

COUNCIL POLICY

NAME:	TEMPORARY FARM WORKER HOUSING POLICY		
ISSUED:	November 21, 2022	INDEX REFERENCE:	
AMENDED:		COUNCIL REFERENCE:	21/CW

1) PURPOSE AND CONTEXT

1.1 Purpose

To provide guidance on appropriate sites and conditions where temporary farm worker housing would be supported through a Temporary Use Permit (TUP), and outline parameters for their operation.

The Temporary Farm Worker Housing Policy (TFWH Policy) aims to address the labour requirements of the agriculture industry while protecting the agricultural land base from increased non-farm use.

1.2 Context

While not all properties in the District of Saanich under consideration are in the Agricultural Land Reserve (ALR), Saanich's TFWH Policy aligns with the *Agricultural Land Commission Act (ALCA)* requirements to maintain consistency.

The District of Saanich's TFWH Policy covers A-Zoned properties that have Farm status with BC Assessment and adhere to the Minister's Bylaw Standards for Temporary Farm Worker Housing and the ALC's Non-Adhering Residential Use Applications Policy.

Additional information on related regulations can be found in Appendix 1.

2) APPLICATION OF TEMPORARY USE PERMIT

In the District of Saanich, Temporary Farm Worker Housing applications will be evaluated on a case-by-case basis through a Temporary Use Permit (TUP) process. TUPs can be established for a period of up to three years, with the possibility of extension for a further three years.

The owner of land in respect of which a TUP for Temporary Farm Worker Housing has been issued may put the land in question to the use described in the TUP until:

- Such time as the principal use of the lot ceases to be agriculture, for example by the loss of Farm status; or
- The date that the TUP expires; or
- Three years after the TUP was issued, whichever occurs first.

Should applications not align with Agricultural Land Commission (ALC) regulations, approval from the ALC would be required in addition to municipal approval.

3) ELIGIBLE PROPERTIES

3.1 Basic Eligibility

To be eligible for a Temporary Use Permit, properties must meet the following criteria:

- All or part of the parcel on which the TFWH will be located is in A-Zones.
- All or part of the parcel on which the TFWH will be located is classified as a 'Farm' under the *BC Assessment Act*. A copy of the farm's BC Assessment notice will be required with the application.
- There is demonstrated need for Temporary Farm Worker Housing (see 3.2 below)

3.2 Demonstrated Need for Temporary Farm Worker Housing

The applicant must demonstrate the need for temporary farmer worker housing based on agricultural operations.

The need for temporary farm worker housing onsite to house farm workers must be demonstrated through documentation such as a contract with the federal government through a migrant worker program, such as the Seasonal Agricultural Worker Program, farm receipts and/or previous employment records, and/or a farm plan prepared by a Professional Agrologist.

Consideration of residential uses are based on the current level of agriculture on the property (e.g., intensive agricultural operations), the number of people involved in agriculture on the property (i.e., most, or all of the people in the residences involved with agriculture on the property), and minimizing the loss of arable land (i.e., size and siting of residence).

The following criteria will be the primary considerations in the evaluation of applications for temporary farm worker housing in the District of Saanich:

- The minimum size of the farm operation on which the TFWH can be located is 4 ha. Consideration may be given to smaller farms in limited circumstances, if the need for farm worker accommodation, as well as an overall net benefit for farming is demonstrated.
- The TFWH must not negatively impact other farms or neighbouring properties.
- An applicant must demonstrate that the scale and intensity of the farm operation has exceeded the labour capacity of the owner/residents. (*Employers who are approved for farm workers under the Canadian Seasonal Agricultural Worker Program (SAWP) have already been assessed for farm business legitimacy and employment need as part of the application process. In alignment with the ALC, determination of an application for TFWH that is registered in the SAWP will be already determined to have legitimacy and need.*)

4) INFORMATION REQUIRED WITH APPLICATION

Applications for temporary farm worker housing should include an appropriate level of information to aid the District of Saanich (and the ALC - where appropriate) in deciding.

The following is a list of information that would typically be submitted with an application:

- Size (ha) of the current farming operation (including leased lands).

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- Type(s) and amount of commodity(ies) produced on the property.
 - Description and number of current farm labourers with details of roles and responsibilities.
 - Rationale for additional farm labour requirements based on the applicant's agricultural operation or commodity.
 - Proposed number of temporary farm workers to reside in the additional residence.
 - Proposed length of occupancy of temporary farm workers. Include date ranges, if applicable.
 - Include expected work hours (part-time or full-time)
 - Details of the proposed residence;
 - Size of residence and total residential footprint;
 - Foundation type;
 - Site map; and
 - Associated infrastructure requirements.
 - Farm plan or farm business plan (support future expansion, if applicable).
 - Professional reports (e.g., report by a Professional Agrologist, geotechnical report).
 - Farm succession plan, if applicable.
 - Expense receipts demonstrating equipment, start-up, or infrastructure costs.
 - Lease agreements for other properties associated with the farm operation.
 - Farm quota records.

4.1 Option of Requiring a Security Deposit

On a case by case basis, the District of Saanich may require a security deposit as a condition of the permit. In this instance, the owner would provide a guarantee to demolish the building after the TUP expires. In the TFWH application: the applicant would be required to provide a plan for decommissioning the TFWH along with the security deposit.

5) PARAMETERS FOR CONSTRUCTION AND SITING

The District of Saanich Zoning Bylaw 2003, identifies parameters for the siting and construction of buildings in A Zones. It is expected that conditions in the TUP would align with these zoning requirements.

In addition to zoning requirements, the following construction and siting criteria will be applied in the District of Saanich's review of applications for Temporary Farm Worker Housing in A-Zones:

- i. Siting and placement of the TFWH must minimize the residential impacts on agricultural land taking into consideration topography, agricultural capability, access, and encouraging the clustering of residential structures.
- ii. The total farm residential footprint, meaning the portion of a property used for the principal residence, the additional residence(s), and the accessory residential facilities (e.g., yard, driveway, servicing, etc.), should maintain a viable agricultural remainder and should not unnecessarily infringe upon the productive farming area of the property. The following parameters will inform the District of Saanich's consideration of the appropriate total farm residential footprint:
 - Existing Footprints: The clustering of a residence with other existing non-agricultural uses on the property to limit the fragmentation of agricultural land and avoid the restriction of agricultural activities.

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- **Commodity-Specific Needs:** The strategic placement of a residence to benefit or optimize the agricultural operation (e.g., monitoring of livestock on a large property).
 - **Topographic Features:** Siting of a residence as appropriate to reduce the use of potentially productive farming land for residential purposes (e.g., sited on a non-farmable area of the property).
 - iii. The dwelling must adhere to the BC Seasonal Agricultural Worker Program “Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC” and to the BC Building Code for residential use, as they may change from time to time. The current British Columbia Building Code applies to all new construction and renovations or additions to existing buildings. It is the owner’s responsibility to ensure that such construction is in compliance with the BC Building Code, Fire Code, and Plumbing Code.

5.1 On or Offsite options

The TFWH can be used to house temporary farm workers employed on other farm operations provided a statutory declaration is filed with the District of Saanich describing the terms of the arrangement and there is a written agreement between the farm operations. This applies to workers registered with the Seasonal Agriculture Worker Program (SAWP) only and is subject to prior approval by Human Resource and Skills Development Canada (HRSDC) and the host country. The workers must be employed at least part of the year on the farm with the TFWH.

APPENDIX 1: RELATED REGULATIONS

The District of Saanich's temporary farm worker housing policy was developed in adherence with the *Local Government Act*, the Ministry of Agriculture, Food & Fisheries' "*Minister's Bylaw Standards for Temporary Farm Worker Housing*" and the *Agricultural Land Commission Act* and relevant regulations and policies.

Section 551 of the *Local Government Act* provides authority to the Minister of Agriculture, Food & Fisheries (MAFF) to establish agricultural standards for the guidance of local government in the preparation of various bylaws affecting agriculture.

The ALC's Non-Adhering Residential Use Applications Policy (Policy L-26) outlines general guidelines for the ALC's consideration of NARU applications which includes applications for temporary farm worker housing, and other housing for farm labour. The NARU identifies certain designated farm uses and permitted non-farm uses that local governments must not prohibit but places no limitation on local government powers to prohibit or otherwise restrict residential uses of ALR land.

As well, effective December 31, 2021, the Agricultural Land Reserve Use Regulation (B.C. Reg. 30/2019) has been amended to provide more flexibility with regards to additional residences in the ALR.

The additional residence can be used for housing extended family, agri-tourism accommodation, housing for farm labour or a rental property for supplemental income. There is no longer a requirement that additional residences must be used by the landowner or immediate family members. The dwelling may be used for many purposes including long or short term rentals, family, and farm help.

Examples of flexible housing options permitted under the regulation include, but are not limited to:

- garden suites, guest houses or carriage suites;
- accommodation above an existing building;
- manufactured homes; and
- permitting a principal residence to be constructed in addition to a manufactured home (size must meet 90/186 m² regulation) that was formerly a principal residence.

The size of a small secondary residence will depend on the size of the land parcel and the existing home.

- On parcels 40 ha or smaller, if the existing residence is 500m² (approximately 5,400 ft²) or less, a second residence of 90 m² (approximately 970 ft²) or less can be built.
 - If the existing residence is larger than 500 m², then a small secondary residence for non-farm use would not be permitted. However, farmers can still apply to the ALC for an additional residence for farm use.
- On parcels larger than 40 ha, a second residence 186 m² (approximately 2,000 ft²) or less is permitted, no matter the size of the first residence.
- Landowners who had previously invested in a secondary manufactured home on their land have until Dec. 31, 2021, to ensure appropriate permits and authorizations are in place.

- Filing a notice of intent for soil/fill use to the ALC for the additional residence continues to be a requirement.
- In circumstances where there are no residences on an ALR parcel, two residences are allowed as described without having to make an application to the ALC.

If the land is in the ALR:**Inspections**

- 49** (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:
- (a) enter any land, other than a dwelling house;
 - (b) make any surveys, analyses, inspections, examinations or soil tests that are necessary to determine any of the following:
 - (i) the current use of the land;
 - (ii) the suitability of the land for farm use;
 - (iii) the potential effects that the proposed changes to the use of the land may have on agricultural land;
 - (c) remove soil samples for the purposes of conducting the analyses and tests referred to in paragraph (b);
 - (d) make any inspection of records, things or activities reasonably related to the purpose of the inspection;
 - (e) make copies of any records or documents reasonably related to the purpose of the inspection;
 - (f) make an order requiring a person to produce for the member or official a record or thing in the person's possession or control.
- (2) A person who hinders, obstructs, impedes or otherwise interferes with a person exercising a power under subsection (1) commits an offence.
- (3) If a member of the commission or an official exercises a power under subsection (1), the commission may order the person in respect of whom the power was exercised to pay to the commission fees related to the exercise of the power, as prescribed in the regulations.

Stop Work Order

- 50** If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations, the official, in accordance with the regulations, may order that
- (a) the contravention cease,
 - (b) the contravention cease to the extent specified by the order, or
 - (c) the person not take any action that would result in a contravention.

Determinations and remediation orders

- 52** (1) If the chief executive officer determines that a person has contravened this Act, the regulations or an order of the commission, the chief executive officer, in accordance with the regulations, may order the person to remedy the contravention by
- (a) carrying out a requirement of this Act or the regulations that the person has failed to carry out, or
 - (b) repairing or mitigating damage caused to agricultural land by the contravention,

including the removal of buildings or structures.

- (2) If a person fails to comply with an order under subsection (1), the chief executive officer, in accordance with the regulations, may do one or more of the following:
 - (a) in a written notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
 - (b) require the person to provide the security that the chief executive officer considers necessary and realize on that security;
 - (c) carry out all necessary work.
- (3) A person referred to in subsection (2) is liable to the commission for costs incurred by the commission under this section.

Ministry of Agriculture, Food and Fisheries - Inspections by the Compliance and TFW Team

The Inter-Agency Agriculture Compliance Committee is a group of organizations that work together to protect the rights and safety of workers in the agriculture industry (Ministry of Labour - Employment Standards Branch, WorkSafeBC, the Ministry of Transportation - Commercial Vehicle Safety and Enforcement, the Ministry of Agriculture and Lands and the BC Agriculture Council on behalf of its Member Organizations). The committee focuses on education, prevention and enforcement.

The Compliance and TFW Team from the Employment Standards Branch is part of the inter-agency committee. Their role is to make sure that farm owners/producers and farm labour contractors follow the rules in the Employment Standards Act.

The team inspects vehicles used by farm labour contractors to transport workers and visits farms where work is being done. During farm visits, they observe operations, interview workers, review records and talk to farm labour contractors and the owner/producer. Visits are not scheduled. Refusing to allow the team to visit could result in being fined \$500 to \$10,000.

Inspections must be completed by BC Home Inspectors certified by and be in good standing with the province of BC (Consumer Protection BC).

Inspectors (the actual individual physically inspecting the premises) must be registered with the BC Agriculture Council (BCAC) or its designate.

Servicing of Temporary Housing

Applicants must refer to the BC Ministry of Agriculture, Food & Fisheries' "Minister's Bylaw Standards for Temporary Farm Worker Housing" for criteria that must be met for servicing of temporary housing. The bylaw standards provide guidance on:

- Structure.
- Construction.
- Sleeping facilities.
- Washroom facilities and sewage disposal.
- Occupancy calculation.
- Laundry facilities.

- Water supply.
- Food.
- garbage control.
- Safety.