

FARM WORKER HOUSING POLICY REVIEW

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The project team included Hope Burns, Central Saanich Planner, Councillor Alastair Bryson, Herman Rebneris, Jim Bennett, Paula Hesje, Christina Peacock and Álvaro Moreno.

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1. Project Background

Community Social Planning Council

The Community Social Planning Council¹ is an independent community-based organization that brings people together to create a just and vibrant community in BC's Capital Region through leadership that results in effective community solutions. The Community Social Planning Council has become interested in the topic of farm worker housing from two different initiatives, as described here:

1. The Community Social Planning Council is now in its 14th year of convening and acting as the legal secretariat of CR-FAIR (Capital Region Food and Agriculture Initiatives Roundtable).

CR-FAIR's mission is to increase knowledge of and bring about positive change in the food and agriculture system within the Capital Region. This includes:

- Increasing the viability of farming reducing hunger
- Increasing the supply, consumption and diversity of locally produced processed food
- Increasing our community's knowledge and involvement with food and agriculture issues

Through involvement with CR-FAIR, the Community Social Planning Council's awareness of agricultural issues has deepened and an increased recognition of barriers to local food production has developed. One of the significant barriers is a skilled labour force and the housing needs that these workers have.

2. The Community Social Planning Council supports and convenes the Housing Affordability Partnership (HAP) which, "is a catalyst committed to increasing awareness and facilitating innovation/solutions to improve community stability, through housing affordability in BC's Capital Region." HAP plays a unique and influential role at a critical time in planning for and developing housing that is affordable in BC's Capital Region.

The Community Social Planning Council has built relationships with the District of Central Saanich through several housing and food security related activities over the years. It was through the Community Social Planning Council's involvement with these two initiatives and an established relationship with Central Saanich staff and Council that this project came to fruition.

Project Objective

The purpose of this project is to engage agriculture stakeholders in discussions to develop recommendations for criteria for municipalities to use when considering applications for additional dwelling(s) for farm employees.

Goal of Recommended Criteria

These recommended criteria attempt to:

¹ <http://www.communitycouncil.ca/>

- Remove constraints to agriculture and improve agricultural viability
- Support agriculture as part of our future
- Minimize intrusion of non-agricultural uses into agricultural areas
- Allow for and support decent dwellings for farm workers
- Provide reasonable grounds for identifying legitimate farm operations that would genuinely benefit from this enabling policy/bylaw
- Recognize that abuses could occur
- Recognize the limits of municipal authorities in curtailing abuses of the bylaw
- Allow municipalities to approve or deny applications for FWH without referral to the Agricultural Land Commission (ALC)
- Be readily enforceable and easily applied

The final criteria need to address the labour requirements of local farmers while also protecting the agricultural land base from increased non-farm use.

2. Background to Farm Worker Housing Issue

Labour Needs

Farmers in BC are facing a huge challenge in finding skilled local farm labour. Additionally, the skyrocketing cost of housing in this region impacts the wage needed by farm labourers. This problem becomes more critical during peak harvest times when a lack of labour equates to crops rotting in fields and investments being lost. Many farmers find the local labour pool to be uninterested in farm work; consequently many are looking to foreign farm workers to compensate for the lack of local farm help. Key factors influencing this demand are an aging farm labour population, declining availability of family farm labour, and increasing farm size in the province². Temporary farm workers can be hired through federal foreign worker programs that allow farmers the opportunity to hire labour that will greatly contribute to farm productivity and competitiveness.

Good housing will help develop a committed and skilled labour force

Farm Worker Housing will help with farm succession as workforce stability helps the viability of the farm

Agricultural labour in BC is historically one of the most vulnerable sectors of the workforce, where exploitation and abuse by employers and subcontractors are more common than in other industries³. The federal Seasonal Agricultural Work Program (SAWP) (Appendix B) requires employers to provide housing that is inspected annually by a licensed housing inspector.

Seasonality of Farm Worker Housing may become less relevant as year-round farming becomes more common

Farm Worker Housing Concerns

Farm Worker Housing is usually built on agricultural land in the Agricultural Land Reserve (ALR) and this often generates concerns in a community.

² Ministry of Agriculture and Lands. 2008. Regulating Temporary Farm Worker Housing in the ALR.

³ Justicia for Migrant Workers. 2007. Housing Conditions for Temporary Migrant Agricultural Workers in B.C.

These include⁴:

- Potential misuse of Farm Worker Housing (i.e. as rental housing for a non-farm uses)
- Unwarranted development (i.e. if Farm Worker Housing no longer used for that purpose)
- Loss of agricultural land due to the housing
- Change to agricultural landscape (i.e. increased density of people)
- Increased demands on infrastructure
- Workers perceived as coming in with no connection to the community

Municipal Context for Farm Worker Housing

The availability of farm labour and farm labour housing are fundamental components to agricultural viability for some farm operations. Farm Worker Housing is needed for:

- Full time and seasonal farm workers
- Domestic and foreign workers

The ability to find seasonal and affordable accommodation for temporary workers has been increasingly challenging for farm operators. It has also been difficult to find permanent Farm Worker Housing.

Farmers that were interviewed stated that if a justifiable need is there, the construction of new Farm Worker Housing should be permitted. There was also unanimous satisfaction with the Seasonal Agriculture Worker Program (SAWP) program and the workers that have come. The foreign workers have proven to be incredibly hard working and no problems have been reported.

To further understand the Farm Worker Housing, farm workers were also interviewed. These interviews suggest that by having adequate and dignified housing available on-farm there is an opportunity to attract and retain farm labour, even if the workers are foreign, as they can choose to return in following years. Housing that is off-farm and requires substantial travel is a burden on the farmer and workers. Housing located off-farm can have a negative impact on the viability of the operation due to increased costs and loss of time in the fields.

Overall, communities want Farm Worker Housing to be planned and executed in a thoughtful and respectful manner – both for the residents and for the agricultural land.

Housing should be grouped closely with other buildings to contain the 'footprint'

There are greater efficiencies when workers are housed at the farm

At first, there was concern about having foreign workers living on-site but they are very quiet; it is a pleasure to have them there

Housing foreign workers downtown is too costly and burdensome; prefer on-farm housing

⁴ MAL. 2008. Regulating Temporary Farm Worker Housing in the ALR.

Municipalities must ensure that their policies and bylaws are consistent with the Provincial ALC legislation relating to permitted uses that support the operation of a farm. However, some municipalities would like to take more of a lead with Farm Worker Housing and handle these housing applications without the ALC's involvement, unless referral is recommended. The regulatory framework that Farm Worker Housing falls under insofar as the ALC, Ministry of Agriculture and Local Government are concerned can be found in Appendix J.

3. Farm Worker Housing Policy Scan

Planning staff were contacted in all BC Municipalities and Regional Districts that have agricultural land. Relevant information has been compiled from the Capital Regional District, Central Coast, Interior, Lower Mainland, Okanagan, and Vancouver Island. Farm Worker Housing information includes the following:

- Bylaws
- Policies
- Official Community Plans
- Powerpoint presentations
- Staff reports
- Agrologist Report Guidelines
- Example covenants and statutory declarations
- Agriculture Area Plans

4. Farm Worker Housing Policy Scan Highlights

Some local governments have developed bylaws to regulate Farm Worker Housing, especially Temporary Farm Worker Housing (TFWH). Some municipalities state in their Zoning Bylaw that another dwelling is permitted in an agricultural zone and it is an assumed use. Whereas, other local governments and Regional Districts have taken a more active role as Farm Worker Housing has been in high demand and there has been a greater need to regulate it. A good summary for temporary Farm Worker Housing can be found in the Ministry of Agriculture and Lands 2009 Discussion paper.

Examples of mechanisms to regulate Farm Worker Housing are outlined here:

Home plate covenant⁵:

- A Housing envelope that further protects agricultural land (ALR or non-ALR) that reduces land fragmentation by keeping residential uses clustered together

⁵ Home plate: This concept restricts all residential uses into a building envelope of a specified size with specified setbacks. Home plate guidelines are currently under development by Ministry of Agriculture and Lands.

- If permitting permanent second dwellings this may be useful; maybe only used for second dwelling?
- Home plate determined case by case
- Discourages estates in the middle of the property
- Home plate presentations in Delta, Abbotsford, Pitt Meadows, Surrey
- Would be great to get input from farming community on this concept
- Setbacks are important
- Landscape screening can help with close proximity of dwellings
- Delta has used for 'migrant farm worker housing' Section 506
- May increase the need for variance
- Some farmers have privacy concerns

Thresholds:

- Ministry of Agriculture and Lands 2001 'Discussion Paper'⁶ proposed minimum established levels of operation for each crop type and minimum lot sizes to warrant FWH
- This approach was considered but realistically it is not possible to deal with all of the contingencies. It is too simplistic to deal with present day agriculture (i.e. organic vs. conventional, value-added processing)

Statutory declaration:

Once a notice of a statutory declaration is filed in the Land Title Office, the agreement is binding on all persons who acquire an interest in the land affected by the agreement. The agreement can set out the terms and conditions of the local government's approval and may include such items as:

- Statement that FWH is required for a full time farm employee
- Dates of proposed occupancy
- Number of 'Migrant Farm Workers' approved for that farm
- Statement that the housing complies with all applicable Municipal regulations
- Statement that the 'Migrant Farm Worker Housing' shall be occupied only by workers hired through the SAWP

Restrictive covenant:

This is a legal agreement registered on the property title and completed according to Section 219 of the *Land Title Act*. Some items that a covenant may include are:

- Dates of occupation and confirmation that it will be used for farm workers
- FWH removal or decommission statements if FWH not being used for its intended use

Communication:

In the City of Chilliwack, once a year the Registered Owner of the lot must submit a written confirmation on the form prescribed to the City Building Department, stating that the approved user is still occupying the Temporary Accessory Dwelling (TAD)

⁶ Ministry of Agriculture and Lands. 2001. "Determining the Need for Additional Dwellings for Farm Employees"

Seasonal Employee Residential Use:

- City of Chilliwack 6.02 Section 11 has detailed specifications
- City of Coquitlam
- City of Abbotsford
- Corporation of Delta (Migrant Farm Worker Housing)⁷
- Langley Township (Temporary Farm Accommodation)
- City of Pitt Meadows (Seasonal Farm Accommodation)

Employee Residential Use:

- District of Kent
- Langley Township (Accessory Residential Use for Full Time Farm Help)
- Maple Ridge (Accessory Employee Residential)
- City of Port Coquitlam (Accessory Residential)
- Corporation of Delta (Additional Farm House)
- City of Pitt Meadows (Full Time Farm Help Accommodation)

Maximum Number of dwellings:

- The Cariboo Regional District has set the limit at 4 dwellings in the RR 1 and Resource/Agricultural zones, but it is required to have 4 ha (9.88 acres) for each dwelling, therefore 16 ha could yield 4 dwellings for farm help
- Where the farm operation is greater than 40 ha in area, two FWH dwellings may be located on the lot and proof of need may allow for more FWH dwellings in the future⁸

Agrologist Report Examples:

- Corporation of Delta
- Langley Township has a Farm Information Sheet
- City of Pitt Meadows

Density of workers:

- No more than 42 'Migrant Farm Workers' per 'Farm' are permitted (Delta Section 508)
- Accommodation shall be at the ratio of 10 persons for each 4ha (9.88 acres) up to a maximum of 40 persons per bona fide farm (Pitt Meadows)

Interesting points:

- In some areas, seasonal/temporary accommodation is an outright permitted use in an agricultural zone
- Minimum lot sizes are the norm, often between 2-4 hectares (5-10 acres)
- Applicable dates of occupancy are specified for seasonal housing
- Seasonal housing sits vacant when not in use

⁷ 'Migrant Farm Worker': A labourer from a country other than Canada who engages temporarily in farm work as a participant in either the Federal Seasonal Agricultural Worker Program or the Pilot Project for Occupations Requiring Lower Levels of Formal Training (National Occupation Classifications C and D), as amended or replaced from time to time.)

⁸ City of Abbotsford Zoning Bylaw precedent

5. Farm Worker Housing Recommendations

These recommendations have been developed from research, interviews, and conversations with staff at the Ministry of Agriculture and the ALC, PAC and one farmer initiated meeting. This diverse input has served to add a broad-based perspective.

Guiding Principles

The following guiding principles are to be applied in assessing second residence requests:

- 1) Dwellings should be limited on agricultural land to the minimum needed to support the agricultural operation
- 2) At least one member of the resident family should be currently engaged in full time agricultural activities on-farm
- 3) Seasonal and temporary accommodation should be fully explored before committing to permanent dwellings
- 4) Approval of a second dwelling unit does not indicate support for future subdivision
- 5) Workers should be housed as close to the farm as possible

6. Recommended Criteria for Farm Worker Housing Applications

These criteria offer the municipality a foundation from which to build. The criteria attempt to meet the needs of bona fide farmers who legitimately require housing for their workers, while also negating the establishment of additional dwellings in the ALR that do not serve the viability of agriculture.

The proposed criteria are not specific to foreign workers; they are meant to accommodate all workers regardless of their origin. It is recommended that the process for handling Farm Worker Housing be dealt with by the municipality; applications do not need to go to the ALC unless the municipality deems ALC opinion necessary.

Farm worker housing should be a permitted use if the following criteria are met to the satisfaction of municipal staff including Building and Planning departments.

Special circumstances will warrant an appeal to these criteria and a zoning amendment or variance could be considered. For example, FWH may be permitted if a farm did not meet the minimum lot size, but was able to prove need based on the intensity of an operation, such as a greenhouse.

If the applicant and municipal staff disagree on an aspect of the application and need further recommendation and investigation, advice should be sought through a clearly defined advisory request process. The Peninsula Agricultural Commission and/or the Regional Agrologist (Ministry of Agriculture and Lands) should be contacted for this advisory role. If a municipality was to establish an Agriculture

Advisory Committee (AAC), referrals could also go to them for comment.

If further investigation is required, planning staff, Agriculture Land Commission staff, and/or the Ministry of Agriculture and Lands Regional Agrologist should conduct an on-site visit.

A building permit for 'Farm Worker Housing' shall not be unreasonably withheld.

Farm Worker Housing is for:

- i. Employees that are required for the farm operation
- Employees that have worked on the applicant's farm operation, but due to seasonal need, are working in the agricultural sector elsewhere

1) Farm Classification

Farm worker housing shall be located to serve land that is classified as 'farm' under the BC Assessment Act.

2) Minimum Lot Size

Minimum lot size is recommended to be 1.7 ha (4.2 acres)⁹

3) Proof of Need

A Farm Report will be submitted to Planning staff, which includes the following:

- Description of farm operation
- Rationale for Farm Worker Housing
- Acres in production, crop type, future predictions (leased land included)
- Livestock – type and quantity
- Other farm activities (i.e. processing, market)
- Labour requirements
- Number of full time and part-time employees
- Hours of employment per week
- Employment record; pay stubs or proof of employment presented upon request¹⁰
- Map showing farmed land and proposed siting of Farm Worker Housing

4) Permitted Dwellings for Farm Worker Housing

- i. Manufactured home¹¹
- ii. Recreational Vehicle¹²
- iii. Residential Dwelling (only one additional)
- iv. Secondary Suite¹⁴

⁹ District of Maple Ridge precedent

¹⁰ Chilliwack precedent under Temporary Accessory Dwelling:employment is evidenced by a T-4 slip or letter from an accountant, indicating the farm to be said person's principal source of income (6.02 (8) e)

¹¹ The ALC Act states that a manufactured home is permitted only for use by a member of the owner's immediate family. However, manufactured homes can be used for bona fide farm help also

¹² If inhabited a RV is considered to be one dwelling unit and therefore needs to be connected to appropriate services (i.e. septic field);

¹⁴ Already allowed if approved by issuance of a building permit

- Refer to Guiding Principle #3: Seasonal and temporary accommodation should be fully explored before committing to permanent dwellings
- Where there is a seasonal demand for labour, or where due to other circumstances, there is some justification for additional help (i.e. to expand a farm operation) temporary seasonal accommodation should be considered
- If a farm has been in operation for more than two years, and there is an existing and proven need for Farm Worker Housing, an additional dwelling(s) requested will be considered based on the farm report. Presently, the Land Use Bylaw only allows one additional residence for farm help. For Farm operations that have been in operation less than two years a phased approach is recommended to prove Farm Worker Housing need (i.e. one Farm Worker Housing dwelling per year to prove use for two years with a preference for temporary housing). Proof of need can be shown through the Farm Report, a Business Plan and/or two years previous employment records
- Farm Worker Housing must meet the BC Health Act, Building Codes, Fire Codes and/or the 'Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC', all as amended or replaced from time to time

5) Maximum Square Footage of FWH

The maximum square footage for FWH suggested here reflects the current allowance for unrelated people that can jointly occupy a dwelling unit and an appropriate area for a family. Local Land Use Bylaws may state that there is a maximum number of unrelated people that can jointly occupy a dwelling unit. This density may need to be reviewed if future applications request an increased density (more than 4) of unrelated farm workers living jointly.

A suggested maximum square footage is 425 sq. ft per person to a maximum of 2000 sq. ft. (186 metres square). Other municipalities in the Lower Mainland provide examples of limitations for maximum floor area or lot coverage¹³.

6) Maximum Height of Dwelling

The height of the building should not exceed 8m. (normal height maximum in

¹³ **Delta:** The maximum 'floor area' for an 'Additional Farm House' is a maximum of 180 square metres if located on a lot less than 8 hectares or a maximum of 233 square metres if located on a lot 8 hectares or greater. However, 42 workers per farm are permitted

Chilliwack: Maximum floor area is 90 metres square for an Accessory Dwelling Unit

Maple Ridge: Accessory Employee Residential shall not exceed a lot coverage of 10% or 279 square metres, whichever is the lesser

Port Coquitlam: The combined maximum lot coverage of all residential buildings on a lot is not more than 10%

all other single family zones)

7) **Siting**

The farmer should decide on the best siting of the Farm Worker Housing, as guided by the following checklist.

- Will the siting have minimal negative effect on the agricultural use of the property?
- Can you maintain the footprint of the lot (replace old buildings, build 'up')?
- Is the Farm Worker Housing accessible to available servicing?
- Is the Farm Worker Housing accessible to safety features (i.e. fire truck access)?
- Are the municipal setbacks adhered to (refer to the Land Use Bylaw for specifications)?
- Can the Farm Worker Housing be clustered with other residential dwellings?
- Is the Farm Worker Housing best located for workers employed on the farm? Is the dwelling proximal to where the employees will be working?

If siting cannot be reconciled by both parties, advice can be sought from PAC and/or the Regional Agrologist and/or an AAC if one was established. Ultimately the ALC may make a final decision.

8) **Legal Requirements**

Legal provisions can be placed on a property to ensure that housing conditions are met based on municipal requirements. Three examples are outlined here.

i) Temporary Commercial Use Permit (TCUP)

The Official Community Plan would need to be amended by bylaw to create areas where Council could consider issuance of Temporary Use Permits for farm worker housing. This is done pursuant to the Local Government Act, Section 920.2.

This designation would then allow a farmer to make an application for the proposed worker housing as a Temporary Use Permit which is valid for two years with a renewal application process.

ii) Housing Agreement

- i. The owner may want to consider a Housing Agreement¹⁴ with the municipality as per Section 905 of the *Local Government Act*. (Appendix I).

¹⁴ The municipality, by Bylaw, under Section 905 of the Local Government Act, is authorized to enter into a Housing Agreement with an Owner of a property

- A Housing Agreement can enable the Owner to construct and maintain a multi-family housing complex and as a condition of rezoning, the Housing Agreement is registered on title
- The Housing Agreement may include terms and conditions regarding the occupancy, tenure and availability to specified classes of persons of dwelling units located on the lands of the Owner
- The Housing Agreement may include such items as: number of FWH units; number of occupants permitted; and time occupancy restrictions

iii) Restrictive covenant

- ii. The Owner of the lot on which the Farm Worker Housing is located shall register on the title of that lot, a restrictive covenant under s.219 of the Land Title Act, stating that:
 1. FWH will be removed if it is no longer being occupied by the approved user for a period of two years¹⁵
 2. Removal shall constitute the following:
 - In the case of a manufactured home or trailer, removal from the lot
 - In the case of a residential conversion structure, removal from the lot or conversion to a permitted use
 3. If the Owner does not remove or decommission the FWH, the cost of removal or decommission will be recovered by Central Saanich in the same manner as it would be able to collect unpaid Municipal taxes.¹⁶

9) Monitoring and Enforcement

- Farm Worker Housing for workers in the federal Seasonal Agricultural Worker Program (SAWP) is inspected annually by an approved inspector
- Monitoring is complaint driven
- If land ownership changes a review of the FWH situation should be done by the municipality

Final Comments:

Approval of FWH as a permitted use on a site specific basis is outlined and supported in ALC policies for allowing additional dwellings for farm help. This approach allows staff and Municipal Council to be proactive and carefully manage each application according to the established policy or Bylaw as adopted by the municipality. The intent is for this process to be straightforward and unambiguous for staff, Council and farmers.

¹⁵ Corporation of Delta precedent

¹⁶ Corporation of Delta precedent (only pertaining to Migrant Farm Worker Housing)

7. Conclusions

A vital component to a viable agricultural operation is dependable skilled labour. In BC, many farming operations are hiring foreign workers to support their business and this is increasingly the situation in many municipalities.

There is a need for Farm Worker Housing in many communities. Many farmers see an increased ability to house workers as a means to increase productivity and retain a reliable workforce. FWH that is off-farm is a financial burden on the farmer due to increased costs and a burden on the worker due to travel time and cost.

The recommended criteria are comprehensive, thoughtful and not onerous or costly for the applicant. Given the potential negative impacts unwarranted FWH can have on agricultural land, the site specific rezoning process is deemed the best approach to regulate housing for farm workers. The Temporary Commercial Use Permit is a useful mechanism to allow FWH that is not permanent.

Establishing a regulatory framework and process to approve additional Farm Worker Housing will support farm operators in their efforts at farm viability, while at the same time, avoiding unwarranted development from occurring under the guise of farm help.

These recommendations were created in consultation with relevant stakeholders and were developed to achieve the goals stated on page five of this report.

8. Recommendations for Further Research

This report states specific items for municipal staff to further explore; a summary of these points is stated here:

- Home plate covenant idea. Comments received from ALC staff were in favour of this concept.
- Housing Agreement, for its applicability to permanent housing
- The current density may need to be reviewed if future applications request an increased density (more than four) of unrelated farm workers living jointly; or for more than one additional permanent dwelling unit.

Further research on this topic could be pursued:

- Idea of renting out seasonal accommodation when the workers are not there. This activity would be deemed a 'non-farm use' and is fraught with monitoring and enforcement difficulties, however this point was raised multiple times.

- Additional off-farm housing options could be further explored. For example: renting a home for workers; buying a home for workers; working with partners to build permanent off-farm housing; and working with partners to buy or rent off-farm consolidated housing.
- Another off-farm housing option to investigate is 'infill housing' in the Urban Settlement Areas which is the insertion of additional housing units into an already approved subdivision or neighbourhood. This type of housing refers to additional units built on the same lot, adding multiple units to an existing home, or to lot subdivisions. The idea is to match affordable housing opportunities with smart growth principles; this concept is currently being explored by the Resort Municipality of Whistler for their Alpine South neighbourhood.
- Dormitory style housing models with many unrelated people could be explored for best practices and best design. Would this model be of benefit to the community?
- The concept of a mobile 'rent-a-home' that could be moved around the municipality based on need. What would be the best way of managing this concept?
- The viability of farming is a broader issue that will impact any future trends in the area of Farm Worker Housing and Seasonal Foreign Farm Workers. What other provisions in addition to adequate farm worker housing, can municipalities implement in order to promote the viability of farming?

Appendix A - British Columbia Seasonal Agricultural Work Program (SAWP)

Human Resources and Skills Development Canada have developed a program to allow migrant farm labour from abroad (i.e. Mexico) to work in BC. This program outlines certain conditions in the 'Guidelines For The Provision Of Seasonal Housing For Migrant Farm Workers In BC' that must be adhered to by the employer and employee in order to qualify for the program. The types of housing include trailers, new and converted housing on farm property, motels and apartments. Farmers must pay an accredited Seasonal Housing Inspection company for an annual inspection. The Western Agriculture Labour Initiative (WALI) used to provide this service, but the program has been cancelled. The BC SAWP is driving the demand specifically for seasonal farm worker housing, especially in the Lower Mainland.

Appendix B - Concerns raised by PAC and the public

- need to demonstrate that there is a bona fide need for an additional dwelling for farm help
- size and type of farm
- need for on-site farm help will vary depending upon the size, location, and type of operation¹⁷
- minimum lot size of 8ha (20 acres) and minimum production levels that would justify the need for an additional farm worker dwelling. Note that these are not adopted criteria but suggested options for discussion¹⁸
- are there other housing options are reasonably available on- or off-site that could serve the same purpose¹⁹
- quality of housing
- fragmentation of farmland
- privacy concerns

Concerns Raised by PAC (2006)

- larger farms (> 20 ac) particularly those growing for example vegetables, fruits and berries flowers require considerable help with the field preparation, planting, weeding, harvesting, cleaning and packaging. Worker numbers can range from 5 to over 50 people during the season from April to October
- large farms can invest over \$500 000 in planting and land preparation, if the crops do not come off the implications are very serious
- farm labour, particularly skilled, 'strong – field hardened', and consistent workers are becoming harder to find and keep
- medium (10 to 20 ac) and so called smaller farms (<10 ac) often require many workers throughout the growing and harvesting season, intensive farming can produce considerable produce and workers are a necessity
- often workers may come from Quebec and other places off the Island, they require a 'reasonably priced' place to stay, accommodation in motels and suites etc. are usually too expensive for farm wages
- if a bylaw was established that allowed farm worker accommodation likely some farms would expand production. An unstable work force is a huge obstacle. This would give some stability
- some agricultural pursuits require people throughout the winter months as well, such operations can include for example, equestrian, processing, greenhouse, diary, chicken, hog, cattle, honey and nursery
- 'good' workers are hard to find and hard to keep, suitable on farm dwellings are one way to keep workers
- workers who live on-farm can be a labour pool for many farms in the district

¹⁷ 2001 MAL "Determining the Need for Additional Dwellings for Farm Employees"

¹⁸ Welch application

¹⁹ Welch application

- on farm residences for workers saves them considerable money in rent and transportation costs, and up to 2 to 3 hours traveling time (waiting for buses)
- student summer help is much more accessible and consistent if they can live reasonably on the farm, this means students from across Canada and from other countries. Web advertising can be used but the farmers need the facilities to help get and keep the workers on site.
- there are many uses of land under the allowable activities in the ALR and Agriculture zoning, for example agro forestry, processing, horticulture, wine/vineyard estates, horse breeding; these activities could require multiple dwelling for staff and workers. Some of these activities could require help for 12 months of the year.
- Look into developing a checklist to look at the following:
 - crop or product volume
 - the nature of an agri-tourism operation and its employment needs
 - acreage in production on home farm
 - acreage leased or rented and in production
 - gross sales
 - type of operation
 - size and volume of processing operation or greenhouses and nurseries
 - number of workers required, time of year and the general tasks they perform
 - accommodation currently available on the farm
 - new or additional accommodation required
 - is the accommodation for the six month growing season and/or does it extend in the winter, is it a full year requirement and if so for how many people
 - note property size may not be an outright criteria as intensive as 'agricultural' type
 - operations may require many people year-round, such as processing or greenhouses

Appendix C - Regulatory Framework

Provincial Agricultural Land Commission (ALC)

The ALC is an independent Provincial agency responsible for administering the agricultural land reserve (ALR) to preserve agricultural land; encourage farming in collaboration with other communities; and to encourage local governments, First Nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies (modified from ALC website²⁰).

Agriculture Land Commission Act

The Commission is responsible for the administration of the Agricultural Land Commission Act. The ALC Act does not set a limit on the number of residences on a farm parcel; however, the Act identifies that additional residences must be necessary for farm use, as shown in Section 18. The ALC discourages housing that is not for farm use.

Section 18: Rules for use and subdivision of agricultural land reserve²¹

18. Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,

(a) a local government, a First Nation government or an authority, or a board or other agency established by a local government, a First Nation government or an authority, or a person or agency that enters into an agreement under the *Local Services Act* may not

(amended 2004-Jul-22 *Agricultural Land Commission Amendment Act*, S.B.C. 2004 c. 32)

- (i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or
- (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use

Policy #9 Additional Residences for Farm Use

The following policy clarifies the permitted residential uses on a parcel regulated by the ALC.

The Act and the 'Agricultural Land Reserve Use, Subdivision and Procedure Regulation' (described below) do not set a limit on the number of additional residences for farm help per parcel, but all residences must be necessary for farm use. Local government must be convinced that there is a legitimate need for an additional residence for farm help. It is recommended that local governments help to determine need by evaluating the size and type of farm operation and by obtaining advice and opinion from MAL or ALC staff.

²⁰ http://www.alc.gov.bc.ca/legislation/legislation_main.htm (accessed December 2009)

²¹ <http://www.alc.gov.bc.ca/legislation/Act/alca.htm - section18> (accessed December 2009)

Some local governments have adopted detailed guidelines as a basis for determining legitimacy of a request for additional residences for farm help, in which a threshold for different types of agricultural operations is specified. The policy information suggest that it may be appropriate to consider these as factors in interpreting Section 18 of the Act.

If there is any doubt with respect to need, an application under Section 20 (3) of the Act for permission for a non-farm use is required.

Agricultural Land Reserve Use, Subdivision and Procedure Regulation

Part Two of this regulation outlines 'Permitted Uses for land in the Agricultural Land Reserve (ALR)' as follows:

3(1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable first nation government:

(b) for each parcel,

- (i) one secondary suite²² within a single family dwelling, and
- (ii) one manufactured home²³, up to 9 m in width, for use by a member of the owner's immediate family²⁴

Policy #8 Permitted Uses in the ALR: Residential Use

Interpretation (taken directly from the website²⁵)

The Regulation permits a secondary suite for residential purposes, wholly contained within a single family dwelling, on a parcel in the ALR. The secondary suite use is not limited as to who occupies the suite. The Regulation also provides for one manufactured home, in addition to a dwelling, on a parcel in the ALR, but only for use by the property owner's immediate family. The maximum width of manufactured or mobile home allowed is 9 metres, which provides for what is commonly known as a 'double-wide'. The Commission may make an exception to the width requirement in the Peace and Northern Rockies Regional Districts to provide for a 'double wide' up to the industry standard width (10 metres).

²² Secondary suite - means an area set aside for residential use, within the footprint of a single family dwelling, and secondary or ancillary to the residential use of that single family dwelling (ALC Policy #8)

²³ Manufactured home - means a transportable prefabricated structure, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to be moved from one place to another and to be used for residential use by a single family. The structure normally conforms to the CSA Z240 series standards of the Canadian Standards Association for manufactured homes (ALC Policy #8)

²⁴ "immediate family" means, with respect to an owner, the owner's (a)parents, grandparents and great grandparents, (b)spouse, parents of spouse and stepparents of spouse, (c)brothers and sisters, and (d)children or stepchildren, grandchildren and great grandchildren.

²⁵ http://www.alc.gov.bc.ca/legislation/policies/Pol8-03_residential.htm (accessed December 2009)

If the manufactured home is no longer occupied by immediate family of the property owner, it is no longer a permitted use in the ALR and must be removed from the parcel or, if it remains, not used for residential purposes. Where a zoning bylaw is in place, this use must be specifically permitted by the bylaw.

ALC Business Plan

In the ALC's 2008/09 Business Plan it states on page 13, "Emerging issues the Commission needs to address include.... and temporary farm worker housing in the ALR"²⁶.

BC Ministry of Agriculture and Lands (MAL)

In 2001 MAL created the discussion paper, "Determining the Need for Additional Dwellings for Farm Employees" which was intended for permanent farm workers. This paper was not an official MAL policy. In 2009 MAL created a follow up Discussion Paper and Standards with a focus on Seasonal Farm workers entitled, "Regulating Temporary Farm Worker Housing in the ALR." Both of these documents are excellent resources and could provide guidance for local governments developing a FWH related bylaw.

Local Government

Under their zoning power local governments have significant powers to regulate the density, siting, size and dimensions of farm buildings, and their location on the land. Most local governments and Regional Districts send FWH requests to the ALC for a decision; however, some municipalities, especially in the Lower Mainland, are taking more control of the issue through their policies and zoning.

Section 905 Local Government Act

Many terms in Section 905 'Housing agreements for affordable and special needs housing' are undefined in the LG Act, therefore this gives local governments latitude to define things themselves, for example, farm worker housing can be defined as 'special needs.' If one looks at 905(2) (Appendix B), there is scope to shape things beyond temporary housing as highlighted here (emphasis added):

(2) A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions respecting one or more of the following:

- (a) the **form of tenure** of the housing units;
- (b) the availability of the housing units to **classes of persons** identified in the agreement or the bylaw under subsection (1) for the agreement;

²⁶ Agricultural Land Commission. 2008/09 Business Plan. Provincial ALC. Burnaby, British Columbia.

(c) the administration and management of the housing units, including **the manner in which the housing units will be made available** to persons within a class referred to in paragraph (b);

(d) **rents and lease, sale or share prices that may be charged**, and the rates at which these may be increased over time, as specified in the agreement or as determined in accordance with a formula specified in the agreement.

Appendix D - Local Government Act

Housing agreements for affordable and special needs housing

905

(1) A local government may, by bylaw, enter into a housing agreement under this section.

(2) A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions respecting one or more of the following:

- (a) the form of tenure of the housing units;
- (b) the availability of the housing units to classes of persons identified in the agreement or the bylaw under subsection (1) for the agreement;
- (c) the administration and management of the housing units, including the manner in which the housing units will be made available to persons within a class referred to in paragraph (b);
- (d) rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time, as specified in the agreement or as determined in accordance with a formula specified in the agreement.

(3) A housing agreement may not vary the use or density from that permitted in the applicable zoning bylaw.

(4) A housing agreement may only be amended by bylaw adopted with the consent of the owner.

(5) If a housing agreement is entered into or amended, the local government must file in the land title office a notice that the land described in the notice is subject to the housing agreement.

(6) Once a notice is filed under subsection (5), the housing agreement and, if applicable, the amendment to it is binding on all persons who acquire an interest in the land affected by the agreement, as amended if applicable.

(7) On filing under subsection (5), the registrar must make a note of the filing against the title to the land affected but, in the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making of a note of the filing,

- (a) neither the registrar, nor the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,
 - (a.1) neither the assurance fund nor the Land Title and Survey Authority of British Columbia, as a nominal defendant, is liable under Part 19.1 of the *Land Title Act*, and

(b) neither the assurance fund nor the minister charged with the administration of the *Land Title Act*, as a nominal defendant, is liable under Part 20 of the *Land Title Act*.

(8) The Lieutenant Governor in Council may prescribe fees for the filing of notices under subsection (5), and section 386 of the *Land Title Act* applies in respect of those fees.

Appendix E – British Columbia Farm Worker Housing Policy Scan

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Capital Regional District

District of Central Saanich

1. [Land Use Bylaw No. 1309, 2010](http://www.centalsaanich.ca/hall/Departments/Administration/bylaws_and_policies.htm)
http://www.centalsaanich.ca/hall/Departments/Administration/bylaws_and_policies.htm
2. [OCP Bylaw 1600](http://www.centalsaanich.ca/hall/Departments/Administration/bylaws_and_policies.htm)
http://www.centalsaanich.ca/hall/Departments/Administration/bylaws_and_policies.htm
3. Council Resolutions. November 3, 2008. *Agricultural Land Commission Application for Non-Farm Use – Farm Worker Housing; 8277 Central Saanich Road.*

City of Colwood

1. [Land Use Bylaw No. 151, 1989](http://colwood.fileprosite.com/Documents/DocumentList.aspx?ID=139)
<http://colwood.fileprosite.com/Documents/DocumentList.aspx?ID=139>
 - a. 2.1 General Provisions
 - b. 4.1 Agricultural (AG) and (AG2) Zone

City of Langford

1. [Langford Zoning Bylaw No. 300](http://www.cityoflangford.ca/documents.asp?type=bylaw)
<http://www.cityoflangford.ca/documents.asp?type=bylaw>
 - a. Section 6.06 Agriculture 1 (AG1) Zone

District of Metchosin

1. [Land Use Bylaw No. 259, 1995](http://metchosin.civicweb.net/Documents/DocumentList.aspx?ID=271)
<http://metchosin.civicweb.net/Documents/DocumentList.aspx?ID=271>
 - a. Part 10, Section 51 Agricultural (AG) Zone (ALR) 1

District of Saanich

1. [Saanich Zoning Bylaw No. 8200, 2003](http://www.saanich.ca/living/bylaw.html)
<http://www.saanich.ca/living/bylaw.html>
 - a. Rural Zones

District of North Saanich

1. Masselink Environmental Design. January 2010. *Draft Agriculture Area Plan.*
http://www.northsaanich.ca/Municipal_Hall/Departments/Planning_and_Community_Services/Planning/Blue_Saanich_Agriculture_Plan.htm

Columbia Shuswap Regional District

City of Salmon Arm

1. [Zoning Bylaw No.2303, 1995](http://salmonarm.fileprosite.com/Documents/DocumentList.aspx?ID=3013)
<http://salmonarm.fileprosite.com/Documents/DocumentList.aspx?ID=3013>
 - a. Section 34 – A1 – Agriculture Zone
 - b. Section 35 –A2 – Rural Holding Zone
 - c. Schedule “H”

Fraser Valley Regional District

City of Abbotsford

1. [Zoning Bylaw, 1996.](#)
<http://abbotsford.civicweb.net/Documents/DocumentList.aspx?ID=16830>
 - a. Agricultural Zones
2. City of Abbotsford. February 2009. Home Plate Policy Proposal - Presentation.

City of Chilliwack

1. [Zoning Bylaw No. 2800, 2001](#)
<http://www.chilliwack.com/main/page.cfm?id=377>
 - a. Section 6. Use Regulations. Agricultural Uses.

District of Kent

2. [Zoning Bylaw No.1395, 2008](#)
<http://www.district.kent.bc.ca/dh-zoning-ocp.html>

Greater Vancouver Regional District

City of Burnaby

1. [Zoning Bylaw No.4742.](#)
<http://burnaby.fileprosite.com/Documents/DocumentList.aspx?ID=5436>
 - a. Sections 601 Agricultural District; 602 Small Holdings District; and 603 Truck Gardening District.

City of Coquitlam

1. [Zoning Bylaw No. 3000, 1996.](#)
http://www.coquitlam.ca/Business/Doing+Business+in+Coquitlam/Zoning/_Zoning+Bylaw.htm
 - a. Part 8 – Agricultural and Resource Zones

Corporation of Delta

1. [Zoning Bylaw No. 2750, 1977.](#)
<http://delta.fileprosite.com/Documents/DocumentList.aspx?ID=38103>
 - a. Agriculture Zone A1
2. Corporation of Delta. 2009. Farm Home Plate Regulations Presentation
3. Professional Agrologist Report Guidelines
4. Covenant example – *Allowance of an additional dwelling for migrant farm workers*

Langley Township

1. [Zoning Bylaw No. 2500, 1987.](#)
http://www.tol.ca/index.php?option=com_content&task=view&id=413&Itemid=697
 - a. Section 200 – Rural Zones
2. Permits and License and Inspection Services Form; *ALR Second Dwelling – Determining Eligibility for an Additional Farm Employee Dwelling.*

District of Maple Ridge

1. [Zoning Bylaw No.3510, 1985. Consolidated 2009](#)
<http://www.mapleridge.ca/EN/main/municipal/6103.html#z>
 - a. Agricultural Zones

City of Pitt Meadows

1. [Land Use Bylaw No. 1250, 2010](#)
<http://www.pittmeadows.bc.ca/EN/main/residents/738/2379.html>
 - a. Agricultural Zones
2. Jack Reams Agri-Business Consulting. May 2000. *The Future of Agriculture: The District of Pitt Meadows.*
<http://www.pittmeadows.bc.ca>.
3. City of Pitt Meadows. February 2009. Farm Home Plate Presentation.
4. Professional Agrologist Report Checklist

City of Port Coquitlam

1. [Zoning Bylaw No. 3630, 2008](#)
<http://www.portcoquitlam.ca/Dynamic/Page284.aspx>
 - a. Agricultural Zones

City of Richmond

1. [Zoning Bylaw 8500, 2009](#)
<http://www.richmond.ca/cityhall/bylaws/chapter.htm>
 - a. Agriculture Zones
2. [OCP 7100, 1999](#)
<http://www.richmond.ca/cityhall/bylaws/chapter.htm>
 - a. 2.1 Agriculture
3. Staff Report. Terry Crowe, Manager Policy and Planning. May 29, 2006. *Re: Amendments to OCP and Zoning and Development Bylaw 5300 to Address Seasonal Farm Labour Accommodation.*

City of Surrey

1. [Zoning Bylaw No.12000](#)
<http://www.surrey.ca/Inside+City+Hall/By-laws/default.htm>
2. [OCP No. 12900, 2002.](#)
<http://www.surrey.ca/Inside+City+Hall/By-laws/default.htm>
3. City of Surrey. November 2008. Farm "Home Plate" and Farm House Size Presentation.

Peace River Regional District

District of Taylor

1. Zoning Bylaw NO. 510, 1996
<http://www.districtoftaylor.com/>

Regional District of Central Okanagan

District of Lake Country

1. [Bylaw 561, 2007](#)
<http://lakecountry.civicweb.net/Documents/DocumentList.aspx?ID=2>
 - d. Section 12 – Agricultural Zones

Regional District of North Okanagan

District of Coldstream

1. [Coldstream Zoning Bylaw No.1382, 2002.](#)
<http://coldstream.civicweb.net/Documents/DocumentList.aspx?ID=1>
 - a. Section 802 Rural Two Zone (RU.2)
2. [OCP, Schedule A to Bylaw No. 1445, 2005](#)
<http://coldstream.civicweb.net/Documents/DocumentList.aspx?ID=1>
3. [Coldstream Agricultural Plan](#), July 2009
http://www.districtofcoldstream.ca/council/agricultural_area_plan.php

Regional District of the Okanagan-Similkameen

District of Summerland

1. [Zoning Bylaw 99-001, 1999](#)
http://www.summerland.ca/residents/docs_forms.aspx - bylaws
 - a. Agriculture Zones A1 and A2

Strathcona Regional District

City of Campbell River

1. [Zoning Bylaw No.3250, 2006](#)
[http://www.campbellriver.ca/Pages/bylawsearch.aspx?k=ByLawFrequentlyUsed%3A"True"&s=ByLaws&start1=71](http://www.campbellriver.ca/Pages/bylawsearch.aspx?k=ByLawFrequentlyUsed%3A)
 - a. Rural 1 and Rural 2 Zones

Sunshine Coast Regional District

District of Sechelt

1. [Zoning Bylaw No. 25, 1987](#)
<http://district.sechelt.bc.ca/residents/bylaws.php>
 - a. Rural 1 and Rural 2 Zones

Thompson-Nicola Regional District

Village of Ashcroft

1. Zoning Bylaw No. 738, 2005
http://www.ashcroftbc.ca/home_page
 - a. Section 5.0 A1 (Agriculture 1) Zone

Regional Districts

Alberni-Clayoquot

1. [Consolidated Zoning Bylaw, 2010](http://www.acrd.bc.ca/cms.asp?wpID=174)
<http://www.acrd.bc.ca/cms.asp?wpID=174>

Bulkley-Nechako

1. Memorandum to Planning Committee from: Director of Planning. March 2009.

Cariboo

1. Zoning Bylaw
<http://www.cariboord.bc.ca/Services/BylawEnforcement.aspx>
 - a. RR1, RR2 and Resource/Agricultural Zones

Central Coast

1. [Zoning Bylaw No.71, 1984](http://www.ccrd-bc.ca/services/land-use-planning.php)
<http://www.ccrd-bc.ca/services/land-use-planning.php>
 - a. Agricultural District; Large Holding District

Central Okanagan

1. [Zoning Bylaw No.871, 2010](http://www.regionaldistrict.com/departments/admin/admin_bylawsindex.asp)
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Comox Valley

1. [Zoning Bylaw No. 2781, 2005](http://www.comoxvalleyrd.ca/section_propserv/content.asp?id=283&parent=81&sub_collection=93)
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 - a. 303 Agricultural Use

Cowichan Valley

1. CVRD. August 2008. *Policy for a Second Dwelling in the Agriculture Land Reserve (ALR)*.

East Kootenay

1. [Upper Columbia Valley Zoning Bylaw No. 900, 2010](http://www.rdek.bc.ca/Bylaws/bylawmain.htm)
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Fraser Valley

1. [Land Use Bylaw No.559, 1992](http://www.fvrd.bc.ca/InsidetheFVRD/Bylaws/LandUsePlanningandDevelopmentBylaws/Pages/ZoningBylaws.aspx)
<http://www.fvrd.bc.ca/InsidetheFVRD/Bylaws/LandUsePlanningandDevelopmentBylaws/Pages/ZoningBylaws.aspx>
 - a. Agricultural and Rural Zones
2. Staff Report. Lisa Grant, Planning Technician. January 2008. *Re: Temporary Industrial Use Permits 2007-02, 2007-03.*

Islands Trust

1. Staff Report. Robert Kojima, Island Planner. October 2008. *Re: Land Use Bylaw.*

Kootenay Boundary

1. Staff Report. Jeff Ginalias, Assistant Planner. January 2010. *Re: Application to amend OCP and zoning bylaws to allow for seasonal farm worker housing.*

North Okanagan

1. [Zoning Bylaw 1888, 2003.](#)
<http://www.rdno.ca/publications/bylaws.php>
 - a. Zones: Agricultural, Country Residential, Large Holding Zone, Non-Urban.

Northern Rockies

1. The Town of Fort Nelson Northern Rockies Regional District [Zoning Bylaw No. 729, 2008.](#)
http://www.northernrockies.ca/EN/main/city/Bylaws_documents.html
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2. The Town of Fort Nelson Northern Rockies Regional District [OCP. Bylaw No. 707, 2006](#)
http://www.northernrockies.ca/EN/main/city/Bylaws_documents.html
 - a. Agriculture Use

Okanagan-Similkameen

1. Allan Patton. 2008. *Agricultural Area Plan.*
<http://www.rdos.bc.ca/index.php?id=320>

Squamish Lillooet

1. [Electoral C Zoning Bylaw No.765, 2007.](#)
<http://www.slrd.bc.ca/siteengine/ActivePage.asp?PageID=26>
 - a. Rural and Agriculture Zones

Thompson-Nicola

1. Statutory Declaration Example
2. Information sheets for applicants requesting an additional dwelling or an additional temporary dwelling for agricultural uses



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