incentives to increase the supply of affordable housing”. The Plan highlights Windsor’s 2018 OPA and ZBLA that allowed for second dwelling units in new and existing dwellings, as well as dwelling unit in an accessory structure on the same lot as main dwelling as an example of planning implementation.

The Plan suggests planning tools that can be used to increase the supply of affordable housing units, including pre-zoning, inclusionary zoning, and reducing or exempting parkland requirements.

Throughout the Plan there is no explicit mention of temporary farm workers.

Key Findings:

- Consideration could be given by the Town to encouraging Essex County to include temporary farm workers in its policies for housing and homelessness, and develop a consistent approach to TFW housing across the County

3.4 Town of Kingsville

Official Plan

The following section refers to the most recent edition of the Town of Kingsville Official Plan ("OP"), adopted by the Town in 2021. The OP has been adopted by Council but has not yet been approved by the County of Essex. The OP planning framework and policies are based on the Strategic Plan and provide further land use direction for Kingsville. The OP must conform with the County of Essex Official Plan as well as be consistent with the PPS.

Section 1.4.2 outlines guiding principles of the Official Plan. Related to housing, one of the guiding principles outlined in s.1.4.2 is "To encourage the provision of affordable and attainable housing policies consistent with the Provincial Policy"

Within the OP, temporary farm workers are referred to as 'labour'.

Housing

Section 2.7 speaks to the use of mobile homes for housing:

“Mobile homes shall not be permitted within the Town except in designated mobile home park areas as specifically permitted by the policies of this Plan and located in accordance with the requirements of the Zoning By-law. In some instances, mobile homes may be permitted by Council as temporary housing and in some instances in the agricultural areas for seasonal housing purposes.”

Section 2.10 states that secondary dwelling units “may not be used as part of a bed and breakfast or short-term rental (i.e., AirBnB)”.

Agricultural Lands

Section 3.1. details the land use policies and guiding principles for agricultural lands. Protecting prime agricultural lands, which encompasses most lands in

Kingsville is identified as an important part of the Official Plan in S.3.1:

“It is acknowledged that all of the land in the Town of Kingsville, which is located outside a settlement area, is considered prime agricultural land in accordance with Provincial Policy and accordingly, development in this area is strictly controlled and monitored.”

Section 3.1.2 describes the permitted uses of agricultural lands. This includes:

- agricultural uses, agricultural related uses and on-farm diversified uses
- accommodation for full-time farm labour when the size and nature of the operation requires additional employment
- greenhouse farming and associated support facilities such as packing, shipping, co-generation and on-site labour housing, with conditions specific to housing:
 - “greenhouse development shall demonstrate that it is providing sufficient

on-site labour housing for the crop(s) being grown. Labour for a given greenhouse development should be provided wholly on the same property. Notwithstanding labour may be housed off-site subject to demonstration of safe and appropriate private transportation between locations" (s. 3.2.1(e)(iv))

- "on-site farm housing shall be required to maintain a rural residential character within the agricultural area. Consideration shall be given to the design, placement, landscaping, separation from the main permitted uses and shall encourage the provision of outdoor amenity space as defined in the Zoning By-law" (s. 3.2.1(e)(v))
- "the use of existing single detached dwellings for the housing of on-site labour is discouraged." (s. 3.2.1(e)(vi))
- "greenhouse development shall be encouraged to provide linkages to existing and future active transportation corridors

including the CWATS and ERCA Greenway" (s. 3.2.1(e)(vi))

- accommodation of seasonal or temporary farm help may include the use of bunkhouses or mobile homes

Key Findings:

- The current Kingsville OP permits both on-site and off-site housing for TFWs, provided transportation is provided between off-site housing and the operation where a worker is employed.
- The OP discourages using detached dwellings for providing on-site accommodation, and directs that TFW housing can include bunkhouses or mobile homes, but otherwise gives little direction on the desired form or density for TFW housing
- The OP does not contain definition or direction for how to deal with housing TFWs off-site beyond permitting it.

- The OP uses the term “labour” rather than “workers” and contains no policies which acknowledge the important role that TFWs play in the Town’s economy or their presence in the Town for much of the year.

Comprehensive Zoning By-law

The Comprehensive Zoning By-law (CZBL) implements the Official Plan, guiding land use using tools such as permitted uses and regulations, exceptions, site-specific by-laws and holding zones. The CZBL must be consistent with the Official Plan, County of Essex Official Plan, and Provincial Policy.

Definitions

The CZBL contains several relevant definitions.

S. 3.1.10, defines “agricultural use”:

“the cultivation of land, the production of crops and the selling of such produce on the premises, and the breeding and care of livestock and the selling of such livestock or the product of such livestock

raised on the premises, and without limiting the generality of the foregoing includes aviaries, apiaries, fish farming, animal husbandry, and the raising and harvesting of field, bush, or tree crops, market gardening, nurseries, and greenhouses. However, Agricultural Use does not include medical marihuana production facilities **or facilities for the permanent or temporary housing of persons employed on the lot.**”

Housing for TFWs is defined as ‘seasonal worker housing’ within the CZBL in s.3.10.27:

“Housing located on an agricultural property that has been designed with space for multiple residential units for the living and eating quarters for migrant or seasonal workers assisting on the property either in a greenhouse or some agricultural activity requiring manual labourers. Seasonal worker housing is not intended to be rented out

for any purpose, cannot be used for year-round occupancy, and the inhabitants must be associated with an agricultural activity.

There is an additional definition for “bunkhouse” in s. 3.2.24 of the CZBL as “a building accessory to a permitted use containing kitchen and bathroom facilities and sleeping accommodation in individual or combination rooms for workers directly employed by a permitted use”.

Agricultural Zones

As established in Section 2.8 of the CZBL, there are two agricultural zones in the Town: Agriculture (A1) and Agriculture – Restricted (A2). Section 7 describes provisions for the Agricultural zones. Permitted buildings and structures within the Agriculture (A1) zone include both “seasonal worker housing” and “bunkhouse”, as well as a single-detached dwelling, while within the Agriculture – Restricted (A2) zone, only “seasonal worker housing” is permitted as building or structure, and there are no residential uses permitted. In addition, s. 7.1(d) prohibits the use of

mobile homes and RVs for accommodation within the agricultural zones.

Boarding and Rooming Houses

The Zoning By-law also defines “Boarding House and Rooming House” as “any building or portion thereof in which the proprietor supplies for hire, gain or as compensation for services to more than two (2) other persons, lodging, meals, or both but **shall not include a bunkhouse**”.

Boarding and rooming houses are currently permitted in the Centre Commercial (C2) zone only.

Key Findings:

- The current treatment of TFW housing in the CZBL is somewhat confusing. “Seasonal worker housing” is defined more as a use but is permitted as a building type, and there is some crossover between its definition and the definition of “bunkhouse”
- As defined, “seasonal worker housing” is only permitted on the property where workers are

- performing their duties, and thus is not permitted off-site without a re-zoning.
- “Seasonal worker housing” is permitted in the Agriculture – Restricted (A2) zone but residential buildings and bunkhouses are not permitted, and the use of mobile homes and RVs for lodging is prohibited in the Agriculture zones. As such, it is not clear what building type, if any, would be permitted as of right for TFW housing in this zone.
- Clarity is required for how housing for TFWs outside the Agriculture zones is to be treated from a zoning perspective.

Affordable Housing Strategy (2018)

The Town of Kingsville Affordable Housing Strategy was developed in 2018 to respond to increasing unaffordability in the Town and provide a framework for encouraging the development of affordable housing in new developments and existing areas. The Strategy recommends four action items, including amending the Official Plan to strengthen policies encouraging affordable housing and add new policies on redevelopment and infill/intensification in existing residential areas, second dwelling units, and the provision of mid-range housing. The Strategy also recommends continuing to provide financial incentives for affordable housing through reduced development charges and building permit fees and utilizing bonusing provisions under Section 37 of the *Planning Act*, as well as Development Charges, to generate revenue for affordable housing (Note: the latter two action items may be superseded by Community Benefits Charge provisions under the new Section 27 of the *Planning Act*).

The Affordable Housing Strategy is mostly silent regarding housing for TFWs. Section 2.3.2 Rental notes that “Seasonal worker housing in Kingsville can also impact on the overall demand for rental housing as local greenhouse growers and other farm-related businesses look for alternatives to bunkhouses.”

Key Findings:

- The current approach to affordable housing in the Town considers housing for TFWs as an outside influence on housing demand and even a potential threat to affordable housing. This approach highlights the difficulty the Town faces in trying to ensure adequate seasonal housing is provided for TFWs while not reducing the permanent housing supply in Kingsville.

Transportation Master Plan (2012, update in progress)

The Town of Kingsville Transportation Master Plan (TMP) was completed in 2012, under the Municipal Class Environmental assessment (EA) framework for Master Plans. The TMP’s intent was to integrate transportations and land use planning in the Town to accommodate growth over 20 years in alignment with the Town’s Official plan, identifying current and anticipated deficiencies in the Town’s transportation system, and look for walking and cycling opportunities for residents.

The Town is currently undertaking an update of the Transportation Master Plan and development of a Comprehensive Transportation Master Plan.

Section 2.1.5 of the 2012 TMP acknowledges that cycling is one of the principal modes of transportation for TFWs in the Town of Kingsville, and identifies TFWs as **utilitarian** cyclists (i.e., using bicycles for getting to work, services, etc.) rather than **recreational** cyclists (i.e. riding for exercise or pleasure). The TMP also notes that the safety of cycling TFWs was broadly

expressed as an area of concern throughout the development of the 2012 study.

The TMP recommended continued investment in active transportation infrastructure in Kingsville and the promotion of active transportation as an alternative to cars.

Active Transportation Master Plan (2012)

The Kingsville Active Transportation Plan (ATP) addresses the needs of migrant workers in much greater detail than the TMP completed in the same year. The ATP involved extensive public and stakeholder consultation, including with representatives of TFWs. Consultation raised several issues that impact TFWs, including:

- County Road 20 (Seacliff Drive) and County Road 34 being key corridors for TFWs, and that County Road 20 had many sections that were not safe for cyclists
- More connections being needed between Leamington and Essex

- The need for cycling safety education for TFWs and motorists
- That the post office, library, Home Hardware, Zehrs, Tim Hortons, & MacDonald's all need better active transportation access
- That the Chrysler Canada Greenway, which connects downtown Kingsville with Ruthven, was muddy in the spring and winter, and not lit at night.

In Section 3.3 (User Profiles) of the ATP, TFWs are identified as a unique class of cyclist in the Town:

“The migrant worker has a unique set of considerations. Functionally, they may possess the skills of either an advanced or basic rider, but due to language or cultural implications, they may lack the understanding or proficiency of either of those categories. As such, special consideration must be given to this group.”

The ATP recommended that improvements to County Road 20/Seacliff Drive be undertaken in the short term due to the high volume of TFWs using the road as a route, and the high traffic volume. As of the

writing of this report, these improvements have been completed.

Table 1: Existing and Future Cycling Facilities in Kingsville

Location	Facility Type
Existing	
County Road 20/Seacliff Drive (Greenway to Albuna Townline)	Curb-separated cycle lane/Paved shoulder
Division Road North (Palmer Drive to north of Road 2 West)	Multi-use path
Division Road North (north of Road 2 West to County Road 3)	Paved shoulder
Jasperson Drive (Main Street to Road 2 East)	Multi-use path

County Road 34/Talbot Road (Union Avenue to Albuna Town Road)	Paved shoulder
Road 2 East (Union Avenue to Graham Sideroad, to be completed in 2022)	Multi-use path
Chrysler Canada Greenway	Multi-use path
Future	
Road 2 East (Graham Sideroad to Division Road North)	Multi-use path

Key Findings

- The Town is actively considering the needs of TFWs in its transportation planning work.
- County Roads 20 and 34 are key cycling corridors for TFWs, and better active transportation connections between Kingsville and Leamington are needed.
- North-south connections on Division Road and Jasperson Drive, and the extension of the multi-use path on Road 2 East will help improve connection from downtown Kingsville to Ruthven
- The Chrysler Canada Greenway has potential as a critical cycling route between downtown Kingsville, Ruthven, and Leamington, but the lack of night lighting and paving makes it less viable for utilitarian use by TFWs
- Housing for TFWs should be sited near cycling infrastructure wherever possible.



Figure 5: Multi-use path under construction on Road 2 East (WSP)



Figure 4: Paved shoulder cycling lanes on CR 20/Seacliff Drive

A person wearing a camouflage cap, a dark long-sleeved shirt, blue jeans, and black rubber boots is working in a field. They are using a pair of orange-handled pruning shears to cut a wire fence. The field is covered with black plastic mulch and has several rows of young plants. In the background, there are trees, a white house, and a large green-roofed barn.

4.0 Jurisdictional Scan and Best Practices

This section of the report summarizes a jurisdictional scan undertaken to develop best planning practices for TFW housing facilities. Included here are considerations for implementing off-site housing for migrant workers and what it means for TFWs to have dignified housing.

The scan of jurisdictional practices explores opportunities to increase housing options for housing on agricultural lands, as well as considerations for the cultural impact of TFWs and placemaking strategies for transient communities. Identifying such practices will assist the Township to develop a new scoped housing strategy for TFW housing along with related Official Plan policies and Zoning By-law amendments.

To conduct the study of land uses that would facilitate housing options for TFW housing, a review of practices of current approaches taken by other municipalities in Canada and the United States was performed. Consulted materials included:

- Reports to councils which contemplated variances to the existing provisions for Agricultural lands
- Proposed amendments to zoning ordinances and official plans were reviewed to provide examples of emerging precedents for how municipalities are addressing housing need for TFWs
- Reporting of migrant support organizations that summarized direct engagement with TFWs regarding their housing conditions
- Academic and mainstream news articles that explored the lived experiences of migrant workers in Southern Ontario communities

A key limitation of the research on best practices for TFW housing is the reality that many farmworkers across the continent are living in substandard housing conditions. It is often made apparent that due to the legal citizenship status of TFWs and their reliance on employer-provided housing, TFWs are a vulnerable group that cannot advocate for themselves without concerns that they would be jeopardizing their

employment which can be a catalyst for other hardships. It was important to include research that examined the lived experiences of farmworkers

because it explored the vision that migrant farmworkers have for their housing and the communities that they reside in.

Table 2: Summary of Jurisdictional/Best Practices Scan

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
Municipality of Leamington, ON	<u>Leamington Official Plan Amendment and Zoning By-Law Amendment</u>	<ul style="list-style-type: none"> – The purpose of this amendment is to update the policy framework for boarding houses and farm worker dwellings within the Municipality of Leamington. – The amendment adds new policies which are intended to provide guidance for the development of boarding houses in Leamington's on-site and off-site in the urban areas, where development is intended to be on full municipal services and for farm worker dwellings within the Municipality's Agricultural Area. – Establishes parking requirements for cars and for bicycles – In lands designated residential, a maximum number of occupants per Small and Large Boarding House has been established

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
	<u>Ontario Greenhouse Vegetable Growers Press Release</u>	<p>In a press release related to OGVGs appeal of the Town of Leamington's OPA included the following concerns:</p> <ul style="list-style-type: none"> – Lack of new infrastructure concerning municipally serviced sewage, water, and safe transit pathways only impede regional progress. – Any decision concerning TFW housing will have a direct economic impact through housing supply, labour availability, and regional economic opportunity which affects the greenhouse industry, the community and municipality at large.
Norfolk County, ON	<u>Zoning By-Law 1-Z-2014</u>	<p>Permits "Bunk House" in the following zone categories:</p> <ul style="list-style-type: none"> – Rural Industrial (MR) – Agricultural (A)
Haldimand County, ON	<u>Zoning By-law HC 1-2020</u>	<p>Permits "Bunk House" in the following zone categories: Permitted in the following zone categories:</p> <ul style="list-style-type: none"> – Agricultural A – Development Zone (D) – only legally existing permitted uses allowed – Rural Industrial Zone (MR)

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
		<ul style="list-style-type: none"> – Disposal Industrial Zone (MD) – Extractive Industrial Zone (MX)
Town of Niagara on the Lake, ON	<u>Zoning By-Law 4316-09</u>	Farm help accommodation buildings may be permitted as an accessory building to an agricultural operation
City of Welland, ON	<u>Zoning By-law 2017-117</u>	<p>A Farm Labour is permitted in the following zone categories:</p> <ul style="list-style-type: none"> – A1 Agricultural <p>A maximum of one farm labour residence shall be permitted on a lot.</p>
City of St. Catharine's, ON	<u>Zoning Bylaw 2013-283</u>	<p>"Help House" is a permitted use in the following zone categories:</p> <ul style="list-style-type: none"> – Agricultural (A1) – Agricultural (A2) – Agricultural (A3) <p>The following conditions apply:</p> <p>i. An agriculture farm 1.2 ha or greater in size that contains greenhouses may have one help house.</p>

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
		ii. The minimum lot area for all other agriculture farms where one help house is permitted shall be 10 ha.
Town of Uxbridge, ON	<u>Zoning By-Law No. 81-19</u>	In the Rural Exception Zones, which are established on a case by case basis, . One (1) "bunk house" or second dwelling, accessory to and an integral part of the farm operation on the lands
City of Abbotsford, BC	<u>Zoning Bylaw No 2400-2014</u>	Accessory Seasonal Employees uses are permitted in Agricultural One Zone (A1) A1 and Agricultural Two (A2) Permits. The intent of the Zoning provisions is to accommodate Agricultural and Agri-Tourism uses on lots that are 8.0 ha and 16.0 ha respectively.
City of Delta, BC	<u>Zoning By Law 2750</u>	The Zoning By Law provides that where a 'Farm' accommodates more than 20 'Migrant Farm Workers', 'Amenity Indoor Space – Migrant Farm Worker Housing' may also be provided in a mobile, manufactured building to a maximum of 50 square metres floor area and may also include facility space. This building shall be separate from the building(s) which contain workers'

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
		sleeping areas but included on the 'Farm Home Plate – Migrant Farm Worker Housing'.
City of Kelowna, BC	<u>Application: TA19-0001 / A19-0006 - Zoning Bylaw Text Amendment & Agricultural Land Commission (Non-Adhering Residential Use) Applications</u>	City Council defeated this application based on required limits on TFW allocation to avoid concentrating many workers in an otherwise agricultural or rural area where there are typically not many amenities such as transit or grocery stores.
County of San Luis Obispo, California	<u>County of San Luis Obispo Coastal Zone Ordinance Proposed Amendments</u>	<p>Dwellings in the Agriculture and Rural Lands land use categories, including primary housing and agricultural worker housing farm support quarters are allowed accessory uses on the same site as an agricultural use.</p> <p>The development of more than twelve (12) dwelling units shall require inclusion of recreation facilities and open space, proportional to the amount and type of facilities to be provided. Adult housing shall require the inclusion of appropriate recreational areas, such as for baseball, basketball, soccer, or horseshoe pitching.</p>

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
Camarillo County, California		<p>The 360-unit farmworker housing development in with apartments ranging from one to three bedrooms also offers facilities such as playgrounds, a basketball court, two community centers and a garden area. Considerations related to the impact of the development included:</p> <ul style="list-style-type: none"> • Planning officials have identified adequate capacity in the local school district for children moving into the first phase of 100 apartments. • How the on-site sewer plant will improve their irrigation supply to crops • The developer had to commit to building a traffic signal on the nearby highway to support safe access to the site.
State of Vermont	<p><u>In Vermont, a new model emerges to improve migrant farmworker housing</u></p>	<p>Incentive programs for retrofitting substandard TFW housing can be hard to access for farmers that have limited resources.</p> <p>Farmers may only want to weatherize or upgrade their existing housing. Those costs are less upfront than new</p>

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
		housing, though it's often expensive in the long term to continually update housing. The large upfront investment for new housing could end up being worth it if the farmer wants a long-lasting solution.
Health Guidelines/Inspection Guides	Migrant Farm Housing Accommodation Summary Checklist, Durham Region	Inspection guidelines are intended to assist local public health and other agencies in assessing the suitability of housing intended for the housing of both domestic and TFWs, usually citing provincial building code requirements and public health guidelines. The Haldimand-Norfolk is the guideline also incorporates provisions from the zoning by-law for employers interested in building or renovating farmworker housing.
	Seasonal Farm Worker Housing Guidelines, Haldimand-Norfolk Health Unit	
	British Columbia. Temporary Foreign Agriculture Worker Housing Inspection Housing Guide	
Employment and Social Development Canada	What we heard: Consultations on accommodations for Temporary Foreign Workers (2021)	Recommendations that can be derived from consultations with migrant farm workers includes considerations increased floor space per worker as well as diversified land uses that can be ancillary to the

Organization	Study/Policy/Zoning Provisions and Definitions	Key Findings
Migrant Workers Alliance	<u>Decent & Dignified Housing for Migrant Farmworkers</u>	primary use of farmworker/boarding homes which further divide uses for the purpose of storage space or create opportunities for respite.
Ontario Ministry of Food, Agriculture, and Rural Affairs	<u>Modular/Temporary Housing Guide: Relocatable Structures and Modular Construction for Worker Accommodation and Ancillary Uses</u>	This document recommends the semi-permanent or temporary structures as facility, recreational or amenity space. This recommendation is in keeping with growing calls for increased floor space per migrant worker to achieve the goals of public health as it pertains to the transmission of viruses but also to also provide spaces of respite and recreation for TFWs

4.1 Municipality of Leamington

The *Essex County Agricultural Lot Size* study prepared by Jones Consulting for the County of Essex in 2017 found that most agricultural land parcels having fruit and vegetable farms in the County are found in the Towns of Kingsville and Essex and the Municipality of Leamington. Further, agricultural land parcels containing greenhouses in the County are found almost exclusively in Kingsville and neighbouring Leamington. According the 2017 Official Community Profile, Kingsville's agriculture production was facilitated on 750 acres of greenhouses. In 2017, then Mayor John Paterson noted that local spending from migrants contributed roughly \$15 million a year to the local economy. By 2020, this acreage of greenhouses

⁵ Mojtehdzadeh, S., Keung, N., and Rankin, J. "Leamington is at the frontlines of the boom in migrant workers. Here's how it's changed". *The Toronto Star*. 11 October, 2017.

grew to 1,400 acres and included the Town's first cannabis greenhouses.

The number of migrant farm workers in Leamington has surged in the last decade. More than 10 per cent of the 54,000 average migrant farm workers to Canada work in Leamington, and migrant workers account for one-sixth of the town's population during the farming season⁵. Tensions regarding race have arisen in Leamington, were exemplified by locals avoiding shopping on Wednesdays and Fridays (paydays for the workers) as well as on Sundays, when workers get time off and crowd stores.

Leamington Official Plan Amendment and Zoning By-Law Amendment

The Municipality of Leamington Official Plan (OP) sets general directions for the future pattern of development envisioned for the municipality for a twenty-year planning period. In April 2021, following

<https://www.thestar.com/news/canada/migrants/2017/10/09/leamington-is-at-the-frontlines-of-the-boom-in-migrant-workers-heres-how-its-changed.html>

the recommendations of the municipal Boarding House Study Update completed in 2020, Council approved amendments to the Official Plan and Zoning By-law 890-09 to establish policies and regulations related to Boarding Houses and Farm Worker Dwellings. Official Plan Amendment No. 8 has since been approved by the County of Essex and is in force. The Zoning By-law Amendment 17-21 has been appealed to the Ontario Land Tribunal and is not in force.

Official Plan Amendment No. 8

Official Plan Amendment No. 8 added new policies to provide guidance for the development of boarding houses in Leamington's urban area, where development is intended to be on full municipal services, and for farm worker dwellings within the Municipality's Agricultural Area.

This Amendment includes the following approaches:

- **Small Boarding Houses:** Small boarding houses are located in the Urban Settlement Area on lands with access to full municipal

services. Small boarding houses are those with more than four (4) and up to six (6) people and will be permitted in areas designated as Residential in the Official Plan and identified for low-density residential uses in Zoning By-law 890-09. This form of development would not require Site Plan Control but would be subject to other applicable permits, by-laws and standards.

- **Large Boarding Houses:** Large boarding houses in the Urban Settlement Area on lands with access to full municipal services. Large boarding houses are as those with seven (7) people or more, and will be permitted on lands identified for medium to high density residential uses in the Zoning By-law 890-09. The Zoning By-law would include specific details to guide the development process and applicants would be subject Site Plan Control process to address site specific design issues and concerns.

- **Farm Worker Dwellings, On-Site:** Farm worker dwellings co-located with a farm operation in the Agricultural Area. On-site farm worker dwellings would be permitted for Agriculturally designated lands. Farm worker dwellings are to be located on the same site as the agricultural operation. The Zoning By-law would include specific details to guide development. The expectation is that in most cases, on-site farm worker dwellings would be part of the broader site plan approval process for larger scale form of agricultural development (e.g. greenhouses) and is inspected by the relevant public health authority as a condition of its use as such.
- **Farm Worker Dwellings, Off-Site:** Off Site Farm Worker Dwellings would be permitted generally within 800 metres (walking distance) of the primary place of employment, subject to the provision of a pedestrian/active transportation connection. The farm worker dwellings should be placed within the cluster of farm buildings, limited to one farm worker

dwelling per site and is inspected by the relevant public health authority as a condition of its use as such. If the property does not have a primary agricultural use, a Zoning Bylaw Amendment to permit a farm worker dwelling within an existing residential dwelling, as a main use on the property, could be considered.

- **Farm Worker Dwelling, Urban, Large:** Means a dwelling not on a farm that is used for the housing of seven (7) or more farm workers and is inspected by the relevant public health authority as a condition of its use as such.
- **Farm Worker Dwelling, Urban, Small:** Means a dwelling not on a farm that is used for the housing of more than four (4) and up to six (6) farm workers and is inspected by the relevant public health authority as a condition of its use as such.

Zoning By-law Amendment 17-21

With regard to the Zoning By-Law Amendment, Section 3 Definitions of By-law No. 890-09, as amended, was further amended by the deletion of

definitions for “Boarding House or Lodging House or Rooming House” and “Dwelling, Farm Help”. The following definitions were added in place:

- **“Boarding House, Large,** shall mean any building or portion thereof in which the proprietor supplies for hire or gain to seven (7) persons or more (which number shall include the proprietor if the proprietor lives within the boarding house), lodging, meals, or both but shall not include a hotel, hospital, group home dwellings, home for the young or the aged or institution if the hotel, hospital, home or institution is licensed, approved or supervised under any general or special Act.”
- **“Dwelling, Farm Help Off-Site,** shall mean a dwelling on a farm that is used for the housing of farm workers where those workers are primarily employed on a different farm that is either: a) abutting the farm upon which the dwelling is situated and a Pedestrian Connecting Link between the farms is identified on an approved site plan; or b) attached by way

of a Pedestrian Connecting Link to the farm upon which the dwelling is situated and identified on an approved site plan, such Pedestrian Connecting Link being generally a distance of 800 metres or to the satisfaction of the Municipality in either case.”

- **“Dwelling, Farm Help On-Site,** shall mean a dwelling that is used for the housing of farm workers where those workers primarily work on the farm upon which the dwelling is situated.”
- **“Parking Space, Bicycle,** must be provided on the same lot as the use or building for which it is provided. Bicycle parking spaces must be located in order to provide convenient access to entrances. A bicycle parking space may be located in any side or rear yard. Where applicable, bicycle parking space must have access from an aisle having a minimum width of 1.5 metres. Bicycle parking spaces must contain a parking rack that is securely anchored to the ground.”

- **“Pedestrian Connecting Link**, shall mean a pedestrian connecting link from the main pedestrian entrance of the farm help dwelling structure to the main pedestrian entrance of the work structure such as a greenhouse, or the work site such as a row-crop farm; and if such Pedestrian Connecting Link is not completely located on the subject farms it shall include a constructed Active Transportation route, either on or off of the road, or a registered easement permitting pedestrian access over lands and shall generally be no greater 800 metres distance or as approved by site plan control/or as approved by a minor variance.”

Amendments to zone provisions are described in **Table 3:** Residential Zone Requirements and

Table 4: Agricultural Zone Requirements below.

Table 3: Residential Zone Requirements

	Zone	Zone Provisions	Other Criteria
Added	R1 - R2	<ul style="list-style-type: none"> – One Small Boarding House – Maximum Occupants: 6 persons – Bicycle Parking: 0.5 per beds of capacity 	<p>Home occupations, secondary dwellings and bed and breakfast establishments are not permitted in or on the same property as a dwelling used as a small boarding house.</p> <p>A secondary dwelling unit in an accessory building is not permitted on a property with the use of a small boarding house. All other zoning provisions that pertain to single unit detached dwelling on lands zoned R 1 and R2 shall apply to small boarding houses."</p>
Added	R3- R6	<ul style="list-style-type: none"> ○ One Large Boarding Houses per lot ○ Bicycle Parking: 0.5 per beds of capacity 	<p>The establishment of all new large boarding houses and the expansion of existing boarding houses are subject to site plan control.</p> <p>The establishment of all new large boarding houses and the expansion of existing boarding houses are subject to site plan control.</p>

Table 4: Agricultural Zone Requirements

	Zone	Zone Provisions	Other criteria
Deleted	A1-A3	Farm help dwelling	
Added	A1	<p>Farm help dwelling off-site</p> <p>Farm help dwelling, on-site</p> <ul style="list-style-type: none"> ○ Minimum Lot Area: 10 ha (24.7 ac) ○ Minimum Lot Frontage: 60 m ○ Maximum Building Height: 10 m ○ Minimum Front Yard: 15 m ○ Maximum Lot Coverage: 4.0% ○ Minimum Exterior Side Yard: 15 m ○ Minimum Exterior Rear Yard: 6 m ○ Bicycle Parking: 0.5 per bed ○ Parking lot location: referred to be abutting or adjacent to the farm help dwelling, off-site or farm help dwelling, on-site; or may be generally within 200 metres from the dwelling <p>Greenhouses</p> <ul style="list-style-type: none"> ○ Farm Help Dwelling ○ Maximum 2.5 labourers per 0.5 ha (1.23 ac) of greenhouses 	<p>Site Plan Control is required for the development of a farm help dwelling, as part of a broader site plan control submission for greenhouses.</p> <p>Site Plan Control is required for the establishment of all new farm help dwellings, on-site and off-site and the expansion of existing farm help dwellings</p>

	Zone	Zone Provisions	Other criteria
Added	A2	Farm help dwelling off-site Farm help dwelling, on-site <ul style="list-style-type: none"> ○ Minimum Lot Area: 2 ha (4.94 ac) ○ Minimum Lot Frontage: 60 m ○ Maximum Lot Coverage: 4.0% ○ Maximum Building Height: 10 m ○ Minimum Front Yard: 15 m ○ Minimum Interior Side Yard: 15 m ○ Minimum Exterior Rear Yard: 6 m ○ Bicycle Parking: 0.5 per bed ○ Parking lot location: referred to be abutting or adjacent to the farm help dwelling, off-site or farm help dwelling, on-site; or may be generally, within 200 metres from the dwelling 	The establishment of all new large boarding houses and the expansion of existing boarding houses are subject to site plan control. The establishment of all new large boarding houses and the expansion of existing boarding houses are subject to site plan control in accordance with the zoning provisions.
Added	A3	Greenhouses <ul style="list-style-type: none"> ○ Farm Help Dwelling ○ Maximum 2.5 labourers per 0.5 ha of greenhouses 	

Key Findings

Municipalities and farmers are faced with the shared responsibility of providing adequate housing quarters for farmworkers in an affordable manner over longer periods of time. The impacts of the growth of the greenhouse industry on municipal infrastructure are significant, however it is apparent that representatives of the farming industry urge a sense balance on where most of the responsibility should be placed. This competes with the municipalities role of ensuring that growth is supported through the developments in a manner which achieves the municipalities strategic objectives.

It is further evident that while migrant workers have a significant impact on the local economy, there are still challenges to community cohesion that have spatial considerations related to active transportation that must be considered so that both TFWs and residents can equally enjoy public space in rural communities. As the population of TFWs in

Kingsville increases, addressing issues related to TFW housing, active transportation networks, complete with parking spaces for bikes can help to formalize uses and facilitate community cohesion.

4.2 Norfolk & Haldimand Counties, Niagara Region, Durham Region

In addressing the question of off-site housing for TFWs, Kingsville is undertaking relatively emergent work. Municipalities in Niagara Region, as well as Norfolk and Haldimand Counties, all have guidance in their zoning by-laws for how to approach farmworker housing. But while these municipalities have strategies related to Agricultural lands, they are not currently undertaking a review of the respective official plans and zoning by-laws to address challenges related to land availability, housing stock or other land use implications related to farmworker accommodations.

Table 5: Zoning Approaches to TFW Housing in Ontario summarizes the current zoning approaches for TFW housing in these jurisdictions.

Table 5: Zoning Approaches to TFW Housing in Ontario

Municipality	Definition	Provisions
City of St. Catharines (Niagara Region) Zoning Bylaw 2013-283	Help House: means a dwelling unit used for accommodation of persons employed in the operation of an agricultural farm use located on the same lot.	<p>Permitted the following zone categories:</p> <p>Agricultural (A1)</p> <p>Agricultural (A2)</p> <p>Agricultural (A3)</p> <p>Help House</p> <p>i. An agriculture farm 1.2 ha or greater in size that contains greenhouses may have one help house.</p> <p>ii. The minimum lot area for all other agriculture farms where one help house is permitted shall be 10 ha.</p>

Municipality	Definition	Provisions
<p>City of Welland (Niagara Region)</p> <p>Zoning By-law 2017-117</p>	<p>Farm Labour Residence means accommodation accessory to agriculture and on the same lot as an existing permanent principal farm dwelling, provided for full-time farm labour where the size and nature of the farm operation requires additional employment, in the form of any of the following:</p> <p>(a) An accessory apartment attached to and forming part of the principal farm dwelling; or</p> <p>(b) An accessory detached dwelling of temporary construction, such as a mobile home; or</p> <p>(c) An accessory detached bunk house of temporary construction where cooking and sanitary facilities are shared.</p>	<p>Permitted in the following zone categories:</p> <p>A1 Agricultural</p> <p>Lot and Building Standards</p> <p>Farm Labour Residence (3)</p> <p>Minimum Lot Area: 40.0 ha</p> <p>Minimum Lot Frontage: 30.0 m</p> <p>Front Yard Minimum: 15.0 m</p> <p>Side Yard Interior: 15.0 m</p> <p>Side Yard Exterior: 15.0 m</p> <p>Rear Yard Minimum: 15.0 m</p> <p>Building Height Maximum: 11.0 m (1)</p>

Municipality	Definition	Provisions
		<p>General Provision</p> <p>3.4.4 Farm Labour Residence</p> <p>a) A maximum of one farm labour residence shall be permitted on a lot;</p> <p>b) Where a farm labour residence is in the form of a temporary detached dwelling or temporary bunk house, the following regulations shall apply:</p> <ul style="list-style-type: none"> i. Shall be located within 30.0 metres of the farm dwelling ii. Shall have a maximum building height of 11.0 metres; iii. Shall utilize the existing driveway access to the farm dwelling; iv. Any temporary detached dwelling shall have a minimum floor area of 65.0 square metres and a maximum floor area of 115.0 square metres; v. Any temporary bunk house shall have a minimum gross floor area of 65.0 square metres or 8.0 square metres per resident; whichever is greater; <p>c) Where a farm labour residence is in the form of an accessory apartment attached to and forming part of the principal farm dwelling, the accessory apartment shall not exceed twenty-five percent of the gross floor area of the principal farm dwelling.</p>

Municipality	Definition	Provisions
<p>Town of Niagara-on-the-Lake (Niagara Region)</p> <p>Zoning By-Law 4316-09 (outside Urban Boundary)</p>	<p>Help Accommodation means a structure for the housing of seasonal farm employees between the months of March 15th to November 15th in any year, but in no event shall be used for year-round occupancy.</p>	<p>No specific provisions or permissions.</p>
<p>Haldimand County</p> <p>Zoning By-law HC 1-2020</p>	<p>Bunk House shall mean a building or part of a building used for the temporary accommodation of seasonal farm workers, provided such accommodation does not serve as a principal place of residence of an occupant. A mobile home or recreational vehicle may be used for the purpose of a bunk house.</p>	<p>Permitted in the following zone categories:</p> <p>Agricultural A</p> <p>Development Zone (D) – only legally existing permitted uses allowed</p> <p>Rural Industrial Zone (MR)</p> <p>Disposal Industrial Zone (MD)</p> <p>Extractive Industrial Zone (MX)</p> <p>Exception HAL36.129: That in addition to the permitted uses of the A Zone (Subsection 28.1) a portable bunkhouse for the temporary housing of students on the farm shall also be permitted on the lands identified as having reference to the subsection,</p> <p>subject to the following provisions:</p>

Municipality	Definition	Provisions
		Minimum Yard Requirements - (a) Front Yard - 80 metres (b) Interior Side Yard (right) - 170 metres (c) Interior Side Yard (left) - 50 metres (d) Rear Yard - 110 metres
Norfolk County Zoning By-Law 1-Z-2014	Bunk House shall mean a building or part of a building used for the temporary accommodation of seasonal farm workers provided such accommodation does not serve as the principal place of residence of an occupant and the bunk house is located on a farm. A mobile home may be used for the purposes of a bunk house.	Permitted in the following zone categories: Rural Industrial (MR) Agricultural (A) No specific provisions.

4.3 Cities of Abbotsford, Delta, and Kelowna, British Columbia

Several municipalities in British Columbia have similar contexts to Kingsville (and Leamington) in terms of climate, growing season, and employment of

temporary farm workers. In particular, the Cities of Delta and Abbotsford, in the province's Lower Mainland, are strikingly similar to Kingsville and Leamington in their close proximity to the US border, as well as featuring a high concentration of greenhouse operations (although to a much smaller extent than in Essex County).

Table 6 below summarizes the various zoning approaches to TFW housing in Abbotsford, Delta, and Kelowna.

Table 6: Zoning Approaches to TFW Housing in British Columbia

Municipality	Definition	Provisions
<p>City of Abbotsford</p> <p>Zoning Bylaw No 2400-2014</p>	<p>Accessory Seasonal Employee Residential Use means a residential use accessory to an agricultural use for the accommodation of employees paid to work full-time on a seasonal basis on a farm operation and, for the purposes of this definition, includes the employee's immediate family.</p>	<p>Agricultural One Zone (A1) A1 Permits Accessory Seasonal Employees Intent: To accommodate Agricultural and Agri-Tourism uses on lots that are 8.0 ha and larger in size with the following setback requirements:</p> <ul style="list-style-type: none"> • Exterior Lot Line 9.0 m • Interior Lot Line 3.0m Residential Buildings 0.0 m • Wells 0.0m <p>Agricultural Two Zone (A2) A2 Intent: To accommodate agricultural and Agri-Tourism uses on Lots that are 16.0 ha and larger in size.</p> <p>An Accessory Seasonal Employee Residential Use shall:</p> <ol style="list-style-type: none"> a) only be permitted on a lot with a minimum lot area of 3.8 ha; b) only be permitted on lots within the Agricultural Land Reserve; c) be located on a lot that is classified as "farm" under the B.C. Assessment Act,

Municipality	Definition	Provisions
		<p>d) be limited to a maximum floor area of 200 m² for such use per farm operation, except that where the owner of a farm operation can document by ownership records or copies of leases registered in the Land Title Office that the subject berry or vegetable farm operation is at least 40 ha in size, a maximum of 300 m² for an Accessory Seasonal Employee Residential Use per farm operation shall be permitted; and</p> <p>e) only be permitted:</p> <ul style="list-style-type: none"> I. where the owner of the farm operation is a resident on the same lot where the Accessory Seasonal Employee Residential Use is to be located, and an adult member of the owner's immediate family works full-time on the farm operation. In the case of a corporation, the owner shall be one of the directors of the corporation; II. where a statutory declaration is deposited with the City stating the dates of proposed occupancy and setting out the City's conditions of consent; III. upon prior registration of a restrictive covenant against the title of the lot on which the building is to be located stating that the accommodation shall only be used for the accommodation of seasonal full-time employees during specified periods of time; IV. the resident employee is employed a minimum of 35 hours per week; and

Municipality	Definition	Provisions
		V. the principal Agricultural Use consists of a berry or vegetable operation.
City of Delta Zoning By Law 2750	Amenity, Indoor Space: Migrant Farm Worker Housing means indoor space provided for the private use of the 'migrant farm workers' approved for that farm. The space may be used for recreational, social, and cultural activities and shall not be used for commercial or residential purposes	A1: Agriculture Zone Intent: for farming, breeding pets, kennels and related uses. Where a 'Farm' accommodates more than 20 'Migrant Farm Workers', 'Amenity Indoor Space – Migrant Farm Worker Housing' may also be provided in a mobile, manufactured building to a maximum of 50 square metres floor area. This building shall be separate from the building(s) which contain workers' sleeping areas but included on the 'Farm Home Plate – Migrant Farm Worker Housing'. This space may also be provided in a mobile, manufactured building to a maximum of 50 square metres of floor area. This building shall be separate from the building(s) which contain workers' sleeping area but included on the 'Farm Home Plate – Migrant Farm Worker Housing'. This space may include one enclosed bathroom with a toilet and sink but may not include any other plumbing fixtures or wall partitions. Provision of 'Amenity Indoor Space – Migrant Farm Worker Housing' is optional and may only be provided in addition to the minimum requirement for 'Amenity Outdoor Space'.
	Farm Home Plate: Migrant Farm Worker Housing means all that portion of a 'Lot' which includes or is located between 'Migrant Farm Worker Housing', 'Amenity Open Space', and accessory buildings used solely by 'Migrant Farm Workers' for recreation or storage of their personal items	



Case Study: City of Kelowna

In July 2019, the City of Kelowna City Manager issued a report to Council with a recommendation to deny an application to allow an additional cluster of 11 mobile home trailers on a 7.8-hectare site. The applicants, a consortium of farmers, collectively operate 377 acres of apples and 546 acres of cherries on 36 properties in West Kelowna, Kelowna, Lake Country, Vernon, and Armstrong, and are intending to expand their operation. The proponents have a current shortage of housing units based on operating requirements, and as production increases, they will need to house more employees. The applicants employ 350 people during the peak cherry season. At peak season approximately 71% of the farm's employees are through the Seasonal Agricultural Workers Program (SAWP); in the off season approximately 91% of staff are SAWP employees.

Up to 60 temporary farm workers would be housed in trailers. The proposed housing units were comprised of five bedroom/dorm trailers, two washroom trailers,

two lounge/living space trailers, one mess hall/kitchen and one rec hall. The applicants currently have 230 accommodations throughout the Okanagan Valley, which includes 129 beds in the City of Kelowna Rutland City Sector. The applicants explained that they were experiencing a shortage of housing units based on operating requirements, and as production increases, they will need to house more employees. The increase to the density of TFWs that would be housed required a text amendment to the zoning by-law.

Under British Columbia's Agricultural Land Commission Act, the proposal would be considered a 'non-adhering residential use' (NARU) because it proposes a principal residential use over 500 m². For NARU applications, the Commission will consider the following:

- whether the requested increase in total floor area would be supportive of the current farming operation and necessary for farm use; as well as,

- unique or extenuating circumstances that do not negatively impact the agricultural use of the property.

The Agricultural Land Commission will not consider the application unless it receives notice of City Council's approval to forward it to the Agricultural Land Commission for consideration.

The application was defeated based on the following rationale:

- The existing regulations allow farmers to have accommodations for up to 40 temporary farm workers on parcels less than 8 ha and up to 60 temporary farm workers for parcels 8 ha or greater on farm units within each City sector. This maximum applies to each 'farm unit', which is defined as the group of parcels owned, rented, or leased by an individual farmer. This enables farmers to have multiple TFW housing locations within the City but not in the same sector of the City.

- The main reason for the limit on worker allocation is to avoid concentrating many workers in an otherwise agricultural or rural area where there are typically not many amenities such as transit or grocery stores. The limit on the number of farm workers per City Sector is also in place to minimize impacts such as traffic and noise on surrounding properties.

Key Findings

The provisions of the zoning by-law enable a larger portion of an agricultural site to be dedicated to TFW housing. The allotted area is further divided amongst various uses accessory to the housing structure. Explicitly including considerations for additional amenity and facility space directly addresses the concerns of migrant workers to have more space for recreation, leisure, and physical distancing and provides criteria for how this can be achieved through land use.

Providing further definitions related to TFW housing in the zoning by law is an approach that can facilitate the implementation of some aspects of the proposed space allocation requirements that have been described by stakeholders. This is a unique provision because while land use planning is a tool that is supposed to regulate the use of space and not the user, there is a convergence of the *use* vs. *user* that is necessitated by the precarious legal status of TFWs and the potential to address their human right to fair accommodation. Since definitions can enable the generation of parameters for zoning provisions, the more that space for storage, amenities or family accommodations become defined as requirements for, the greater the opportunity to remedy historic challenges to decent accommodations for TFWs.

4.4 United States

The question of off-site TFW housing is under-studied in Canada. In the Canadian context, municipalities in Southern Ontario and British Columbia have considerations which are reflected in the review of zoning by-laws. While off-site housing for farmworkers is practiced more in the United States, it is due to a different socioeconomic context for farmworkers. In states like California, permanent populations such as the Indigenous or newcomer populations are likely to be engaged in farm work as well as seasonal migrant workers. In this regard, housing strategies in the U.S. must consider the needs of a broader population of lower income worker families and are also a de facto workforce housing strategy. This is relevant to Kingsville because farmworker housing is workforce housing. There are also parallel challenges related to state of good repair that municipalities are seeking to address through regulations as well as the need to address how land use permissions can further support large scale agricultural uses which require strategies for how to manage growth strategically.



Case Study: County of San Luis Obispo, California - Coastal Zone Ordinance Proposed Amendments

The Administrative Draft Ordinance was crafted to include framework recommendations from public consultations. The draft text included:

- **Reduce minimum lot size.** A minimum of 1-20 acres for a single agricultural worker housing unit, and a minimum of 20 acres for a group support quarters. To increase flexibility for building agricultural worker housing while considering the link between agricultural worker housing and the agricultural use on or off site, staff is proposing a minimum lot size of 5 acres for group quarters.
- **Expand the distance to agriculture for calculating density.** Title 22 currently requires the agricultural use used to calculate density to be located on-site for single-family agricultural worker housing units, and to be located within 5 miles of a group quarters. To increase flexibility for building agricultural worker

housing and to recognize the regional and seasonal nature of agricultural employment, the 5-mile requirement for group quarters is proposed to be eliminated.

- **Expand land use categories where farmworker housing is allowed.** Currently agricultural worker housing is allowed on parcels in the Agriculture and Rural Lands land use categories. Staff has proposed to expand the allowance of agricultural worker housing to the Rural Residential land use category. Urban land use categories such as Residential Single-Family and Residential Multi-Family would not restrict housing intended for agricultural workers, which is currently allowed by the building code, but would not allow agricultural worker housing as additional units to the base density.

The draft ordinance also includes criteria for updating the land use regulations pertaining to Residential Uses in the Agriculture Land Use Category. These draft amendments were noted to be in effect in July 2020.

The draft text which incorporated the recommendations above included:

- Residential Uses in the Agriculture and Rural Lands Land Use Categories
 - Dwellings in the Agriculture and Rural Lands land use categories, including primary housing and agricultural worker housing farm support quarters are allowed accessory uses on the same site as an agricultural use, subject to the standards of Agricultural Worker Housing. These dwellings may include mobile homes, subject also to the standards in Residential – Mobile Homes.
 - Permit requirements. Zoning Clearance is required for each of the first two dwellings. Additional dwellings are subject to the provisions of Agricultural Worker Housing.
- Density – Agriculture
 - Primary dwellings in the agriculture category are allowable at a ratio of one primary unit for each legal parcel, and one additional primary unit on legal parcels of

- 20 acres or larger. On legal parcels smaller than 20 acres but at least one acre, an additional unit may be allowed subject to the provisions of Section 22.30.470. More than two dwellings per legal parcel shall satisfy all provisions of Agricultural Worker Housing.
- Density – Rural Lands
 - Primary dwellings in the Rural Lands category are allowable at a ratio of two primary units for each legal parcel. More than two dwellings per legal parcel shall satisfy all provisions of Agricultural Worker Housing.
- **Allowed Accessory Uses** to the provisions for Agricultural Worker Housing must be located either in a single community building or in a permitted location outdoors, and such uses may not be advertised to the public. This includes
 - Food service for residents of the farmworker center;
 - Laundry facilities for residents of the farmworker center
- Amenities
 - The development of more than twelve (12) dwelling units shall require inclusion of recreation facilities and open space, proportional to the amount and type of facilities to be provided. The facilities shall require children's play equipment. Adult housing shall require the inclusion of appropriate recreational areas, such as for baseball, basketball, soccer, or horseshoe pitching.

Case Study: Camarillo, California

"360-unit farmworker housing project near Camarillo on its way"

Ventura County Star, 2021

This farmworker housing development in Camarillo, California, United States will offer up to 360 apartments ranging from one to three bedrooms, making it what may be the largest such project in the



county's history. Also offered will be auxiliary facilities such as playgrounds, a basketball court, two community centers and a garden area, according to the project description. Assuming an average occupancy of three people per unit, more than 1,000 people could live there if the project is fully completed.

The complex will cover half of a 36-acre site at 2789 Somis Road, located on unincorporated land on the edge of Camarillo and southwest of Somis. Half of the site will be devoted to the project and the other half will remain in agriculture, according to the proposal that went to the Ventura County Board of Supervisors. Supervisors with the Farm Bureau have historically preferred that farmworker housing projects be built within cities where residential development is concentrated, not the farm-studded unincorporated areas they oversee. But they revised a land use law in 2015 to identify farmworker housing as an approved use on land zoned for agriculture, County officials confirmed. An environmental analysis deemed the loss of 18 acres of farmland for the project a

significant and unavoidable impact, but the board adopted a statement of overriding considerations in light of the housing need.

Planning officials found the Somis Ranch farmworker complex consistent with the County's signature Save Open Space & Agricultural Resources or SOAR measures, which require public votes for development of farmland. The project is for an agriculturally related land use and no changes in zoning or the County's general plan are required, so no vote is needed, according to that analysis.

Other considerations for this application included:

- Planning officials have identified adequate capacity in the local school district for children moving into the first phase of 100 apartments.
- How the on-site sewer plant will improve their irrigation supply to crops
- The developer had to commit to building a traffic signal on the nearby highway to support safe access to the site.



Case Study: State of Vermont

"In Vermont, a new model emerges to improve migrant farmworker housing"

Published by Energy Vermont, 2021

This article profiles former dairy farmworkers that are now worker-owners with Vermont-based New Frameworks, a cooperative that uses natural, locally sourced materials to create high-performance modular buildings. New Frameworks collaborates with the efficiency utility Efficiency Vermont and its manufacturing partners, is working to design and construct factory-made housing solutions they hope will improve living conditions for farmworkers and reduce energy costs and emissions.

Efficiency Vermont has a program to help owners replace outdated mobile homes with zero-energy modular homes, as well as a program to help ensure new homes are energy efficient. The organization is using both programs, in addition to other farmer-specific incentives, to improve farmworker housing in

partnership with Migrant Justice. The partnership with Migrant Justice ensures that migrant workers are able to participate in the vision for the prefabricated housing structures.

Workers often live in decades-old trailers that haven't been kept up, aren't sufficiently heated and lack proper ventilation. They often share tight quarters — and beds, alternating who's sleeping with who's working. The crowded conditions are unsanitary, and, during the pandemic, they've left workers vulnerable to COVID-19. And since many workers are undocumented, they lack the leverage to demand fair conditions.

The article notes that, advocates say farmers don't want to create those conditions, but often they're financially strapped themselves. The larger context of the dairy industry dealing with falling milk prices over the years, and the pandemic, have brought a drop in restaurant and school food service demand, has exacerbated the uncertainty the industry faces.

A survey of farmers conducted by the Vermont Housing & Conservation Board report contained the following quote, “We sincerely want to improve worker housing, but we can’t afford to,” This was qualified by another quote, “We need financial assistance to make this happen.” Other responses were similar, citing lack of funding as a key barrier to improving the quality of housing. This is similar to the concerns that farmers in Southern Ontario share – while operations are subject to market vagaries, there are operational considerations that farm employers are concerned with.

In many cases, farmers may only want to weatherize or upgrade their existing housing. Those costs are less upfront than new housing, though it’s often expensive in the long term to continually update housing. The large upfront investment for new housing could end up being worth it if the farmer wants a long-lasting solution.

Key Findings

The provisions of the zoning by-law enable a larger portion of an agricultural site to be dedicated to TFW housing. The allotted area is further divided amongst various uses accessory to the housing structure. Explicitly including considerations for additional amenity and facility space directly addresses the concerns of migrant workers to have more space for recreation, leisure, and physical distancing and provides criteria for how this can be achieved through land use.

Providing further definitions related to TFW housing in the zoning by law is an approach that can facilitate the implementation of some aspects of the proposed space allocation requirements that have been described by stakeholders. This is a unique provision because while land use planning is a tool that is supposed to regulate the use of space and not the user, there is a convergence of the *use* vs. *user* that is necessitated by the precarious legal status of TFWs and the potential to address their

human right to fair accommodation. Since definitions can enable the generation of parameters for zoning provisions, the more that space for storage, amenities or family accommodations become defined as requirements for, the greater the opportunity to remedy historic challenges to decent accommodations for TFWs.

4.5 Health Guidelines/Inspection Guides

Inspection guidelines issued by the province of British Columbia, Durham Region and Haldimand and Norfolk Counties are all intended to assist local public health and other agencies in assessing the suitability of housing intended for the housing of both domestic and TFWs. Each jurisdiction takes a different approach to conveying the requirements for farmworker housing.

Durham Region's Migrant Farm Housing Accommodation Summary Checklist is a two-page document that includes a checklist which lists criteria for Worker Arrival, Workplace Requirements Records and Cleaning and Disinfection alongside Requirements for the Ontario Building Code and Ontario Fire Code. Durham Region has updated their document to reflect the required accommodations during a pandemic; these criteria include an isolation plan, posting pandemic protocols in language appropriate for TFWs and ensuring that Personal Protective Equipment is readily available. This checklist is available on the Region's website as a downloadable PDF.

Seasonal Farm Worker Housing Guidelines prepared by the Haldimand-Norfolk Health Unit is an 8-page document that provides an overview of requirements for TFW housing based on the Ontario Building Code and Ontario Fire Code. The guide includes summaries of requirements based on these Codes. This guideline also incorporates provisions from the zoning by-law

for employers interested in building or renovating farmworker housing.

B.C. Temporary Foreign Agriculture Worker Housing Inspection Housing Guide prepared by the Western Agricultural Labour Initiative is a 20-page document that provides a detailed overview of the questions that employers can be asked during an inspection. Generally following the provisions of the British Columbia Building Code, the guide includes a list of probing questions and details of what an inspector is looking for as it relates to facilities, fire, and water safety. This guide is updated on a yearly basis.

4.6 Employment and Social Development Canada and Migrant Workers Alliance

Consultations with TFWs also included summaries of engagements with farmers that provide housing to TFW; their response in consultations helps to identify

challenges and constraints to providing adequate housing for TFWs. Farmers are faced with the question of what it means to provide adequate housing quarters for farmworkers in an affordable manner over longer periods of time. Considerations for public health, especially in the wake of the COVID-19 pandemic, are also tantamount to ensuring that the workforce is healthy and productive.

What we heard: Consultations on accommodations for Temporary Foreign Workers

Prepared by Employment and Social Development Canada

Published in 2021

In an effort to develop stronger requirements for employer-provided accommodations under the TFW program, the Government of Canada consulted with provincial and territorial governments, employers, TFWs and foreign partner countries to gather feedback on the proposed requirements. In total, 148 stakeholder groups responded to the call-out for written responses and ten targeted teleconferences

were also held. A total of 675 migrant workers were also represented because of outreach to migrant support worker organizations.

The proposed federal minimum requirements for the TFW Program included provisions for building structure, common living spaces, sleeping quarters, washroom, eating and laundry facilities and amenities. Requirements for safety equipment, maximum occupancy standards for sleeping areas and facilities, necessary supplies to be provided by employers to TFWs, and access to phone service and free internet are amongst the proposed requirements. In general, stakeholders were asked to reflect on the adequacy of the requirements, public health considerations, impacts of the new requirements and inspections. For provincial and territorial governments, there were specific questions related to pre- and post-arrival inspections. TFWs were asked questions related to their satisfaction with accommodations and amenities.

Key themes identified included:

- Theme 1: Privacy and overcrowding
 - Space Allocation Requirements: The majority of stakeholder groups agreed that explicit requirements on personal space are necessary. They did not believe that proposed requirements went far enough to address issues of privacy and overcrowding. This led to suggestions for increased amount of floor area per person for indoor spaces such as sleeping quarters and facilities as well as outdoor spaces. An inclusive lens was also urged to account for the needs of women and non-binary individuals including the explicit provision of women only and gender-neutral washrooms. Contrastingly, submissions made by employers, industry organizations and provincial/territorial government officials raised serious concerns about the practicality of requiring employers to meet new spacing requirements without assistance. Securing the appropriate

building permits, land, funds, materials, and personnel to retrofit and/or build new accommodations would require coordinated supports.

- Bunkbeds: The majority of stakeholders supported the prohibition of bunkbeds in employer-provided accommodations to support the mental and physical health of workers and reduce the risk of overcrowding. However, they advised conducting further analysis to identify ways to mitigate the impact that this prohibition would have on employers. Submissions from employers indicated that the strict elimination of bunkbeds would significantly decrease capacity in existing buildings and as a result, businesses would have to downsize their workforce and/or make large investments for new builds.
- Theme 2: Health and safety of workers
 - Water and Air Quality: With respect to water, feedback from municipalities,

migrant worker support organizations, unions, labour groups, public health units, and some provincial/territorial government officials advised that minimum program requirements should include explicit language on the quality and quantity of water provided in accommodations. This included requirements on the provision of potable and hot water, tank size requirements, and requirements to standardize septic tank requirements and sample and test water. With respect to air quality, many stakeholders supported the Government's proposed requirements on the provision of adequate heating and cooling equipment and suggested requirements for the provision of proper ventilation and that heating and cooling equipment should be controlled by TFWs and not solely by the employer. Some respondents suggested that the proposed requirements for air quality be nuanced to consider dwelling type, duration of worker

season, and fans as an acceptable alternative to air conditioners. Financial costs for water, hydro and gas could be mitigated if employers charged workers a small fee.

- Proximity to waste and hazardous materials: Representatives from public health units, migrant worker support organizations, provincial/territorial government officials, municipalities, unions and labour groups recommended that 'hazardous materials' be defined. They also suggested minimum indoor and outdoor distance from hazardous materials as well as separate storage for work clothes and boots. There were also suggestions for a prescribed number of garbage receptacles and garbage collection requirements.

- Theme 3: Mobility and accessibility to resources
 - Visitor access to accommodations: The inclusion of this requirement was supported in principle, but considerations for the

employer's liability were highlighted as it pertained to inspections and monitoring as well as the implementation of accessibility requirements. Migrant worker support organizations advised complementing this requirement with an explicit prohibition on employer control over visitor access, with special protections provided when TFWs invite legal support, medical service providers and community groups.

- Wi-fi and phone service: The inclusion of this new requirement was widely supported by stakeholders who noted that communication technologies are a basic necessity and there were further suggestions for language that would ensure that workers can access the phone and/or internet without the assistance of employers, and can use both without fear of surveillance, monitoring or interference. Employers were concerned about the high cost of internet in rural and remote areas, and they also stated that workers should be

responsible for acquiring their own cell and/or data plan; only the provision of wireless internet was necessary

- Access to transportation: The need for workers' access to transportation that is not regulated by employers was stressed in the consultations so that TFWs can have the ability to access healthcare, remittances, and community support. There were further suggestions for TFW accommodations to be located near public transportation or for employers to provide regularly scheduled trips to and from nearby communities, shuttle buses and/or bikes where appropriate.
- Theme 4: Inspections and enforcement
 - It was suggested that pre- and post- arrival inspections be the topic of further consultations to provide an opportunity to properly coordinate and align inspections by all three levels of government. While a few employers perceived additional

inspections as a sign of a lack of trust, the majority supported strengthening the consistency and quality of inspections and suggested more unannounced inspections when TFWs are present. Alternatively, inspections could include phone calls with TFW., It was also suggested that employers who are non-compliant should be denied access to work permit programs until infractions are corrected.

Decent & Dignified Housing for Migrant Farmworkers

Prepared by Migrant Workers Alliance

Published in 2020

There have been extensive consultations with migrant workers regarding the condition of their housing accommodations with calls to action from advocacy groups stemming into larger qualitative studies that include consultation with TFWs to describe their housing conditions. The report provided a summary

of consultations with 453 TFWs across Canada. Nearly half of all respondents (47.7%) were in Ontario, followed by British Columbia (38.3%), Nova Scotia (4.7%), Quebec (4.4%), New Brunswick (2.2%), Alberta (1.4%) and PEI (0.2%). The multi-pronged engagement included open-ended polls on social media, an adaptation of the federal government's worker survey, and on-line and in-person focus groups which included visioning exercises. The main discussion questions for these engagements were:

- What are the top 3 things you do not like about your housing?
- Speak freely and tell the whole truth. What are the most important things in a decent house that you and your co-workers want?

The top priorities of concern for migrant workers are expressed as inalienable from their legal status.

Desired housing conditions included the following:

- **Privacy:** Over half (51%) of the respondents identified privacy as the priority for decent housing. Migrant farmworkers see this as a matter of basic human dignity. Being

warehoused with many others or crowded together in small houses makes it impossible for workers to take care of their physical and mental health and well-being.

- **Space:** Nearly half the respondents (43.43%) highlighted space as their key priority. Workers want communal as well as private space, both indoor and outdoor amenity space for recreation, socialization, and plots for gardening (food sovereignty). They want storage space for their personal belongings. They need separate change rooms to be able to keep dirty work clothes away from living spaces for cooking and resting. Many workers spoke specifically about the mental and physical toll from living in crowded housing, and the need for no more than 1 or 2 people per bathroom and kitchen.

- **Quality of life:** Nearly one in three workers (28.1%) identified quality of life needs as key priorities. They want their housing to include laundry, kitchen, shower, and bathroom facilities under one roof, so they don't have to

travel large distances between them. They want to have clean drinking water, hot water for showers, heating in winter, and cooling in the summer. They want furniture and basic amenities (such as blenders, coffee makers, etc.) to be in good condition and have access to phones and free internet. They want less social isolation: workers want their homes away from their workplaces and employers' homes, and closer to grocery stores, remittance services and health facilities.

- **Family unity:** More than one in four (26.28%) workers said they want their families here with them. Many migrant workers spend 8 months of the year in Canada, others spend two or more years at a time. Migrant workers want homes where their families can live with them, but the majority said they don't want their families living in conditions like their current housing.

Key Findings

It was important to include this research as it is often made apparent that due to the legal citizenship status of TFWs and their reliance on employer-provided housing, TFWs are a vulnerable group that cannot advocate for themselves without concerns that they would be jeopardizing their employment which can be a catalyst for other hardships. Reviewing these articles was of benefit to the jurisdictional scan because they explore the vision that migrant farmworkers have for their housing and the communities in which they reside. Recommendations that can be derived from consultations with migrant farm workers primarily includes considerations increased floor space per worker as well as diversified land uses that can be ancillary to the primary use of farmworker/boarding homes which further divide uses for the purpose of storage space or create opportunities for respite.

4.7 Ontario Ministry of Food, Agriculture, and Rural Affairs

Modular/Temporary Housing Guide: Relocatable Structures and Modular Construction for Worker Accommodation and Ancillary Uses

Published by: Ministry of Agriculture, Food and Rural Affairs

Published in January 2022

This guide to modular housing is aimed at participants of the Seasonal Agricultural Worker Program (SAWP) and highlights innovative solutions that producers who currently participate in the federal initiative implemented to achieve COVID-19 physical distancing requirements among employees during their non-working hours. This included reconfiguring existing housing and common areas, using scheduling to limit crowding in areas such as kitchens and bathrooms, and buying or renting additional off-farm

housing. The construction of temporary or semi permanent modular structures was emphasized amongst solutions for their ability to provide additional enclosed space that can be used to provide additional lodging, washroom, dining and/or laundry facilities.

The guide describes the differences between the temporary or semi permanent facilities and the relevant requirements that are to be adhered to from a planning compliance perspective. The guide further lays out the timelines for the development process and provides a sample timeline from design to construction/fabrication of the modular structure and provides a list of service providers that offer relocatable structures or specialize in modular construction for semi-permanent or permanent structures.

Trailers and modular homes are often referred to in the zoning by-laws as the primary structure for TFWs or farmworkers in general. The distinction that is proposed by this guide is the recommendation to use the semi-permanent or temporary structures as

facility, recreational or amenity space. This recommendation is in keeping with growing calls for increased floor space per migrant worker to achieve the goals of public health as it pertains to the transmission of viruses but also to also provide spaces of respite and recreation for TFWs. This issue is covered in the Employer and Temporary Farm Worker Defined Accommodation Solutions section of the jurisdictional analysis.

4.8 Summary of Key Findings

Considerations for Increasing Floor Space Per Temporary Foreign Worker

- Supporting the housing needs of TFWs calls for the traditional land use planning considerations that separate the *use vs. user* to converge in ways that consider the precarious legal status of TFWs and the potential to address their human right to fair accommodation.
- There must be considerations for how the designations and provisions of the Official Plan and Zoning By-Law can support uses ancillary to the structures that TFWs reside in – this is a measure that can support the separation of uses for recreation, storage space or other facilities and increase space allocated to living/sleeping quarters.
- Supporting ancillary uses on the site of TFW housing can also separate and limit exposure

to noxious substances (clothing that is embedded with pesticides).

- The provision of ancillary spaces also promotes larger floor space requirements for each TFW which can support public health goals related to social distancing but also support privacy for farmworkers who often live in close quarters.
- Providing further definitions related to TFW housing in the zoning by law or expanding areas where TFW housing is designated are approaches that can facilitate the implementation of some aspects of the proposed space allocation requirements.

Considerations for Implementing Off Site Housing

- Diversifying the land uses related to TFW housing requires complex analyses to be undertaken. Municipalities and provincial bodies must balance the protection of agricultural lands, along with the impact that increased housing stock will have on other

- infrastructure, including social, transportation and resilient infrastructure.
- Considerations for off-site TFW housing include guidance for how to incorporate TFW housing into urban areas.
- Higher density housing structures for TFWs are not always encouraged by policy but can be further contemplated through the planning process. Policy guidance that ensures that TFW housing in urban areas has proximity to active transportation networks or on-site amenities is expressed.

Inspection Guidelines for Temporary Farmworker Housing

- Guidelines for TFW housing help to build a bridge to all stakeholders involved in the development and permitting processes related to TFW housing.
- A key gap is that the guidelines do not always incorporate references to the zoning by-law. Not including the zoning by-law, or the municipal approval process, can cause employers to unintentionally overlook municipal provisions.

- The impact of a guideline document can include breaking down silos between parties to ensure the building code and public health requirements are met. For farmers that provide housing, these guidelines help to build their capacity in understanding the standards they must meet to provide decent TFW housing.
- Though they are not the primary audience, TFWs also benefit from a set of guidelines that can help them to understand what their employers are required to provide at a minimum to ensure their health and safety.
- The creation of guidelines and toolkits to ensure compliance with relevant jurisdictional criteria for farmworker housing is important. Highlighting in these toolkits, the land use designations and zoning by law requirements will help further help to support the development capacity of farmers.

Impacts to Community Cohesion

- There are challenges to community cohesion that have spatial considerations related to active transportation that have to be considered so that both TFWs and local

residents can equally enjoy public space in rural communities.

- Addressing mobility challenges through the creation of a connected active transportation network can have positive impacts for the entire population and can also support access to amenities and resources as needed.
- Supporting the mobility of TFWs and their right to the Town through planning for their main method of transportation and providing parking spaces for bikes.
- Creating interventions for placemaking such as the provision of street furniture for intentional gathering can help to formalize uses which are currently seemingly under supported by infrastructure in rural municipalities.

5.0 Options

Through the background review and consultation work described in sections 3 and 4 of this report, the project team has identified several areas that the Town of Kingsville can address to streamline the provision of TFW housing, clarify where and how that housing is to be built, and ensure that whatever housing is provided is safe, healthy, and comfortable for those residing there. These areas are:

- **Location of housing**
- **Definitions and approach to converted dwellings for TFW housing use in OP and ZBL**
- **Health and safety considerations through site planning**
- **Amenity space for workers**
- **Inspections and licensing**

5.1 Location of Housing

The question of where housing for temporary farm workers should be permitted is the central driver of this study. As found in the background work of the study, the typical model in Kingsville and the rest of Ontario has been to house workers on the farm properties where they are employed. This model may no longer be appropriate for the Kingsville context, for several reasons:

- Agricultural operations (and greenhouses in particular) in Kingsville continue to expand and take advantage of new technologies allowing for growing a wider range of crops and growing near year-round. This means that temporary farm workers coming to Kingsville are not working traditional “seasons.” Many are working in the Town on multi-year contracts.
- Growers are limited in how much housing they can build on-site by restrictions on sewage and septic output.

- Given the rising number of workers coming to Kingsville each year, services like grocery stores, banks, retail, and restaurants are more and more essential to support those workers. There is also an economic opportunity for the Town in the spending power of TFWs, as has been observed in nearby Leamington.
- While transportation continues to be an issue for TFWs, when working longer contracts TFWs in Kingsville/Leamington have shown preference for living closer to or in urban areas.

To date, Kingsville has responded to these pressures in an ad-hoc manner. Growers have been housing TFWs off-site in converted dwellings for years, and recently non-growers have stepped in to provide housing as third-parties to respond to the high housing demand. Through the Official Plan and Comprehensive Zoning By-law, the Town can clarify and formalize where TFW housing is permitted.

Note: the following options are mutually exclusive.

Option A: On-site Only

Worker housing would only be permitted on the same property as the agricultural operation for which they are employed.

Option B: On-site and Off-site in Agricultural Areas

Worker housing would be permitted on the same property, or on a different agricultural property as the agricultural operation where the workers are employed.

Option C: Agricultural/Residential/Commercial Areas:

Worker housing would be permitted on the same property, or on a different agricultural property as the agricultural operation where the workers are employed, or on a property in a residential or commercial area, subject to specific provisions.

NOTE: In all scenarios, TFW would **not** be permitted in Industrial areas.

5.2 Definitions & Treatment of Converted Dwellings

Next to where to permit TFW housing in Kingsville, the question of how to classify dwellings converted for TFW use has been the most immediate concern of the Town. Until this point, there has been confusion and conflict between how these buildings are treated by the Town's Official Plan and Zoning By-law and by the provincial Building and Fire Codes. The primary question is whether to treat a dwelling converted for TFW housing as a "boarding, lodging, or rooming house", using the "four or less" definition in the Building and Fire Codes. This has been made difficult by the fact that neither the Zoning By-law's definition for **Seasonal Worker Housing** nor **Bunkhouse** contemplate off-site housing, while the definition for **Boarding House and Rooming House** directly excludes bunkhouses.

Note: the following options are mutually exclusive.

Option A: Define Converted Dwellings as Boarding/Rooming Houses

Amend the Boarding House and Rooming House definition to include TFW housing and align with the definition in Building and Fire Codes (i.e. "more than four").

While simplifying the relationship between Fire, Building, and Planning treatment of TFW housing, a major disadvantage of this option is that it lumps together more standard boarding/rooming houses, where tenants are independent (i.e. have no connection to each other and each pay rent separately to a landlord) with farm workers, who do not find their lodging independently and are directly housed by their employers. Additionally, this option would require a broad permitting of boarding/rooming houses across the Town, whereas they are now only permitted in the C2 (Centre Commercial) zone.

Option B: Define Converted Dwellings Independently

Add a definition to treat TFW housing off-site (whether in a converted dwelling or purpose-built) as a specific use. There would be no minimum number of workers living in the building to be captured under this definition.

The advantage of this approach is that it allows the Town to formalize in its Official Plan and Zoning By-law that off-site TFW housing is a unique use which is neither boarding house nor bunkhouse. The disadvantage of the approach is that it does not streamline definitions between Fire, Building, and Planning treatments of TFW housing, but this dilemma could be addressed through a licensing regime (see below).

Option B: Define All TFW Housing Alike

Include on-site and off-site housing (no matter the building type) within the same definition.

The major advantage of this approach would be to simplify a licensing system, should one be implemented (see below).

5.3 Licensing and Inspections

One of the concerns expressed by Town and WECHU staff, employers, and worker representatives alike was the lack of clarity and consistency around inspections of TFW housing. Inspections by the Health Unit are required through the federal Labour Market Impact Assessment application, but inspections by the Town of Kingsville Fire Department are less formalized, and inspections by the Town Building Department are only conducted if a building permit is required. Thus, under the current approach, there is high potential for problems to be missed, and for TFW housing to be permitted that may not comply with the in-effect by-laws or codes.

As noted in Section 3.2 of this report, Ontario's *Municipal Act* permits a municipality to enact a by-law to require a license to operate a business and impose certain requirements to obtain that license.

Note: the following options are not mutually exclusive.

Option: Licensing System for TFW Housing

The Town could adopt a by-law to enact a licensing regime within the Town. This by-law would require a license for anyone renting out TFW housing, as defined in the ZBL (see section 5.2 above). Licenses would require renewal annually, and one of the stipulations of this renewal would be inspections and sign-off from each of the Windsor-Essex County Health Unit and the Town of Kingsville Fire, Building, and Planning departments.

The disadvantage of this approach is one of resourcing: yearly inspections would require a significant time commitment from Town staff. On the other hand, the substantial removal of ad-hoc inspections that a licensing system would bring

would allow for better planning and resourcing of inspections.

Option: Integration of Inspections with LMIA

There is potential for the Town to cooperate with WECHU, F.A.R.M.S, and the federal government to make the harmonized inspection from Health, Fire, Building, and Planning the trigger for the approval of a grower's LMIA application.

This approach would have the combined advantage of helping to enforce the licensing regime, and ensuring that every worker that a grower is applying to hire has living space that has been inspected and approved by all relevant authorities.

5.4 Health and Safety and Amenity Space

Two of the key concerns expressed by representatives of TFWs in Kingsville were:

- The frequent provision of housing directly connected to spaces used in the agricultural operation, with has the affect, at best, of limiting separation of work and rest, and at worst, contaminates living space with smells or fumes from the operation.
- Lack of access to meaningful recreational amenities. While many growers have admirably provided amenities like improvised soccer fields adjacent to bunkhouses, there is no formalized requirement for providing amenity or recreational space in the Town’s planning documents.

Note: the following options are **not** mutually exclusive.

Option: Separation from Operations

Through the OP and CZBL, and enacted through site plan control, new on-site TFW housing facilities would be required to be separated from buildings housing agricultural operations.

Option: Mitigation of Impacts from Operations

For existing TFW housing facilities which are connected or within buildings used for the agricultural operation, mitigation measures would be required to ensure that no impacts from noise, fumes, vibration, etc. are felt by the workers housed there.

Option: Direct Provision of Amenity Space

Through the CZBL, outdoor and indoor amenity spaces would be formally required to be provided alongside TFW housing. The requirement could be a baseline space triggered by a minimum number of workers living on a property, as seen in other jurisdictions, or be determined by the gross floor area of the TFW housing facilities. For example, 1 square metre of indoor amenity space could be required per

10 square metres of non-amenity space of a bunkhouse.

Option: Indirect Provision of Amenities

In lieu of providing amenity space on-site, the Town could allow for growers or other housing providers to support the provision of off-site recreational opportunities for TFWs.

For example, instead of building a recreational facility on-site, a grower could contribute to a program to keep the Kingsville Arena open later one day a week to allow workers to use the facility outside of their work hours.

6.0 Recommendations

6.1 Recommendation #1 (Location)

Amend the Official Plan and Comprehensive Zoning By-law to delete existing definitions and uses for **Bunkhouse** and **Seasonal Worker Housing**, and to introduce a new use definition for **Temporary Foreign Worker Dwelling Unit⁶ (TFWDU)** and permit the use according to the following provisions:

- **Temporary Foreign Worker Dwelling Unit, Small:** for use by 4 or fewer temporary farm workers, to be permitted in all residential areas (urban and rural) and agricultural areas as-of-right;
- **Temporary Foreign Worker Dwelling Unit, Medium:** for use by 5 to 9 temporary farm workers, to be permitted **off-site** in all rural residential areas and agricultural areas through a re-zoning, and **on-site** as of right; and
- **Temporary Foreign Worker Dwelling Unit, Large:** for use by 10 or more temporary farm workers, to be permitted **off-site** in agricultural areas through a re-zoning, and **on-site** as of right.

Example Scenario:

A third-party housing provider (i.e., not an employer of TFWs) purchases an existing single-detached dwelling on a Rural Residential lot. They can:

- a) Operate a Small TFWDU for up to 4 workers, and not apply for a rezoning, or:

⁶ Note: Notwithstanding that the term “Temporary **Farm** Worker” has been used throughout this study and report, the consultant team believes that “Temporary **Foreign** Worker” is a more appropriate term to use in the Official Plan and Comprehensive Zoning By-law. As well as aligning with the federal government’s terminology, it reflects that the nature of work undertaken by temporary workers in Kingsville is in many cases beyond traditional “farm” activities.

- b) Apply to rezone the property to permit a Medium or Large TFWDU, which would be subject to additional restrictions and requirements under the Building and Fire Codes, and house more than 4 workers.

Discussion:

This approach allows for maximum flexibility for providing housing for temporary workers while aligning with the approach taken by the Town to date of allowing four or fewer workers in a dwelling without a rezoning. The approach also aligns with the Ontario Building and Fire codes, as well as being similar enough to the approach in Leamington (currently under appeal) to be familiar to growers or housing providers working in both Kingsville and Leamington.

In practice, this may allow for existing dwellings or dwelling units to be easily used for housing four or fewer workers, while establishing measures to better regulate the use of the same dwelling units for higher numbers of workers. This regulation will help prevent overcrowding by ensuring that buildings used for housing more than four workers are appropriately sized and serviced, and that they meet applicable health and safety requirements under the Building and Fire codes. Concerns that a housing provider would simply house more than four workers in the dwelling without applying for a rezoning, can be mitigated through a licensing framework outlined in Recommendation #4.

6.2 Recommendation #2 (Compatibility and Separation)

Amend the Official Plan and Comprehensive Zoning By-law to require that:

- TFWUDs located both on-site and off-site in agricultural areas be **set back 20 metres** from any building that as part of an agricultural operation is used for:
 - storage of chemicals, fuel, pesticides, insecticides, solid or liquid agricultural waste, or other noxious items;
 - packing and/or shipping of products; or
 - any mechanical equipment producing noise or vibrations, such as HVAC equipment or co-generation facilities.
- Where it is not feasible to meet the required setback of 20 metres, measures be implemented to mitigate any potential impacts of the nearby operations on the TFWDU (e.g., landscape buffering for noise, ventilation to prevent infiltration of odours or chemicals).
- A TFWDU be the sole use in the building in which it is located.

Example Scenario:

A grower is developing a new greenhouse operation that includes plans for four bunkhouses that will have capacity for 15 temporary workers apiece (i.e., four Large TFWUDs). The operation will also include a co-generation facility and a building to store various pesticides.

Under the amended Comprehensive Zoning By-law Provisions for TFWDUs, the grower would be required to show through a site plan that the four bunkhouses are located a minimum of 20 metres from the co-generation facility and pesticide storage. If site constraints make it impossible to achieve the setback, the grower must show that either a) there will be no discernible impacts from the co-generation facility and pesticide storage on the TFWDU, or that b) any impacts can and will be mitigated.

Discussion:

As documented in section 2.2 of this report, concerns were raised in discussions with Town and WECHU staff and representatives of temporary workers that living quarters for workers in Kingsville are sometimes located in extremely close proximity to chemical or equipment storage. Town staff noted that in some extreme cases sleeping arrangements have been observed in furnace rooms. This poses a high risk to both health and safety.

The project team also heard from the workers' representatives that a lack of buffer between areas of work and living quarters make a work-life divide practically impossible for workers, leading to higher stress and mental fatigue. Over the course of a long multi-month (or multi-year, in some cases) contract like most TFWs are employed under, this stress can be extremely damaging to personal wellbeing and cause burnout. This information was corroborated through the Jurisdictional Scan, which found that many other authorities are tackling these same challenges.

6.3 Recommendation #3 (Amenity Space)

Amend the Official Plan and Comprehensive Zoning By-law to require TFWDUs to include indoor and outdoor amenity space intended for leisure, recreation, sport, or cultural activities at a rate of **8 m² per worker per unit**, of which:

- at least **2.5 m² per worker per unit** must be provided as **indoor amenity space** within the TFWDU or in a separate building. Temporary buildings may be used for indoor amenity space. Sleeping quarters, bathrooms, kitchens, and storage do not count toward amenity space.
- at least **4 m² per worker per unit** must be provided as **outdoor amenity space**. Outdoor amenity space must be for the exclusive use of workers living in the TFWDU, cannot be used for any other purpose than amenity space, and needs to be separated from any building intended for agricultural use by a landscaping buffer.

It is recommended that flexibility be provided on properties where there are multiple TFWDUs, so that indoor amenity space can be provided in individual units, or the total required indoor amenity space for all the units can be provided in one building, or a combination of both.

Example Scenario:

Returning to the example scenario described in Recommendation #2, a grower planning to build four Large TFWDUs that will house 15 workers in each for a total of 60 workers:

- The grower will be required to provide 120 m² of amenity space per unit, for a total of 480 m²

- 37.5 m² per unit will be required as indoor amenity space (150 m² total for all units). The grower could provide this space in each unit, or alternatively, erect a building (temporary or permanent) of at least 150 m² that is available as amenity space for all 60 workers living in the four TFWDUs.
- 60 m² per unit will be required as outdoor amenity space (240 m² total for all units). The grower could provide one large outdoor area of at least 240 m², but it must be separated from the agricultural operation.

Discussion:

Similar to Recommendation #2, this recommendation responds to the issue raised by representatives of temporary workers that living quarters for frequently lack sufficient space for leisure and relaxation. While providing the essentials of sleeping, eating, and washroom facilities, bunkhouses and other TFW housing often offer little more in this regard.

On the other hand, in the engagement session with growers and housing providers, the project team heard that many growers do provide some sort of recreational amenity space, such as ad-hoc soccer fields or temporary patio areas. This was confirmed in the windshield survey of TFW housing sites around the Town. This amendment to the Official Plan and Zoning By-law would simply formalize the provision of amenity space across the Town and ensure that all temporary workers have access to space for recreation, relaxation, and socializing that serves a distinctly different purpose than their living quarters.

6.4 Recommendation #4 (Licensing)

Enact a licensing by-law for all TFWDUs which includes the following elements:

- Any party wishing to operate a TFWDU (whether directly employing the inhabitants or a third-party provider) must obtain an annual license in order to do so;
- The application will include a description of the TFWDU, including the size of the TFWDU (Small, Medium, or Large) and the number of workers to be housed there;
- Licenses will be subject to a municipal fee, to be determined by the Town; and
- A license will only be granted if the TFWDU has passed inspections by the Windsor-Essex County Health Unit and Town of Kingsville Fire, Building, and Planning departments.

Operators of legally non-conforming TFWDUs which do not comply with the new zoning provisions for compatibility and/or amenity space will be granted a **two-year transition period** from the date of their initial license application to implement the separation/mitigation measures and amenity space.

Example Scenario:

The grower from the previous two scenarios wishes to house 60 workers in four TFWDUs that have a capacity of 15 people each. In order to operate the TFWDUs, the grower must apply to the Town for a license, pay the license fee, and each TFWDU must receive an inspection from WECHU, the Town of Kingsville Fire Department, and Town

Building/Planning inspector or by-law enforcement. When the TFWDUs have passed inspection from each authority, the license may be granted.

Discussion:

The complicated nature of the current inspection regime was a topic that was raised repeatedly in consultations with technical staff, growers and housing providers, and workers. Enacting a licensing regime allows for the following:

- Improved communication between inspection authorities, eliminating instances where, for example, a bunkhouse passes inspection by WECHU and is inhabited by workers before the Town Fire Department can inspect;
- Increased clarity and transparency of inspections for growers and housing providers, who will know when to expect inspections and have peace of mind that one inspection authority will not override another;
- The overlapping inspections will ensure that all TFWDUs are suitable for occupation by workers and pose no health or safety hazard; and
- The Town will be able to undertake much improved resource planning for inspections, rather than the ad-hoc nature of the current inspection regime. The licensing regime can support increased resources required to implement and enforce the new licensing system.



7.0 Next Steps

Draft Official Plan Amendment (OPA) and Comprehensive Zoning By-law Amendment (CZBLA)

Following the submission of this final report and recommendations to Town of Kingsville Council, the project team will draft an OPA and CZBLA to implement the recommendations as endorsed and/or modified by Council.

Statutory Consultation

Once the Draft OPA and CZBLA have been drafted, Town staff will bring the amendments forward for a Statutory Public Meeting of Council, as required under the Ontario *Planning Act*. This meeting will provide the opportunity for members of the public to comment on the amendments. Any person or organization which wishes to appeal either amendment post-adoption is required to have made a verbal presentation at the Statutory Public Meeting, or to have submitted written comments on the amendment(s) prior to their adoption.

Adoption of OPA and CZBLA

Following the Statutory Public Meeting, Council can choose to adopt the amendments to the Official Plan and Comprehensive Zoning By-law as is or modify them. Once adopted, the amendments will be submitted to the County of Essex for approval.

Lifting of Interim Control By-law

Following the adoption of the OPA and CZBLA, the Interim Control By-law enacted in August 2021 can be lifted.

Development of Licensing System

Should Council decide to enact a licensing system, Town staff will develop the required licensing by-law to be passed by Council under the *Municipal Act*.