

**Proposed Amendments to By-law 05-200 to Improve and Support Agricultural and Economic
Development**

August 2021

FINAL DRAFT

Preamble

Recognizing there is an Official Plan, it is a policy document that provides Council and Administration direction on how land should be used within the City of Hamilton (the Corporation). These policies also provide direction on where new development should be located, how new development should be processed, and what studies and information are required for new development

Once the Official Plan policies are in place for a municipality, it is very important to have rules and regulations in place for the use of all the lands in the Corporation. Once the Official Plan policies are set, the Comprehensive Zoning By-law must fit and give the same direction provided by the policies of the Official Plan.

An amended Comprehensive Zoning By-law (CZBL) must be consistent with policies of the Provincial Policy Statement (PPS). The PPS recognizes that the wise management of development may involve directing, promoting, or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns.

Section 34 of The Planning Act specifies that a CZBL:

1. Prohibit the use of land or buildings for any use that is not specifically permitted by the By-law;
2. Prohibit the erection or siting of buildings and structures on a lot except in locations permitted by the By-law;
3. Regulate the type of construction and the height, bulk, location, size, floor area, spacing, and use of buildings or structures;
4. Regulate the minimum frontage and depth of a parcel of land;
5. Regulate the proportion of a lot that any building or structure may occupy;
6. Regulate the minimum elevation of doors, windows or other openings in buildings or structures;
7. Require parking and loading facilities be provided and maintained for a purpose permitted by the By-law;
8. Prohibit the use of lands and the erection of buildings or structures on land that is:
 - Subject to flooding;
 - The site of steep slopes;
 - Rocky, low-lying, marshy or unstable;
 - A sensitive groundwater recharge area or head water area;
 - The location of a sensitive aquifer;
 - A significant wildlife habitat area, wetland, woodland, ravine, valley or area of natural and scientific interest;

A Comprehensive Zoning By-law is not a static document; it will change (be amended) over time as demands and when the policies governing land use change. Sometimes these changes to the rules are requested by the Province, the City of Hamilton Council, and City Administration or by the property owner. **By-laws are commonly amended to change the zone to provide for a specific use or to prohibit a certain use.** In some cases, special provisions are applied to a property or a series of properties that vary the zone provisions for that property.

Goal:

Update Hamilton Region’s Rural Zoning By-Law to acknowledge and grant an updated structure class, to be now accepted, and acknowledged as On-Farm Foreign Worker Residences. In addition to this, identifying a new fee schedule updated for Agricultural development and an improvement in the development permit process (i.e. time) is being sought. Further to this, there are distinct modifications to the By-Law which should be accepted, that are summarized below in Table 1.

Table 1. Proposed By-Law 05-200 amendments best reflecting modern agriculture operations

Proposed Amendment	Importance
1. Adopting ‘On-Farm Foreign Worker Residences’ as terminology for farm help housing	Standardized nomenclature accommodating farm worker housing across field, greenhouse vegetable and flower agriculture operations which can be on separate lots than a primary residence
2. Enhance Site Development Process	Critical requirement and need for an agricultural class to distinctly acknowledge rural development as separate from urban (i.e. Downtown apartments)
3. Removing on-farm location requirements for On-Farm Foreign Worker Housing	Not always practical and highly constraining to require On-Farm Foreign Worker Housing be within 30 m of primary (owner) residences
4. Eliminate septic tie-in requirement to primary [on farm] residence	Restriction of 10,000 L/day per property is even more challenging when combining many more individuals waste into this absolute value, thus the expectation to share the same septic bed is unreasonable
5. Evaluate fee structure	Reduce economic burden on farm operators so that they can build and generate capital for the region

1. On-Farm Foreign Worker Residences

The necessity for adopting updated, widely recognizable terminology for foreign agricultural workers is critical to understanding how best to assess them to zoning and development guidelines.

As defined in the By-law 05-200 to Create New Zones for the Rural Area of the City of Hamilton:

Farm Labour Residences shall mean accommodations accessory to Agriculture and on the same lot as an existing permanent principal farm Dwelling, provided for full-time farm labour where the size and nature of the farm operation requires additional employment, in the form of any of the following:

Proposed Amendments to By-Law 05-200

- i) An Accessory apartment attached to and forming part of the principal farm Dwelling; or
- ii) An Accessory detached dwelling of temporary construction, such as a mobile home; or,
- iii) An Accessory detached bunk house of temporary construction, where cooking and sanitary facilities are shared.

Wherein:

- i) A maximum of one Farm Labour Residence shall be permitted on a lot.
- ii) Where a Farm Labour Residence is in the form of a temporary detached dwelling or temporary bunk house, the following regulations shall apply:
 - 1. Shall be located within 30.0 metres of the farm Dwelling.
 - 2. Shall have a maximum building height of 10.5 metres.
 - 3. Shall utilize the existing driveway access to the farm dwelling.
 - 4. Any temporary detached dwelling shall have a minimum floor area of 65.06 square metres, and a maximum floor area of 116.2 square metres.
 - 5. Any temporary bunk house shall have a minimum gross floor area of 65.06 square metres or 8.36 square metres per resident, whichever is greater.
- iii) Where a Farm Labour Residence is in the form of an Accessory apartment attached to and forming part of the principal farm Dwelling, the Accessory apartment shall not exceed 25% of the gross floor area of the principal farm Dwelling.

As of 2016 in the Hamilton Region, there were a total of 810 farming operations, which farmed a combined 128, 532 acres of land. Greenhouse, field, and livestock operations are inclusive of this value. Nearly 30,000 residents are employed at a job within the Agri-Food Sector, contributing to a \$1 billion annual industry. On farm, there is a significant need for Temporary Foreign Workers (TFW's) who are contracted to ultimately assist in the essential functionality of the farms.

In accordance with their work permits and Labour Market Impact Assessments (LMIA), TFW's are approved to come to Canada to work on a particular farm. This can be privately arranged through the farm owner, through a temporary help agency, as well as through utilizing of the Foreign Agricultural Resource Management System (F.A.R.M.S) via CanAg Travel. In these contracts, it is generally agreed that the farm owner/operators will provide acceptable accommodations that meet all Provincial [Ontario] Building and Health Code requirements.

Currently Utilized Definitions

Boarding Houses and Rooming Houses: shall mean any building or portion thereof in which the proprietor supplies for hire, gain or as compensation for services to more than two (2) other persons, lodging, meals, or both but shall not include a bunkhouse, hotel, hospital, 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.

Bunkhouses: means a building accessory to a permitted use containing kitchen and bathroom facilities and sleeping accommodation in individual or combination rooms for workers directly employed by a permitted use.

Although outdated in perception and approach in 2015, this definition and the constraining parameters associated with it grossly oppose modern farm requirements. As the need for locally produced fruits and vegetables continues to increase, especially in the wake of the COVID-19 pandemic and ongoing trade issues with North American trade partners, the City of Hamilton has an obligation to ensure business can continue to grow in this part of Ontario.

Therefore, it is suggested that the following be incorporated into the Zoning By-laws pursuant to regulations present in the City of Hamilton and surrounding region, as follows:

On-Farm Foreign Worker Residences shall mean accommodations accessory to Agriculture and on the same lot, as an existing farm, provided for full-time farm labour where the size and nature of the farm operation requires additional employment, in the form of any of the following:

- i) *An Accessory detached dwelling of permanent construction; or,*
- ii) *An Accessory detached bunk house of permanent construction, where cooking and sanitary facilities are shared.*

Wherein:

- i) *The On-Farm Foreign Worker Residences is located on the same lot as the farm*
- ii) *Notwithstanding i) above, the On-Farm Foreign Worker Residences may be located on immediately abutting lots*
- iii) *The On-Farm Foreign Worker Residence is in the form of a detached dwelling or bunk house, the following regulations shall apply:*
 1. *Shall have a maximum building height of 10.5 metres.*
 2. *Shall possess driveway access to the road.*
 3. *Any detached dwelling or bunk house shall have a minimum gross floor area of 65.06 square metres (700 ft²) or 8.36 square metres (90 ft²) per resident, whichever is greater.*
 4. *Shall contain, at a minimum, 1 toilet and 1 shower per 10 residents.*
 5. *If not tied into a sanitary sewer, the On-Farm Foreign Worker Residences shall possess its own separate septic system at a volume of 250 litres per day per resident.*
- iv) *The sole purpose of the On-Farm Foreign Worker Residences is the accommodation of full-time farm labour residents.*

2. Enhance Site Development Process

In the City of Hamilton, the partitioning of the Region is complex in the sense that there are so many wards with unique combinations of rural and urban characteristics that a distinct framework for planning often is through the lens of urbanization and city growth. Unfortunately, this results in impractical expectations and planning perspective, whereby the costs and timeline associated with agricultural operations is treated to that like the development of a high-rise apartment on King Street. In Figure 1, wards 11, 12, 13 and 15 are prominently rural, representing most agricultural and farming operations in the Hamilton Region.

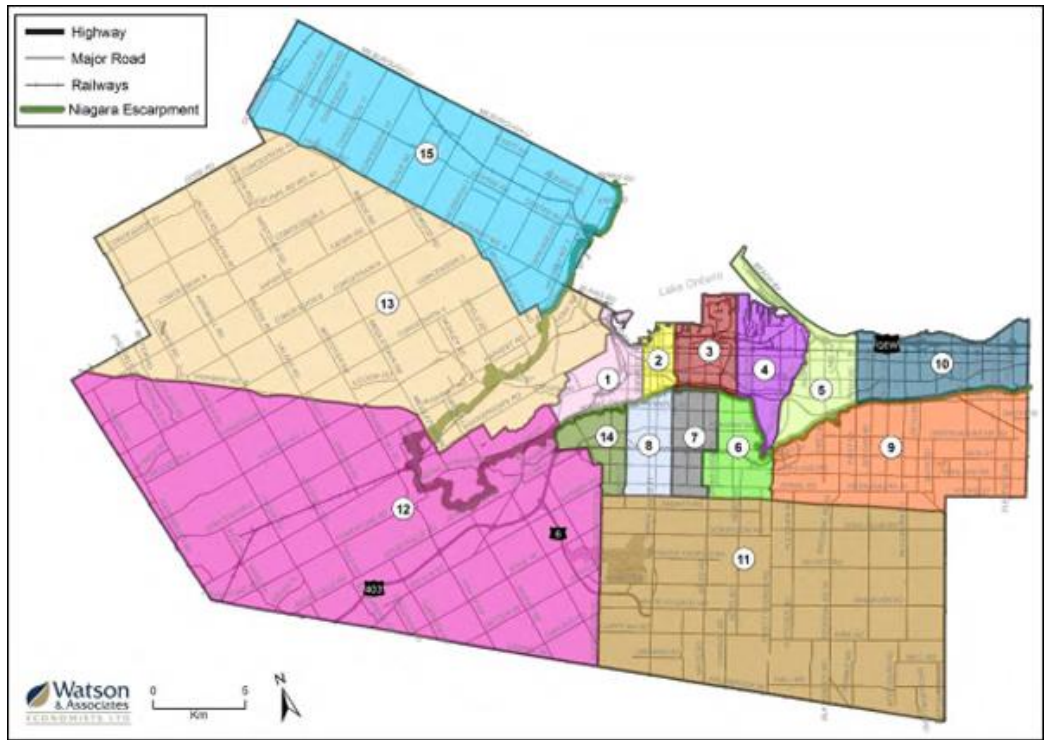


Figure 1. A detailed view of the 15 wards within the City of Hamilton boundaries.

Timeframes for the Developmental Approval Process have taken anywhere from 3 months to 2 years, as per personal experiences recollected by local farmers. Thus, the need for streamlined, agricultural development processes need to be updated and improved to enable continued growth of the regional agricultural sector.

3. On-Farm Foreign Worker Residence Location Requirements

Current Farm Labour Residences are defined primarily as temporary construction with the only permanent construction constituting an apartment attached to and forming part of the principal farm Dwelling. Modern 21st century farming has extended growing seasons and in many cases growing seasons represent nearly year-round practices. Further the TFW program details about how long TFWs stay in Canada, whether it be the 2-year TFWP or the 8-month Seasonal Agricultural Worker Program (SAWP), meaning workers remain in Canada for up to 2 years, and can be renewed as well, wherein employers may be required to provide accommodations. These residences have no association to “airbnb-type” properties, therefore should not be regulated as such. The purpose is to house essential farm workers on farm property as contractually agreed; not to rent out rooms as a revenue source.

TFWs represent a skilled labour force required to maintain farming practices, where limiting one residence to a lot would inhibit medium sized farms from growing while larger farms seek supplementation from local municipal housing.

Further limiting the location of the residence to within 30.0 metres of the principal farm Dwelling is emblematic of small 19th century farming and not modern farming.

Ultimately the current standards punish small and medium family-owned farms and encourage large scale factory farming that is bad for competition, and the region.

4. Septic Requirement

It is not contested that standards for the building should meet applicable Ministry of Environment, Conservation and Parks regulations as they pertain to wastewater and septic system usage. The issue is that as you have increased numbers of on-farm workers residing on-farm during the work periods, it is not practical to mandate their waste system be joined to that of the primary dwelling. From a cost, infrastructure and practical stance, additional approaches should be identified, discussed, and implemented.

Any temporary detached dwelling shall have a minimum floor area of 65.06 square metres, and a maximum floor area of 116.2 square metres.

Any temporary bunk house shall have a minimum gross floor area of 65.06 square metres or 8.36 square metres per resident, whichever is greater

5. Fee Structure

Moreover, the cost associated with development fees, especially when compared to heavily rural areas where farming is a significant portion of economic contribution, as outlined in Table 2.

Table 2. Permit and Development fees in prominent agricultural production areas.

Region	Minimum Permit Fee	Farm/Greenhouse Construction Cost	Farm Dwelling	Site Control Plan	Minor Variance
Chatham-Kent	\$90.00	\$16.90: \$1,000.00	-	\$2,004.00	\$1,494.00
Durham	\$110.00	3.6 / ft ²	\$4.70/ ft ²	\$1,500.00	\$500.00
Kingsville	\$200.00	\$0.05 ft ²	\$0.05 ft ²	\$1,900.00	*850.00
Leamington	\$75.00	\$0.02-\$0.04 / ft ²	\$0.08 / ft ²	\$1,250.00	\$665.00
Niagara	\$15.00-\$1,000.00	3.72 / ft ²	-	\$18,310.00	*\$2,000.00
Hamilton	\$259.00	\$0.56 ft ²	\$0.91/ ft ²	\$12,140.00	\$3,320.00

*average fee from the region

Aside from the Niagara Region, wards within the boundaries of the City of Hamilton are subject to the highest charges for development. There should be a general 'Agricultural Class' in terms of levied fees and development timeframe expectations, as well as a rural planning approach when working with farmers in the region who are keen to grow their business, create jobs, and contribute to Hamilton's GDP. Moreover, the reduction or elimination of the costs associated with public awareness should be implemented. Greenhouse vegetable, field vegetable, and greenhouse flower farms are primary agriculture, producing essential food

and plants which sustain Ontarian's. These operations are not industrial and should be regarded as primary agriculture in either of the agricultural zones as indicated in the current zoning By-law.

Summary:

In summary the proposed new designation amounts to

- 1) A new designation for ***On-Farm Foreign Worker Residences***
- 2) Modernized construction requirements
- 3) Modernized location requirements recognizing 21st century farming
- 4) Modernized development process

On-Farm Foreign Worker Residences shall mean accommodations accessory to Agriculture and on the same lot, as an existing farm, provided for full-time farm labour where the size and nature of the farm operation requires additional employment, in the form of any of the following:

- 5) *An Accessory detached dwelling of permanent construction; or,*
- 6) *An Accessory detached bunk house of permanent construction, where cooking and sanitary facilities are shared.*

Wherein:

- i) *The On-Farm Foreign Worker Residences is located on the same lot as the farm*
- ii) *Notwithstanding i) above, the On-Farm Foreign Worker Residences may be located on immediately abutting lots*
- iii) *The On-Farm Foreign Worker Residence is in the form of a detached dwelling or bunk house, the following regulations shall apply:*
 - a) *Shall have a maximum building height of 10.5 metres.*
 - b) *Shall possess driveway access to the road.*
 - c) *Any detached dwelling or bunk house shall have a minimum gross floor area of 65.06 square metres (700 ft²) or 8.36 square metres (90 ft²) per resident, whichever is greater.*
 - d) *Shall contain, at a minimum, 1 toilet and 1 shower per 10 residents.*
 - e) *If not tied into a sanitary sewer, the On-Farm Foreign Worker Residences shall possess its own separate septic system at a volume of 250 litres per day per resident.*
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