



# **Boarding House Study**

## **The Municipality of Leamington**

**April 2018**

**Prepared By: The Jones Consulting Group Ltd.**



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## 1.0 Introduction

The Municipality of Leamington has initiated a Boarding House Study to understand where and how boarding houses are being utilized in the Municipality and the potential impacts, if any, that units of this type have on the Municipality. Throughout the Municipality, a number of housing units have been established to satisfy the housing needs of foreign agricultural workers that are employed at existing agricultural operations. These unplanned and partially undocumented occupancies have resulted in health and safety concerns to the occupants and an increased use of Municipal services.

## 2.0 Purpose & Methodology

The purpose of this Study is to summarize the findings of our planning analysis of boarding houses and on and off-farm accommodation in the Municipality which may lead to changes in land use policies in the Official Plan along with regulatory (Zoning By-law) and procedural and licensing changes. This Study will also identify implementation tools available to the Municipality and provide recommendations on an approach to regulating boarding houses.

### 2.1 Council Motion & Interim Control By-law

The Municipality has become aware that single detached dwelling units were being improperly converted to boarding houses without a change of use permit issued under the Building Code Act and in contravention of the Zoning By-law. The Municipality was concerned that these conversions left residents vulnerable to injury or death in the event of fire, and they needed to address the fact that boarding houses were not permitted by the Zoning By-law, particularly because the Building Code Act requires that the Chief Building Official ensure compliance with Section 34 of the Planning Act prior to the issuance of a permit. In response, Council received Staff Report PLA-47-16 (refer to Appendix 1) and Council adopted motion C-374-16 (on November 21, 2016) which stated as follows:

1. Pursuant to Section 38 of the Planning Act, Council enact an Interim Control By-law for a period of one year prohibiting the use of land, structures and buildings for the establishment of Boarding, Lodging and Rooming Houses within the Municipality during the study of land use policies and regulations as part of the 5 year review of the Official Plan.
2. Council direct that a study be undertaken with a view to:
  - a) Identify the need for affordable housing within Leamington and how that is best accommodated through intensification and growth;
  - b) Identify areas in the municipality that can appropriately accommodate increased density based on:
    - i) Capacity of municipal services.
    - ii) Access to amenities, recreational opportunities, transit routes and commercial and social services.
    - iii) The density, form and compatibility of adjacent existing development.

- c) Establish regulatory controls to be implemented within the Zoning By-law framework, including establishing a definition of ‘boarding, lodging and rooming house’.
  - d) Ensure that the definition is consistent with the definitions and regulations of the Ontario Building Code Act and the Fire Protection and Prevention Act.
  - e) Establish Leamington specific minimum standards for boarding houses such as the number of washroom facilities, minimum and maximum number of rooms, available common space, etc.
  - f) Provide tools to establish a licensing system to ensure the proper management and conversion of existing dwellings for use as boarding houses; and
3. Interim Control By-law 78-16 be approved at the Monday, November 21, 2016 Council meeting (Report PLA-47-16). Authors note: Interim Control By-law 78-16 lapsed in November 2017. Appendix 2 contains By-law 78-16.

The concerns about the increasing conversion of single detached dwellings centered on ensuring that regulations are put into effect to adequately address the safety of the occupants, ensuring that these uses are consistent with the Official Plan and Zoning By-law permissions, and that they are appropriately located within the capacity of available services.

## 2.2 Boarding House Terms of Reference

Subsequent to the passing of Council motion C-374-16 and adoption of Interim Control By-law 78-16, Leamington staff negotiated the Terms of Reference for the preparation of a Boarding House Study with The Jones Consulting Group Ltd. and authorization to proceed was issued on July 21, 2017. The Terms of Reference for the Boarding House Study differed from Council’s motion and included the following:

As summarized in the following Sections, the Boarding House Study will consist of the following three phases:

### 1. Background Research and Analysis:

- a. Review the current state of boarding houses, Lodging and Rooming Houses in the Municipality:
  - i. The extent of the issue.
  - ii. Determine if there is a ‘real or perceived’ issue (i.e. noise, garbage, services, density)?
  - iii. Determine areas which have been impacted.
  - iv. Determine the number of people affected.
  - v. Review servicing and community facility impacts.
- b. Conduct a jurisdictional analysis (best practice review).

### 2. Public / Stakeholder Consultation:

- a. Conduct interviews with municipal staff.
- b. Conduct a Public Open House, Public Meeting and a Neighbourhood Audit.
- c. Summarize public and stakeholder consultation.

### **3. Planning Analysis & Recommendations:**

- a. Conduct a land use locational analysis.
- b. Review implementation tools under the Municipal Act, Planning Act, Ontario Building Code and Fire Protection and Prevention Act in order to provide a recommendation for the Municipality's approach to address and regulate the issue.
- c. Review Official Plan policy direction regarding intensification, growth and affordable housing. This component will provide recommendations to council to revise and adjust the Official Plan concurrently with this process to provide appropriate policies for implementation, in addition to recommendations for implementation by the Municipality.
- d. Establish Leamington specific minimum standards for boarding houses, Lodging and Rooming Houses. This component will be conducted as part of the Jurisdictional analysis, with a report to Council which provides recommendations for Council consideration.
- e. Prepare a draft Report and circulate to Staff review.

Sections 4 through 7 follow the terms of reference above, while Section 3 provides an overview of additional information necessary to understand this subject matter.

## **3.0 Overview**

This Section will provide an overview of the Municipality of Leamington, definitions, and foreign worker programs offered by the Government of Canada, to provide context to the study of boarding houses.

### **3.1 Municipality of Leamington**

The Municipality of Leamington is one of seven lower-tier municipalities in the County of Essex. According to the County Official Plan, Leamington has a land area of 26,440 hectares and according to the 2016 Census, has a population of 27,595 persons<sup>1</sup>, which has been projected by the County to grow to 33,490 persons by the year 2031.

The Municipality contains one Primary Settlement Area, which is the urban area of the Municipality, as well as several smaller Secondary Settlement Areas.

According to the County of Essex Agricultural Lot Size Study (January 2017)<sup>2</sup>, Essex County contains one of the largest greenhouse areas in Canada, with Leamington having the largest percentage of greenhouse areas in the County. The Lot Size Study also identified that over 1,219 agricultural parcels exist in Leamington, with field crops being the dominant type of farm operation. Lastly, the Lot Size Study used mapping provided by the Ontario Ministry of Agriculture Food and Rural Affairs to identify 243 greenhouse parcels in Leamington. The Municipality has further refined this number using their in-house GIS mapping to identify 131 greenhouse parcels.

The Municipality contains one of the largest greenhouse populations in Canada, and the growth of this type of agriculture has resulted in an increased need for year-round 'temporary' foreign

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<sup>1</sup>Statistics Canada, Census Profile, 2016.

<sup>2</sup>County of Essex Agricultural Lot Size Study, January 2017. The Jones Consulting Group Ltd. and AgPlan Limited.

workers. Housing for foreign workers occurs in purpose built on-farm buildings, in converted single detached dwellings in the agricultural and urban areas of Leamington, and in hotels/motels.

## 3.2 Definitions – What is a Boarding House?

A boarding house in very basic terms is a facility that provides affordable housing in a single detached dwelling, duplex, townhouse or apartment, where the occupancy of the residents are not a single tenancy.

### 3.2.1 Common Definition

Based on our review of many different municipal definitions, a boarding house, also known as a rooming house or lodging house, is commonly defined as a building in which the proprietor supplies lodging for hire or gain to other persons and may include meals but does not include a group home, hotel, motel, hospital, home for the young or aged, or bed and breakfast establishment. Various municipalities include a minimum and maximum number of occupants that could reside in the house. In many Municipalities throughout Ontario, the term boarding house is used synonymously with rooming and lodging houses. For the purposes of this Study the term Boarding House has been used.

The Zoning Trilogy<sup>3</sup> prepared as a resource for planners throughout Ontario provides zoning definitions that are commonly used by Municipalities in the preparation of their zoning by-law or various municipal by-laws. The Zoning Trilogy defines a Boarding House as *a dwelling in which the proprietor supplies, for a fee, sleeping accommodation with board for at least three persons and not more than ten persons exclusive of the proprietor, members of the proprietor's family and servants of the establishment but does not include a hostel.*

### 3.2.2 Municipality of Leamington Definition

The Municipality of Leamington currently defines a 'boarding house or lodging house or rooming house' in Zoning By-law 890-90 as follows:

*Shall mean any building or portion thereof in which the proprietor supplies for hire or gain to more than three (3) other persons, lodging, meals, or both but shall not include a hotel, hospital, group home dwellings, home for the young or the aged or institution if the hotel, hospital, home or institution is licensed, approved or supervised under any general or special Act.*

A boarding house is not permitted as of right in any zone in the Municipality, and no site specific amendments have been approved to permit same. If a person wishes to construct a boarding house a Zoning By-law Amendment would be required to allow for the use in a particular Zone.

The Municipality of Leamington Official Plan does not include a definition for a boarding house.

### 3.2.3 Ontario Building Code and Fire Code Definition

The Ontario Building Code<sup>4</sup> and Ontario Fire Code<sup>5</sup> define a boarding, lodging or rooming house as *a building (a) that has a building height not exceeding three storeys and a building area not exceeding 600 m<sup>2</sup>; (b) in which lodging is provided for more than four persons in return for*

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<sup>3</sup>The Zoning Trilogy: The Planner's Resource, 2003-2008, Robert Lehman

<sup>4</sup>Building Code, Ontario Regulation 332/12, 2012

<sup>5</sup>Fire Code, Ontario Regulation 213/07, 2007

remuneration or for the provision of services or for both; and (c) in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants. From our review it can be seen that some municipalities have chosen to include the definition from the Ontario Building Code exactly as it is written in their Zoning By-law.

### 3.2.4 Boarding House Characteristics

There are certain characteristics that typically differentiate a boarding house from other forms of accommodation. A boarding house will contain at least one shared facility such as a washroom or kitchen. In a boarding house each individual tenant rents a room from the landlord and pays rent individually to the landlord. Typically the renters living there are not related to the person operating the boarding house, although this is not always the case, and will often times not know each other prior to signing a lease. Doors to the bedrooms usually have externally keyed locks so that the rest of the occupants cannot gain access, therefore, besides the bedroom that the individual rents the only other part of the house where the person can gain access is the shared kitchen and/or washroom. On the contrary, a single housekeeping unit, or tenancy, operates where the tenants usually know each other well in advance of signing their lease and will enter a lease agreement together and pay their rent and bills as a group, there are no external keyed locks on any of the bedroom doors and the tenants have access to the entire house.

### 3.2.5 What is not a Boarding House?

A boarding house can be differentiated from a group home in that typically a group home is a licensed facility that provides supervised accommodation for unrelated individuals that require staff support whether that be emotionally and/or physically. The Municipality of Leamington Zoning By-law defines a Group Home as follows:

*Dwelling, Group Home, shall mean a dwelling that is licensed or funded under an act of the Parliament of Canada or the Province of Ontario for the accommodation of three (3) to ten (10) persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status require a group living arrangement for their well being. This does not include a nursing home, bed and breakfast, rooming house, boarding house, farm help dwelling, hotel or motel.*

For planning purposes, a boarding house also differs from temporary farm accommodation which is generally accommodation that is for the purpose of providing sleeping and cooking facilities to temporarily house workers on a farm operation as necessary for the agricultural labour needs of the farm operation. This is typically on a seasonal basis, although can be on a full-time basis, and is registered with a federal government program. The Provincial Policy Statement (PPS)<sup>6</sup> permits farm accommodation as an agricultural use on a full-time basis when the size and nature of the operation requires additional employment. Agricultural uses are permitted in all Prime Agricultural Areas. The County of Essex Official Plan identifies all areas located outside of settlement areas and Natural Heritage lands as Prime Agricultural areas.

The Municipality currently provides definitions in Zoning By-law 890-90 for a Farm Help Dwelling and a Dwelling Accessory to a Processing Plant. A Farm Help Dwelling is defined as *a dwelling that is used for the housing of on-site farm labour where the workers assists on the subject farm on a regular basis*. Farm Help Dwellings are permitted in most of the Agricultural zones. A Dwelling Accessory to a Processing Plant is defined as *a dwelling that is occupied by its*

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<sup>6</sup>Provincial Policy Statement, 2014, Section 6.0 Definitions

*employees during the tomato harvest season only and under no circumstances shall be occupied before July 1<sup>st</sup> or later than November 30<sup>th</sup> in any given year. A Dwelling Accessory to a Processing Plant is not permitted in any zone.*

### **3.3 Foreign Worker Program**

Based on our research the primary demand for boarding houses in Leamington is as a result of the need to supply housing for foreign agricultural workers. There are two programs offered by the Canadian Government that regulate the use of foreign nationals in the Canadian agricultural sector, including more than 3,350<sup>7</sup> temporary agricultural workers in the Municipality of Leamington. These programs include the Seasonal Agricultural Workers Program and the Agricultural Stream of the Temporary Foreign Workers Program for Occupations Requiring Lower Levels of Formal Training. Each program has specific rules governing employers and workers. These programs are briefly detailed in the following subsections.

#### **3.3.1 Seasonal Agricultural Workers Program (SAWP)**

The Canadian Seasonal Agricultural Workers Program (SAWP)<sup>8</sup> was established in 1966 and facilitates the supply of foreign workers to the agricultural sector in Canada for working periods of up to eight months. This program is administered by the Foreign Agricultural Resource Management Services, which is a non-profit organization representing the food growers industry.

Under the SAWP program, the country supplying the labour is responsible for recruiting the workers and are signatories to the worker's standard employment contracts.

The SAWP program participants are housed by, and at the cost of their employers. To be considered a seasonal agricultural worker under the SAWP program, the temporary foreign agricultural worker must work in occupations and activities related to primary agriculture which is defined as work that must:

- Be performed within the boundaries of a farm, nursery or greenhouse.
- Involve at least one activity, such as:
  - operation of agricultural machinery
  - boarding, care, breeding, sanitation or other handling of animals, other than fish, for the purpose of obtaining raw animal products for market
  - collection, handling and assessment of those raw products, or the planting, care, harvesting or preparation of crops, trees, sod or other plants for market
- Be consistent with certain National Occupational Classification codes.

Appendix 3 contains Seasonal Farm Worker Housing Guidelines prepared to assist local public health and other agencies in assessing housing for the SAWP program.

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<sup>7</sup>As recorded by the Municipality of Leamington in consultation with the Windsor Essex County Health Unit.

<sup>8</sup><https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>

### 3.3.2 Temporary Foreign Workers Program (TFW)

According to the Government of Canada website<sup>9</sup>, the Temporary Foreign Worker Program (TFWP) “allows Canadian employers to hire foreign nationals to fill temporary labour and skill shortages when qualified Canadian citizens or permanent residents are not available”.

In 2002 the Canadian Government allowed the agricultural industry to access the Temporary Foreign Workers Program for Occupations Requiring Lower Levels of Formal Training (TFW).

The key differences with the SAWP program detailed in Section 3.3.1 above, is that temporary foreign workers must pay for their own housing at a cost of \$30 per week increased annually by 1%. The \$30 housing cost does not necessarily cover the entire costs of housing. Other differences include that each employer prepares an employment contract with the worker, and workers can stay in Canada much longer, up to 24 months, with rehiring for another 24 months being possible after which they are not eligible to work in Canada for the subsequent four years.

## 4.0 Background Research & Analysis

The purpose of this Section is to summarize the background research undertaken to understand the extent of boarding houses and their impacts.

### 4.1 The Extent of Boarding Houses in Leamington

Boarding houses are often utilized across Ontario to address affordable housing, student housing, and employment housing.

The Municipality of Leamington is unique with its extensive amount of greenhouse operations and the need to operate those facilities that cannot be managed by local employees willing to enter into the field of agriculture. As a result, there are more than 3,350 foreign workers in the Municipality on a regular basis and this number is anticipated to rise correspondingly with the number of additional acres of greenhouse that are constructed.

The physical and geographic locations of boarding houses are specifically addressed in Section 6.1.

The Windsor Essex County Health Unit (WECHU) retains records of temporary foreign worker housing associated with foreign workers as part of the SAWP and TFW programs. These units are inspected prior to the greenhouse operator receiving approval for a foreign worker to enter Canada. Appendix 4 contains a copy of the Housing Inspection Report completed by WECHU. The Municipality does not permit or license boarding, lodging or rooming houses and no organized historical municipal records exist beyond the data provided by WECHU. As a result, only those temporary foreign worker dwellings identified by WECHU have been analyzed through this Study.

According to 2016 Statistics Canada data there are 9,990 dwelling units within the boundaries of the Municipality. Figure 1 outlines the housing stock identified within the Municipality of Leamington by Statistics Canada based on 2016 data. Of the total dwelling units, 6,900 units are privately owned and an additional 3,090 units<sup>10</sup> are rental housing.

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<sup>9</sup><https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/fact-sheet-temporary-foreign-worker-program.html>

<sup>10</sup>Statistics Canada, Census Profile, 2016

A total of 3,545 units are tenant households in non-farm, non-reserve private dwellings and 11 units are subsidized housing. Statistics Canada further breaks out the type of dwelling units as follows in Figure 1.

**Figure 1: Statistics Canada Dwelling Unit Types**

TYPE OF DWELLING UNIT	NUMBER OF DWELLING UNITS BY TYPE
Single detached dwelling units	6,560
Apartment in a building (5 or more storeys)	530
Other dwelling unit	2,885
<ul style="list-style-type: none"> <li>• Semi-detached dwelling units</li> </ul>	-865
<ul style="list-style-type: none"> <li>• Row House</li> </ul>	-750
<ul style="list-style-type: none"> <li>• Apartment or flat in a duplex</li> </ul>	-300
<ul style="list-style-type: none"> <li>• Apartment in a building (less than 5 storeys)</li> </ul>	-955
<ul style="list-style-type: none"> <li>• Other single attached house</li> </ul>	-10
Moveable dwelling unit	15
TOTAL	9,990*

*\*Adjusted for addition discrepancy on Statistics Canada website*

For reference purposes, 'other single attached dwelling' is a subtotal of the following categories: semi-detached house, row house, apartment or flat in a duplex, apartment in a building that has fewer than five storeys and other single attached house.

Statistics Canada does not define the number of Boarding Houses, Lodging Houses or Rooming Houses in the Municipality. However, based on information provided by the Municipality through records maintained by the WECHU we do know that there are 328 entries in the foreign worker housing registry. The entries do not always reflect individual properties, as there are sometimes separate entries for different buildings or different floors within the same building. We also know that a variety of building formats house foreign workers including hotel/motel rooms, apartments, on-farm bunkhouses, and most commonly, single detached dwelling units.

The Municipality of Leamington is also home to transitional housing in the form of fully furnished apartments maintained by ACCESS County Support Services. In addition, Leamington contains facilities that are funded by the County of Essex under the Provinces homelessness initiative "Housing with Supports". Examples include Erie Glen Manor, Leamington Lodge, New Beginnings and Senior Alternative Care.

## 4.2 The Nature of Boarding House Concerns

The Municipality identified at the outset of this project that an increasing number of single detached dwelling units were being converted into boarding houses, in contravention of, and as defined by, the Zoning By-law. Specific concerns raised related to the safety of the units, level of servicing use, character of the neighbourhood, and the lack of zoning to permit the units anywhere in the Municipality.

Illegal boarding houses have been used in Leamington to house foreign workers. As the population of foreign workers has increased additional housing stock has been utilized. Boarding

houses have also traditionally contributed to the supply of affordable housing units in a municipality. There are no organized historical records to quantify the number of concerns that relate directly to boarding houses. It should also be noted that there is no tracking mechanism which differentiates between boarding houses for individuals that are not involved in the greenhouse operations.

When a concern is made through the By-law Enforcement Department specifically about the existence of a boarding house, it would be entered into the 'Cityworks' system. Every entry would be logged and reviewed by the By-law Enforcement Manager prior to a By-law Enforcement Officer being dispatched. When a site visit is conducted, a representative from the Enforcement Office would be accompanied by the Fire Chief and Chief Building Official.

Based on the information provided by Staff in the By-law Enforcement Office, there have been no complaints about the existence of boarding houses since the passage or lapsing of the Interim Control By-law (ICBL). Staff further identified that prior to the ICBL's enactment, they could recall only one or two incidents related to potential boarding houses with complaints specifically centered on property standards.

Through public and stakeholder consultation, we were able to identify a number of themes that categorize the boarding house concerns. These themes are detailed in Section 5.0 of this report, and a summary of the main issues has been outlined below.

#### **4.2.1 Safety**

The primary safety concern is that residents are living in housing that has not been constructed as a boarding house in accordance with the Building Code Act. Additional safety concerns identified relate to increased traffic associated with busses that transport foreign workers to and from work. In addition, the increased bicycle traffic and unsafe use of the bicycles within vehicular traffic lanes was also identified. Safety concerns have also been identified for the inhabitants of the boarding houses who may be living in unsafe or unhygienic conditions. Stakeholders and members of the Public noted concerns related to the delivery of food to boarding houses that is delivered and left in the elements attracting animals and vermin.

#### **4.2.2 Social**

There are concerns from permanent residents that foreign workers have no true community hub or facility that supports their culture or provides a place for social activities on a regular basis. They work long hours and are often transported to the urban area of Leamington to restock their necessities and tend to congregate and socialize in the street. Permanent residents expressed opinions that congregation in the street leads to unsafe conditions for residents and may involve inappropriate comments from non-permanent residents to permanent residents walking by, particularly in the Uptown Commercial District.

The regulatory component discussed below further details the concerns related to unsafe living conditions and the humane treatment of individuals regardless of race and citizenship.

#### **4.2.3 Geographic**

Although not all boarding houses are identified by WECHU, the known locations have been evaluated. An increased number of workers are being housed in the urban area of Leamington within dwelling units converted from their original single detached dwelling units' origin. A number are also housed within hotels and apartments. Opinions have been expressed that the most appropriate location for boarding houses is on the farm operation for which the individual was

hired. The greenhouse operators in contrast state that they would like to locate their housing on-farm; however, the regulatory process associated with obtaining MOECC approval for private services is a timing and financial barrier.

#### 4.2.4 Regulatory

No regular inspections are undertaken by the Municipality. An initial inspection is conducted by the WECHU as required by the SAWP and TFW programs (refer to Section 3.3 of this Study). The inspection must be completed prior to program approval. An annual inspection is required each year thereafter once approval is granted. The inspection is conducted and tracked by the WECHU, specifically the Environmental Health Department. The inspection consists of the following components:

- The structure intended to house the temporary foreign workers
- The sleeping facilities of temporary foreign workers, and specific separation distances as outlined by the SAWP and TFW programs
- Water supply
- Toilet facilities and sewage disposal
- Food storage
- Refuse control
- Maintenance
- Safety (fire protection measures, carbon monoxide detectors, etc.)

A Change of Use permit under the Ontario Building Code is required to be issued by the Chief Building Official when a dwelling unit is being converted to a boarding house. Unfortunately despite the responsibility of the employer of foreign workers to ensure that worker housing complies with the Building Code Act (See Appendix 4), there is no requirement by SAWP or TFW for any inspection of the proposed housing other than by the WECHU.

#### 4.2.5 Sanitary Servicing

The Municipality has areas which are partially serviced, unserviced and fully serviced. The main engineering concern is that the municipal sanitary system in Leamington has never been modeled which would allow for the Engineering Department to assess the capacity of the system to accommodate additional boarding houses. In the absence of a full modeling of the system, the Municipal Engineering Department would not support permissions that would add new boarding houses within the serviced area that permitted occupancies beyond their current planned 3.5 persons per dwelling.

At the present time refuse collection is limited to four (4) bags per day of collection. There is no perception or visible evidence that boarding houses have created a detrimental impact on refuse collection. Notwithstanding this point, and depending on the number of persons permitted in boarding houses, the Municipality may want to assess whether private waste collection should be arranged.

#### 4.2.6 Transportation

While the prevalence of boarding houses does not appear to contribute to increased vehicular traffic, because the foreign workers do not have vehicles, there is an increase in other related vehicle traffic in the form of greenhouse owned vans and busses, as well as vehicles owned by private transportation companies that transport temporary foreign workers. The Municipality

regulates these private “Transportation Companies” through a business license. We have received no information to suggest that the van/bus traffic has a negative impact to the area transportation infrastructure.

#### 4.2.7 Economic

There were a number of greenhouse operators that expressed concern regarding the potential requirement for an additional process to obtain approval for foreign worker housing. Their concerns relate to the requirement to secure housing prior to the arrival of foreign workers, a component which needs to be addressed before expansions to greenhouse operations.

### 4.3 Area of Impact

The areas containing boarding houses are analyzed in the locational analysis contained in Section 6.1 of this Study.

### 4.4 People Impacted

The purpose of this subsection is to generally identify the number of people who have an interest in, or would potentially be affected by, boarding houses and any decisions affecting same.

1. **Foreign Workers:** Records provided by the Essex County Health Unit to the Municipality of Leamington indicate that approximately 3,350 foreign workers live in Leamington. The Municipality projects an increase in the number of workers to rise correspondingly with the number of additional acres of greenhouse that are constructed.

The impact of assimilation for workers separated from their families for months at a time, in an entirely different climate, and without freedom to explore and experience the area is significant. There is a Mexican Consulate in the Municipality of Leamington that works to assist migrant Mexican immigrants in any matters of concern. The ‘Migrant Workers Community Program’ aids migrant workers within the agricultural industry. This program also offers a bus trip to Niagara Falls for workers and provides Spanish language services for local greenhouse operators. However, there is no quantifiable record to indicate how well this program is utilized.

2. **Field and Greenhouse Operators:** There are approximately 243<sup>11</sup> field and greenhouse parcels in Leamington who may require on or off-site accommodation for temporary foreign workers. The Municipality has further identified that 131 greenhouse parcels exist in Leamington. The structure of the agricultural sector, particularly that of greenhouse operations, rely on foreign workers to continue and expand their operations based on demand. It has been stated in the press that foreign workers are estimated to contribute approximately \$15 million per year to the local economy<sup>12</sup>.
3. **Agricultural Organizations:** The organizations that have expressed an interest in this subject include the Essex County Federation of Agriculture, Foreign Agricultural Resources Management Service, Ontario Greenhouse Vegetable Growers Market Board, and Mexican Consulate.
4. **Other Organizations:** Windsor Essex County Health Unit.

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<sup>11</sup>County of Essex Agricultural Lot Size Study, January 2017, Appendix C. The Jones Consulting Group Ltd. and AgPlan Limited.

<sup>12</sup>Toronto Star, October 9, 2017, Sara Mojtahedzadeh, Nicholas Keung, Jim Rankin.

5. **Real Estate Agents:** Local real estate agents assist greenhouse operators in finding and purchasing single detached units for use.
6. **Non-Greenhouse Fruit/Vegetable Farmers:** There are approximately 669 fruit and vegetable farm parcels excluding greenhouses in Leamington<sup>13</sup>.
7. **Residents Impacted:** Approximately 28,000 persons live in the Municipality of Leamington.

Permanent residents struggle with changes to their neighbourhoods when single detached dwellings are converted to boarding houses. Residents are also concerned about the health and safety of the inhabitants of boarding houses, and the health and safety of residents living in proximity of these units.

Residents are also concerned about the congregation of migrant workers on their 'free' time, particularly when they have received their pay and are delivered to the Uptown Commercial District to purchase their sundries. There are issues that relate to the treatment of the migrant workers and their ability to have a place to congregate and participate in activities related to their own cultures and interests. It has been identified that there is a soccer league for the migrant workers, the logistics of which are unclear. However, it is the lack of a community centre related to their own culture or needs that seems to be a clear contribution to the perception of permanent residents that their loitering / social gathering is an issue that permanent residents are not comfortable with.

8. **Open House Attendees:** 16 people attended the Open Houses.
9. **Municipal Staff:** Municipal staff field/process complaints, handle resident inquiries on this subject, and incur time discussing issues, preparing staff reports and undertaking inspections.
10. **Council:** Members of Council field complaints, resident inquiries, and incur time discussing issues with greenhouse operators, reviewing staff reports and making decisions on this subject.

The implication of creating new boarding houses, particularly within older stable neighbourhoods, without consultation with adjacent landowners and the public, or a change of use permit, is a Council concern.

## 4.5 Services & Community Facilities

As part of the study, a review of the potential impact to Municipal Services and Community Facilities was undertaken with consultation from stakeholders and data provided by the Municipality.

### 4.5.1 Municipal Water Distribution

The vast majority of the Municipality is currently serviced with municipal water supply obtained from the Union Water Treatment Plant located south of the Hamlet of Ruthven in the neighbouring Town of Kingsville, and from the Wheatley Water Treatment Plant south of the Village of Wheatley in the Municipality of Chatham-Kent.

During consultation we learned that smart metres were being installed on the water systems to assist in monitoring water usage. At this time, there are no records that directly indicate that water usage is being negatively impacted by boarding houses in the Municipality. However, increased

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<sup>13</sup> Ibid, Appendix D.

volumes are anticipated as the number of occupants within a dwelling unit increase. Particularly dwelling units that have been converted for use as a boarding house.

Based on our discussions with municipal engineering staff, we are not aware that boarding houses have created any negative impacts on Leamington's water supply.

#### **4.5.2 Leamington Area Drip Irrigation Inc. (LADII)**

In the Municipality a group of thirteen (13) greenhouse operators formed a Corporation to draw water from Lake Erie to support their operations for expansion, where municipal water service was not available, or anticipated within the timelines required for their operations. The two (2) lines from Lake Erie transport raw water to over 3,000 acres and the lines are approximately 40 km in length.

The LADII does not connect to habitable dwelling units of any kind and has no correlation to boarding houses in the Municipality of Leamington.

#### **4.5.3 Sanitary Sewers**

The Municipality of Leamington has some areas which combine both sanitary effluent and stormwater run-off. The issue with the present system is that considerable peaks in the existing sewer main infrastructure and at the treatment plant occur during heavy rainfall. The long-term intent of the Municipality is to separate the sanitary storm systems in the future.

All dwellings in the serviced area should be connected to sanitary sewers; however, there are known locations where septic systems still exist. In part, any issue related to these dwelling units and their potential conversion to a boarding house should be captured under a Change of Use permit which would require a septic / servicing review.

The Municipality has areas which are partially serviced, unserviced and fully serviced. The main engineering concern is that the municipal sanitary system in Leamington has never been modeled which would allow for the Engineering Department to assess the capacity of the system to accommodate additional boarding houses. In the absence of a full modeling of the system, the Municipal Engineering Department would not support permissions that would add new boarding houses within the serviced area that permitted occupancies beyond their current planned 3.5 persons per dwelling.

#### **4.5.4 Storm Drainage**

The topography of the Municipality is very flat and is drained by an extensive network of inland watercourses, municipal drains and mechanical pumping schemes where low lying lands are below lake level. The drains south of Mersea Road 8 on the east side of the Municipality, and south of Mersea Road 6 on the west side of the Municipality, flow into Lake Erie either directly or by natural waterways. Drains north of Mersea Road 8 on the east, and Mersea Road 6 on the west of the Municipality, flow into Lake St. Clair.

Based on our discussions with municipal engineering staff, we are not aware of any stormwater related concerns associated with boarding houses.

#### **4.5.5 Hydro**

There is adequate hydro service for residential, agricultural, commercial, industrial or institutional development expected within the Municipality of Leamington. A new hydro service is slated for

construction in Leamington to support the greenhouse operations. A 13 km hydro line is being constructed to permit the expansion of the growing greenhouse operation facilities.

Boarding houses are connected to the hydro system as are all types of dwelling units and other facilities. The expansion of the hydro line was necessary to support the greenhouse industry and is not a direct reflection toward boarding houses in the Municipality.

Based on our discussions with municipal engineering staff, we are not aware of any hydro related concerns associated with boarding houses.

#### **4.5.6 Transportation**

The Municipality has an extensive road network that is classified under the Official Plan within Schedule 'E'. The road network consists of Provincial, Arterial, Collector and local Municipal roads. The Municipality of Leamington also has a transit bus service which serves the urban area of Leamington. There is one regular route that passes through residential, commercial, and industrial areas of the Municipality. There is also an "Erie Summer Route" that runs between Erie Street between Wilkinson Drive and the Marina/Waterfront area on weekends throughout the summer.

The Municipality also has existing bike lanes with additional bike lanes proposed for construction in 2018 along County Road 31 for approximately 3.0 km. The bike lanes are being constructed as part of the County Wide Active Transportation System (CWATS) which is a travel strategy for pedestrians and cyclists. New cycle paths are being built and new pedestrian safety and accessibility features are being installed on a regular basis.

As part of this Study it was identified that a number of inhabitants within boarding houses utilize bicycles as a form of transportation in the Municipality. One of the Municipal concerns is the safety of cyclists and pedestrians using roads outside of the urban area that are not sufficiently lit or wide enough to safely convey vehicles and pedestrians/cyclists.

The employers of foreign workers are required to provide transportation to and from their place of employment and to obtain sundries. Typically this is completed by the use of busses or vans by the farm operator; however, privately licensed operators also provide transportation.

Based on our review of this issue and discussions with municipal staff, we have not identified any negative impacts on the transportation system related to boarding houses, with the exception of safety concerns regarding the use of roads outside the settlement areas for pedestrians and cyclists.

#### **4.5.7 Community Facilities**

Leamington has eleven (11) school facilities and a large recreation complex. The Municipality also has a number of places of worship. The recreation facility provides a wide variety of fitness classes, access to the community pool and recreation programs. Leamington is also home to the Leamington Public Library and the Leamington District Memorial Hospital.

Police service in Leamington is provided by the Essex County Provincial Police Department and emergency medical services are provided by Essex County Emergency Medical Services.

As part of the stakeholder consultation, stakeholders were polled to understand if non-permanent residents were utilizing community facilities. There was a clear perception that this was not the case particularly with respect to schools.

Any resident, regardless of their dwelling unit type is entitled to the facilities at the Leamington District Memorial Hospital. There is no direct correlation between boarding houses and the health care system in the Province, including the use of emergency medical services.

The Essex County Ontario Provincial Police keep records of all incidents in the Municipality. That being said, there is no tracking system in place to determine if crime rates are associated with the use of boarding houses specifically, or from other matters that may be in conflict with individual beliefs, cultural differences, etc.

Based on our review of this issue and discussions with municipal staff, we have not identified any negative impacts on community facilities related to boarding houses.

## 4.6 Jurisdictional Analysis

An analysis was undertaken of other Municipalities across Ontario that have regulated boarding houses in their Municipality to understand and isolate best practices. Boarding houses are not only utilized for foreign workers but for tourism industry related housing, affordable housing options, and affordable student housing. The different municipalities that were reviewed were chosen based on their location, size and boarding house needs relative to Leamington. The review included the Municipalities of the City of Barrie, City of Guelph, City of Peterborough, City of Brampton, and the Town of Niagara-on-the-Lake and involved identifying what policies are in effect, if licensing is required and other tools that may be used to regulate boarding houses. Two examples from the Town of the Blue Mountains and the Town of Niagara-on-the-Lake of Farm Help Accommodation were reviewed to understand how other Municipalities deal with these uses and how this differs from a boarding house.

### 4.6.1 Municipal Examples

The following subsections detail boarding house practices in the Cities of Barrie, Guelph, Peterborough, and Brampton, as well as the Town of Niagara-on-the-Lake and the Town of the Blue Mountains. These sample municipalities were selected as they have established boarding house policies/regulations to provide for affordable housing, and/or student housing, and/or farm help accommodation.

#### 4.6.1.1 City of Barrie<sup>14</sup>

The City of Barrie has two different types of boarding lodging rooming (BLR) houses. The first is a small boarding house that allows lodging for no more than 6 tenants, and the second is a large boarding house that provides lodging for more than 6 tenants.

The Official Plan permits boarding lodging and rooming houses in the Residential designation.

According to the Zoning By-law, small boarding houses are permitted in all residential zones where the large is permitted in most of the multiple residential and apartment zones. Each boarding house must comply with all other standards of the zone in which they are located, each sleeping room to be rented must have a minimum area of habitable living space, a maximum total aggregate floor area of all sleeping rooms for the small houses, they must operate as a single housekeeping unit, there is a minimum separation distance from another house, and parking must be provided at a particular ratio. In 2007, the Comprehensive Zoning By-law was amended to redefine a boarding lodging rooming house. Grandfathering is allowed if a person can prove that

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<sup>14</sup>Boarding Lodging, and Rooming Houses Brochure, 2007, City of Barrie.

the house legally existed prior to the changes to the zoning by-law without having to meet the new minimum standards.

Every BLR, small or large, must be licensed by the City with a yearly renewal fee applicable. This includes written verification that the BLR house is in compliance with the requirements of the Ontario Building Code, Fire Code and the City's Property Standards By-law which all must be provided to the By-law Services Office. Fees are applicable to each department for the required inspections. Applications for a BLR must be accompanied by a certification of inspection for heating system and electrical system, proof of liability insurance coverage, detailed floor plan and a 24 hour contact information. The City also keeps a list on their website of the licensed BLR establishments which identifies the type of BLR and the address.

#### 4.6.1.2 City of Guelph<sup>15 16 17</sup>

The City of Guelph has by-laws in effect which provide the initial creation and the property maintenance of lodging houses throughout the City. The City certifies lodging units as they are a necessary form of accommodation in Guelph due to the high student population. By certifying lodging houses, they are able to provide safer accommodations while preserving the character of the residential neighbourhood in which they are located.

The City of Guelph Official Plan policies permit lodging houses within specified land use designations permitting residential uses provided that adequate residential amenities and services are available nearby, and that the house is of a size and land use character which is similar to, or compatible with, the built form of the existing area.

The Zoning By-law defines a Lodging House Type 1, Lodging House Type 2 and a Lodging Unit. A Type 1 relates to a dwelling unit only which essentially operates as an independent and separate self-contained housekeeping unit including a house, and a Type 2 Unit refers to a townhouse building or apartment building. In both instances the lodging house provides 5 or more lodging units for hire or gain directly or indirectly to persons. For the purpose of these types of lodging, a Lodging Unit is defined as a room used to provide living accommodation which does not have the exclusive use of both a kitchen and a bathroom. Lodging houses type 1 are permitted in the Residential Single Detached R1 zone and the Commercial CBD zone. A Lodging house type 2 is only permitted through a zoning by-law amendment. Furthermore, the General Provisions section of the Zoning By-law outlines the regulations that govern a lodging house type 1 which includes maximum occupancy, off-street parking requirements, the types of buildings that can be considered, and the minimum separation distance.

A lodging house must be certified with the City through a Lodging House Certification. In addition to determining through the zoning department that the correct zoning and development standards are in place for the house, applicable sections of the Ontario Building and Fire Code are also applied with a sign off required from both the Building Services Department and Fire Department. In addition to the zoning by-law, the City relies on the Property Standards By-law, Yard Maintenance By-law, Noise Control By-law and Fire Guidelines for Shared Rental Housing when enforcing complaints of lodging houses.

#### 4.6.1.3 City of Peterborough<sup>18 19</sup>

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<sup>15</sup>Official Plan 1995, City of Guelph

<sup>16</sup>Comprehensive Zoning By-law (1995)-14864, 1995

<sup>17</sup>Lodging House Regulations.

<sup>18</sup>Official Plan, 2016 Consolidated Version, City of Peterborough

<sup>19</sup>Comprehensive Zoning By-law 97-123, 2016, City of Peterborough

The City of Peterborough defines a boarding house, or lodging house, in their Zoning By-law and permits the use in specified residential and commercial zones. The Official Plan does not specifically identify where lodging houses are permitted but based on density and housing type the appropriate designation would be determined. Typical development standards for the applicable zone where the house would be located would apply with additional requirements specifically identified for lodging houses such as the maximum number of occupants per house, which is as high as 30 persons in one zone, the required number of bathrooms per occupants, prohibition of cooking equipment in rooms other than kitchen, minimum floor area per boarder and minimum number of parking spots.

A Business License is required to legally operate a boarding house. In addition to being licensed, the lodging house must meet Ontario Building Code requirements and Fire Safety regulations.

#### **4.6.1.4 City of Brampton<sup>20 21</sup>**

The City of Brampton defines a lodging house, also referred to as a rooming house or boarding house, in the Official Plan and Zoning By-law. The Official Plan permits lodging housing in areas where residential uses are permitted subject to correct zoning, licensing and conformance with the Ontario Building Code and Ontario Fire Code. The Zoning By-law permits lodging houses in select higher density residential zones and commercial zones with specific development standards that apply as applicable in that Zone.

A lodging house license is required and must be renewed yearly. The house must meet all Ontario Building Code and Fire Code requirements. Inspections from the fire department and property standards must be completed and approved each year for the renewal.

#### **4.6.1.5 Town of Niagara-on-the-Lake<sup>22 23</sup>**

The Town of Niagara-on-the-Lake Official Plan permits lodging (boarding and rooming) houses, and roomers and boarders, in the Low Density designation subject to a zoning by-law amendment. The Town defines a Lodging House in the Zoning By-law as a residential dwelling or portion thereof in which roomers or boarders are harboured, received or lodged, with or without meals, for gain or profit. A roomer or boarder is defined separately and means a person other than the lessee, tenant, owner or person related thereto, who rents living accommodation within a dwelling unit, without separate cooking facilities or a separate entrance and where lodging is provided for compensation for a term of not less than 28 days. Minimum parking provisions are required and development standards particular to that zone are applicable. A lodging house, and roomers and boarders, are permitted in select residential zones with a zoning by-law amendment required if proposed in any other zones.

A license is required for a lodging house under the Lodging House By-law. This licenses and regulates the use of a house and property for the commercial operation of a lodging house. The by-law also ensures the house and property meet health and safety requirements for the benefit of the residents. The Town also has a property standards by-law that applies to lodging houses.

The Town also defines Farm Help Accommodation in the Zoning By-law as an accessory building, and may include a mobile home, containing proper sanitation facilities, for the use of housing seasonal agricultural employees, and is not used for year round occupancy, by any employee.

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<sup>20</sup>Official Plan, 2015 City of Brampton

<sup>21</sup>Comprehensive Zoning By-law 270-2004 as amended to 2004, City of Brampton

<sup>22</sup>Official Plan, 2017 Consolidated Version, Town of Niagara-on-the-Lake

<sup>23</sup>Comprehensive Zoning By-law 4316-09, 2009 as amended, Town of Niagara-on-the-Lake

The General Provisions requires a maximum total floor area, setback requirements, and a maximum building height requirement. A license is not required.

#### **4.6.1.6 Town of the Blue Mountains<sup>24</sup>**

The Town of Blue Mountains defines in their Zoning By-law Temporary Farm Help Accommodation as accommodation that is used solely for the purpose of providing cooking, sanitary, and sleeping facilities to temporarily house temporary farm workers on a farm operation as necessary for the agricultural labour needs of a farm operation (harvest season) or other farms, if permitted. No more than 40 workers are allowed to be housed on a single property, the accommodation must be in an existing building or a manufactured home that can be removed as it has to be installed on a temporary foundation with no basement. The accommodation is permitted in only one agricultural zone in the municipality. Further zoning provisions require that there be a minimum lot size and frontage, various setbacks apply, and the Minimum Distance Separation from existing livestock buildings must be adhered to.

In addition to the requirements under the Ontario Building Code and Fire Code the provision of seasonal housing for foreign farm workers must be followed. A license is not required.

#### **4.6.2 Summary of Best Practices**

The above examples were chosen to better understand the practices used by other Municipalities across Ontario to regulate boarding houses. Although they have different names and in some cases different definitions, the most common practice is that the use is licensed, Official Plan policies are in place and implemented in the Zoning By-law with respect to where these houses are appropriately located and used. Some Municipalities limit the use to certain zones as a means of further regulating the areas where they are appropriate in their respective Town/City. The tracking system posted on their website, as is the case in the City of Barrie, provides accountability for the landlords and allows for residents to understand where the houses are located.

### **5.0 Public/Stakeholder Consultation**

Public and stakeholder consultation was conducted as part of this Study. Municipal Staff interviews were conducted in addition to identified stakeholders and members of the Public.

#### **5.1 Municipal Staff & Stakeholder Consultation**

On August 30, 2017, the following municipal staff and stakeholders were interviewed to discuss their opinions and experiences with boarding houses:

- Danielle Truax, Manager of Planning Services, The Municipality of Leamington
- Paul Barnable, Director of Community and Development Services, The Municipality of Leamington
- Ruth Orton, Director of Legal and Legislative Services, The Municipality of Leamington
- Robert Sharon, Director of Infrastructure Services, The Municipality of Leamington
- Bechara Daher, Chief Building Official, The Municipality of Leamington

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<sup>24</sup>Temporary Farm Help Accommodation Report, 2014, Town of the Blue Mountains

- Shannon Belleau, Manager of Environmental Services, The Municipality of Leamington
- Derrick Clark, Fire Inspector, The Municipality of Leamington
- Michael Ciacelli, Deputy Chief (Fire), Public Education and Training, The Municipality of Leamington
- Kyle Reive, Manager of By-law Enforcement, The Municipality of Leamington
- Allan Botham, Manager of Engineering Services, The Municipality of Leamington
- John Pilmer, Engineering Technologist, The Municipality of Leamington
- Frank Ricci, Ricci, Enns, Rollier and Settington LLP (legal representative of some of the greenhouse operators)
- Jackie Lassaline, Owner and Principal Planner, Lassaline Planning Consultants Inc.
- Anthony Cervini, Producer, CanAg Travel Services Ltd.
- Tony Mastronardi, President, MASTROT Farms
- Carl Mastronardi, President, DelFresco Produce Ltd.
- Randall Critchlow, R.A. Critchlow Realty Inc.

The main concerns identified during the consultation process with Municipal Staff were related to the requirements of the TFW and SAWP programs and the disconnect with Municipal approvals. As a direct result of the separation in process, there is no reporting mechanism to the Municipality and a requirement for a Change of Use Permit is overlooked. As a result, the risk is that there is no compliance with the Building Code, and no ability for staff to assess the impact upon municipal water and sewer services or infrastructure. Municipal Staff further advised that they cannot quantify whether or not the Municipal water system is adversely impacted. Smart meters to measure consumption are planned for installation in the Municipality but this has yet to be completed.

Some Municipal Staff further expressed that without the regulation of boarding houses, the anticipated increase in migrant workers would require the conversion of a significant portion of the existing housing stock. The quantity of conversions could be detrimental to the existing neighbourhood character and potentially create unstable neighbourhoods.

A common concern expressed by the greenhouse operators was the potential for the duplication of approvals and regulations between the Municipality, TFW and SAWP programs which would add additional cost and time to the approval process. Greenhouse operators further identified that the demand for produce has increased significantly and the expansion of the greenhouse industry requires access to an increasing supply of foreign workers to sustain the growth. Any regulatory requirements that slow the supply of foreign workers would have a negative impact on the agricultural community.

In addition to the above, contact with the following individuals was made to determine their interest in participating in stakeholder consultations:

- Aaron Hamer, CFO, Highline Mushrooms
- Peter Quiring, Nature Fresh Farms
- Paul Dyck, Owner, Great Lakes Greenhouses
- Roberta Jakecsni, South Shore Health Care

- Leamington Lodge
- Community Living Essex County
- Mexican Consulate (Leamington)
- Windsor Essex County Health Unit
- Jim Lovias, resident and private developer

While we contacted the above individuals and organizations for their comments not all wished to participate. Those that did participate noted the need for additional housing stock in the community for foreign workers. Others felt that a community hub was necessary for the foreign workers to provide them with somewhere to recreate or socialize other than in the Uptown Commercial District.

## 5.2 Public Open House

Two Public Open houses were conducted in the afternoon and evening of October 25<sup>th</sup>, 2017. The event was notified by the Municipality in the Southport Sun one week prior to the event. Sixteen people attended the afternoon session in addition to some members of Council. Two people attended the session in the evening.

A brief powerpoint presentation was given by our Staff to explain the extent of the Study. The floor was then opened up to questions for the general public. The concerns expressed related significantly to social issues, as well as health and safety. A summary of the themes identified by the Open Houses is further explained in the following subsections.

### 5.2.1 Property Maintenance

Those in attendance during the Public Open House spoke at great length about the external physical maintenance of boarding houses. It was identified that some of these concerns could be related to rental units that are not, in fact, boarding houses under the current definition within the Municipality's Zoning By-law. These concerns related to unkempt lawns, bicycle storage, refuse and the delivery of food to the residents left to attract animals and vermin to the neighbourhood. A visual audit was conducted as part of this study to review the concerns identified and is discussed within Section 5.3.

### 5.2.2 Sanitary Servicing

The Municipal Engineering Department was unaware that 65 unplanned and illegal boarding house conversions have occurred within the serviced area of Leamington. They further identified that the Municipality has not modeled the capacity of the municipal sanitary sewers to accommodate additional conversions. The position of the Engineering Department is that no additional conversions should occur within the serviced area of Leamington until a full modeling of the system occurred. The exception would be that if the conversions were limited to the current planned occupant load of 3.5 persons, then that would fall within the current system design. The Engineering Department noted that they would support a process to review and potentially legalize the existing illegal boarding houses in the serviced area, provided Council was aware that there is some exposure as it relates to future sanitary system problems/failures.

### 5.2.3 Transportation

The use of bicycles as a significant form of transportation is concerning to permanent residents, particularly in the method in which they are stored when not in use. There are also concerns that the transportation provided to the foreign workers creates additional vehicular traffic to the Uptown Commercial District, particularly on Thursdays, Fridays and Saturdays when the foreign workers visit this area for their sundry activities such as banking and shopping.

### 5.2.4 Regulation

Permanent residents expressed their thoughts regarding the inability for the Municipality to regulate the location of boarding houses beyond the avenue of a By-law enforcement process to rectify the issue. The process is lengthy and without a regulatory permitting process, permanent residents are concerned that the prevention of new boarding houses is out of their control and affects their property values when they appear in their neighbourhood without consultation or their consent.

In summary, the concerns identified by all parties remain consistent with an additional added component from the greenhouse / agricultural sector which adds their own economic perspective.

## 5.3 Neighbourhood Audit

Utilizing the list of identified temporary foreign worker houses (on and off-farm) from the Windsor Essex County Health Unit (WECHU), a neighbourhood audit was conducted to review the building form, neighbourhood/area characteristics and property standards. The audit occurred on foot and by vehicle in the agricultural areas on August 29th in the late afternoon / early evening and on August 30th in the early afternoon.

### 5.3.1 Methodology

The information provided by the WECHU was compiled into a spreadsheet by the Municipality that contained the address, type of housing (i.e. single detached dwelling, bunkhouse) and the maximum approved occupancy. The locations of housing were mapped and that assisted in identifying the route of the neighbourhood audit. The route of the neighbourhood audit was selected to provide a representative sample of the range and type of units inside and outside of the settlement areas. The route also aligned with clusters (linear and neighbourhood) of temporary foreign worker housing to make spatial observations.

Key features that were reviewed as part of the audit included not only the built form related to the units but the community surrounding those units. A review of the surrounding neighbourhoods was also conducted to visually assess if there were any linkages associated with the placement of the boarding house. The audit did not include an interior review of any of the built form and did not include speaking with local residents. The audit also did not include a review of any potential issues from a Fire Code or Ontario Building Code perspective.

Consideration was also given to the Municipality of Leamington Land Maintenance By-law 840-08 which, in part, states the following:

- Every owner of a property shall cut and maintain all grass and weeds, or any combination thereof, on the property to a height not exceeding eight inches (metric - 20 centimeters).
- Every owner of a property shall maintain the property clean of all refuse and debris.
- Every owner of a property shall maintain the property in a neat and tidy condition.

- Every property owner shall maintain the property free of deep ruts and holes and free of ponding water.

### 5.3.2 Observations

The quality and appearance of the housing varied by housing type. The identified units within hotels and motels are well maintained by management with well kempt lawns and landscaping and no issues related to refuse storage and disposal. Those units identified as on-farm temporary worker housing also differed in building form as most of the housing are pre-fabricated units and are located in close proximity to the greenhouse operation. The exterior of these units appeared well maintained and organized. There were no visual signs of refuse on the property or any issue related to bicycle parking.

Outside of settlement areas, property standards differed from site to site ranging from good to fair. Despite complaints expressed as part of the public open house, there were no instances observed where property standards was justified as a concern. The lawns, while not always recently mowed, were within the provisions of the Municipality's standards. There was no visible refuse nor were there signs of neglect such as broken windows, unmaintained roofs, etc.

Within the settlement area boundaries there are on and off-farm boarding houses. Neither of these types displayed issues related to property standards, save and except for the parking of bicycles. The on-farm boarding houses mimic the characteristics of boarding houses outside of the settlement area. The off-farm boarding houses within settlement areas were located within older established neighbourhoods. In my observation these neighbourhoods were stable, meaning no signs of deterioration such as property or building neglect, or lack of municipal infrastructure maintenance.

In general, there were properties that did not appear to be boarding houses, despite being identified as one. The exteriors were well maintained and blended with the balance of the community as a single detached dwelling unit. There was no circumstance during the audit where the identified boarding house was in a state of complete derelict or disrepair despite comments from the public open house which seem to elude that the properties were an 'eyesore' in their neighbourhoods.

The following additional summary observations were made during the neighbourhood audit.

- There were no signs of neighbourhood loitering.
- The exterior of structures were reasonably maintained.
- There were several examples of the elimination of private open space/green space which altered the appearance of the property in the neighbourhood context. More specifically, we observed that grassed side and rear yards were converted to gravel or other material.
- Random bicycle placement on front lawns was a common observation.
- A mixture of converted single detached dwellings, semi-detached dwellings and apartments were observed.
- Converted units outside of settlement areas were generally larger structures.
- On-farm housing were often prefabricated units.

As previously stated, any issues related to the Fire Code and Ontario Building Code were not identified or reviewed as part of the audit. Access or review of the interior of the structures was not conducted as part of the audit.

## 6.0 Planning Analysis

Our planning analysis included undertaking a locational analysis, reviewing statutory and regulatory implementation tools, and reviewing Official Plan policy direction regarding intensification, growth and affordable housing.

### 6.1 Locational Analysis

This section contains a locational analysis that relies on GIS layers provided by the Municipality identifying the properties that contain foreign worker housing, as well as a spreadsheet listing the registered foreign worker housing compiled by the Windsor Essex County Health Unit.

The analysis of the GIS information was supplemented with the information learned from the neighbourhood audit (refer to Section 5.3) and a detailed review of aerial photography to confirm the accuracy of the mapping data and the area characteristics.

#### 6.1.1 Data Limitations

The foreign worker housing information contained in the GIS layers and spreadsheet provided by the Municipality, is limited to on-farm and off-farm housing for some, but not all, of the foreign agricultural workers living in Leamington. The Municipality was unable to provide any other mapping or information, and we were not able to identify any other sources of information, on all types of boarding houses as defined in Section 3.2.1 of this Study. As a result, the locational analysis contained in this section will focus entirely on temporary foreign worker housing.

The GIS mapping provided by the municipality identified properties that contained foreign agricultural worker housing. Our analysis of this mapping indicated that in numerous instances, multiple adjacent parcels were identified as containing foreign worker housing; however, there were discrepancies identified from the neighbourhood audit observations. To increase the accuracy of the data, we cross checked the GIS mapping with aerial photography on a property by property basis to confirm the locations of housing. The number of foreign workers houses recorded through this process was 279.

We also examined the housing spreadsheet provided by the municipality and noted of the 328 property entries, there were 82 duplicate entries meaning that a property contained multiple dwellings or multiple floors within dwellings that were separately identified. The spreadsheet further recorded that a total of 3,350 persons occupied the foreign workers housing. However, this number is incomplete as 109 of the entries contained no occupancy information.

For the purpose of the balance of this location analysis we relied on the 279 foreign worker houses mapped by the Health Unit.

#### 6.1.2 Pattern of Dispersion

The vast majority of the 279 foreign worker houses identified through our GIS and aerial photography analysis are located in the western half of the municipality, and more specifically in proximity or west of Highway 77, as well as within the urban area of Leamington. As expected, there are many locations identified on or in proximity to existing greenhouse operations. The majority of foreign worker housing locations outside of the Urban Area of Leamington are located on agricultural parcels; however, there are numerous locations on small residential lots in the agricultural area.

The pattern of dispersion is more specifically detailed as follows:

1. **On-Farm vs Off-Farm Boarding Houses Outside Settlement Areas:** As identified above a total of 279 foreign worker houses were mapped. 59% of the total foreign worker houses were outside of the settlement areas on and off-farm. On-farm houses represented approximately 49% (136 houses) and off-farm represented approximately 11% (30 houses). The average occupancy of off-farm boarding house outside of settlement areas was determined to be 13.4 persons.
2. **Settlement Areas:** 41%, or 113 of the total foreign worker houses are located within Leamington's primary and secondary settlement areas. This includes 89 within the urban area of Leamington, known as the Primary Settlement Area, and 24 within the Secondary Settlement Areas. The boundaries of the Primary and Secondary Settlement areas was obtained from the County of Essex Official Plan.

Of the 89 dwellings within the Primary Settlement Area, all but 12 are located north of Oak Street East and West. The older stable neighbourhoods surrounding Uptown (Talbot Street/Erie Street) contain the largest dispersion of foreign worker housing. Clusters have also formed, including a linear cluster at the north end of the Primary Settlement Area along Erie Street North between Wilkinson Drive and Highway 3/County Road 33. A second cluster has formed in the general vicinity of Wilkinson Drive and Elliot Street.

Within the Primary Settlement Area there is a defined 'Existing Service Area' that defines the limits of municipal water and sanitary services. Of the 89 houses within the Primary Settlement Area, all but 16 are located within the existing fully serviced area.

The average occupancy of off-farm boarding houses within settlement areas was determined to be 14.7 persons. Within the Primary Settlement Area of Leamington, the average occupancy was 13.7 persons, while the average occupancy within the Secondary Settlement Areas was 22.6 persons. There were only 5 examples in Secondary Settlement Areas, and a single 54 person occupancy resulted in a much higher average occupancy.

3. **Highway 77/Erie Street Corridor:** Highway 77 and Erie Street is the primary corridor connecting the Municipality's waterfront, retail strip, Uptown, Town Hall and access to Highway 401. 22% (60 houses) are located within 300 metres east or 300 metres west of Highway 77 and Erie Street.
4. **Western Leamington:** Linear concentrations of foreign worker housing is found on five southerly roads on the west side of Leamington. These include County Roads 20, 34, 18 and Mersea Roads 3 and 5. The totals on each of these streets is as follows:
  - a. County Road 20: 20 houses.
  - b. County Road 34: 20 houses
  - c. County Road 18: 16 houses
  - d. Mersea Road 3: 10 houses
  - e. Mersea Road 5: 7 houses

The following section provides an overview of the location characteristics based on the above pattern of dispersion.

### 6.1.3 Location Characteristics

The pattern of temporary foreign worker housing locations is not as random as initially expected at the outset of this Study. Foreign worker housing tends to be located on existing greenhouses,

in a linear strip pattern along higher order roads, and within the neighbourhoods surrounding the Uptown, including most notably north of Oak Street and south of Talbot Street.

1. **On-Farm Accommodation:** 62% of all temporary foreign worker housing are located on existing farms.
2. **Primary Settlement Area:** 32% of all temporary foreign worker housing are located within the primary settlement area of Leamington, and more specifically within the older stable and fully serviced neighbourhoods surrounding the Uptown.
3. **Services:** The vast majority of registered foreign worker housing within the Primary Settlement area is found within the 'existing serviced area' which confirms the information received during consultation, that private servicing restricts new foreign housing.
4. **Community Facilities:** The location of community facilities such as recreation, libraries and the municipal hall appear to not influence the location of new foreign worker housing within the Primary Settlement Area.
5. **Greenhouse Proximity:** The proximity to greenhouses is an important locational characteristic as evidenced by the strip development of housing along County Roads 18, 20, 34, Mersea Road 3 and 5 and Highway 77.

The locational characteristics noted above provide context for developing options and recommendations as outlined in Section 7 of this Study.

## 6.2 Guiding Legislation and Policy – Implications for Boarding Houses

As outlined in Section 2.2, the Terms of Reference for this Study included an analysis of the policy direction contained in the Official Plan with regard to intensification, growth and affordable housing. The intent of this analysis is to provide guidance to Leamington's Official Plan review.

The Municipality of Leamington Official Plan was approved by the County of Essex on February 5, 2008 and the Municipality is currently in the process of reviewing this Plan to ensure it has regard to the Planning Act and the various amendments approved since 2008, is consistent with the 2014 Provincial Policy Statement, and conforms to the 2014 County of Essex Official Plan.

### 6.2.1 Planning Act

The Ontario Planning Act regulates land use planning in the Province. There are several sections of the Act that inform this Study including the following:

1. **Matters of Provincial Interest:** Section 2 of the Planning Act contains matters of provincial interest that the Council of a Municipality, among others, must have regard to.
  - a. 2(b) the protection of the agricultural resources of the Province.

Foreign workers provide integral support to the agricultural operations in Leamington, and accordingly, recommendations flowing from the analysis must consider if there is any negative impact on the agricultural resources in Leamington.
  - b. 2(J) the adequate provision of a full range of housing, including affordable housing.

It is necessary that municipalities provide a planning framework that enables a full range of housing, and this would include housing for foreign workers. In addition, affordable housing is specifically identified as a provincial interest, and housing

types such as boarding houses assist municipalities in providing affordable housing.

- c. 2(h) the orderly development of safe and healthy communities.

Land use decisions must ensure that the safety and health of communities are protected.

- d. 2(l) the protection of the financial and economic well-being of the Province and its municipalities.

The agricultural industry in Leamington contributes significantly to the local and County economy. As a result, Leamington's Council must have regard to the impacts on the local economy. For example, whether a prohibition on all or certain types of boarding houses would have a negative impact on local agricultural operations.

- e. 2(n) the resolution of planning conflicts involving public and private interests.

The approval of a boarding house framework will need to consider the public/private conflicts between the need to house foreign workers and the impacts on older stable neighborhoods.

- f. 2(o) the protection of public health and safety.

Land use decisions must ensure that public health and safety is safeguarded.

- g. 2(p) the appropriate location of growth and development.

The appropriate locations for growth and development must be evaluated prior to land use decisions being made.

- 2. Policy Statements and Provincial Plans: Section 3(5) of the Planning Act states that a decision of the council of a municipality shall (a) be consistent with the policy statements issued under Section 3(1) of the Act that are in effect on the date of the decision.

The implications of this Section of the Planning Act have been assessed in the following sub-section.

### 6.2.2 Ontario Human Rights Code

The Ontario Human Rights Code was enacted in 1962 to prohibit actions that discriminate against people based on a protected ground in a protected social area. Examples of protected grounds include age, citizenship, family/marital status, and receipt of public assistance. Examples of protected social areas include housing, employment, and goods and services.

Municipalities have responsibilities in terms of human rights entrenched in housing. Municipalities must promote housing free from discrimination, affordable housing, and housing that is accessible and barrier-free.

Boarding houses are considered a form of affordable housing and enable a greater number of individuals to access accommodation to support their livelihood and quality of life. S.2(1) states "Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance". A prohibition against boarding houses may be contrary to the provision of the Ontario Human Rights Code.

### 6.2.3 Provincial Policy Statement

The current Provincial Policy Statement (PPS) came into effect on April 30, 2014. Planning decisions must consider all components of the PPS and how they interrelate, and decisions must be consistent with the PPS.

The PPS seeks long-term prosperity and social well-being by building strong, sustainable and resilient communities for people of all ages, and planning for a clean and healthy environment and a strong and competitive economy. The PPS vision includes efficient development patterns that optimize the use of land, resources and public investment in infrastructure and public service facilities, while avoiding significant or sensitive resources and areas that may pose a risk to public health and safety.

There are several key policy elements in the PPS that influence the recommendations of this Study including:

- **Agriculture:** Within the Municipality of Leamington, all lands located outside of settlement areas and natural heritage lands, are considered prime agriculture areas. Policy 2.3.1 requires these areas to be protected for long-term agricultural use. Agricultural uses are defined by the PPS to include the ‘accommodation for full-time farm labour when the size and nature of the operation requires additional employment’.
- **Housing:** The PPS requires that municipalities provide a range and mix of housing types and densities to meet the ‘social, health and well-being requirements’ of current and projected future residents.
- **Affordable Housing:** The PPS requires that targets be established and implemented for the provision of housing which is affordable to low and moderate income households (S. 1.4.3).
- **Growth:** Directing the development of new housing to settlement areas with appropriate levels of infrastructure and public service facilities (S. 1.4.3).
- **Intensification:** The PPS requires that targets be established and implemented for intensification and redevelopment within built up areas, based on local conditions (S. 1.1.3.5).

### 6.2.4 County of Essex Official Plan

The County of Essex Official Plan was adopted by County Council February 19, 2014 and approved by the Ministry of Municipal Affairs and Housing on April 28, 2014. There were no appeals to the Plan and it remains in force and effect.

The County Plan contains policy direction on many topics, including but not limited to, growth management, intensification and affordable housing. All lower-tier (local) development and land use decisions must conform to the policies in the County Plan.

#### 6.2.4.1 Growth Management

As the upper-tier municipality, The County of Essex is responsible for directing growth, which includes establishing the planned amount of population growth, establishing the boundaries of settlement areas, and directing the majority of growth to Primary Settlement Areas. These matters are reflected in the approved County of Essex Official Plan, wherein Schedule A2 defines the boundary of the urban area of Leamington, which is considered a Primary Settlement Area, and the other settlements (Secondary Settlement Areas).

#### 6.2.4.2 Intensification & Redevelopment

As previously outlined, the PPS requires the County to establish targets for intensification. During the background work in support of the new County Official Plan, the following four options were presented to County Council:

1. Establish a single County-wide intensification target, similar to Middlesex and Oxford County. Implementation would occur at the local level.
2. Establish an intensification target for each local Municipality in accordance with growth projections, as per the Population and Employment Foundation Report.
3. Establish a standardized intensification target for Primary Settlement areas only.
4. Establish individualized intensification targets for each Primary Settlement area based on the local Municipal growth projections contained in the Population and Employment Foundation Report.

County Council decided that Option 1 above was preferred to provide consistency but also flexibility for the local municipalities to implement the target. According to Section 3.2.7 of the County Official Plan, the “County requires that 15 percent of all new residential development within each local municipality occur by way of residential intensification and redevelopment”. This section also encourages residential intensification and redevelopment within Primary Settlement Areas in order to increase their vitality, offer a range of housing choices, efficiently use land and optimize the use of infrastructure and public service facilities.

As part of Leamington’s Official Plan review, it would be appropriate to identify the areas suitable for intensification and establish a policy framework to direct intensification to those areas. Ideally this policy work would be a detailed intensification study that would determine how the intensification target would be achieved through infill, intensification and redevelopment within the Primary and Secondary Settlement Areas. The Intensification Study would establish criteria relevant to Leamington such as; identifying the key areas for intensification (i.e. corridors, nodes and certain neighbourhoods), existing servicing and traffic infrastructure, compatibility with existing development, and the character of the adjacent areas/neighbourhood.

One additional policy in Section 3.2.7 of the County Plan is particularly relevant to this Study because “new development in older established areas of historic, architectural, or landscape value shall be encouraged to develop in a manner consistent with the overall character of these areas”. This policy must be considered, particularly in light of the findings of the locational analysis (Section 6.1 of this Study) which has confirmed that the majority of boarding houses in the urban area of Leamington are located in older stable neighbourhoods.

#### **6.2.4.3 Affordable Housing**

Affordable Housing policies are required at the County and local levels for a number of reasons. Official Plan policies provide a long-term framework for a community to manage growth and development and serve as a vehicle to meet community needs, in this case, relating to housing. The passage of the Strong Communities through Affordable Housing Act, 2011 provides Municipalities with enhanced land use planning tools to support the creation of second units and garden suites. Establishing policies will ensure adequate distribution and supply of affordable housing. Such policies also help manage growth by directing new housing development to areas with appropriate levels of infrastructure, facilities and promoting infilling and intensification through compact development to support transportation systems. The purpose of establishing such Official Plan policies is to promote sustainable and efficient patterns of development that help minimize the cost of residential development through use of existing services and infrastructure.

According to Section 3.2.8 a) and b) of the County Plan, each local municipality will achieve a minimum affordable housing target of 20 percent of all new development. The County Official

Plan and its supporting Foundation Report identified that Leamington is projected to grow by approximately 2,055 households between the years 2011-2031. Assuming this level of growth is achieved, then Leamington would need to achieve 411 new affordable housing units by 2031.

The County Official Plan also provides the following additional policy direction:

1. Affordable Housing should be focused within Primary Settlement Areas which offer residents easy access to existing services, facilities and infrastructure.
2. Encourages local municipalities to waive (in full or in part) municipal fees to encourage the development of affordable housing.
3. Encourages local municipalities to prepare a housing strategy that outlines opportunities to increase the supply of affordable housing consistent with the Windsor Essex Housing and Homelessness Plan.
4. Discourages the demolition and conversion of affordable rental housing in order to maintain the rental housing stock.
5. Generally permits second dwellings units within all single detached, semi-detached, and townhouse dwelling units and directs local municipal Official Plans and implementing Zoning By-laws to contain policies and provisions such as the areas where second suites are inappropriate, unit size, access, parking, whether they should be phased in new developments, health and safety and garden suites.

## **6.2.5 Implications**

Our review of the Planning Act, Ontario Human Rights Code, Provincial Policy Statement and the County Official Plan has identified that there are many factors to consider in the development of a policy/regulatory framework for boarding houses.

When considering the protection of agriculture and the housing needs of the community, it is clear that Leamington must provide a policy framework that provides for the accommodation of temporary foreign workers, both on the farm (as permitted by the PPS) and within others areas of the municipality, including the urban area of Leamington. For this reason, we do not consider the outright prohibition of boarding houses to be good planning, nor do we consider the use of a highly restrictive policy and regulatory framework, that effectively achieves something close to prohibition, to be appropriate.

It is also important to note that providing opportunities to develop new housing types to accommodate temporary farm workers will significantly assist Leamington in achieving the required 15 and 20 percent intensification and affordable housing targets. In fact, given the projected increase in this housing need, which has been suggested during our consultation, Leamington may be in the unique position that they will significantly outpace the minimum targets if appropriate accommodation is made available.

## **6.3 Implementation Tools**

There are a number of Implementation Tools available to the Municipality of Leamington with respect to regulating the use of boarding houses. Much of the following tools identified in the following sections are being practiced in many municipalities across Ontario.

### **6.3.1 Municipal Act and By-laws**

This subsection provides information on the Municipal Act and various implementing By-laws.

### 6.3.1.1 Municipal Act, 2001<sup>25</sup>

The Ontario Municipal Act, 2001, governs the structure, responsibilities and powers of municipalities in Ontario other than the City of Toronto. The Act provides authority to municipalities to carry out responsibilities in their respective municipality. The Municipal Act sets out matters related to municipal governance and powers, and covers matters of jurisdiction while including implementation tools to allow greater municipal autonomy in their governance of affairs and delivery of services. The Act establishes a broad legislative framework that allows Municipalities to pass by-laws that relate to a wide range of activities, including by-laws respecting the economic, social and environmental well-being of municipalities.

Section 151(1) of the Municipal Act provides the ability for a municipality to pass a licensing by-law. Based on our research and experience a municipality may pass a by-law that licenses boarding houses. Further to this authority, the licensing by-law can include a licensing fee and the means to renew this licensing fee. Section 151(1)(c) notes that as part of this authority, a municipality may apply conditions as a requirement to obtain, hold or renew a license which could include paying a fee, permitting inspections of the property, complying with federal or provincial legislation or regulations, and complying with other applicable by-laws of the municipality.

From our observation, many of the municipalities that are regulating boarding houses in their jurisdiction use the ability to license them and charge a fee as one of their tools. A licensing by-law would regulate the establishment or operation and can track the location and condition of the boarding houses.

### 6.3.1.2 Noise By-law<sup>26</sup>

Section 129 of the Municipal Act allows for a noise by-law to be utilized to prohibit and regulate noise. The municipality currently has noise by-laws no. 431-03, 597-05, 674-06, 695-06 in effect. The current by-law does not specifically define or provide provisions relating to boarding houses. Many municipalities utilize this tool as a way to control the noise that could possible emanate from a use such as or similar to a boarding house.

### 6.3.1.3 Property Standards By-law<sup>27</sup>

A property standards by-law is in place to ensure that property in the municipality meets certain standards, and to ensure that all buildings and property do not become run down, hazardous or unsightly. Section 15.1 of the Building Code Act allows municipalities to create property standards by-laws. The current municipal property standards by-law no. 622-05 prescribes standards for the maintenance and occupancy of all property within the municipality and prohibits the use of such property that does not conform to the standards and requires any property to be repaired and maintained so as to comply with said standards. The current by-law describes a dwelling unit and multiple dwelling but does not specifically address boarding houses. The inclusion of this use in the by-law and specified provisions that must be met would assist the municipality in dealing with complaints related to unkempt premises. Many municipalities utilize the property standards by-law to regulate shared accommodation such as minimum room sizes used for sleeping, maximum number of people per dwelling and the shared facilities such as kitchens or bathrooms.

### 6.3.1.4 Land Maintenance By-law<sup>28</sup>

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<sup>25</sup>Municipal Act, 2001, Section 151

<sup>26</sup>Noise By-law no. 431-03, 597-05, 674-06, 695-06, Municipality of Leamington

<sup>27</sup>Property Standards By-law No. 622-05, Municipality of Leamington

<sup>28</sup>Land Maintenance By-law No. 840-08, Municipality of Leamington

Section 128 of the Municipal Act permits the ability for a municipality to create and enforce a land maintenance by-law. The municipality currently has a land maintenance by-law no. 840-08 in place that prescribes standards for the maintenance of land. The by-law requires owners of lands to clean and clear the land and regulates how this shall be done. The land maintenance standards are identified including enforcement provisions and fines to be imposed if the standards are deemed to not be met. If the municipality so chooses the current by-law could be amended to add more specific standards with respect to boarding houses and the expectation of how the property will be maintained by the inhabitants.

### **6.3.2 Planning Legislation**

This subsection provides an overview of the Planning Act and operational sections relative to this subject.

#### **6.3.2.1 The Planning Act, R.S.O. 1990**

The Planning Act, R.S.O. 1990, was established to provide a land use planning system led by provincial policy. The Planning Act sets out matters of provincial interest and requires all planning decisions to be consistent with the Provincial Policy Statement. The Act sets out a variety of powers related to planning administration, and tools for municipalities to use to facilitate planning, and regulate and control land use and development. Furthermore, it describes how land uses may be controlled and who may control them. Section 2 of the Act identifies the adequate provision of a full range of housing, including affordable housing, as a provincial interest. The Planning Act enables a municipality to plan for existing and future development. The following tools are enabled by the Planning Act.

#### **6.3.2.2 Official Plans<sup>29</sup>**

The Official Plan sets out the broad vision of a community's plans and goals governing land use. This includes the municipality's policy approach to providing a range and mix of housing types and densities, specifying measures and procedures for attaining housing objectives, and establishing targets to provide housing that is affordable to low and moderate income housing. Official Plans provide a key starting point to guide the form and land use structure of communities and can have a significant impact on the availability of a full range of housing types. The land use policy framework developed for an Official Plan guides development in the municipality. Official Plans are implemented primarily through Zoning By-laws. Policies are necessary in an Official Plan if a Zoning By-law is to contain implementing measures pertaining to boarding houses.

#### **6.3.2.3 Zoning By-laws<sup>30</sup>**

Zoning By-laws put the Official Plan into effect and enable the Municipality to regulate and manage land development. A Zoning By-law controls how land can be used, where buildings and other structures can be located, the types of buildings that are permitted and how they may be used, and the lot sizes and dimensions, parking requirements, building heights and setbacks from the street. They contain specific requirements that are legally enforceable. Construction of new development that does not comply with the zoning by-law is not allowed, and the municipality can refuse to issue a building permit or take legal action if they so choose. In addition to implementing the Official Plan, the By-law protects the municipality from conflicting and possibly dangerous land uses throughout the community. The current municipal comprehensive zoning by-law defines a boarding house but has no specific policies and does not allow the use in any zone, therefore, a

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<sup>29</sup> *Municipal Tools for Affordable Housing, 2011, Ministry of Municipal Affairs and Housing*

<sup>30</sup> *Citizens' Guides, 2010, Ministry of Municipal Affairs and Housing*

zoning by-law amendment is required if a boarding house use is proposed. One of the first steps in regulating boarding houses in Leamington is to provide specific policies in the general provisions section and to identify the zones in which they would be permitted uses. Many municipalities have taken this approach.

#### **6.3.2.4 Minor Variances<sup>31</sup>**

If a proposed change does not conform exactly to a zoning by-law but follows its general intent, a minor variance is a tool that can be utilized. A minor variance does not change a zoning by-law but varies a specific development standard of the by-law which allows a person to move forward with development and/or with obtaining a building permit. In determining whether a request is minor in nature or not the Committee of Adjustment will consider the necessity and desirability of the variance from a planning and public interest point of view. This is another tool that can be used by the Municipality when a minor change to the prescribed standards in the zoning is necessary for approval of a boarding house.

#### **6.3.2.5 Temporary Use By-laws<sup>32</sup>**

A temporary use by-law zones land or buildings for specific uses for a maximum of three years at a time with more extensions possible. This allows the Municipality to zone a property on a temporary basis to ensure that the use is compatible with the adjacent lands based on specific criteria and allows for a thorough review of the use at least every 3 years or a time as specified. If it is determined that the use no longer makes sense in a particular area then the temporary use by-law can simply be allowed to lapse with no extension given.

#### **6.3.2.6 Interim Control By-laws (ICBL)<sup>33</sup>**

An ICBL temporarily restricts some land uses while the municipality is studying or reviewing its policies. The restriction can be imposed for only a year, with a maximum extension of another year. The Planning Act provides that an interim control by-law would remain in effect past the two-year period if the new zoning by-law which replaces the interim control by-law is appealed. The municipality previously had an ICBL in effect for boarding houses for the Study to be completed. Another ICBL could be considered while Official Plan and Zoning By-law policies are being contemplated including any licensing by-laws.

#### **6.3.2.7 Site Plan Control<sup>34</sup>**

A Site Plan Control By-law is used to establish areas where site plan control will be applied over and above those set out in the zoning by-law. The areas must be described in the official plan. Site Plan Control ensures that developments are built and maintained in the way that Council approved them, that new developments meet certain standards of quality and appearance, there is safe and easy access for pedestrians and vehicles, the appearance and design features of buildings, and their sustainable design, are satisfactory, there is adequate landscaping, parking and drainage, and nearby properties are protected from incompatible development. The municipality could determine that any proposed boarding houses would be subject to Site Plan Control approval. Most municipalities either deem their entire municipality as a site plan control area or identify that all residential development other than single detached dwellings is subject to site plan control.

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<sup>31</sup>Ibid.

<sup>32</sup>Ibid.

<sup>33</sup>Ibid

<sup>34</sup> Ibid

### 6.3.2.8 Garden Suites<sup>35 36</sup>

Section 39.1(2) of the Planning Act defines a Garden Suite as “a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable”. Garden suites are also commonly known as granny flats. They provide an affordable housing option that supports changing demographics, allows for aging in place, and provides opportunities for some of the most reasonably priced accommodation. When a temporary use of a garden suite is authorized, the temporary by-law may allow it for a period not to exceed 20 years with more extensions possible in three-year increments as needed. A building permit is required and if applicable a permit to install or repair an on-site sewage system. A garden suite is relatively inexpensive to install as they are often constructed off-site or made from prefabricated materials. This option could be considered to provide a relatively small boarding house on a property where the caretaker would also live. Our background research did not identify any municipalities using this implementing tool.

### 6.3.2.9 Community Improvement Plans (CIP)<sup>37 38</sup>

Community improvement planning activities are shaped by local needs, priorities and circumstances. Through Community Improvement Plans municipalities can focus public attention on local priorities and municipal initiatives, target areas in transition or in need of repair, rehabilitation and redevelopment, facilitate and encourage community change in a coordinated manner, and stimulate private sector investment through municipal incentive-based programs. A community improvement approach is a flexible, comprehensive, coordinated and strategic framework for dealing with lands and buildings, which can address many physical, social, economic or environmental matters. Community improvement project areas can be designated in the municipality by by-law provided there are official plan policies relating to community improvement. Municipalities can consider using CIPs to provide for grant or loans in relation to the provision of affordable housing within CIP project areas. In some instances, loan agreements between municipalities and landowners have required that specified properties be maintained as affordable housing.

This tool could be utilized to provide incentives to landowners to repair their current boarding houses as a form of affordable housing in the municipality. Based on our experience and research this planning tool is not commonly used in other municipalities for the purpose of boarding houses.

### 6.3.2.10 Community Permit Planning System<sup>39</sup>

The Community Permit Planning System (CPPS) is an alternative to zoning for regulating development for specific areas. The CPPS has potential to provide greater certainty in planning decisions and to accelerate the planning application process by collapsing approval procedures from several current steps (Zoning By-law Amendment, Site Plan Approval and Minor Variance) into a single procedure. By combining these processes together with a clearly understood shared vision for future built form and land uses in an area, the CPPS can help to achieve high quality development while providing applicants with flexibility as part of a development framework. The Official Plan must incorporate policies that enable the use of a CPPS. A CPPS can be used within all or parts of a municipality through the passing of a CPPS By-law. A CPPS is similar to an enhanced zoning by-law in that municipalities can tailor it to meet their specific needs. While it

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<sup>35</sup>Municipal Tools for Affordable Housing, 2011, Ministry of Municipal Affairs and Housing

<sup>36</sup>Ministry of Municipal Affairs, Ministry of Housing, Website <http://mah.gov.on.ca>

<sup>37</sup>Community Improvement Planning Handbook 2008, Ministry of Municipal Affairs and Housing

<sup>38</sup>Municipal Tools for Affordable Housing, 2011, Ministry of Municipal Affairs and Housing

<sup>39</sup>Development Permit System Study, Background Report, 2016, Town of Ajax

includes the traditional features normally associated with zoning by-laws, such as certainty of use and development standards, municipalities can also include enhanced features as part of its CPPS. Enhanced features could include a range of conditions of approval, the ability to identify discretionary uses (uses permitted if certain specified criteria are met), and the ability to incorporate a specified range of variation for development standards such as height, density and setbacks. There are very few municipalities in Ontario that utilize a CPPS and none solely for the ability to regulate boarding houses.

### **6.3.3 Other Applicable Legislation**

This subsection provides information on the Ontario Building Code, Fire Code and Development Charges Act.

#### **6.3.3.1 Ontario Building Code<sup>40</sup>**

The Ontario Building Code sets standards for the design and construction of buildings to meet objectives such as health, safety, fire protection, accessibility and resource conservation. Ontario Building Code enforcement is generally carried out by the municipal building department. Under the Ontario Building Code a building permit must be obtained to construct a new building over ten square meters, for renovations or repairs or to add to a building, to excavate or construct a foundation and to construct a seasonal building. Permits are also required for installation, alteration, extension or repair of on-site sewage system. The Ontario Building Code provides a definition of a boarding, rooming and lodging house (Division A, Part 1) which some municipalities have used in their policies, however, a majority have adapted their own version of this definition to suit the particular needs of their municipality. Many municipalities require that as part of a license for a boarding house an Ontario Building Code inspection is conducted, and approval is required from the building department even if a building permit is not required.

#### **6.3.3.2 Fire Code<sup>41</sup>**

The Fire Code provides the same definition for boarding, rooming and lodging houses as the Ontario Building Code (Division B, Part 9). Section 9.3 addresses matters relating to fire separation, fire-resistant rating of construction materials, number of required exits, fire alarm requirements, and emergency lighting. In the same manner as requiring a sign off from the building department, most municipalities require a Fire Code inspection and sign off from the fire department prior to the issuance of a boarding house license. The units, based on occupancy, may require a sprinkler system, fire protection devices, and carbon monoxide monitors for the personal safety of the inhabitants, similar to the type of construction and code requirements found in Apartment dwelling units.

#### **6.3.3.3 Development Charges Act, 1997<sup>42</sup>**

Municipalities can impose development charges in order to pay for increased capital costs required because of increased needs for services arising from new development. A development charge by-law can apply to the entire municipality or only part of it, phase in development charges to stimulate development, exempt or reduce development charges for types of development specified in the by-law. In order to impose development charges the municipality must pass a development charges by-law. Alternatively, as a way to regulate the location the municipality can pass in their development charges by-law that based on specific criteria, such as location or size,

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<sup>40</sup>Ibid.

<sup>41</sup>Ibid.

<sup>42</sup>*Municipal Tools for Affordable Housing, 2011, Ministry of Municipal Affairs and Housing*

a boarding house is exempt from development charges. This could be further explored by the municipality's solicitor.

## 7.0 Recommendations

The purpose of this section is to identify appropriate boarding house and foreign worker housing policy and regulatory options available to the Municipality. To assist the readers of this Study, we have identified a series of questions that progressively examine boarding house and foreign worker housing options at increasing levels of detail. In responding to each question, we have outlined our recommended approach as identified by a checkmark below.

### 1. Should Leamington establish a planning approval framework for boarding houses and foreign worker housing?

✓ Option 1: Yes. We support the establishment of a planning approval framework for boarding houses and foreign worker housing because it provides a permanent record of dwelling conversions and health and safety inspections prescribed under the Building and Fire Code. Accurate record keeping will assist the municipality in monitoring municipal service delivery and infrastructure needs, in addition to evaluating neighborhood impacts and stability.

✗ Option 2: No. We have observed that boarding houses and foreign housing generally falls within acceptable property standards requirements, and there are no signs that the current boarding housing supply is destabilizing existing neighbourhoods.

### 2. Should Leamington classify different types of boarding houses/foreign worker housing?

✓ Option 1: Yes. Based on our research and analysis one size does not fit all in Leamington. We have observed that there are three dominant types of boarding houses/foreign worker houses in Leamington including on-farm, off-farm, and off-farm within settlement areas. The establishment of different types of boarding houses/foreign worker housing will offer the municipality the flexibility to regulate each type differently. We further support the identification of small and large subcategories based on occupancy for off-farm boarding houses.

✗ Option 2: No. There is no need to define types based on what has been discussed in option 2 of the previous question.

### 3. Should Leamington's planning approval framework define small vs. large boarding houses/foreign worker housing?

✓ Option 1: Yes. Based on our research and analysis we support the subcategorization of off-farm boarding houses inside and outside of settlement areas. More specifically, we recommend small and large subcategories based on approved occupancy. There are other options available to the municipality in determining a size threshold such as total gross floor area, gross floor area per occupant, number of washroom facilities/fixtures, building type, number of entrances, number of rooms, and building height. We prefer occupancy because it provides the most concrete link to service usage and neighbourhood impact.

- ✘ Option 2: No. The planning approval framework should be based solely on location not on boarding house size.

#### 4. What occupancy limit defines a small vs. large boarding house?

- ✓ Option 1: Four (4). The Municipal Engineering Department has noted that the sanitary sewer system within the serviced area of Leamington is based on an assumed 3.5 persons per unit occupancy level. It may be necessary in these serviced parts of the Municipality to establish an interim occupancy level for small boarding houses until the sanitary sewer system has been completely modeled to identify capacity constraints.

We support option 1 on an interim basis as it relates to boarding houses within the serviced area of Leamington.

- ✘ Option 2: Five (5). The Ontario Building Code defines a boarding house to be a structure that provides lodging for more than 4 persons.

In our opinion this threshold is too low in the Leamington context because it may result in an excessive amount of single detached dwelling conversions.

- ✓ Option 3: Six (6). Based on our research 6 occupants was a common size used by municipalities throughout the Province for small boarding houses. Most municipalities we researched have a different boarding house need than Leamington. At this time, municipal staff support this occupancy level outside of the serviced areas. This level would be further supported by municipal staff within the serviced areas subject to the successful completion of sanitary sewer modeling that demonstrates additional capacity is available.

In our opinion this threshold is too low in the Leamington context because it may result in an excessive amount of single detached dwelling conversions within settlement areas.

- ✓ Option 4: Ten (10). According to Section 3.2.4.1 of the Ontario Building Code an occupant load (sleeping accommodation) 10 or greater requires a Fire Alarm System.

We recommend this option as it represents the midpoint between Options 3 (6 occupants) and Option 5 (14 occupants) and we consider this occupancy level to represent a reasonable as-of-right permission for small boarding houses within Leamington. We consider this Option to balance a sufficiently large occupancy rate with the greater potential for housing conversions. Put another way, we are of the opinion that the lower the occupancy rate, the greater the potential for housing conversions.

Due to potential servicing constraints, we recommend that this option not be utilized within the existing serviced areas in Leamington until the completion of sanitary sewer modeling that demonstrates sufficient capacity is available.

- ✘ Option 5: Fourteen (14). Our analysis of the housing spreadsheet detailed in Section 6.1.1 of this Study indicates that the average occupancy for boarding houses within the Primary Settlement Area in Leamington is approximately 13.7 persons.

We are of the opinion that as-of-right permissions for this level of boarding house occupancy may not maintain stable neighbourhoods. At this level of occupancy, it is appropriate to review the density of boarding houses within neighbourhoods and the potential impacts of same as part of a Zoning By-law Amendment process.

In planning terms, we consider neighbourhood stability to generally refer to the physical, economic and social characteristics of a neighbourhood that are reflected in matters such as the quality of the building stock, investment (renovations/redevelopment), indicators of pride of ownership, owner occupied vs rental housing stock, housing conversions, and socio-economic factors.

**5. What planning approval framework should apply to boarding houses/foreign worker housing?**

- ✓ Option 1: The following table contains a summary of our recommended planning approval framework.

**Figure 2: Recommended Planning Approval Framework**

IMPLEMENTING TOOL	ON-FARM	OFF-FARM OUTSIDE SETTLEMENT AREAS		WITHIN SETTLEMENT AREAS	
		Small	Large	Small	Large
General Official Plan Policies(1)	✓	✓	✓	✓	✓
General Zoning By-law Provisions(2)	✓	✓	✓	✓	✓
Licensing-Municipal Act(3)	✓	✓	✓	✓	✓
Change of Use Permit(4)	✓	✓	✓	✓	✓
Development Charges(5)	✓	✓	✓	✓	✓
Permit as-of-right in Zoning By-law(6)	✓	✓	✓	✓	
Permitted as-of-right in higher density zones in Zoning By-law(7)				✓	✓
Zoning By-law Amendment(8)					✓
Site Plan Control Approval(9)					✓

**Notes:**

1. Official Plan: General Official Plan policies would describe the land use and require the implementing Zoning By-law to establish zoning provisions for boarding houses.
2. Zoning By-law: General Zoning By-law provisions could include parking, landscaped open space, fencing, gross floor area by occupant, outdoor storage, location requirement based on zone, number of rooms, density and accessory buildings.
3. Licensing: A licensing by-law could require matters such as initial and annual building and Fire Code inspections, occupancy registration, health unit inspection, compliance, fees, initiate a Change of Use permit under the Ontario Building Code, and require zoning compliance.
4. Change of Use Permit: This permit would be issued in compliance with the requirements of the Ontario Building Code including occupant load and fire suppression.

5. **Development Charges:** A Development Charge for all new and/or expanding boarding houses would support the establishment of infrastructure and community facilities to support growth in the number of temporary foreign workers supporting the agricultural economy. Examples include community facilities geared to temporary foreign workers such as recreational centres, bike lanes, and cultural facilities.
6. **Permit as-of-right in Zoning By-law:** In recognition of the importance of boarding houses to the local agricultural economy we consider certain as-of-right permissions to be appropriate.
7. **Permitted as-of-right in higher density zones in Zoning By-law:** Small and large boarding houses should be permitted as-of-right in the Residential R3, R4, R5, and R6 Zones if, after completion of sanitary sewer modeling, it is demonstrated that sufficient capacity is available.
8. **Zoning By-law Amendment:** Further to note 6 above, we feel that there would be public benefit to requiring a Planning Act review of large off-farm boarding houses within a settlement area. The alternative would be that all large off-farm boarding houses within settlement areas would be unplanned. The as-of-right permissions for small boarding house exceeding an occupancy of 4 persons within existing serviced areas should only be approved after the completion of sanitary sewer modeling that demonstrates sufficient capacity is available.
9. **Site Plan Control Approval:** Large boarding houses within settlement areas have similar characteristics to multiple residential development that is currently subject to site plan approval. We consider it reasonable that some form of site plan approval is required for these houses. A minor and major application process could be developed specifically for these houses.

## **6. What are the additional specific planning framework details by boarding house type?**

As noted in recommendation 2 above we consider there to be three dominate types of boarding houses/foreign worker houses in Leamington including on-farm, off-farm, and off-farm within settlement areas. The recommended planning framework for each type is further defined below.

1. **On-Farm:** The following provisions are recommended for on-farm foreign worker houses.
  - a. **Specific Official Plan Policies:**
    - i. Direct the implementing Zoning By-law to permit foreign worker house (farm help accommodation) as-of-right in all agricultural zones. This recommendation is consistent with the Provincial Policy Statement.
    - ii. Include a new definition for a Boarding House. Refer to recommendation 7.
    - iii. Revise Section 2.14 to preclude the use of mobile homes for farm help dwelling purposes.
    - iv. Replace Section 3.1, Lands Designated Agricultural, specifically 3.1.2(f) to read as follows:
      - i. Lands designated Agricultural that contain an agricultural use, and are in excess of 0.8 hectares, may contain one single detached dwelling and farm help dwellings subject to the following:

- The property is not subject to a residential building prohibition agreement as a result of the severance of a surplus farm dwelling.
      - The property is not subject to a residential building prohibition in the implementing Zoning By-law as a result of the severance of a surplus farm dwelling
      - The single detached dwelling and/or farm help dwelling can meet the servicing requirements of the Ontario Building Code and any other regulatory authority, such as the Ministry of the Environment and Climate Change.
    - ii. Lands designated Agricultural that do not contain an agricultural use or are less than 0.8 hectares in size, shall be limited to one single detached dwelling or one farm help dwelling subject to the following:
      - The property is not subject to a residential building prohibition agreement as a result of the severance of a surplus farm dwelling.
      - The property is not subject to a residential building prohibition in the implementing Zoning By-law as a result of the severance of a surplus farm dwelling
      - The single detached dwelling and/or farm help dwelling can meet the servicing requirements of the Ontario Building Code and any other regulatory authority, such as the Ministry of the Environment and Climate Change.
  - b. Specific Zoning Provisions in each Agricultural Zone: The following provisions will ensure that boarding houses are integrated into on-farm activities and built form.
    - i. Permit as-of-right in all agricultural zones as an accessory building.
    - ii. Setbacks should be in accordance with the principle dwelling setbacks in the applicable Zone.
    - iii. Maximum building height should be 10 metres, or not exceeding the height of the principle dwelling that exists on the property.
    - iv. No more than one kitchen per boarding house.
    - v. No limit proposed to maximum occupancy. This should be monitored and re-evaluated during the next review of the Zoning By-law.
    - vi. Remove the maximum number of labourers permitted to be accommodated in on-farm Farm Help Dwellings. The Zoning By-law currently restricts occupancy to 2.5 labourers per 0.5 hectares of greenhouse. We can think of no planning justification for this accommodation restriction.
  - c. License should be issued under the Municipal Act.
2. Off-Farm Outside Settlement Areas: The following provisions are recommended for off-farm boarding houses outside of settlement areas.

- a. Specific Official Plan Policies:
    - i. Direct the implementing Zoning By-law to permit boarding houses supporting temporary foreign workers as-of-right in all agricultural zones. This recommendation is consistent with the Provincial Policy Statement. This recommendation also removes non-farm residents from the agricultural area and encourages the protection of farmland for long-term use for agriculture (i.e. farmland could be used for farming rather than temporary foreign worker housing).
    - ii. Include a new definition for Boarding House. Refer to recommendation 7.
    - iii. Encourage the exterior design of boarding houses to retain the characteristics of a single detached dwelling in terms of architecture, massing, height, gross floor area, parking, and access
  - b. Specific Zoning Provisions:
    - i. Permit as-of-right in all agricultural zones.
    - ii. Setbacks should be in accordance with the principle dwelling setbacks in the applicable Zone.
    - iii. Maximum height should be 10 metres. This is consistent with the height permissions for other uses permitted in the agricultural zones.
    - iv. No more than one kitchen per boarding house.
    - v. A maximum of one boarding house per property.
  - c. License should be issued under the Municipal Act.
3. Off-Farm Within Settlement Areas: The following provisions are recommended for off-farm boarding houses within settlement areas.
- a. Specific OP Policies:
    - i. Direct the implementing Zoning By-law to permit small boarding houses as-of-right in any residential zone.
    - ii. Require a Zoning By-law Amendment for large boarding houses (>4, 6 or 10 approved occupants).
    - iii. Adequate availability of water and sanitary services.
    - iv. Review, and if necessary, amend the Site Plan Control area to include all lands within the Primary and Secondary Settlement Areas.
    - v. The Municipality should monitor the locations of new boarding houses to ensure that the stability of existing neighbourhoods is maintained.
    - vi. Encourage the design of boarding houses to retain the characteristics of a single detached dwelling.
    - vii. The building siting, access, landscaping, hard surfacing and tree preservation should maintain the characteristics of the neighbourhood.
    - viii. Establish Planning Areas for boarding house and occupancy density calculation purposes. As part of the public process for the Official Plan

Amendment consider establishing maximum densities for the Planning Areas.

- ix. Ensure land use compatibility.
- b. Specific Zoning Provisions:
- i. Small boarding houses should be permitted as-of-right in all residential zones. A large boarding house should require a Zoning By-law Amendment.
  - ii. Setbacks should be in accordance with the principle dwelling setbacks in the applicable Zone.
  - iii. Maximum height should be 10 metres.
  - iv. No more than one kitchen per boarding house.
  - v. Minimum landscaped open space should be 35-45%. We recommend that the definition for *Landscaped Open Space* and *Landscaping* be amended as it applies to boarding houses. The revisions will ensure that the current practice observed of placing excessive fill or gravel along the side yard and rear yard is minimized in favour of living/decorative landscaping.
  - vi. A maximum density should be established based on the number of approved boarding house occupants per hectare and the number of boarding houses per hectare in order to maintain neighbourhood stability. We recommend consideration of the following maximum densities as part of the implementing Zoning By-law review process:
    - i. 10-20 boarding houses per hectare within the Official Plan defined Planning Areas.
    - ii. 200-300 boarding house occupants per hectare within the Official Plan defined Planning Areas.
  - vii. Permanent bicycle parking should be required at a rate of 1 per boarding house occupant.
  - viii. Parking should be provided at 1 space per 5-10 occupants. We recommend that this parking rate be further evaluated as part of the preparation of the implementing Boarding House Zoning By-law Amendment.
  - ix. Criteria for large boarding house Zoning By-law Amendment applications:
    - iii. Assess the capacity of municipal water and sanitary services.
    - iv. Review the boarding house and occupancy density to ensure that stable neighbourhoods are maintained.
    - v. Demonstrate that there is no negative impact on neighbourhood character. The Zoning By-law may include criteria to evaluate neighbourhood character including matters such as the form and massing of the building, access points, exterior materials, setbacks, height, vehicle parking, bicycle parking and landscaped open space.

- vi. Determining the appropriate maximum gross floor area and the size of the unit relative to the proposed occupancy.
  - x. Ensure second suites are not permitted on the same property as a boarding house.
  - xi. A maximum of one (1) boarding house per property.
- c. Specific Site Plan Control Requirements for large boarding houses within settlement areas:
  - i. Location of bicycle parking.
  - ii. Location of parking.
  - iii. Landscaped open space (hard surface vs. vegetative areas)
  - iv. Review of exterior elevations for new or expanding boarding houses to ensure they maintain the appearance of a single detached dwelling.
  - v. Property access
  - vi. Storage of refuse and recycling
  - vii. Fencing
  - viii. Tree Preservation
- d. License should be issued under the Municipal Act.

## 7. Are there any other site specific planning framework details to consider?

We offer the following additional planning framework considerations:

1. Boarding House Definition: We recommend that the definition of Boarding House or Lodging House or Rooming House in Zoning By-law 890-09 be amended as follows:
  - Boarding House or Lodging House or Rooming House, SMALL: Shall mean a dwelling in which the proprietor supplies, for a fee, sleeping accommodation with or without board for a maximum of XX (XX) persons, including the proprietor, but does not include a hotel, hospital, group home dwelling, home for the young or the aged, and bed and breakfast establishment. Accommodation provided off of the farm, with or without a fee, to temporary foreign workers under programs such as the Seasonal Agricultural Worker Program and Temporary Foreign Worker Program, also fall under this definition.
  - Boarding House or Lodging House or Rooming House, LARGE: Shall mean a dwelling in which the proprietor supplies, for a fee, sleeping accommodation with or without board for XX (XX) or more persons, including the proprietor, but does not include a hotel, hospital, group home dwelling, home for the young or the aged, and bed and breakfast establishment. Accommodation provided off of the farm, with or without a fee, to temporary foreign workers under programs such as the Seasonal Agricultural Worker Program and Temporary Foreign Worker Program, also fall under this definition.
2. Remove definition of “Dwelling, Accessory to Processing Plant” in By-law 890-09: This type of dwelling is considered to fall under the new definition of Boarding House or Lodging House or Rooming House and also contains time limitations that may fall outside of the jurisdiction of Section 34 of the Planning Act.

3. Grandfathering/Transition: Provisions of Section 4.36 Non-Conforming Uses, of By-law 890-09, apply to legal non-conforming uses that may be created as a result of any new boarding house by-law provisions. Based on our review, there are no legal non-conforming boarding houses in Leamington. We recommend that all existing, expanding and new boarding houses should require a license under the Municipal Act.
4. New Definition: Temporary Foreign Worker: We recommend that a new definition of Temporary Foreign Worker be added to Zoning By-law 890-09 as follows:
  - Temporary Foreign Worker shall mean a worker hired through the Seasonal Agricultural Worker Program or the Temporary Foreign Worker Program offered by the Government of Canada or any other similar program designed to fill temporary labour and skill shortages when qualified Canadian citizens or permanent residents are not available.
5. New Definition: Dwelling, Farm Help: We recommend that a new definition of a Farm Help Dwelling be added to Zoning By-law 890-09 as follows:
  - Dwelling, Farm Help shall mean a dwelling that is used for the housing of farm workers on the farm they are employed, including, but not limited to, temporary foreign workers, where the workers assist on the subject farm on a regular basis.

## **8. What additional steps could Leamington undertake?**

Based on our research we offer the following additional items for the Municipality's consideration:

1. Foreign Workers Survey: We recommend that the Municipality survey the temporary foreign workers, agricultural operators, Mexican consulate, F.A.R.M.S., Ontario Vegetable Growers Association, and the WECHU to determine what services and community facilities would best support the anticipated increase in the number of workers in Leamington.
2. Servicing Impact Study: We recommend that the Municipality undertake a study of the potential impacts that the increase in temporary foreign worker housing may have on the sanitary and water systems. This servicing impact study should be completed prior to or in support of the next Official Plan review.
3. Development Charge Background Study: We recommend that the Municipality retain a consultant to prepare a Development Charge Background Study in support of an update to the Development Charge By-law to consider an area charge for new or expanding boarding houses. This charge would help off-set the cost of growth related infrastructure such as bike lanes, recreational needs, extra police/fire/emergency services staff, refuse, etc.
4. Bus Stops: We recommend that the Municipality review the merits in identifying dedicated bus stops for daily pick-up/drop-off of temporary foreign workers, that are on collector or arterial roads outside of local neighbourhoods (similar to a typical public transit system routing).
5. FAQ Sheet: We recommend that the Municipality prepare a FAQ's sheet and/or information brochure that can be distributed to residents in their regular tax mailing, distributed at the Municipal Office, posted on their website and at other public buildings (i.e. library). FAQs should highlight the importance of foreign workers to the local economy.

6. **Planned Community:** If the Municipality determines that increased densities in the number of boarding houses rise to a point where stable neighbourhoods are negatively impacted, we recommend that the Municipality evaluate the merit in establishing a planned community within the existing service area boundary.
7. **Boarding House Website Link:** We recommend that the Municipality include a link on their website identifying the locations of all registered boarding houses. This link would promote community regulation/enforcement and should include the following information:
  - a. Location/address
  - b. Date registered
  - c. 24 hour emergency contact information
  - d. Complaint contact information
  - e. Approved occupancy numbers
  - f. FAQ Sheet
8. **Site Plan Process:** We recommend that the Municipality consider establishing a condensed Site Plan review process for boarding houses in order to streamline the approval process.

## 8.0 Conclusion

The purpose of this Boarding House Study was to analyze boarding houses in the Municipality and recommend a planning approval framework to mitigate adverse impacts.

The circulation of this Study is intended to further advance discussion on this topic that may result in revisions to the policy approval framework in Leamington.

Respectively Submitted,

The Jones Consulting Group Ltd.



Ray Duhamel, RPP  
Partner



Brandi L. Clement, RPP, AICP  
Partner



Lorelie Spencer, RPP  
Senior Planner

## **APPENDIX 1: Staff Report PLA-47-16**



## Report

**To: Mayor and Members of Council**

**From: Danielle Truax, Manager of Planning Services**

**Date: November 17, 2016**

**Re: Boarding, Lodging, or Rooming House  
Proposed Interim Control By-law**

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### Recommendation:

It is recommended that:

1. Pursuant to Section 38 of the Planning Act, Council enact an Interim Control By-law for a period of one year prohibiting the use of land, structures and buildings for the establishment of Boarding, Lodging and Rooming Houses within the Municipality during the study of land use policies and regulations as part of the 5 year review of the Official Plan;
2. Council direct that that study be undertaken with a view to:
  - a) identify the need for affordable housing within Leamington and how that is best accommodated through intensification and growth;
  - b) identify areas in the municipality that can appropriately accommodate increased density based on:
    - i) capacity of municipal services,
    - ii) access to amenities, recreational opportunities, transit routes and commercial and social services
    - iii) the density, form and compatibility of adjacent existing development
  - c) establish regulatory controls to be implemented within the Zoning By-law framework, including establishing a definition of a "boarding, lodging and rooming house"
  - d) ensure that the definition is consistent with the definitions and regulations of the Building Code Act and the Fire Protection and Prevention Act

- e) establish Leamington specific minimum standards for boarding houses such as the number of washroom facilities, minimum and maximum number of rooms, available common space, etc.
  - f) provide tools to establish a licencing system to ensure the proper management and conversion of existing dwellings for use as boarding houses; and
3. Interim Control By-law #78-16 be approved at the Monday, November 21<sup>st</sup>, 2016 Council meeting. (Report PLA-47-16)

## **Background:**

The Municipality has been made aware of the increasing trend to use existing dwelling units, in particular but not exclusive to single detached dwelling units, for the use as boarding, lodging or rooming houses.

The distinguishing characteristic of a boarding, lodging or rooming houses (to be referred collectively as boarding house) is the control of the premises. Control in a boarding house is between the owner and the occupants on an individual basis as opposed to the group operating as a single tenancy. Characteristics of a single tenancy are:

- a) the occupants control who occupies the premises and the activities carried on in the premises (such as choosing the furnishings for the house and rooms; paying the utilities; assigning the rooms; and organizing housekeeping, meal preparation and communal activities);
- b) voluntariness of possession; and
- c) group decision-making.

Boarding houses can be a form of affordable housing where individuals, couples or small families “rent” space in single dwelling units, sharing washroom facilities and kitchens with other people - potential strangers - in order to find affordable housing. In addition to the identified need for affordable housing units, there is also a need generated out of the greenhouse and agricultural industry for employment based housing. Given the current and anticipated future growth within these industries, this trend to utilize single dwelling units to house seasonal agricultural workers in both the urban and the rural areas of the Municipality is expected to continue to increase.

It is a goal of the Official Plan (OP) to allow for higher density development within settlement areas and to provide a broad range of housing, employment and leisure opportunities. Specifically, the residential land use goals of the OP seek to create opportunities to increase the housing supply, including affordable rental and ownership accommodations, through residential intensification. Residential development, including the provision of affordable housing, must be provided in a controlled and progressive manner that is within the capacity of the services available.

It has come to the attention of the Municipality, that the conversion and use of existing dwelling units as boarding houses requires immediate attention, as the current practice does not adequately address safety of the occupants of these dwellings; is not in keeping with the provisions of the of the Official Plan or Zoning By-law; and may not be appropriately located within the capacity of available services.

## Comments:

An Interim Control By-law is a development tool permitted under the provisions of Section 38 of the Planning Act, which effectively allows Council to freeze development where there is a commitment to undertake a study for that purpose.

The power to freeze development is intended to afford the municipality time to study a land use matter and determine the necessary and appropriate planning policies and controls which can be implemented to address the circumstance. This power is often used to address unforeseen or urgent issues that arise out of an existing zoning provision.

Currently boarding houses are a defined use within Zoning By-law 890-09, as amended, however they are not permitted in any zone. A property owner wishing to use a building as a boarding house would be required to apply for a zoning by-law amendment to permit the same.

Given the previous comments related to the need for affordable housing and the growth in the agriculture industry, it is anticipated that numerous zoning by-law amendment applications would be brought forward to allow boarding houses on individual properties. Administration suggests that it is more appropriate that a planning study be undertaken to address this issue in a comprehensive and fulsome manner. Based on the apparent need for additional housing units within the community, the prevalence of dwelling units already in use as boarding houses and staff resources, the study is the most efficient and expedient manner in which to address the issue. The enactment of an Interim Control By-law will also serve to advise property owners seeking to use land for this purpose that it is not currently permitted.

At its regular meeting on June 20, 2016, Council initiated the launch of the Comprehensive 5 year review of the Official Plan (Resolution C-191-16). The Official Plan must include policies which accommodate the provision of affordable housing within the Municipality. The comprehensive review is a fair and appropriate method to engage the general public, property owners and greenhouse operators in a discussion about housing demand in the context of Leamington specific issues.

For the reasons noted above, it is necessary for the Official Plan review include a study of affordable housing policies to appropriately address this need. The review of land use policies will enable the Municipality to:

- identify the need for affordable housing within Leamington and how that is best accommodated through intensification and growth;
- identify areas in the municipality that can appropriately accommodate increased density based on:
  - capacity of municipal services,
  - access to amenities, recreational opportunities, transit routes and commercial and social services
  - the density, form and compatibility of adjacent existing development

- establish regulatory controls to be implemented within the Zoning By-law framework, including establishing a definition of a “boarding, lodging and rooming house”
- ensure that the definition is consistent with the definitions and regulations of the Building Code Act and the Fire Protection and Prevention Act
- establish Leamington specific minimum standards for boarding houses such as the number of washroom facilities, minimum and maximum number of rooms, available common space, etc.
- provide tools to establish a licencing system to ensure the proper management and conversion of existing dwellings for use as boarding houses.

Council is not required to provide notice in any manner when proposing to pass an interim control by-law. Council must, by by-law or resolution, direct that a study be undertaken in respect of land use policy. Notice of passing must be provided (eg. newspaper, Clerk of County of Essex) and the decision of Council can be appealed within 30 days to the Ontario Municipal Board.

### **Financial Impact:**

In 2014, Council approved the allocation of \$50,000 towards the costs to retain a planning consultant for the review of the Official Plan. This amount has been carried over into the subsequent budget years with the project launch this summer.

Jones Consulting Ltd. has been retained to review and update the Leamington OP in accordance with the Terms of Reference at a total cost of approximately \$27,000.00 (+ disbursements and HST). A more fulsome review of the policies and implementing controls to address the provision of adequate housing within Leamington should be included as part of the Official Plan review and can feasibly be completed within the original budget amount of \$50,000.

Respectfully submitted,

Danielle Truax  
Manager of Planning Services

dt

Attachments: none

## **APPENDIX 2: Interim Control By-law 78-16**

# The Corporation of the Municipality of Leamington

## By-law 78-16

Being a By-law to effect interim control on all lands  
within the boundaries of the Municipality of  
Leamington

**Whereas** it has come to the attention of the Council of The Corporation of the Municipality of Leamington, that the conversion and use of existing dwelling units as boarding, lodging or rooming houses requires immediate attention, as the current practice does not adequately address safety of the occupants of these dwellings; is not in keeping with the provisions of the of the Official Plan or Comprehensive Zoning By-law 890-09, as amended; and may not be appropriately located within the capacity of available services.

**And Whereas** boarding, lodging or rooming houses are a defined use within Comprehensive Zoning By-law 890-09, as amended, however they are not permitted in any zone.

**And Whereas** Council has directed that that study be undertaken with a view to:


- a) identify the need for affordable housing within Leamington and how that is best accommodated through intensification and growth;
- b) identify areas in the municipality that can appropriately accommodate increased density based on:
  - i) capacity of municipal services,
  - ii) access to amenities, recreational opportunities, transit routes and commercial and social services
  - iii) the density, form and compatibility of adjacent existing development;
- c) establish regulatory controls to be implemented within the Zoning By-law framework, including establishing a definition of a "boarding, lodging and rooming house";
- d) ensure that the definition is consistent with the definitions and regulations of the Building Code Act and the Fire Protection and Prevention Act;
- e) establish Leamington specific minimum standards for boarding houses such as the number of washroom facilities, minimum and maximum number of rooms, available common space, etc.; and
- f) provide tools to establish a licencing system to ensure the proper management and conversion of existing dwellings for use as boarding houses.

**And Whereas** Section 38 of the Planning Act, R.S.O. 1990, c. P.13, as amended permits the Council of a Municipality to pass an interim control by-law, for a period of time which shall not exceed one year from the date of its passage, for such purposes as are set out in the by-law.


**Now therefore the Council of the Municipality of Leamington enacts as follows:**

1. The establishment of the use of any land, building or structure as a boarding, lodging or rooming house is prohibited from the date of the passing of this by-law.
2. This by-law applies to all lands within the geographic boundaries of the Municipality of Leamington.
3. This by-law shall take effect from the date of passing by Council; shall come into force in accordance with Section 38 of the Planning Act R.S.O. 1990; and expire one year from the said date of passing.

**Read a first, second and third time and finally enacted this 21<sup>st</sup> day of November, 2016.**



John Paterson, Mayor



Ruth Orton, Deputy Clerk

**APPENDIX 3:**  
**Seasonal Farm Worker Housing Guidelines**

# **Seasonal Farm Worker**

## **Housing Guidelines**

This document is intended to assist local public health and other agencies in assessing the suitability of housing intended for the housing of both domestic and SAWP (Seasonal Agricultural Worker Program) administered by F.A.R.M.S. (Foreign Agricultural Resource Management Services) and NOC C&D (Agricultural Low Skill) administered by Service Canada Simcoe Ontario.

These recommendations are the result of consultation with, Ministry of Municipal Affairs and Housing, Ontario Fire Marshal's Office, Ontario Ministry of Agriculture, Human Resources and Skills Development Canada, Foreign Agricultural Resource Management Services, numerous local health units and the Ministry of Health and Long-Term Care. The recommendations are to be interpreted as minimum requirements with regard to Seasonal Housing for Seasonal Farm Workers.

These recommendations are designed to assist in meeting legislative and regulatory requirements and are not to be used as a replacement for specific legislative or regulatory requirements.

June 2, 2005

Revised: April 8, 2010

## **A: STRUCTURE**

### **1. General**

- Buildings to be used as housing for seasonal occupants should be located in well drained ground at least 30m (100 feet) from any building used or intended to be used for sheltering animals or for poultry husbandry likely to cause offensive environmental conditions or other environmental conditions that may be hazardous to health
- Implement rodent and/or pest control where necessary
- Multiple dwellings (ie. Trailers, portables) are required to have ten meters of space between each

### **2. Construction**

Buildings to be used as housing for seasonal occupants should be weather proof and so constructed that:

- Floors are tight fitting, smooth-surfaced, impervious to moisture and readily cleanable.
- Walls are tight fitting and the interior is lined with a smooth painted or treated surface material.
- Roofs are tight fitting and waterproof.
- Adequate lighting and ventilation are provided at all times by either natural or artificial means, or a combination of these.
- Screens on all openings to the outside are provided between the first days of May to the first day of November.
- Total usable floor area of 7.44m<sup>2</sup> (80-sq. ft.) per person with a minimum of 8.5 m<sup>3</sup> (300 cu. ft) of air space per person in the sleeping area. The floor area in the washrooms is not considered to be useable living area and will not be included in the calculation of useable floor area.
- Walls should extend minimum of 2.13 m (7 feet) to a maximum of 2.44 m (8 feet) above floor level. Walls may be higher but 2.44 m (8 feet) will be used for calculation of airspace in the sleeping areas.
- A minimum temperature of 20<sup>0</sup> Celsius (68<sup>0</sup> F) can be maintained.
- Safety hazards are eliminated and housing is detached from any building where highly flammable materials are used or stored.
- Where combustion-type stoves or heaters are used, they should be vented directly to outside air.
- No toilet room or combined toilet room and wash room opens directly into any room used for the preparation, storage or serving of food.
- Mobile homes should have skirting (rodent control)

Current Ontario Building Code, a regulation made under the Ontario Building Code Act, 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 Ontario Building Code. This document does not identify all applicable provisions of the Ontario Building Code. Contact the municipal building department for additional information.

## **B: Sleeping Facilities**

### **1. Bunkhouses**

Each bunk to be:

- Separate with a suitable amount of space above / below each bunk, and sleep only one person.
- At least 30 cm (12 inches) above the floor
- Provided with a clean pillow and mattress of sound construction.
- At least 46 cm (18 inches) apart from the next bunk when not lying lengthwise along the walls
- Provided with a minimum of 8.5 m<sup>3</sup> (300 cubic feet) of air space per person.
- Provided with one locker or one shelf for each bunk or the equivalent.
- A supply of clean blankets, sheets and pillow cases must be provided upon arrival
- Bedrooms are required to have a wall separating them from other living areas

### **2. Family Housing**

When a building's intended use as housing for seasonal occupant is in the form of family housing, there should be:

- A maximum occupancy rate of one person per 7.44 m<sup>2</sup> (80 sq. ft) of total usable floor area,
- At least 8.5 m<sup>3</sup> (300 cubic feet) of airspace per person in sleeping rooms.
- Children under six years to considered for these purposes as one-half
- A kitchen with food storing, preparing and cooking facilities should be provided and this space should not be used as a sleeping room
- Basic furnishing such as table, chairs and beds compatible with the maximum occupancy

Bedrooms are required to have a wall separating them from other living areas

## **C: Washroom Facilities and Sewage Disposal**

- Fly-tight, weatherproof, well-ventilated toilet accommodation should be provided for every ten occupants or part thereof.
- 1 washbasin for every seven occupants.
- 1 shower for every ten occupants.
- Toilet facilities must have suitable privacy barriers.
- Flush toilets are to be kept in good repair and operate efficiently.

- Toilet tissues should be provided to all toilet accommodations.
- No toilet room or combined toilet room and wash room opens directly into any room used for the preparation, storage or serving of food.
- Portable privies should be under a service contract and must be equipped with hand sanitation facilities such as wet wipes/alcohol solution.
- All sewage is to be disposed of in a manner consistent with the provisions of the Building Code Act and Regulations.

#### **D: Occupancy Calculation**

- Occupancy of a facility is to be calculated on the lesser number of
  - 8.5 cubic metres (300 cubic feet) per person in a sleeping area
  - 7.44 square metres (80 square feet) per person of total usable floor area which includes living and sleeping area but does not include washrooms.
- Note: living, sleeping, kitchen facilities and washroom facilities can be located in separate buildings but need to be conveniently located for easy access.
- 1 washbasin for every seven occupants
- 1 shower for every 10 occupants
- 1 toilet "facility" for every 10 occupants

#### **E: Laundry facilities**

- At least one laundering tub for every fifteen bunks or the equivalent.
- Drying facilities for laundry
- Or access to a Laundromat once per week
- At least one laundering tub for every fifteen bunks or the equivalent

#### **F: Water Supply**

- Housing for seasonal occupants must be provided with a readily available supply of bacteriological safe water, sufficient to provide for drinking, washing, food preparation and laundering. Best management practices of well-head protection to maintain safe water supply.
- Readily available hot and cold water
- When drinking water is provided in a container, it must be bacteriological safe. The container should be clean, sanitary, covered and equipped with a sanitary dispensing device
- A separate drinking vessel must be provided for each occupant

## **G: Food**

- Food shall be stored so that it is protected from contamination.
- All hazardous foods are to be stored in adequate refrigeration to maintain a temperature not exceeding 4°C (40°F).

### **1. Where food is being prepared and served as part of the accommodation:**

- If food is being prepared for 10 or more occupants the Food Premises Regulation 562 applies to the food preparation area.
- If food is being prepared for less than 10 occupants, the food preparation area is exempt from the Food Premises Regulation 562.
  - No cups, glasses or dishes that are chipped or cracked shall be supplied / used in the preparation, service and storage of food.
  - No utensil in such a condition as to prevent its effective cleansing and sanitizing shall be used in the preparation, service and storage of food.
  - Facilities to be supplied for washing dishes / utensils in water at a temperature of not less than 43°C (110°F) containing a detergent solution capable of removing all grease, and food particles, etc.
  - Dishes/utensils to be:
    - i. Sanitized by an acceptable method.
    - ii. Dried by exposure to air.
  - Equipment and appliances in the food preparation and dining areas shall be constructed as to permit the maintenance of these areas in a clean and sanitary condition.
  - Kitchen and dining areas should be kept free from material and equipment that are not regularly used in a kitchen or a dining area.

### **2. When occupants are preparing food for their own use within seasonal housing:**

- Food storage and refrigeration facilities should be provided.
- Provide and adequate:
  - Amount of kitchenware (plates, cups, bowls, knives, forks, spoons, etc)
  - Number of pots and pans,
  - Number of stoves and refrigerators,
  - Amount of cupboard and food storage space,
  - Number of kitchen table(s) and chairs, and
  - Number of utensils for cooking and serving food for the number of occupants being housed

## **H: Garbage**

- Rodent and insect proof garbage containers which can readily be cleaned and sanitized should be provided for all buildings used for housing seasonal occupants and in sufficient quantity to store all garbage accumulated between collections
- Garbage shall be collected and removed for sanitary disposal at least once every week

## **I: Safety**

- Buildings used for housing seasonal occupants shall comply with the provisions of the Ontario Fire Code. It is the responsibility of the owner/operator to ensure that the facility is compliant with the Fire Code.
- Buildings used for housing seasonal occupants and their surroundings should be free from any chemical substances or condition, which may become hazardous to the occupants.
- Fire extinguisher to be fully charged, have a recent certificate that they have been recharged, properly located, securely mounted. Minimum requirement is ABC rating. (Note: This is a safety protocol. The Health Unit does not enforce the fire code. (<http://www.ofm.gov.on.ca/english/legislation/codeopin/6-2-7-1.asp>)
- Smoke alarm(s) are to be provided, properly located, operational and securely mounted. (Note: this is a safety protocol. The Health Unit does not enforce the fire code. (<http://www.ofm.gov.on.ca/english/Fire%20Safety%20&%20Public%20Education/Working%20Smoke%20Alarms%20Its%20the%20Law/2006/Information%20Card.asp>)

**APPENDIX 4:**  
**Housing Inspection Report (SAWP & TFW)**



# SCHEDULE F

## HOUSING INSPECTION REPORT

### SEASONAL AGRICULTURAL WORKER PROGRAM AND AGRICULTURAL STREAM

This Housing Inspection Report is to be used by an authorized private inspector with appropriate certification from the relevant level of government. The employer or a business representative, holding a position of authority within the business, must be present at the time of the inspection. The inspection of the accommodations where foreign agricultural workers will live temporarily must be performed prior to their arrival in Canada. Individual housing inspections must be submitted with the application for a labour market impact assessment (LMIA) for each location where the temporary foreign workers will be housed.

Employers are responsible for any costs that may be associated with having the housing inspected. Under no circumstances can employers recover these costs from the temporary foreign worker.

Please note that where provincial or territorial (P/T) employment, health and safety standards exceed those in this report, P/T standards will prevail.

#### Personal Information Collection Statement

The information you provide on this form is collected by Employment and Social Development Canada (ESDC) under the authority of the *Immigration and Refugee Protection Act* (IRPA) and *Immigration and Refugee Protection Regulations* (IRPR), for the purpose of providing a Labour Market Impact Assessment (LMIA) in accordance with these statutes. Completion is voluntary; however, failure to complete this form will result in your LMIA application not being processed.

The information you provide may be shared with Citizenship and Immigration Canada (CIC) for the administration and enforcement of the IRPA and IRPR as permitted by the *Department of Employment and Social Development Act* (DESD Act), and may be accessed by the Canada Border Services Agency (CBSA) for the purpose of issuing work permits at Ports of Entry. ESDC may also provide information to CBSA in order for that agency to investigate and enforce the IRPA and IRPR in relation to an LMIA.

The information may also be shared with provincial/territorial governments for the purpose of administration and enforcement of provincial/territorial legislation, including employment standards and occupational health and safety legislation, as permitted by the DESD Act. The information may also be used by ESDC for inspections, policy analysis, research and evaluation in relation to the entry and hiring of TFWs to Canada or the IRPA.

The information you provide is administered under Part 4 of the DESD Act and the *Privacy Act*. You have the right to access and request correction of your personal information, which is described in Personal Information Bank PPU 440 and PPU 171 of Info Source. Instructions for making formal requests are outlined in the Info Source publication available online at [infosource.gc.ca](http://infosource.gc.ca).

**A person, who contravenes a provision set out under sections 126 or 127 of the *Immigration and Refugee Protection Act* (misrepresentation), could be liable to a fine or to imprisonment, or to both. Also, providing inaccurate information, in the context of this application, may lead to an administrative penalty such as being ineligible to access the Program for a period of two years.**

BUSINESS INFORMATION			
1. Business Legal Name:	2. Business Operating Name:		
3. Business Mailing Address (including location as determined by the 911 system):	4. City/Town/County/Municipality:	5. Province/Territory:	6. Postal Code:
7. Business Address, if different than mailing address (including location as determined by the 911 system):	8. City/Town/County/Municipality:	9. Province/Territory:	10. Postal Code:
BUSINESS REPRESENTATIVE INFORMATION (if applicable)			
1. Representative Name:	2. Representative Job Title:	3. Telephone Number:	Ext.
HOUSING INSPECTOR INFORMATION			
1. Inspector Name:	2. Inspector Organization:		
3. Inspector ID Number:	4. Telephone Number: Ext.		

**HOUSING INFORMATION**

1. Housing Address of the workers (including location as determined by the 911 system):	2. City/Town/County/Municipality:	3. Province/Territory:	3. Postal Code:
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**HOUSING EXTERIOR****1. What type of housing will be provided to the workers?**

A description of the type of housing is required for record-keeping. Choose the 'Other' option if the type of housing is not listed, and provide a description.

- Single Family Dwelling  
 Apartment  
 Dormitory/Bunkhouse  
 Converted Storage Area  
 Mobile Home  
 Other (type of housing and description):

**2. Is the housing located on well-drained ground at least 30 meters (98 feet) from any building intended to be used for sheltering animals or poultry OR separated by a foundation wall?**

- Yes       No

**3. Are the following exterior components of the housing in good condition and weatherproof?**

Good condition refers to the components showing normal wear and ageing. The exterior components must be useable and their original purpose must not be impaired. Weatherproof is defined as tight-fitting and not subject to water leaks. If problems beyond the scope of the inspection are identified, the inspector may recommend further action.

The employer is responsible for ensuring that the housing meets the appropriate building code in the jurisdiction where the building is located.

Roof:  Yes    No    Could not be verified      Windows:  Yes    No    Could not be verified

Wall Surface:  Yes    No    Could not be verified      Doors:  Yes    No    Could not be verified

Downspouts:  Yes    No    N/A    Could not be verified

Gutters:  Yes    No    N/A    Could not be verified

Other components as per provincial and territorial standards (identify and describe):

For exterior components that could not be verified during this inspection or further action is recommended due to:

**4. Is the housing detached from any building or surroundings where highly inflammable materials are used or stored?:**

- Yes       No

**5. Is the housing free of safety hazards and/or chemical substances?**

- Yes       No       Could not be verified during this inspection due to:

**6. Are there sufficient rodent-proof garbage containers available outside the housing?**

- Yes       No       N/A       Could not be verified during this inspection due to:

**7. If the housing is a mobile home, has skirting been installed around the bottom perimeter?**

Yes     No     N/A     Could not be verified during this inspection due to:

**HOUSING INTERIOR**

**1. Are the following interior components of the housing in good condition and appropriately sealed?**

Good condition refers to the components showing normal wear and ageing. The interior components must still be useable and their original purpose must not be impaired. Appropriately sealed is defined as tight-fitting and not subject to drafts of external air. If problems beyond the scope of the inspection are identified, the inspector may recommend further action.

The employer is responsible for ensuring that the housing meets the appropriate building code in the jurisdiction where the building is located.

Ceiling:  Yes     No     Could not be verified    Windows:  Yes     No     Could not be verified

Doors:  Yes     No     Could not be verified    Walls:  Yes     No     Could not be verified

Floors:  Yes     No     Could not be verified

Other components as per provincial and territorial standards (identify and describe):

For exterior components that could not be verified during this inspection or further action is recommended due to:

**2. Are the ceilings in the living space at least 2.13 meters (7 feet) high?**

Ceilings, in all living spaces, must be at least 2.13 meters (7 feet) high to ensure that workers have enough headspace to walk comfortably and that there is enough space for bedroom bunk beds.

Yes     No     Could not be verified during this inspection due to:

**3. Is a permanent heating system that can maintain a temperature ranging between 20 to 23.5 degrees Celsius (68 to 75 degrees Fahrenheit) available within the housing?**

A room temperature ranging between 20 to 23.5 degrees Celsius (68 to 75 degrees Fahrenheit) is the minimum standard. Portable space heaters cannot be used as the primary source of heating for any living space within the housing.

Yes     No     Could not be verified during this inspection due to:

**4. Is there adequate and suitable lighting by artificial means in the housing?**

The housing must have adequate and suitable lighting by artificial means. Rooms should be equipped with easily accessible light switches and fixtures to minimize the need for human movement into darkness and to reduce the chance of accidents and injuries.

Yes     No     Could not be verified during this inspection due to:

**5. Is there adequate ventilation by either natural or artificial means in the housing?**

To prevent poor air quality, adequate ventilation by either natural means (e.g. windows) or artificial means (e.g. ceiling fans) is required.

Yes     No     Could not be verified during this inspection due to:

**6. Do all the windows and doors in the housing have screens covering all openings to the outside?**

Screens, typically made of aluminum or fiberglass that is stretched across a frame, are required to prevent the entry of flies, mosquitoes and other pests into the housing. All screens must be in good shape and not torn.

Yes       No       Could not be verified during this inspection due to:

**7. Are there sufficient rodent-proof garbage containers available inside the housing?**

Installation of sufficient rodent-proof garbage containers promotes the proper disposal of garbage between collections. Garbage containers should be rust resistant, water tight, large enough to store, and have tight-fitting lids. Although an adequate number of rodent-proof garbage containers should be supplied throughout the housing, it is mandatory to have one container in the kitchen for the disposal of kitchen waste.

Kitchen (mandatory)     Living Room     Dining Room     Bedroom     Other:

Could not be verified during this inspection due to:

**8. Is the housing interior exempt from all traces of rodents, parasites or (harmful) insects?**

Yes       No       Could not be verified during this inspection due to:

**9. Are there sufficient basic furnishings (e.g. tables, chairs, couches, shelves) available inside the housing to accommodate the number of workers?**

The basic furnishings may accommodate different schedules and shift-work scenarios. In these cases, the number of kitchen chairs, for example, may be lower than the total number of workers.

Yes       No       Could not be verified during this inspection due to:

**10. In the case of an emergency, can the housing be readily evacuated?**

Each bedroom must have an outside window or door which can be easily opened from the inside and which can provide direct access to a safe place outside the housing. Stairs and porches attached to any entry and exits must be in good condition.

The employer is responsible for ensuring that the housing meets the fire and building code standards in the jurisdiction where the building is located.

Yes       No       Could not be verified during this inspection due to:

**11. Is there access to a telephone in working order?**

Foreign workers should have access to an on-site telephone or the employer can provide weekly access to a local telephone service.

Access to an on-site telephone in working order     Could not be verified since the employer does not provide access to an on-site telephone

**HOUSING INTERIOR: SLEEPING AREAS**

**1. Are the sleeping areas partitioned from other living areas?**

Beds, also defined as bunk beds, pull-out beds and futons, must be located within the assigned sleeping areas.

Yes       No (automatic fail)

**2. Are the mattresses' sizes adequate?**

At minimum, a twin-size mattress (99 x 109 cm/ 38 x 75 inches) and bed base must be provided for each worker. A double/queen/king size mattress cannot be shared with other workers unless the individuals are married or in a common-law relationship

Yes       No       Could not be verified during this inspection due to:

**3. Are all beds at least 20 cm (8 inches) off the floor?**

Although the frame of a bed can uniformly rest along the floor, at no times should a bed mattress be any less than 20 cm (8 inches) off the floor.

Yes       No       Could not be verified during this inspection due to:

**4. Is there a minimum distance of 45 cm (18 inches) between all beds?**

A minimum distance of 45 cm (18 inches) clearance at the sides of the mattress is essential to allow for comfortable movement.

Yes       No       Could not be verified during this inspection due to:

**5. Is there a storage space/compartment available for each worker?**

Each worker should be provided with an adequate storage space/compartment for personal belongings within a reasonable distance from the bed. It is recommended that the employer provides a storage space/compartment that can be locked.

Yes       No       Could not be verified during this inspection due to:

**HOUSING INTERIOR: PERSONAL WASHING FACILITIES**

**1. Are the personal washing facilities partitioned from other living areas?**

Assigned personal washing facilities must be located within the housing and must include showers, toilets and hand-washing provisions near the toilets. No personal washing facility can open directly into any room used for the preparation, storage, or serving of food.

Yes       No (automatic fail)       Could not be verified during this inspection due to:

**2. Are toilets and showers guarded with privacy barriers?**

Toilets and showers must be guarded with opaque privacy barriers (e.g. doors, shower curtains) and include a locking device that can be activated from the inside. Standing urinals are acceptable if personal washing facilities have a closed door to partition them from other living areas. All portable toilets require walls, a roof and a door.

Yes       No (automatic fail)       Could not be verified during this inspection due to:

**3. Are all toilets operational, in good working condition, and sanitary?**

All toilets should operate efficiently, be in good working condition. The term sanitary is defined as a hygienic toilet that is free from elements, such as filth or pathogens, which could endanger the health of a foreign worker.

Yes       No       Could not be verified during this inspection due to:

**4. Have hand washing provisions been installed near toilets?**

Hand washing provisions are required to prevent the spread of germs and disease.

- Yes       No (automatic fail)       Could not be verified during this inspection due to:

**5. Is there access to adequate on-site laundry facilities?**

There must be one washer and one dryer available for every 10 workers as well as clotheslines on the premises.

- Adequate ratio, good working order       Inadequate ratio or not in good working order (automatic fail)  
 Could not be verified since there are no on-site laundry facilities and the employer will provide weekly access to a local laundromat.

**6. Are all the appliances clean and in good working condition?**

All appliances must be clean and free of any waste (e.g. refrigerator interiors must be clear of any old food or spills, oven interiors free of any grease or residue). The appliances must also be in good working condition, useable and repaired immediately if broken or malfunctioning. Adequate refrigerator space for food storage can be provided with one refrigerator for every 6 workers.

- Refrigerators:  Yes    No    N/A      Ovens  Yes    No    N/A  
Microwaves:  Yes    No    N/A      Stoves  Yes    No    N/A  
Hot plates:  Yes    No    N/A

- Could not be verified during this inspection due to:

**7. Is there an adequate amount of protective food storage and cupboard space available within a reasonable distance from the kitchen?**

- Yes       No

**WATER SUPPLY AND SAFETY**

**1. Is the drinking water from a public drinking water system or a private water supply?**

- Public drinking water system (e.g. municipality)       Private water supply (e.g. well)

**2. If the drinking water is from a private water supply, can the inspector get a copy of the water quality test result showing that the water is safe to drink?**

Employers whose water is from a private water supply must have the water in the provided housing tested to ensure it is safe to drink. Failure to provide a copy of the test result will result in failing the housing inspection.

- Not applicable as employer has a public drinking water system      Results due: \_\_\_\_\_  
 Yes       No (automatic fail)       Waiting for the test result      (YYYY-MM-DD)

**3. Is there a constant supply of hot and cold water?**

There must be a readily available supply of hot and cold water of sufficient volume, pressure, and temperature for drinking, washing, food preparation, and laundering.

- Yes       No (automatic fail)       Could not be verified during this inspection due to:

## FIRE SAFETY

### 1. How many fire extinguishers are available within the housing?

An adequate number of fire extinguishers have to be available near all room exits and it is mandatory to have one in the kitchen. Employers are responsible for ensuring workers know how to operate the fire extinguishers.

Number of exits: \_\_\_\_\_ Number of extinguishers: \_\_\_\_\_

### 2. Where are the fire extinguishers located within the housing?

Failure to demonstrate that one fire extinguisher is located in the kitchen will result in a failing the housing inspection.

Kitchen near exit (mandatory)  Living room near exit  Dining room near exit  Bedroom near exit

Other:

### 3. Are the fire extinguishers provided within the housing operational and fully charged?

Employers must have a certificate indicating that the fire extinguishers within the housing are being recharged every 6 years by a fire service, and that the fire extinguishers are being inspected every year. Employers are responsible for ensuring that the housing meets the fire code standards in the jurisdiction where the housing is located.

Yes  No  Could not be verified during this inspection due to:

### 4. Are all fire extinguishers easily accessible at all times?

All fire extinguishers must be nearby and within reach in case of emergency. It is recommended that all fire extinguishers are at least 3 meters (10 feet) away from an oven/stove and should be mounted.

Yes  No

### 5. Do all fire extinguishers have, at minimum, an ABC rating?

Multi-purpose dry chemical fire extinguishers labeled ABC put out most types of fires: wood, paper, flammable liquids and electric fires.

Yes  No

### 6. How many smoke detectors are installed within the housing?

An adequate number of operational, clean, and dust-free smoke detectors should be installed within the housing. It is mandatory to have one smoke detector outside each bedroom/sleeping area and in the kitchen.

Number of smoke detectors: \_\_\_\_\_

### 7. Where are the smoke detectors located within the housing?

Failure to demonstrate that one smoke detector is located outside each bedroom/sleeping area and in the kitchen, will result in a failing the housing inspection.

Outside each bedroom/sleeping area (mandatory)  Kitchen (mandatory)  Living room  Dining room  Other:

Could not be verified during this inspection due to:

### 8. Have all smoke detectors been securely mounted and tested to ensure they are operational?

Smoke detectors should be tested at least once a month and replaced every year.

Yes  No  Could not be verified during this inspection due to:

## OCCUPANT CALCULATION

- a. Total living space (square meters/square feet): \_\_\_\_\_ / 7 square meters =75 square feet) per person = \_\_\_\_\_
- b. Number of showers: \_\_\_\_\_ x 10 (1 per 10 workers) = \_\_\_\_\_
- c. Number of toilets: \_\_\_\_\_ x 10 (1 per 10 workers) = \_\_\_\_\_
- d. Number of sinks in washroom: \_\_\_\_\_ x 7 (1 per 7 workers) = \_\_\_\_\_
- e. Number of ovens or stoves: \_\_\_\_\_ x 6 (1 per 6 workers) = \_\_\_\_\_
- f. Number of fridges: \_\_\_\_\_ x 6 (1 per 6 workers) = \_\_\_\_\_

What is the lowest value in boxes a. through f.): \_\_\_\_\_ \*

### Note:

- Portable toilets are not included in the occupant calculation.
- Each worker must have his/her own bed.

\* Figures indicate the maximum number of workers permitted within the inspected housing.

## INSPECTION RESULT

The following criteria are **mandatory** and will automatically give rise to a housing inspection failure if they are not respected:

- rodent proof garbage containers in the kitchen and housing exterior
- sleeping quarters and facilities are partitioned from other living areas
- personal washing facilities partitioned from other living areas
- toilets and showers guarded with privacy barriers (e.g. doors and shower curtains) and include a locking device that can be activated from the inside
- hand washing provisions installed near toilets
- fire extinguisher that meets the appropriate Provincial/Territorial fire code standards in kitchen
- smoke detectors that meet the appropriate Provincial/Territorial fire code standards outside each bedroom/sleeping area and kitchen
- in the case of an emergency, the housing can be readily evacuated
- drinking water supply test result by a private service proving that water supply is safe to drink
- on-site laundry facilities compliant in ratio and in good working order, unless weekly transportation to a local laundromat is provided;
- access to an on-site telephone in working order or a weekly access is provided to a public telephone

### Inspection Result:

Pass       Pass (including items that could not be verified during the inspection)       Fail

If, and when "passed" or "passed with follow-up condition" the inspection, the housing is suitable for a maximum of \_\_\_\_\_ workers.

If "passed with follow-up conditions", the employer must demonstrate that all follow-up conditions have been completed within 60 days of application receipt by Service Canada. Employers may submit an attestation complete with a detailed description of the follow-up action taken, supported by invoices, receipts and/or photos.

List of follow-up actions requested by the authorized inspector to meet inspection standards:

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
If there are more than ten actions to be followed-up, list them on a separate sheet.

Date by which all follow-up actions are to be completed by: \_\_\_\_\_  
(YYYY-MM-DD)

**General comments (use a separate sheet, if needed)**

Were photographs taken during inspection?  Yes  No

**DECLARATION OF HOUSING INSPECTOR**

I have read and understand the Personal Information Collection Statement and the Housing Inspection Report content. I declare that the information provided in this Housing Inspection Report is true, accurate and complete.

Yes  No

\_\_\_\_\_  
Signature of Inspector

\_\_\_\_\_  
Printed Name of Inspector

\_\_\_\_\_  
Date (YYYY-MM-DD)

**DECLARATION OF EMPLOYER**

I understand that a copy of this Housing Inspection Report will be shared with ESDC/Service Canada for the administration of the Seasonal Agricultural Worker Program (SAWP), and the Agricultural Stream. ESDC/Service Canada requires this information in order to assess the Labour Market Impact Assessment (LMIA) application. Should I not consent to disclosing this Housing Inspection Report to ESDC/Service Canada, I will not be considered for the SAWP or the Agricultural Stream and will receive a negative LMIA.

I have read and understand the Personal Information Collection Statement and the Housing Inspection Report content. I declare that the information provided in this Housing Inspection Report is true, accurate and complete.

Yes       No

\_\_\_\_\_  
Signature of Employer

\_\_\_\_\_  
Printed Name of Employer

Date

\_\_\_\_\_  
(YYYY-MM-DD)