

**Regulating
TEMPORARY FARM WORKER HOUSING
In the ALR**

DISCUSSION PAPER AND STANDARDS

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**Ministry of
Agriculture
and Lands**

Executive Summary

This discussion paper was prepared by the BC Ministry of Agriculture and Lands (BCMAL) and outlines a set of criteria that can be used by local governments to regulate Temporary Farm Worker Housing (TFWH) in the Agricultural Land Reserve.

TFWH has become an issue in BC due to the growing demand for temporary migrant farm workers, particularly in the South Coast and Okanagan Valley regions. A general lack of labour due to lack of farm family succession, an aging farm labour population and farm size have led to a critical shortage of experienced farm labour. As a result, an increasing number of farmers are employing temporary migrant labour. The federal migrant worker programs referred to as the Seasonal Agriculture Worker Program (SAWP) and the Occupations Requiring Lower Levels of Formal Training program (ORLLFT), formerly known as the Low Skill Pilot Program, allow for the temporary entry of foreign agricultural workers. As part of the program requirements under SAWP, farmers must provide housing for the workers. ORLLFT requirements differ in that farmers do not have to provide housing, but they must find the workers suitable affordable accommodation. These requirements are typically met by either providing housing for workers on the farm operation or by finding accommodation for workers in urban areas.

This paper focuses on addressing the housing needs of migrant farm workers enrolled in a federal program through providing housing on the farm operation; criteria have been developed to deal with the land use planning component of this issue. Although only on-farm temporary farm worker housing is discussed in the scope of this paper, alternative options for housing temporary workers are listed in Appendix A, including consolidated housing. In the future, criteria will be developed for TFWH for domestic temporary farm workers or temporary farm workers not enrolled in a federal program. In the interim, local governments may wish to use these standards as a starting point for domestic farm worker housing.

The TFWH criteria that are presented in this document reflect analysis by BCMAL and Agricultural Land Commission (ALC) staff as well as current approaches being taken by local governments. This paper provides the basis for developing standards that can be used by local governments to establish land use policy or regulations related to housing temporary migrant farm workers. Although the emphasis of the criteria is on housing migrant farmer workers in the South Coast and Okanagan regions, local governments that are outside these areas and/or have temporary farm workers that are not part of a federal program may use the information as they see appropriate. The standards are intended to assist local governments in addressing the need for TFWH without compromising the long term productivity of agricultural land.

Table of Contents

Executive Summary	i
Table of Contents	iii
Introduction.....	1
Part 1 - Criteria Development Process.....	2
1. Purpose & Goals.....	2
2. Scope	2
3. Stakeholders	3
4. Objectives of the Process	3
5. Methods to Develop the Criteria	3
5.1 Key Steps.....	3
5.2 Process to Date	3
Part 2 – Background.....	4
6. Factors Affecting the Need for Migrant Farm Workers	4
7. Migrant Farm Labour Opportunities	4
7.1 Seasonal Agriculture Worker Program	4
7.2 Occupations Requiring Lower Levels of Formal Training program	5
8. Housing Temporary Farm Workers – the Options & Challenges	6
8.1 Housing on Agricultural Land	6
8.2 Housing in Urban Areas	6
Part 3 – Current Policies and Regulations	7
9. Provincial Policy and Industry Guidelines	7
9.1 Agricultural Land Commission.....	7
9.2 BC Ministry of Agriculture and Lands	7
9.3 Agriculture Industry and HRSDC	7
10. The Ontario Experience	7
11. BC Local Government Response	9
Part 4 - Temporary Farm Worker Housing - Criteria	11
13. Definitions.....	11
14. Criteria ^a	12
15. Discussion – pros and cons of the criteria.....	16
Part 5 - Domestic Farm Worker Housing – Criteria – to be completed.	17
Appendix A – Alternative Options for Housing Farm Workers.....	18
Appendix B – Definitions (from BCMAL ‘Guide for Bylaw Development in Farming Areas’)	19
Appendix C – Statutory Declaration.....	21
Appendix D – Sample Restrictive Covenant and Statutory Declaration ^a	22
a. adapted from the District of Pitt Meadows Section 219 Covenant and Housing Agreement Resources	26
Resources	27

Introduction

This discussion paper outlines a set of criteria for regulating Temporary Farm Worker Housing (TFWH)^a for workers registered in a federal temporary worker program on farmland in the Agricultural Land Reserve (ALR) and serves as a basis for further discussion with local governments and the agriculture industry to ensure the criteria effectively deal with the issue of TFWH from a land use regulation perspective. The criteria that have been developed reflect analysis undertaken by Ministry and ALC staff as well as current approaches being used by local governments to accommodate TFWH. The final criteria need to address the labour requirements of the agriculture industry while protecting the agricultural land base from increased non-farm use. The criteria can also be modified by local governments to be made less restrictive, to meet local agricultural needs. It is important to note that although these criteria have been developed with a focus on addressing migrant farm worker housing needs, **the information can be modified by local governments to address their needs for temporary housing of domestic seasonal farm workers.**

Before the criteria are presented, the criteria development process is outlined, background on the issue is provided, and current policy, guidelines and regulations are described.

^a Other terms such as Seasonal Farm Worker Housing, Migrant Farm Worker Housing, Accessory Seasonal Employee Residential Use, Temporary Farm Accommodation, and Seasonal Farm Labour Accommodation are used by different agencies. For the purposes of this paper these terms are considered to be interchangeable with TFWH. Please see Part 4, Definitions for a complete definition of the term Temporary Farm Worker Housing.

Part 1 - Criteria Development Process

The intent of this process is to develop criteria that can be used by local governments to establish land use policy or regulations to address temporary housing for temporary farm workers registered in a federal temporary worker program. Following consultation with stakeholders, these criteria, if approved by the Minister, may become standards and be incorporated into the “Guide for Bylaw Development in Farming Areas”.^b

1. Purpose & Goals

The purpose of establishing the criteria is to meet the agriculture industry’s need for temporary farm worker housing in a manner that minimizes the loss of agricultural land and addresses local government concerns. These criteria will:

1. meet the needs of the agriculture industry;
2. minimize the residential impact of TFWH in the agricultural area;
3. minimize loss and/or fragmentation of agricultural land due to TFWH; and
4. minimize the risk of TFWH being used for non-farm purposes.

2. Scope

While there are many issues associated with housing, the criteria considered in this paper only address the land use issues of regulating temporary housing for temporary farm workers. The paper does not address housing for relatives, housing footprints, or additional housing for full time farm employees. The criteria attempt to meet the needs of farmers who legitimately require TFWH, and at the same time, discourage the establishment of additional dwellings in the ALR where there is no legitimate agricultural reason for them. The primary demand for housing seasonal farm labour is currently located within the South Coastal and Okanagan regions and is being met increasingly through the federal migrant worker program. Therefore, the criteria have been developed for farm operations located in the ALR in the South Coastal and Okanagan regions with an emphasis on addressing the accommodation requirements of the federal migrant worker programs. **However, local governments that are outside of these areas and/or have seasonal farm workers that are not part of a federal program, may refer to and use the information as they see appropriate.**

While the criteria do not address health or building code issues, BCMAL recognizes that other agencies’ regulations and requirements (*BC Health Act*, *BC Building Code*, etc.) must still be met. In addition, BCMAL recognizes that living standards for TFWH and associated inspection requirements are of ongoing concern for the source countries. To address these concerns the Province is working with the governments of these countries, along with the Canadian Federal government and the industry to find solutions. These solutions may impact the criteria being developed in this paper. Therefore, the two pieces of work may go forward together to BCMAL Executive for joint consideration.

^b Under the *Local Government Act* (Part 26, Division 8, Section 916), the minister responsible for the *Farm Practices Protection (Right to Farm) Act* can develop bylaw standards to guide the development of zoning and farm bylaws. Development of provincial standards is intended to promote consistency in the regulation of, and planning for, farming. However, provision has been made under Section 916 (3) to allow the standards to differ, if necessary, to respond to BC’s diverse farming industry and land base.

3. Stakeholders

The following groups will be involved in the criteria development process:

- BCMAL staff;
- Agricultural Land Commission staff;
- Strengthening Farming Directors Committee;
- Farm commodity groups;
- Local governments and their Agricultural Advisory Committees; and
- Western Agriculture Labour Initiative (WALI)

4. Objectives of the Process

The objectives of the development process are to:

- create a set of criteria for review by stakeholders;
- consult with stakeholders; and
- develop standards that local governments can adapt and apply as policy or regulation.

5. Methods to Develop the Criteria

5.1 Key Steps

Four key steps will be undertaken to develop the criteria:

1. Review relevant literature including BCMAL and ALC policies and BC Seasonal Agricultural Worker Program “Guidelines for Migrant Worker Housing”;
2. Examine how the Ontario Ministry of Agriculture, Food, and Rural Affairs has addressed the issue;
3. Review and compare existing local government regulations and policies; and
4. Consult with BCMAL staff, ALC staff, Ministry of Community Services staff, local governments and the agriculture industry.

5.2 Process to Date

Current policies and regulations dealing with the TFWH issue were examined and used in the development of the criteria. Discussions were undertaken with Ontario local governments and the Ontario Ministry of Agriculture, Food and Rural Affairs for their perspectives on issues surrounding TFWH. This information was then considered by a committee comprised of BCMAL and ALC staff who worked together to draft the criteria currently listed in Part 4 of this document.

These criteria and discussion paper will be distributed to the Ministry of Community Services, local governments and the agriculture industry for their review and feedback. Once stakeholder input has been received and incorporated into the discussion document, the criteria will be sent to the BCMAL Executive for final approval. Once approval has been received, the criteria may be incorporated into the “Guide for Bylaw Development in Farming Areas”. The finalized information will be distributed to local governments.

Part 2 – Background

6. Factors Affecting the Need for Migrant Farm Workers

There is a growing demand by BC farmers for migrant farm workers, particularly in the South Coast and Okanagan Valley regions. An aging farm labour population, declining availability of family farm labour, and farm size are key factors influencing this demand.

Finding experienced local farm labour is a significant challenge for farmers in BC. Canadian ethnic communities, such as the Chinese and Indo-Canadian communities, formerly provided labour to local farms. However, these individuals are aging and fewer younger people are interested in working on farms. Labour shortages are a particular problem during peak harvest when farmers can not harvest all of their crops in time, and they must leave crops in the field to rot.

When it comes to family labour, children of farmers are typically leaving the farm for work elsewhere, which is resulting in a significant shortage of family labour. As farmers age, they need additional workers to help keep their farm operational. Increased average farm size (in order to reduce average fixed costs and increase productivity) is also compounding the problem. Whereas traditional small family farms were managed primarily by family members, large scale operations often now require access to additional labour outside of the family.

7. Migrant Farm Labour Opportunities

The above factors have led to a critical shortage of experienced farm labour. As a result, farmers have been exploring opportunities to employ seasonal migrant labour. Foreign worker programs provide farmers with the opportunity to hire temporary labour which contributes to farm productivity and competitiveness. There are currently two federal migrant worker programs that farmers are typically accessing. In 2007, farms (12 commodity groups) in BC that were participating in the federal migrant farm worker programs had an average of about 11 migrant workers per farm with a range of about 2 to 130 workers (Wallis, 2008). A total of 2200 migrant farm workers were employed by 200 employers.

7.1 Seasonal Agriculture Worker Program

The Seasonal Agriculture Worker Program (SAWP) was introduced by the Canadian government in 1966 in response to severe labour shortages. The first migrant farm workers were brought in from Jamaica to harvest crops in Essex County, Ontario (Baskok, 2007). SAWP now operates in BC, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island. The program is based on Memoranda of Understanding signed by the Governments of Canada, Mexico, and some Caribbean countries which facilitate the movement of seasonal agricultural workers from those countries to Canada (HRSDCa, 2007).

British Columbia signed on to the SAWP program in 2004, agreeing to hire workers from Mexico. Drawing on the Ontario experience, the industry and the Federal Department of Human Resources and Social Development Canada (HRSDC) prepared the “British Columbia Seasonal Agricultural Worker Program Guidelines for Migrant Worker

Housing” in 2005^c. This document establishes the minimum criteria with regard to location, construction of housing and housing safety, garbage control, maintenance, sleeping facilities, water and food supply, toilet facilities with adequate sewage disposal and access to services such as telephones.

Applications for the program are processed by HRSDC and Citizenship and Immigration Canada. Farm operators may apply to the program where there is a demonstrable shortage of Canadian citizens and permanent residents available for seasonal farm work. Before being allowed to hire foreign agricultural workers, the employer must prove that they have attempted to recruit Canadian workers. Work permits are valid for eight months within a twelve month period, but are not valid from December 15 to December 31. In order to meet the requirements of SAWP, employers must pay the prevailing wage rate set by HRSDC, provide all transportation, and arrange medical coverage. The employer must also provide seasonal housing to the workers and the housing must be inspected by a licenced housing inspector (HRSDCb, 2007). The employer may recover the cost of housing by a deduction of up to 7% of workers’ pay to a maximum of \$550 per year (HRSDCd, 2007).

7.2 Occupations Requiring Lower Levels of Formal Training program

The Occupations Requiring Lower Levels of Formal Training program is similar to SAWP. Overseen by HRSDC and Service Canada, this program allows for the temporary entry of foreign workers into lower-skilled occupations where there is a demonstrable shortage of Canadian citizens and permanent residents available. Lower levels of formal training are defined as occupations that usually require at most a high school diploma or a maximum of two years of job-specific training according to the National Occupation Classification (NOC) system and are coded at the NOC C or D skill level.

This program differs from SAWP in a number of ways. Unlike SAWP, which only allows temporary entry of foreign workers for up to eight months, this program allows for the temporary entry of foreign workers from any country for up to 24 months (HRSDCc, 2007). Also, while employers must demonstrate to HRSDC that affordable^d housing is available nearby, they do not have to provide housing for workers (HRSDCc, 2007). Similar to SAWP, this program requires that employers enter into a contract with the employee, pay transportation costs, arrange medical coverage, and pay foreign workers the prevailing wage rate set by HRSDC. Employers must also demonstrate that they are continuing efforts to recruit and train Canadians (HRSDCa, 2007).

^c The BC guidelines are identical to the Ontario guidelines.

^d As a general rule, HRSDC describes ‘affordable’ as housing that costs one third of the workers’ gross pay. HRSDC does not define the term ‘nearby’.

8. Housing Temporary Farm Workers – the Options & Challenges

The issue of housing seasonal/temporary farm workers has existed for many years; but it has risen to a greater level of importance for many local governments due to an increased demand by farmers to access federal seasonal migrant labour programs which set out specific accommodation requirements. SAWP requires that employers provide suitable accommodation and the Occupations Requiring Lower Levels of Formal Training program requires that employers find suitable affordable accommodation. In order to meet these requirements, farmers can either provide workers accommodation on the farm operation or in urban areas. Both options present challenges.

8.1 Housing on Agricultural Land

Housing temporary farm workers on agricultural land, most of which is in the ALR, presents some significant challenges. These include:

- cost of building and maintaining suitable accommodation;
- potential misuse of additional housing (e.g. as rental housing for non-farm use);
- impact on agricultural land (e.g. through loss of farmland or subdivision);
- impact on the agricultural landscape (e.g. increased residential presence); and
- increased demands on infrastructure.

8.2 Housing in Urban Areas

Housing temporary farm workers in urban areas also presents some challenges and may make the hiring of foreign workers economically unfeasible. These include:

- low vacancy rates for rental accommodation [*BC has the lowest vacancy rates in Canada at 1.0% (CMHC, 2007)*];
- limited availability of affordable accommodation for seasonal workers, particularly in the South Coast and Okanagan regions. [*The average rent for a two bedroom apartment in Vancouver is the second highest in Canada at \$1,084 per month (CMHCa, 2007). The average rent for a two bedroom apartment in Kelowna is \$846 per month (CMHCb, 2007)*]; and
- cost of transporting workers to and from the farm operation each day.

Part 3 – Current Policies and Regulations

9. Provincial Policy and Industry Guidelines

This section summarizes the current Agricultural Land Commission (ALC) and BC Ministry of Agriculture and Lands (BCMAL) policies related to TFWH. It also describes the migrant worker housing guidelines developed by the agriculture industry in conjunction with HRSDC.

9.1 Agricultural Land Commission

The ALC, under the Agricultural Land Reserve Use, Subdivision and Procedure Regulation [BC Reg. 171 (2002) Section 3 (1) (6)], allows one single family dwelling per land registry parcel within the ALR. Other permitted uses related to accommodation that are allowed include: a secondary suite within a single family dwelling and one manufactured home up to 9 metres in width for use by the owner's immediate family; local governments have the ability to prohibit or allow these other uses. The Act also enables local governments to approve additional residences if they are necessary for farm use [Section 18 (A) (1), ALC Act, 2002]. All other dwellings require an application to the Agricultural Land Commission. The ALC does not currently have a specific policy related to TFWH.

9.2 BC Ministry of Agriculture and Lands

The BC Ministry of Agriculture and Lands does not currently have policy, guidelines or standards for TFWH. However, in 2001 BCMAL identified parameters for the allowance of additional permanent dwellings for farm employees in the discussion paper “Determining the Need for Additional Dwellings for Farm Employees”. This document provides criteria to help local governments determine the need for additional dwellings for farm employees (ADFE). The criteria suggested in the ADFE document were not adopted as official Ministry policy. This information was intended for *permanent* farm workers, not for *seasonal* farm workers.

9.3 Agriculture Industry and HRSDC

In 2005, the agriculture industry, in conjunction with Human Resources Social Development Canada (HRSDC), developed “Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC” for the BC Seasonal Agricultural Worker Program (SAWP). These guidelines describe the housing requirements for migrant workers from a health and safety perspective, but not from a land use perspective.

10. The Ontario Experience

The Ontario Ministry of Agriculture, Food, and Rural Affairs was contacted for insight into TFWH^c. The Provincial Policy Statement (PPS) provides policy direction to municipalities on land use planning issues when they are developing and implementing planning documents or approvals. The *Planning Act* requires municipalities to be consistent with the PPS. The PPS provides broad policy guidelines which municipalities must follow, but local governments have the latitude to work within these policies to address the needs of their communities.

^c The SAWP program has been operating in Ontario since 1966.

The loss or fragmentation of agricultural land does not appear to have been a concern when SAWP was first introduced in Ontario in 1966. Existing buildings on farms were generally used to house seasonal workers. There were/are no provincial restrictions on the number of outbuildings on a farm. The main concern with seasonal worker housing on agricultural land has been related to the poor quality of housing provided on some farms. Seasonal worker housing must now be inspected annually and must meet the standards set by the Ontario Ministry of Health (Mawhiney, 2008).

In the community of Niagara-on-the-Lake, the size of farm help houses is regulated through the Zoning Bylaw. The Bylaw is currently being revised in order to meet agriculture industry demands. A maximum 'help house' floor area of 280 m² per lot is being considered. The number of workers is not regulated by the community, but is driven by the minimum area (7.44 m²) required per worker as stipulated in the "Recommendations for the Provision of Seasonal Housing for Migrant Workers". The community has not had any problems related to subdivision as a result of the help houses (Bedford, 2008).

In the Municipality of Leamington, there is no limit on the number of seasonal farm dwellings. The minimum lot size for seasonal farm dwellings is five acres for greenhouse operations and 25 acres for all other farm operations. There is no limit on the size of the buildings except that the total lot coverage cannot exceed 25% for residential and accessory residential uses, combined (Leamington, 1986).

The trend in Ontario is to house seasonal workers in existing dwellings, mobile homes, or modular buildings on one of the parcels owned by the farm operation. Seasonal farm worker housing tends to be clustered near the principal residence in order to tap into existing water and sewer facilities. On average, between six and fifteen workers are housed in a single building. The maximum number of workers per building is between twenty and twenty-five. About 35-40% of the seasonal workers return to work in Ontario on a recurring basis (Mawhiney, 2008).

Some farmers rent motel rooms, but this creates transportation challenges (i.e. moving workers to and from the farm) and also appears to result in an increase in the number of workers who do not comply with the terms of their work permits. Some farmers rent accommodation from other farmers (e.g. in an existing unused farm house). However, transportation costs remain an issue. Generally, farmers do not rent or buy seasonal farm worker accommodation in adjacent communities. Most workers are housed on-farm (Mawhiney, 2008). It does not appear as though TFWH on farmland has generated negative issues in Ontario, since migrant worker housing has not been a significant driver of subdivision or residential development in the agricultural area (Mawhiney, 2008; Turvey, 2007/2008).

Table 1 provides an indication of the types of commodities that use SAWP, the number of workers, and the number of employers involved. The top three commodities using the most SAWP workers are vegetable (23.16%), fruit (20.57%), and greenhouse (18.63%).

Table 1: Ontario Commodities using SAWP (2006)

Crop/Activity	# of workers	% of total	# of employers involved	% of total
Apples	1208	6.79	108	6.86
Apiculture	7	0.04	5	0.32
Canning/Food processing	431	2.42	11	0.70
Flowers	435	2.45	39	2.48
Fruit	3658	20.57	335	21.27
Ginseng	486	2.73	56	3.56
Greenhouse	3313	18.63	182	11.56
Nursery	1206	6.78	64	4.06
Sod	4	0.02	2	0.13
Tobacco	2918	16.41	413	26.22
Vegetable	4120	23.16	360	22.86
Total	17786	100	1575	100

Adapted from Foreign Agricultural Resource Management Services www.farmsontario.ca

In summary, there are no Provincial land use guidelines for TFWH. However, municipalities within Ontario may create bylaws to regulate TFWH. The municipalities that were contacted (Niagara-on-the-Lake and Leamington) did not express any concern over loss or fragmentation of agricultural land due to TFWH.

11. BC Local Government Response

Several local governments in BC have developed bylaws to regulate TFWH. There are a number of similarities between the local government TFWH regulations. Most municipalities address: minimum farm size required to qualify for seasonal/temporary farm worker housing; minimum lot size on which the housing can be located; minimum and maximum floor areas per worker; maximum number of seasonal/temporary workers per farm; and other conditions a farm operator must meet to be permitted temporary TFWH. Some of the key characteristics of these bylaws are outlined in Table 2.

TABLE 2: Summary of Local Government Regulations for TFWH

Local Government	Minimum Farm Size	Minimum Lot Size	Maximum Workers per Farm Operation	Maximum Floor Area per Farm Operation	Minimum Setbacks	Occupancy Time Limits	Other Conditions
Abbotsford Zoning Bylaw S.210.10 <i>Accessory Seasonal Employee Residential Use</i>	3.8 ha = A1 8 ha = A2	3.8 ha	Not specified	200 m ² (2153 ft ²) if farm <40 ha 300 m ² (3,229 ft ²) if farm >40 ha	9 m from exterior II 3 m from interior II 15 m from watercourse	Specified on statutory declaration	<ul style="list-style-type: none"> ■ Lot classified as “farm” under <i>B.C. Assessment Act</i> ■ Berry or vegetable only ■ TFWH must be on same lot as owner’s home ■ Adult member of owner’s immediate family works full-time on the farm ■ Remove if no longer needed
Delta Zoning Bylaw, 2750 Ap. 2008 <i>(Migrant Farm Worker Housing)</i> Bylaw No. 6600 S.501-510	8 ha	4 ha	42 max	420 m ²	6 m from front & ext lot lines 15 m from other lot lines 30 m from dwelling on adjacent lot	Specified on statutory declaration	<ul style="list-style-type: none"> ■ Lot classified as “farm” under <i>B.C. Assessment Act</i> ■ Workers must be hired through HRSDC foreign worker program ■ Restrictive covenant ■ Homeplate
Langley Township Zoning Bylaw 2500 S.201.3 <i>Temporary Farm Accommodation</i>	4 ha	4 ha	10 persons /4 ha 40 max	400 m ²		April 1 – Nov. 30	<ul style="list-style-type: none"> ■ Lot is operated as a bona fide farm ■ Must be occupied by an employee of the owner
Maple Ridge <i>Accessory Employee Residential Use</i>	1.7 – 2 ha	1.7 – 2 ha	Not specified	279 m ² or 10% lot area, whichever is less	3 m from any residence	Not specified	<ul style="list-style-type: none"> ■ Restrictive covenant
Pitt Meadows Zoning Bylaw 1250 S. 7.1.14 <i>Seasonal Farm Accommodation</i>	2 ha	2 ha	10 persons/4 ha 40 workers max	400 m ² (10 m ² per employee)	30 m from residences on adjacent lots ¹	April 1 – Nov. 30	<ul style="list-style-type: none"> ■ Lot classified as “farm” under <i>B.C. Assessment Act</i>
<i>Accessory Seasonal Employee Residential Use</i>	8 ha based (cumulative area of all lots provided lots are contiguous)	4.05 ha	10 persons/4 ha 40 workers max’ up to 40 ha 150 workers max on agl holding of 40.5+ ha 250 workers max on agl holding of 405+ ha 60 persons max per building 1 building / lot	400 m ² (13.01 m ² per employee)	500 m from any other TFWH	Specified on statutory declaration	<ul style="list-style-type: none"> ■ Lot classified as “farm” under <i>B.C. Assessment Act</i> ■ Berry or horticulture only ■ Restrictive covenant ■ \$25,000 deposit ■ TFWH on same lot as owner’s home and a member of the owner’s immediate family is employed full time on farm ■ Owner enters into housing agreement with PM
Richmond OCP Bylaw 7100 & Zoning Bylaw 5300 <i>Seasonal Farm Labour Accommodation</i>	8.09 ha (20 ac)	8.09 ha (20 ac)	30 max	300 m ² (3,229 ft ²)	Same as other farm dwellings	10 months in any 12 month period	<ul style="list-style-type: none"> ■ Lot classified as ‘farm’ under <i>BC Assessment Act</i> ■ Rezoning required ■ 1 building/ farm operation ■ Manufactured dwelling only, remove if not needed

Part 4 - Temporary Farm Worker Housing - Criteria

Part 4 outlines criteria for regulating TFWH. The goals and objectives from Part 1 served as a foundation for creating the criteria. Information from six local government bylaws that address TFWH and two rounds of input from local governments helped build the criteria along with BCMAL and ALC staff input, which served to add a broad-based perspective. These criteria offer a starting point or foundation from which to build. It is acknowledged that different communities have different circumstances. The criteria are intended to be flexible and adapted to each community's situation provided they remain consistent with the *Agricultural Land Commission Act* and regulations.

It is important to note that no guidelines are provided for *off-farm* accommodation since this is outside the jurisdiction of the BC Ministry of Agriculture and Lands. However, some suggestions related to exploring the option of off-farm accommodation are made in Appendix A. These criteria have been developed for TFWH for workers registered in a federal temporary worker program. In the future, criteria will be developed for TFWH for domestic temporary farm workers or temporary farm workers not enrolled in a federal program.

13. Definitions

The following definitions are provided to clarify the meaning of certain words that are used in the criteria. The definitions are drawn or adapted from the *Farm Practices Protection (Right to Farm) Act*, 'Guide for Bylaw Development in Farming Areas', *BC Assessment Act*, and various local government bylaws. For a more complete list of definitions see Appendix B.

Accessory Farm Residential Facilities	The following buildings, structures or improvements associated with a <i>principal residence</i> or <i>additional residence</i> on a farm: <ol style="list-style-type: none"> 1. attached or detached garages or carport 2. decorative landscaping 3. attached or detached household greenhouse or sunroom 4. residential-related workshop, tool, and storage sheds 5. artificial ponds not serving farm drainage, irrigation needs, or aquaculture use 6. residential-related recreation areas such as, but not limited to, swimming pools and tennis courts.
Additional Residence	A <i>building</i> on a farm used as a home or residence by: <ol style="list-style-type: none"> 1. A full-time employee of the farm and his/her spouse and children or; 2. A member of the land owner's <i>immediate family</i>, as defined in the <i>Agricultural Land Reserve Use, Subdivision and Procedure Regulation</i>; 3. <i>Temporary farm worker(s)</i>;
Farm Class	a designation given to a <i>lot</i> or part of a <i>lot</i> that is classified as "farm" under the BC Assessment Act.
Farm Operation	as defined under the " <i>Farm Practices Protection (Right to Farm) Act</i> " see Appendix B for complete definition.
Farm Unit	an area of land used for a <i>farm operation</i> consisting of one or more contiguous or non-contiguous lots, that may be owned, rented or leased, which form and are managed as a single farm.

Home Plate	All that portion of a <i>lot</i> that includes a <i>principal residence</i> and any <i>additional residence</i> and any associated <i>accessory farm residential facilities</i> .
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. The structure normally conforms to a standard required by the National Building Code of Canada.
Non-Manufactured Home	means a site-built detached dwelling on a permanent foundation constructed in compliance with the BC Building Code standards applicable to residential occupancy.
Principal Farm Building	means any <i>farm building</i> intended to accommodate the main use or uses of the <i>farm unit</i> but does not include any accessory farm buildings
Principal Residence	means the main <i>building</i> used to accommodate a resident but does not include a TFWH
Restrictive Covenant	means a legal agreement completed according to the <i>Land Title Act</i> .
Statutory Declaration	means a document that is covered under the <i>Evidence Act</i> .
Temporary Farm Worker(s)	means an individual or individuals who carry out agricultural work on a temporary, seasonal basis on a <i>farm operation</i> and are registered with a federal government temporary worker program.
Temporary Farm Worker Housing	means accommodation that is used solely for the purpose of providing cooking, sanitary, and sleeping facilities to temporarily house <i>temporary farm worker(s)</i> on a <i>farm operation</i> as necessary for the agricultural labour needs of a <i>farm operation</i> or other farms, if permitted.

14. Criteria^a

These criteria reflect the most restrictive elements in a Local Government's bylaw. Local Governments can choose to be less restrictive.

1. Farm Class

The farm *lot* where the *TFWH* is to be located must be classified as 'farm' under the *BC Assessment Act*.

- Local governments may wish to ask for a copy of the farm's BC Assessment notice, as part of the building permit application.

2. Minimum Farm Unit Size

The minimum farm unit size on which *TFWH* can be located is 4 hectares.

3. Maximum Useable Floor Area^b

- a.) Greenhouse operations, mushroom operations, and berry/vegetable operations with *on-farm processing* or *product preparation*: Maximum useable floor area per worker is 10m². If desired, local governments may restrict the number of workers per building.
- b.) All other commodities: cumulative maximum useable floor area for all *TFWH* on a *farm unit* is 400 m²; maximum useable floor area / person is 10 m². If desired, local governments may restrict the number of workers per building.

4. Maximum Number of Workers

- a.) Greenhouse operations, mushroom operations and berry/vegetable operations with *on-farm processing* or *product preparation*: 1 worker: 1,000 m² of *principal farm building* floor area, to a minimum ceiling of 130 workers per farm.
- b.) All other commodities: a minimum ceiling of 40 workers per farm.
- c.) The minimum ceiling cap criteria will be reviewed annually for the first three years after the standard is approved.

5. Housing Type

The TFWH should be either an *existing building*^e or a *manufactured home*, constructed or manufactured to be moved from one place to another and to be used for residential use, installed on a temporary foundation with no basement. However, a local government may wish to consider the size and type of farm operation should a request for non-manufactured housing be made. Suggested criteria include: the principal farm building and the farm operation has been in place for at least 5 years; the temporary farm workers will be living in the housing at least 8 months in a calendar year; and the local government may ask for removal or decommissioning of the housing if not used for 2 years.

6. Home Plate or Setbacks

- If a local government uses the home plate^d concept in their bylaws all *accessory farm residential facilities*, including new TFWH, must be on a declared *home plate*^d *contiguous to a home plate of an existing residence* unless otherwise authorized by a development variance permit.
- If a local government does not use the home plate^d concept in their bylaws, the maximum setback for new TFWH is 15 metres from the primary residence and 60 metres from an existing road or other access unless otherwise authorized by a development variance permit. In cases where the 15 metre and 60 metre setbacks cannot be met simultaneously, then the maximum 15 metre setback from the *principal residence* must be met for new TFWH unless otherwise authorized by a development variance permit.
- If new TFWH is located on a vacant lot it must be a temporary, manufactured dwelling(s) and meet the *home plate*^d criteria.
- Home plates or setbacks may be varied for reasons of topography, agricultural capability, or other special considerations through a Development Variance Permit.

7. Time and User Restrictions

- A *statutory declaration* must be filed with the local government annually stating that the building will be used only for TFWH for a specified period of time.
- A *restrictive covenant*^e must state that the new TFWH will only be used by *temporary farm workers* and that the owner will remove the TFWH and restore the land to agricultural use if the TFWH is vacant for two consecutive years. If an *existing building*^e is converted to TFWH and is not used by *temporary farm workers* for two consecutive years, the owner must either have the *building* removed or decommissioned so that it is no longer habitable.
- Under section 905 of the *Local Government Act*, local governments are permitted to enter into a statutory declaration to specify restrictions on the user of the residence.
- The TFWH can be used to house *temporary farm workers* employed on other *farm operations* provided a *statutory declaration* is filed with the local government describing the terms of the arrangement and there is a written agreement between the *farm operations*^f. This applies to workers registered with the SAWP program only and is subject to prior approval by HRSDC and the host country. The workers must be employed at least part of the year on the farm with the TFWH.
- A sample restrictive covenant and statutory declaration are located in Appendix D.

8. Financial Guarantee for Building Removal or Decommissioning

- A deposit sufficient to either remove new *TFWH* or decommission an *existing building^c* used for *TFWH* must be provided to the local government upon approval of the *TFWH* or
- The cost of removing new *TFWH* or decommissioning an *existing building^c* will be recovered by the local government through taxes applied to the property.

9. Other Considerations

- Workers living in the *TFWH* must be registered with a federal government temporary farm worker program^g.
- *TFWH* must meet the standards in the *BC Health Act*, the *BC Building Code* and the “Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC”. Inspections are required prior to initial occupancy (as per the above-noted guidelines), and annually thereafter. In addition, inspections of *TFWH* by a housing inspector are required when a complaint is filed by a temporary farm worker to their consulate and the consulate notifies *WALI*.
- Local governments may want to consider developing a statutory declaration as per Section 905 of the *Local Government Act*. Please see Appendix C for further information.
- Local governments may wish to specify that *TFWH* can only be built on a parcel of land owned by the applicant.
- Although only on farm housing is covered in the scope of this criteria, alternative options for housing temporary farm workers is elaborated on in Appendix A. These options include consolidated housing, both on-farm and off-farm.
- Local governments or farmers may wish to request amenity space for workers (either indoor or outdoor). All types of housing should strive to minimize the building footprint and amenity space, and attempt to locate on lower capability ALR lands where appropriate.

Notes:

- In cases where these criteria do not fit a farmer’s needs, an appeal to the Board of Variance could be made. Use or density changes would require a rezoning application.
- Useable Floor Area:** The “Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC” notes the minimum floor area per person is 7.44 m² with a minimum of 8.5 m³ of air space per person in the sleeping area. The floor area in washrooms, laundry rooms, mechanical rooms and storage rooms is not considered useable living area and is not included in the calculation of useable floor area.
- Existing Building:** Buildings that already exist on the farm may be used for *TFWH* provided they comply with the applicable *TFWH* criteria. Existing buildings must have a building permit application or final inspection in place at least two years in advance before applying for conversion. If the existing building exceeds the maximum allowable floor area per worker or per farm unit, the excess area must be made inaccessible to the workers. If existing buildings are outside of the declared home plate area they become legally non-conforming [Section 911 (1) of the *Local Government Act*]. The property owner may apply for a development variance permit to include these buildings in the home plate. Note: If 75% or more of a non-conforming building’s value above its foundations is damaged or destroyed, it must not be repaired or reconstructed except for a conforming use in the bylaw [Section 911 (8)].
- Home Plate:** The concept of a farm home plate restricts houses, including farm houses, and the accessory residential uses such as lawns, swimming pools, tennis courts, garages for personal vehicles to a specified maximum size. The home plate is also limited on a lot by restricting how far the home plate can be located from a road frontage that provides access to the lot. The average home plate size in adopted or draft local government home plate bylaws is approximately 0.4 ha (1 acre); the maximum depth of the home plate from the road ranges from 30 m to 60 m. Home plate standards are currently under development by BCMAL.
- Restrictive Covenant:** Limits use of the *TFWH* housing to the terms stipulated by the local government, such as dates of occupation, financial security to remove buildings, and agreement to remove the *TFWH* when it is no longer being used. A restrictive covenant is registered on the title of the property in favour of the local government in perpetuity (or until the local government removes it).

- f. Multiple Farms Using a Single TFWH Unit:** Using new or existing buildings on agricultural land to provide TFWH for multiple farms rather than each farm having its own TFWH, will help to reduce fragmentation of agricultural land and reduce the residential impact of multiple farm worker housing.
- g. Government Temporary Farm Worker Program:** Any federal government program (e.g. SAWP and ORLLFT), that recruits temporary farm workers for a specified period of time. If farm operations in a specific community rely on domestic migrant farm labour (and not just foreign migrant farm workers), the local government may not want to include this requirement in their bylaw.

15. Discussion – pros and cons of the criteria

Criteria	Pros	Cons
Farm Class	<ul style="list-style-type: none"> Limits <i>TFWH</i> to bona fide farm operations Reduces risk that the housing is used for non-farm purposes Easy requirement for farm to meet 	<ul style="list-style-type: none"> This criterion alone is not adequate since many ‘farms’ are not large enough to warrant <i>TFWH</i>
4 ha minimum farm unit size	<ul style="list-style-type: none"> Reduces the overall density of housing Meets the needs of typical farm operations that would require <i>TFWH</i> 	<ul style="list-style-type: none"> Variable needs of farm operations may not be adequately addressed
400 m² maximum useable floor area for each building / all <i>TFWH</i> on a farm unit for criteria 3b)	<ul style="list-style-type: none"> Reduces loss and/or fragmentation of agricultural land by limiting the size of the <i>TFWH</i> structures Meets the needs of typical farm operations that would require <i>TFWH</i> 	<ul style="list-style-type: none"> There may be cases where this is too restrictive or too generous
10 m² max. useable floor area / person	<ul style="list-style-type: none"> Reduces the risk that the <i>TFWH</i> is used for rental or long term accommodation by non-farmers 	<ul style="list-style-type: none"> Style of accommodation is minimalist
Limits on maximum # of workers	<ul style="list-style-type: none"> Addresses current requirements of most farm operations Limits complement positive features of floor area limits 	<ul style="list-style-type: none"> May not meet future requirements for migrant workers
<i>TFWH</i> should be an existing building or a manufactured home	<ul style="list-style-type: none"> Can make use of existing structures and can reduce the occurrence of additional non-manufactured housing being built for <i>TFWH</i> Meets the needs of typical farm operations that would require <i>TFWH</i> 	<ul style="list-style-type: none"> Existing buildings may be difficult to adapt New, non-manufactured homes may be more durable
Home Plate	<ul style="list-style-type: none"> Reduces loss and/or fragmentation of agricultural land by keeping all residential uses clustered together 	<ul style="list-style-type: none"> May increase the need for variance. Possible privacy concerns
Maximum Setbacks	<ul style="list-style-type: none"> Reduces loss and fragmentation of farm land by keeping residential uses clustered together and close to an existing road or other access 	<ul style="list-style-type: none"> May increase the need for variance Some farmers may have privacy concerns
A statutory declaration to ensure building used only for <i>TFWH</i>	<ul style="list-style-type: none"> Provides an assurance that the landowner complies with the zoning and the terms of the restrictive covenant, and that the <i>TFWH</i> housing is being maintained and occupied appropriately Enables local government to track the use of <i>TFWH</i> and facilitates their ability to seek a court injunction against the landowner if s/he is in breach of the statutory declaration Reduces the risk that the <i>TFWH</i> will be used for permanent accommodation and/or converted to non-farm housing 	<ul style="list-style-type: none"> Uncertainty with regard to effectiveness and enforceability of statutory declarations

Criteria	Pros	Cons
Remove/decommission TFWH if not used by temporary farm workers for 2 consecutive years	<ul style="list-style-type: none"> Reduces the risk that the <i>TFWH</i> will be used for permanent accommodation and/or converted to non-farm housing 	<ul style="list-style-type: none"> Possible enforcement issue Decommissioning may limit the building for other legitimate farm uses
TFWH offered by other farm operations	<ul style="list-style-type: none"> Reduces loss and/or fragmentation of agricultural land by clustering <i>TFWH</i> on a single farm operation 	<ul style="list-style-type: none"> Potential for large housing footprint A single parcel may be impacted by a large number of workers
A deposit to remove or decommission TFWH	<ul style="list-style-type: none"> Enables the local government to remove manufactured homes if the landowner refuses to remove the <i>TFWH</i> when it is no longer needed Enables the local government to disconnect hydro/water from an existing building when the <i>TFWH</i> is no longer needed if the landowner refuses to do so 	<ul style="list-style-type: none"> Upfront costs impact farmer and eats into line of credit - option for taxes applied to the property should be considered
Workers must be registered with a government temporary farm worker program	<ul style="list-style-type: none"> Reduces the risk that the <i>TFWH</i> will be used for non-farm purposes 	<ul style="list-style-type: none"> Precludes domestic seasonal farm workers (e.g. Quebecois farm workers); in the interim, these standards could be adapted for housing for domestic seasonal workers
All TFWH meet the standards in the Health Act, BC Building Code and “Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC”	<ul style="list-style-type: none"> Ensures that the housing meets provincial and industry standards Meets the needs of typical farm operations that would require <i>TFWH</i> 	

Part 5 - Domestic Farm Worker Housing – Criteria – to be completed.

Appendix A – Alternative Options for Housing Farm Workers

While setting standards for off-farm housing is outside the jurisdiction of the BC Ministry of Agriculture and Lands, farm operators are encouraged to consider off-farm accommodation options prior to developing on-farm accommodation. The first step for farmers and local government considering TFWH should be to examine whether off-farm housing is a feasible option.

Some suggestions for off-farm housing include:

- Renting a home for workers;
- Buying a home for workers;
- Renting rooms in a motel or hotel;
- Working with partners to build permanent off-farm housing; and
- Working with partners to buy or rent off-farm consolidated housing.

It is worth noting that the District of Summerland’s draft Agricultural Plan recommends that consideration be given to identifying land within the District for establishment of seasonal farm labour accommodation in order to alleviate the seasonal labour shortage problem and to mitigate potential conflicts. While the Summerland Plan implies that off-farm housing would involve new building construction, the same approach could be used with existing buildings (e.g. motel, house). Farmers and/or farm organizations may want to consider working together to rent or buy existing off-farm housing.

Some of the benefits of off-farm consolidated housing include:

- No loss of agricultural land;
- Increased opportunity to use existing infrastructure (e.g. water, sewer, roads);
- No increase in ‘residential’ use of agricultural land;
- Opportunity to develop partnerships and cost share (e.g. local government, low income housing advocates, farm organizations);
- Potentially more cost-efficient (e.g. if the cost of the housing is shared with partners);
- Increased access to urban amenities for foreign workers (e.g. recreation, shops);
- Improved opportunities for foreign workers to socialize; and
- Improved opportunities to train foreign workers (re: safety procedures, ESL).

As noted earlier, however, there are drawbacks to off-site housing including challenges to working collaboratively with local governments, availability and cost of suitable building sites or existing accommodation, and transportation costs. Despite the drawbacks, there could be opportunity for the farm community to work together with their local government to develop the option that best suits their needs.

Appendix B – Definitions (from BCMAL ‘Guide for Bylaw Development in Farming Areas’)

Building	means any structure, wholly or partially enclosed by a roof or roofs, supported by walls, columns, or posts.
Farm Building	means any building which is used in a <i>farm operation</i> .
Farm Business	means a business in which one or more <i>farm operations</i> are conducted, and includes a farm education or farm research institution to the extent that the institution conducts one or more <i>farm operations</i> .
Farm Operation	<p>as defined under the “Farm Practices Protection (Right to Farm) Act” means any of the following activities involved in carrying on a farm business:</p> <ul style="list-style-type: none"> (a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals; (b) clearing, draining, irrigating or cultivating land; (c) using farm machinery, equipment, devices, materials, and structures; (d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying; (e) conducting any other agricultural activity on, in or over agricultural land; and includes (f) intensively cultivating in plantations, any <ul style="list-style-type: none"> (i) specialty wood crops, or (ii) specialty fibre crops prescribed by the minister; (g) conducting turf production in an agricultural land reserve with the approval under the Agricultural Land Commission Act of the Provincial Agricultural Land Commission; (h) aquaculture as defined in the Fisheries Act when carried on by a person licensed, under part 3 of that Act, to carry on the business of aquaculture; (i) raising or keeping game, within the meaning of the Game Farm Act, by a person licensed to do so under that Act; (j) raising or keeping fur bearing animals, within the meaning of the Fur Farm Act, by a person licensed to do so under that Act; (k) processing or direct marketing by a farmer of one or both of <ul style="list-style-type: none"> (i) the products of a farm owned or operated by the farmer, and (ii) within limits prescribed by the minister, of products not of that farm, to the extent that the processing or marketing of those products is conducted on the farmer's farm; <p>but does not include</p> <ul style="list-style-type: none"> (l) an activity, other than grazing or hay cutting, if the activity constitutes a forest practice as defined in the Forest Practices Code of British Columbia Act; (m) breeding pets or operating a kennel; (n) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by the minister.
Farm Unit	means an area of land used for a <i>farm operation</i> consisting of one or more contiguous or non-contiguous lots, that may be owned, rented or leased, which form and are managed as a single farm.
Lot	means a parcel of land registered in the Land Title Office. (Adapted from City of Abbotsford Zoning Bylaw)
On Farm Composting	means composting of agricultural waste or raw materials, which may include manure, straw, vegetative waste, woodwaste, ground paper, other sources of carbon and nitrogen, and bulking agents, on the <i>farm unit</i> to generate finished compost where:

- 100% of the raw materials or agricultural wastes used for composting originate off the *farm unit* and the finished compost is used on that *farm unit*; or
- more than 50% of the raw materials or agricultural wastes used for composting originate on the *farm unit* and the finished compost is either used on that *farm unit* or distributed or sold off the *farm unit*; or
- less than 50% of the raw materials or agricultural wastes used for composting originate on the *farm unit* and more than 50% of the finished compost is used on that *farm unit*.

On Farm Processing

means the undertaking of processes, including mixing, drying, canning, size reduction, fermentation, heat treatments, cold treatments, chemical treatments, and biological treatments on a *farm unit* to (1) prepare farm products or value-added products to sell, or (2) prepare feed for livestock, poultry, farmed game, or fur bearing animals located on the farm, but excludes *on-farm composting*, *on-farm product preparation*, and *on-farm soilless medium production*.

On Farm Product Preparation

means cleaning, sorting, separating, grading, or packing farm products on a *farm unit*.

On Farm Soilless Medium Production

means the production of soilless medium on a farm unit, where:

- 100% of the raw materials used for soilless medium production originate off the farm unit and the finished medium is used on that farm unit; or
- more than 50% of the raw materials used for soilless medium production originate on the farm unit and the finished medium is either used on that farm unit or distributed or sold off the farm unit; or
- less than 50% of the raw materials used for soilless medium production originate on the farm unit and more than 50% of the finished medium is used on that farm unit.

Appendix C – Statutory Declaration

Local governments may want to consider entering into a statutory declaration with farmers who apply to have Temporary Farm Worker Housing. Section 905 of the *Local Government Act* allows a local government by bylaw to enter into a statutory declaration that sets out the terms and conditions agreed to by the local government for the establishment of special needs housing. 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 statutory declaration could be included as a Schedule in a local government zoning bylaw. The agreement can set out the terms and conditions of the local government's approval and may include such items as:

- The number of TFWH units;
- The location of the TFWH;
- Type and number of occupants;
- Time occupancy restrictions;
- Building removal and land restoration requirements; and
- Annual inspection requirements.

Appendix D – Sample Restrictive Covenant and Statutory Declaration^a

THIS AGREEMENT dated for reference _____, is

BETWEEN:

("Owner")

AND:

("Municipality")

GIVEN THAT:

- A. The Municipality may, pursuant to Section 905 of the *Local Government Act*, enter into a statutory declaration with an owner of land that includes terms and conditions regarding the occupancy of dwelling units located on the lands of the Owner;
- B. The Owner is the registered owner in fee simple of land in the (Municipality) legally described as [insert address]_ (the "Land") which land is within the Agricultural Land Reserve;
- C. The *Agricultural Land Commission Act* prohibits the Municipality from approving more than one residence on a parcel of land in the Agricultural Land Reserve unless the additional residences are necessary for farm use; and
- D. The zoning bylaw of the Municipality permits the use of the Land for temporary farm worker housing if the Owner enters into a statutory declaration; and
- E. The Owner has represented to the Municipality that the residential uses permitted under this Agreement are necessary for the farm use of the Land, and has requested the Municipality to permit the development of the Land for temporary farm worker housing, in exchange for covenants of the Transferor to be contained in a statutory declaration and registered against title to the Land under s.219 of the *Land Title Act*;

This Agreement is evidence that in consideration of \$__ paid by the Municipality to the Owner (the receipt of which is acknowledged by the Owner), the Owner covenants and agrees with the Municipality, in accordance with section 905 of the *Local Government Act* and Section 219 of the *Land Title Act*, as follows:

1. Interpretation

In this Agreement, the following words and terms have the following meanings:

"*temporary farm worker housing*" (TFWH) means accommodation that is used solely for the purpose of providing cooking, sanitary, and sleeping facilities to temporarily house *temporary farm worker(s)* on a farm operation as necessary for the agricultural labour needs of a *farm operation* or other farms, if permitted.

“*temporary farm worker*” means an individual or individuals who carry out agricultural work on a temporary, seasonal basis on a farm operation and are registered with a Canadian federal government temporary worker program.

“*farm unit*” means an area of land used for a farm operation consisting of one or more contiguous or non-contiguous lots, that may be owned, rented or leased, which form and are managed as a single farm.

2. Use of Temporary Farm Worker Housing (TFWH)

- a) The Owner covenants and agrees that:
- i) not more than __ TFWHs shall be constructed or occupied on the Land;
 - ii) no building on the Land constructed for TFWHs shall be occupied by more than 40 persons;
 - iii) every TFWH on the Land shall be occupied only by a temporary farm worker;
 - iv) no TFWH on the Land shall be occupied by any person unless the Land is assessed as a “farm” under the *Assessment Act*, according to the most recent records of the B.C. Assessment Authority;
 - v) the Owner must make reasonable efforts to ensure that every building on the Land constructed for TFWHs is inspected at least once per year, before December 31st of any given year, by a qualified inspector.
- b) For certainty, the Owner must not permit any TFWH on the Land to be occupied for any tourist accommodation or bed and breakfast use, or for any residential occupancy other than the occupancy of a temporary farm worker;
- c) The Owner must provide to the Municipality annually, a statutory declaration in the form attached as Schedule A, containing all of the information indicated in the declaration.

3. Specific Performance

The Owner agrees that the Municipality is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement. The Owner agrees that this is reasonable given the public interest in restricting the occupancy of the Land in accordance with this Agreement.

4. Notice of Statutory Declaration

The Owner acknowledges and agrees that:

- a) this Agreement constitutes both a covenant under section 219 of the *Land Title Act* and a statutory declaration entered into under section 905 of the *Local Government Act*;
- b) the Municipality is required to file a notice of statutory declaration in the Land Title Office against title to the Land; and
- c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.

5. Removal or conversion of TFWHs

- a) The Owner covenants to remove from the Land any building containing any TFWH, or convert such building to the satisfaction of the building official of the Municipality so that it contains no TFWHs, to the extent that the TFWHs are no longer necessary for farm use of the Land, and in the event that any of the conditions precedent to the use of the Land for TFWHs under the bylaws of the Municipality are no longer satisfied.
- b) (b) As security for the performance of the Owner's obligations under subsection (a), the Owner has provided to the Municipality security in the amount of \$_____, which security may be retained by the Municipality and applied by the Municipality to the cost of performing the Owner's obligations on default of the Owner, following ten days' written notice to comply from the Municipality, and the Owner irrevocably invites the Municipality onto the Lands for the purpose of performing the Owner's obligations under subsection (a).

The Municipality must return the security to the Owner when the Owner has performed its obligations under subsection (a), and must return any unused portion of the security if the Municipality has performed the Owner's obligations on default. If the security is insufficient to reimburse the Municipality's costs of performing the Owner's obligations on default, the Owner must pay the shortfall to the Municipality on demand and the Municipality may recover any unpaid amount as a contract debt.

6. No Effect On Laws or Powers

This Agreement does not:

- a) affect or limit the discretion, rights, duties or powers of the Municipality under any enactment or at common law, including in relation to the use or subdivision of the Land;
- b) impose on the Municipality any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- c) affect or limit any enactment relating to the use or subdivision of the Land; or
- d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

7. Notice

Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

8. Covenant Runs With the Land

Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the Municipality in accordance with section 219 of the *Land Title Act* in respect of the Land and this Agreement burdens the Land and runs with it

and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

9. Limitation on Owner's Obligations

The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

10. Waiver

An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

11. Further Acts

The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

12. Severance

If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

13. No Other Agreements

This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

14. Amendment

This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the Municipality.

15. Enurement

This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "Municipality" is a reference also to the elected and appointed officials, employees and agents of the Municipality.

16. Deed and Contract

By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

SCHEDULE "A"

IN THE MATTER OF A STATUTORY DECLARATION with
 the
 CANADA)
 [Municipality] dated _____, 20__ ("Statutory Declaration")
 PROVINCE OF BRITISH COLUMBIA)
)

I, [insert name], of [insert civic address of Farm Land, [Municipality], British Columbia, do solemnly declare that:

1. I am the Registered Owner of the land legally described as [insert legal description] (the "Farm Land") and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Statutory declaration in respect of the Farm Land.
3. The Farm Land is assessed as "farm land" under the *Assessment Act*.
4. Between the dates of _____ and _____ the temporary farm worker housing will be occupied by [insert number] temporary farm workers recruited through a federal government temporary farm worker program.
5. The Temporary Farm Worker Housing has been inspected by a qualified inspector within the last 12 months and a copy of the inspection report is attached.
6. A copy of the department of Human Resources and Social Development Canada letter of agreement listing the number of workers the farm is approved for is attached.
7. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

SWORN BEFORE ME at _____, in the)
 Province of British Columbia, this ___ day of)
 _____, 20__)
 _____)
) Signature of person making declaration
 _____)
 A Commissioner for Taking Affidavits for British Columbia)

END OF DOCUMENT

Note:

a. adapted from the District of Pitt Meadows Section 219 Covenant and Housing Agreement

Resources

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