

THE TOWN OF MARKHAM

A Recommended Strategy
For Markham

- Phase 3 -



PLANSCAPE

BUILDING COMMUNITY THROUGH PLANNING



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Town of Markham

Phase 3: A Recommended Strategy for Markham

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Town of Markham

Phase 3: A Recommended Strategy for Markham

1 Introduction

In response to the enactment of the Places to Grow Act in June 2005 and the Growth Plan for the Greater Golden Horseshoe (Growth Plan) in June 2006, the Town of Markham is developing a Growth Management Strategy that will identify goals, objectives, principles, expectations and requirements in regard to the amount, location and pace of growth within the Town.

In moving forward with a growth management strategy for Markham, decisions must be made about the management of agriculture resources. The Town has a long history of agricultural production and lands within its boundary are some of the most productive in Canada. As the Town considers how to accommodate the growth assignments provided by the Province and Region, the Town also needs to address the future role and management of its agricultural resources.

To respond to this issue, Markham has undertaken an agricultural assessment. The objectives of this assessment were to:

- address and confirm Provincial policy requirements including the Provincial Policy Statement (PPS) and Growth Plan for the Greater Golden Horseshoe, for agricultural lands in Markham;
- provide base line data and a trends analysis relating to agricultural activity and practices in the Town of Markham;
- assess the feasibility of retaining a permanent viable agricultural presence outside of the Greenbelt and if it is determined to be feasible, provide direction on how to achieve sustainable agriculture on lands not required for growth; and
- assess options for viable and sustainable agricultural, rural and recreational uses on the Greenbelt lands in eastern Markham in the context of Rouge Park and Pickering Airport sites.

The assessment consisted of three phases. Phase 1 of the assessment process provided the background on the status of agriculture in Markham. The findings of Phase 1 are contained in the report entitled "Agricultural Assessment - Phase 1"¹.

Phase 2 of the assessment considered options for managing an ongoing agricultural land use in Markham and outlined the implications of each option. The findings of Phase 2 are contained in the report entitled Agricultural Assessment - Phase 2 - Options.²

Phase 3 summarizes the responses to each of the objectives listed above and recommends a locally-based strategy for supporting a long term sustainable agricultural presence in Markham. Traditionally, a municipality's principal role in responding to agricultural issues has been the designation and protection of agricultural lands. While protection of the land is

¹ Town of Markham, Agricultural Assessment - Phase 1, May 22, 2009, PLANSCAPE.

² Town of Markham, Agricultural Assessment - Phase 2 - Options (draft) May 25, 2009, PLANSCAPE.

fundamental to the strategy recommended here; this strategy goes beyond land protection. Possible options and tools to provide additional support to sustain agriculture at the local level are identified. Using these tools the Town can help create an environment for agricultural sustainability. In doing so it must be recognized that the efforts of many other stakeholders including the Province will be required for the strategy to succeed.

2 Background

2.1 Council Review and Public Consultation

An essential element of the agricultural assessment was public consultation which in addition to public sessions, included interaction with the agricultural community and large rural landowners, and ongoing communication with Markham Council. As part of this process, the schedule of events included:

- June 16, 2008 - The assessment process was initiated with a meeting of stakeholders. The participants included representatives of large land owners, both public and private, and the agricultural sector. The purpose of the session was to identify specific issues associated with agriculture in Markham and to discuss its future.
- October 14, 2008 - The draft Phase 1 report was presented to Development Services Committee for discussion and feedback from members of Council.
- October 29, 2008 - A public information session was held at which there was an open house with opportunities to view display boards, a presentation of the draft Phase 1 report and a question and answer session.
- January 27, 2009 - A workshop was held with farmers identified as active operators in Markham. The purpose of this event was to discuss specific issues identified as part of the Phase 1 process, to discuss the future of agriculture in Markham and to obtain input on the conditions required to support agriculture.
- June 10, 2009 - The draft Phase 2 report was presented to Development Services Committee. The Councillors present provided feedback which was reviewed and reflected in the final Phase 2 report.
- June 27, 2009 - A public information session was held which started with an overview of the Town's growth management process, was followed by a presentation of the Phase 2 report from the agricultural assessment and concluded with a question and answer session.

In addition, the Town's Agricultural Assessment Study was discussed at the comprehensive Growth Management Strategy public information meetings held throughout February, March and April 2009.

Early in 2009, the Region of York initiated a Land Evaluation and Area Review process to inform revisions to the Regional Official Plan. To assist with this process, an agricultural working group comprised of the York Agricultural Liaison Committee and area planners was created and met regularly during the period from January 2009 to September 2009. The Town of Markham was represented by two of the municipality's planners and area farmers. The LEAR evaluation concluded that the rural area of Markham was a prime agricultural area comprised of prime agricultural land.

2.2 Summary of Phase 1

Phase 1 evaluated the status of agriculture as it currently exists in Markham by focusing on:

- an agricultural profile of Markham
- an inventory of the current agricultural operations;
- a summary of farmland classifications;
- land ownership patterns;
- real estate trends;
- the economic impact of agriculture in Markham;
- the policy context within which decisions must be made;
- issues impacting agricultural lands; and,
- opportunities and constraints associated with agricultural activity.

The profile provided a detailed assessment of agriculture as it currently exists in Markham. Key findings are summarized below.

- The number of farms in Markham dropped from 85 in 2001 to 64 in 2006.
- The area being farmed in 2001 was 28,437 acres; in 2006 it was 16,352 acres. This statistic refers to land being farmed not to designated agricultural land or farmland available to be farmed.
- Individual average farm size decreased from 335 acres in 2001, to 256 acres in 2006.
- Total annual gross farm receipts generated in Markham rose from \$15.8 million in 2001 to \$20.8 million in 2006.
- Average gross farm receipts (GFR) per acre in 2006 were \$1,272, higher than both the Ontario (\$777) and GTA (\$999) averages. Gross farm receipts per acre have increased over time in Markham.
- Net revenue per acre in 2006 was \$118 per acre, higher than the Ontario average of \$113 but lower than the GTA average of \$136. The ratio of costs to revenues reflected an increase in costs over revenue between 2001 and 2006. This value has fluctuated over time. In 2001 the ratio was: **.89**, in 2006 it was **.91**. The average for both the Province and the GTA in 2006 was **.86**.
- Total farm capital and average farm capital per acre declined between 2001 and 2006 but average capital per acre continues to be higher than in York, the GTA and Ontario. The higher average may be influenced by the price of land in Markham.
- The average age of all farm operators in 2006 was 58.2 years in Markham compared to the Provincial average of 52.6 years and the GTA average of 55.4 years. For farms generating in excess of \$500,000 in annual GFR's in 2006, the average age of operators was lower, at 51.4 years. For farms generating between \$250,000 and \$499,000 the average age was 54.3 years. In considering the status of agriculture it

is important to focus on the statistics for the larger operations generating in excess of \$250,000 in GFR's per annum since although this category represents approximately 17% of the total farms in Canada; it generates 75% of the GFR's³. This is the group of operators for whom farming is a business and which produces the majority of the commodities. The lower value categories include hobby or life style farmers, many of whom are retired. Including them in the statistics tends to increase the average age of operators.

- Approximately 21,000 acres or 44% of Markham is rural area; 23% of the rural area is owned by the Federal Government, 20% is controlled by the Province and the Toronto Region Conservation Authority (TRCA) and 54% is under private ownership. Of the 54% in private ownership, Town records indicate that approximately 23% of it is owned by individuals; 31% is owned by corporations.
- In the GTA, the rental rate for farmland is 43%. Rental rates for farmland in Markham are much higher at 54%. This higher rate reflects the extensive public ownership of land in the municipality. In Ontario generally, the amount of rental land being farmed is 28% of the total farmland.
- Due to a combination of good soils and moderate climate, Markham has always sustained a significant component of fruit and vegetable production. While over the years, cattle and "grain and oilseed" production became dominant, in 2006, there was evidence of a trend back to production of higher value, more intensive types of production. The top five commodities in Markham in 2006 were cattle (36% of GFR's), "nursery product and sod" (29%), fruit (12%), vegetables (10%) and greenhouse product (6%). In 2001, it was cattle (36% of GFR's), "grain and oilseed" (23%), vegetable (12%), miscellaneous specialty (11%) and fruit⁴ (9%).
- The land base in the rural area of Markham is comprised of prime agricultural land as defined in the Provincial Policy Statement (PPS) with the majority of the land qualifying as Class 1.
- Due to its location south of the Oak Ridges Moraine and its proximity to the moderating influence of Lake Ontario, Markham enjoys a climate that supports higher productivity and longer growing seasons which when combined with the soil resource, allows a flexible and diverse production profile. Markham falls within the area that experiences crop heat units⁵ of 2900 whereas the rest of York Region is within the 2500 to 2700 category. Because of this, commodities such as fruit and vegetables, which are difficult to grow in less temperate areas, grow well in Markham.
- The number of farms and the area of land being actively farmed⁶ is declining more rapidly in Markham than in adjacent municipalities, the Region of York as a whole or the Golden Horseshoe. Between 2001 and 2006, the amount of farmland in Markham declined by 43% as compared to York Region at 5% and Ontario at 1.5%. The decline in farmland may be due to a number of factors including competition for land, land speculation which drives prices up and limited access to land due to a high incidence of public ownership.

³ Statistics Canada Census of Agriculture 2006

⁴ Categories based on Statistics Canada breakdown.

⁵ Based on average daily air temperatures and number of available planting days.

⁶ Farmland is defined as area actively farmed not land designated for agriculture.



- Consultation with stakeholders undertaken as part of Phase 1 and Phase 2, confirmed that there are farmers interested in continuing to farm in Markham although they face significant challenges.
- The agricultural area in Markham contains large areas of designated Greenbelt. Certain areas in the balance of the rural area are characterized by smaller lot sizes and fragmentation.
- Non-agricultural uses, including places of worship, golf courses, day camps, recreational facilities and rural residences which have the potential to conflict with agricultural operations, are present in the rural area.
- Based on the \$21 million in GFR's reported in 2006, it is estimated that agriculture in Markham generated approximately \$62 million of economic activity in the province in 2006.

The production profile developed in Phase 1 confirmed that agriculture in Markham continues to be a productive sector based on average gross farm receipts per acre and contributes to the Town's economy and quality of life. Based on soil conditions and climate, Markham ranks as one of the best agricultural areas in York Region and produces a broad range of commodities from nursery products to fruits and vegetables. The quality of the soil resource combined with a benevolent climate allows agricultural production that has the potential to be diverse and productive. Close proximity to a large urban market conglomerate, provides the advantage of a large market with a growing demand for fresh, local product and sod and nursery products. Despite these advantages, the sector is being adversely impacted by continuing urbanization, competing land uses, rising land values, lack of agricultural infrastructure, a high proportion of public land, tenancy issues and uncertainty about access to the land base.

2.3 Summary of Phase 2

Phase 2 of the study evaluated in more detail the strengths and weaknesses impacting agriculture, and the opportunities and threats these factors generate for long term agriculture in Markham. This phase of the study provided some concluding statements regarding sustaining a long-term agricultural presence within the context of growth management requirements and recommended a number of policy and program options to enhance agricultural land uses.

2.3.1 Threats and Weaknesses

A number of challenges and constraints impacting agriculture in Markham were identified in Phase 2. While many of these are not the responsibility of, or within the control of the Town, these forces have a cumulative impact on farmers and need to be considered when agricultural policies are being developed. A number of the factors identified as threats or weaknesses can, in the right circumstances, be turned into strengths or opportunities. Because of this there is some overlap in the lists of identified factors. This is done purposely to underscore the importance of addressing certain issues in the right way to turn them to an advantage.

Threats

- Uncertainty about the long term availability of public land for agriculture is negatively impacting the farm sector in Markham. Although there is a strong commitment to farming in Markham, if land is not available on a reliable basis, farmers may move elsewhere or leave the sector rather than investing in an unreliable situation. This factor has a major impact in Markham and is compounded by the presence of the Federal airport lands and competing environmental priorities in Markham.
- The farm population in Ontario is aging, but the trend is more apparent in Markham. If the future of agriculture is uncertain (e.g. land costs, tenancy arrangements, land use constraints) in the Town, it may be increasingly difficult to attract younger operators to the area.
- Given the proposed Regional population allocations, intensification and Greenfield growth assumptions, a portion of the agricultural area is identified by the Region to be required to accommodate growth to 2031. A planning process was undertaken by the Region and the Town to address, quantify and assess what is required for future urban expansion. The remaining lands not needed for growth need to be appropriately located and protected to ensure agricultural sustainability.
- Large contiguous areas have the best potential for long term agriculture but are more difficult to protect in areas experiencing pressures for growth, within the Town or in abutting areas. In identifying agricultural areas and implementing policies to protect them, the linkages with agricultural lands in abutting municipalities and in the Greenbelt should be considered.
- Natural Heritage programs are often perceived by farmers to have a negative impact on agriculture. Potential impacts will depend on the policies governing the Town's proposed Natural Heritage lands, and how the policies are implemented.
- Interfaces between the natural heritage lands and farmland can be problematic. Examples of conflicts include damage by wildlife and trespassing, both of which can increase in natural heritage lands areas, and can negatively impact agriculture. In areas such as East Markham where natural heritage protection and restoration is a focus, these issues will need to be managed.
- There is a unique opportunity for long-term agriculture on lands owned by senior government but cooperation and partnerships are needed for success. This cooperation has been difficult to secure due to long-term alternative plans for the Provincial and Federal land holdings.
- There is a myriad of Provincial and Federal regulations and regulatory agencies that make the business of farming more complex and costly.
- Increasingly, due to regulation or public ownership, there is an inability to maintain the drainage works that support agriculture.
- In considering the future of the Rouge Park, there has been some discussion by public land owners about placing controls on agricultural production to permit certain types of production (i.e. fruit, vegetable, organic production) and prohibit

others (cash crops, horses, greenhouse), Such prohibitions create a regulated public agriculture resource and may restrict farmers' ability to manage their land, rotate crops, employ best management practices and respond to changing circumstances and markets. Lack of knowledge about farming can lead to negative assumptions about certain farm practices (such as the use of herbicides) that are not justified.

- Rural lands are considerably cheaper than urban lands and are often purchased for non-agricultural uses such as places of worship and cemeteries. Land speculation in anticipation of urbanization is also an issue.
- In addition to strong planning policies, a successful agricultural sector requires other types of support. For agriculture to thrive, the conditions must be in place to allow farmers to be profitable. Many of these support mechanisms are outside of the control of municipalities but there are actions, which are identified later in this report that can be taken to support agriculture at the municipal level.
- With a declining farm population, support services (such as farm implement dealers, grain elevators, seed suppliers, large animal veterinarians) disappear and there is no perceived benefit in establishing new ones.

Weaknesses

In many areas, establishment of the Greenbelt has created more certainty about land use in the protected countryside and reduced the speculative pressure. Because of this, the weaknesses impacting agriculture within the Greenbelt can differ slightly from the weaknesses impacting the area outside the Greenbelt. In Markham the situation is complicated by the presence of large tracts of publically owned lands within the Greenbelt. Because of uncertainty about the availability of public land for agricultural use in the Greenbelt and competing pressures for natural heritage areas and restoration; the pressures on agriculture on the lands in the Greenbelt in Markham are more complicated than in other municipalities where the lands are privately owned.

Outside the Greenbelt the weaknesses impacting agriculture include:

- Competition for the land base for non-agricultural, urban orientated uses including golf courses, places of worship, cemeteries, future urbanization and growth identified in senior government policy.
- The advent of Provincial Plans such as the Oak Ridges Moraine Conservation Plan, the Greenbelt Plan and the Growth Plan has focussed development interest and land purchases in areas of the "whitebelt" outside the urban boundary. Lands owned by corporations and development companies being held for future potential development is often made available for agricultural lease but the terms are generally short term and informal.
- Speculation and competition for land drives prices up beyond the level of productive value making the purchase of land for agricultural prohibitive. Farmers can be tempted to sell their land by the higher land values.

- Increasing encroachment of non agricultural uses, including rural residential lots, golf courses, recreational facilities, day camps and places of worship, create conflicts and makes the business of farming more challenging. Municipalities occasionally accede to requests by groups, organizations and individuals to support non-agricultural uses in agricultural areas due to cost considerations and land availability.
- The capital investment in farm infrastructure, such as barns, sheds, tile drains, grain elevators, etc., both on and off farm, is disappearing as more land comes under leasing arrangements.
- Agricultural services such as seed suppliers, grain elevators, equipment suppliers and large animal veterinarians are increasingly difficult to access.
- Conflicts with abutting urban uses and traffic negatively impact agricultural operations. Many operators work on dispersed parcels which require movement of equipment. This is very difficult in higher traffic areas.
- There is a maze of regulations impacting land use in the agricultural area from all levels of government which complicates the business of farming and can be expensive and time consuming to deal with.
- Once the policies managing growth to 2031 are finalized, growth expectations post 2031 may continue to create uncertainty and discourage investment in farm infrastructure either due to ownership of land, investment and development interests or uncertainty by farmers about the future for agriculture in the area.

Within the Greenbelt the weaknesses include:

- The high quality of land in Markham for agriculture does not necessarily translate into the use of the land for farming. Large tracts of public land which cannot be purchased, and for which rental arrangements can be tenuous, limit options for farmers to expand.
- Agricultural infrastructure including barns, fences and tile drains on public land is crumbling and little is being done to address the issue because of non farm ownership and the long-term uncertainty for agriculture.
- If farmers are able to rent public lands they are either not permitted to maintain or repair the infrastructure or are discouraged from doing so by the short term and tenuous nature of rental agreements.
- Rental agreements are short term and informal which discourages investment in improvements or cultivations of crops with longer maturation cycles such as tree fruit.
- A long term agricultural strategy would need to be based on a tenant program which requires support by and co-operation with the public land owner. In Markham, the lands owned by public agencies have been purchased for non-agricultural uses including airport and park purposes. While there is some evidence of co-operation; the Eastern Rouge Park lands are currently being reviewed for both park and agricultural opportunities, ongoing co-operation will take a lot of effort to obtain and success is not guaranteed.

- The objective of re-naturalization of agricultural lands by public agencies reduces availability of land, discourages operators, fragments the agricultural area and has the potential to introduce conflicts.
- The Provincial and Federal governments are not bound by municipal policy and by-laws and therefore are not bound by local agricultural protection policies.
- Regardless of the fact that off site impacts from agriculture are addressed through the Minimum Distance Separation requirements imposed by the Province, there is an emerging trend to categorizing agriculture as “near urban” (fruit, vegetable and organic production) which is presented as desirable, and “traditional” agriculture” (livestock and cash crops) presented as problematic. Compartmentalization of agriculture activities can restrict farmers’ flexibility in implementing best management practices, responding to market, rotating crops and managing the land base to be financially viable. On the public lands in the Greenbelt, the public landlords have the ability to impose production restrictions, which can impact farm operators who may not be equipped to easily alter their farm outputs or practices.
- Increasingly, there is a public lack of recognition of the role of farmers as stewards of the environment.
- Expanded natural heritage areas have the potential to increase wildlife conflicts, property security issues and incidents of trespassing.
- The Federal Government has not finalized their airport planning process and made long-term decisions about the management of their lands. This creates difficulty in engaging in discussions about the long-term use of Federal lands for agriculture.

2.3.2 Strengths and Opportunities

There are strengths and opportunities in Markham that can be built upon to create the circumstances where agriculture could thrive. While the success of these actions will depend on the willingness of senior levels of government to participate in productive partnerships both with the Town and the agricultural sector, and on issues impacting agriculture generally, the Town can work with the strengths that do exist and take advantage of opportunities.

Strengths

The strengths that characterize the agricultural sector in Markham include:

- The Canada Land Inventory and the LEAR, completed by the Province in support of the Greenbelt, indicate that the rural area in Markham is prime agricultural land. The results of the Regional LEAR confirm this conclusion.
- Generally, with the exception of some recreational uses, places of worship and clusters of residential lots, the main use in the rural area is agriculture.
- Farming is an ongoing use in Markham and members of the farm community have indicated they are interested in continuing to farm for the long term.

- There are some younger operators, notwithstanding the overall aging farm community.
- Agriculture is recognized as an inherent part of Markham's history and culture.
- Agricultural production is increasingly being recognized as essential to sustaining healthy communities and public interest in sustaining a local food supply is growing.
- Requirements such as Environmental Farm Plans, Nutrient Management Plans and Grower Pesticide Certification ensure that farmers operate in an environmentally sustainable manner thereby reducing the requirement for municipalities to deal with issues associated with off farm impacts. Although farmers are concerned about multiple requirements, use of consolidated programs such as this could simplify and reduce the regulations process.
- The Farming and Food Production Protection Act (1998) provided a legislative base for protecting the right to farm.

Opportunities

The following opportunities associated with agriculture were identified:

- With the co-operation of public land owners, the Greenbelt lands can provide permanent protection of agricultural lands and long term certainty for farmers. If supported by Transport Canada, Federal lands provide a longer term opportunity for agriculture.
- There is an opportunity for existing Provincial programs to support and sustain agriculture.
- The Town has a supportive political culture as demonstrated by the recent adoption of various strategic directions, including Local Food First.
- Although satisfying the Growth Plan requirements will require development of some rural area lands to 2031, a significant rural area will remain in Markham. Once the growth strategy is finalized, policies for the balance of the area can be designed to support agriculture.
- Agriculture is increasingly being identified as a desirable component of healthy sustainable communities by non rural residents, public health agencies and others. Issues of food security are being responded to by implementation of Food Charters that recognize the importance of local production.
- Tenant farming can be made more viable with formalized, long term leases. There is a unique opportunity for long-term agriculture on lands owned by senior government. Cooperation is needed for success.
- Large diverse markets in close proximity to farming areas provide access to niche markets and support production of specialized products.
- Large neighbouring agricultural areas in Pickering and Whitchurch-Stouffville provide opportunities for agricultural synergy.

- The agricultural community can contribute positively to emerging Green initiatives.
- Natural Heritage programs can impact agriculture. However, the nature of the impact will depend on the policies governing the Natural Heritage System and the commitment to the right to farm. The PPS does recognize the right for existing agricultural uses to continue to successfully co-exist in natural heritage areas.
- A successful agricultural sector benefits from strong planning policies and other implementation tools for support.
- The strategy for the area east of the Rouge Corridor, being developed by the Rouge Park Alliance, has not been finalized. There is an opportunity to promote agriculture as a major part of the park and allow ongoing cultivation of lands currently in production, under circumstances that allow agriculture to thrive in the Park.
- There is a committed agricultural community which could work with the Town and other agencies to develop and implement a successful agricultural strategy.
- The Town has an ongoing commitment to maintaining and strengthening agricultural activity in the Town and has identified agriculture as an important component of the Rouge Park in the eastern part of Markham.

2.4 Economic Assessment

The economic analysis conducted in Phase 1 estimated that agriculture in Markham generated approximately \$62 million of economic activity in the provincial economy in 2006. This conclusion was based on an economic impact assessment which using gross farm receipts, evaluated the contribution of agriculture in Markham to the provincial economy and the associated impacts of this activity. The complete assessment is contained in Appendix 1 of the Phase One report. The associated impacts of the primary activity were estimated to be:

- \$21 million in GDP or value added;
- >\$10 million in labor income earned across all sectors;
- A multiplier of approximately 2.5 which translates to each \$1 of agricultural activity generating \$2.5 of activity in other sectors of the economy

This impact would increase or decrease each year based on the annual gross farm receipts generated. Given that gross farm receipts have risen since 2001, the economic impact or contribution of agriculture will also have risen.

Specific details about the estimated economic activity and the impact on the local Markham economy are difficult to isolate. The model that was used for the analysis is provincially based. However given that the analysis done confirms that the support structure for agriculture is declining in Markham, it can be assumed that the economic spinoffs to the local economy may also be declining. As farmers are forced to move further afield to access agriculturally related services such as veterinarians, seed suppliers, implement dealers etc., the opportunities to generate activity in the local economy are lost. As such, although lands in Markham are being successfully farmed and the impact on the provincial economy is

increasing, the direct economic benefits to Markham generated by agriculturally related services may be declining.

In Markham, most farmers take advantage of the 75% property tax reduction offered for land under production through the Agricultural Property Tax Reduction program. This program permits tax assessment to be changed at a rate of 25% of the residential tax. Prior to 1998, the Province compensated farmers directly through the Farm Tax Rebate Program, however, since that time municipalities have taken on the financial responsibility without Provincial compensation. The property tax revenue collected by the Town for agricultural lands is approximately \$74,000.

3 Policy Context for Agricultural and Growth Management Requirements

In developing agricultural policies, the Town of Markham must conform with or implement a myriad of Provincial and Regional policies and requirements. This section identifies the policy considerations and role of the various levels of government in agriculture.

3.1 Federal Context

Overall, the role of the Federal Government in agriculture is largely focused on research and delivery of support programs. Constitutionally, municipal government is a creation of the Provinces and therefore the Federal government does not normally have a role to play at the municipal level. Markham is an anomaly in this regard because the Federal government is one of the largest land owners in the Town owning significant land in the northeast part of the Town as part of the Pickering Airport Site.

As part of the regulatory framework for the potential airport use, the Pickering Airport Site Zoning Regulations were enacted by the Federal Government. These regulations identify and manage potential impacts to airport operations and identify bird hazards but do not prohibit agriculture. While the Town's Official Plan and the Greenbelt Plan continue to direct land use, the Federal government is not subject to Provincial or Municipal laws. The Federal lands are currently used for agriculture.

3.2 Provincial Context

Generally the role of the Provincial Government in agriculture is the protection of the agricultural land base and support for producers. From a land use perspective, within the Provincial agricultural mandate, foremost is the Planning Act which identifies *"the protection of the agricultural resources of the Province"* as a matter of Provincial interest and authorizes the Minister to issue policy statements on matters regarding it. Municipalities, in implementing planning controls, must be consistent with these policies and therefore must address the protection of agricultural resources.

The Provincial Policy Statement (PPS), issued under Section 3 of the Planning Act, provides direction on the management of the Province's agricultural resources. The PPS defines prime agricultural land and areas and directs that they shall be protected for agricultural uses unless the land is required for expansion of a settlement area. The other two land uses that must be protected under the PPS are natural heritage features and areas (NHS) and lands containing aggregate resources. However both are expected to coexist with agriculture. In

the case of natural heritage features and areas, existing agricultural uses are permitted to continue.

The Growth Plan implements policies for areas within the Greater Golden Horseshoe for the purpose of managing growth to the year 2031. As part of the policies, York Region has been allocated a component of growth (residential and employment) that will in turn be allocated to local municipalities through a growth management process. The policies pertaining to agriculture are similar to those in the PPS and impose similar requirements for the protection of agricultural land. Under the Growth Plan, Markham will be required to accommodate a certain level of residential and employment growth as determined through a growth management exercise coordinated through the Region.

The Greenbelt Plan contains specific policies addressing management of ecological lands and prime agricultural areas, specialty crop areas and rural areas within the Protected Countryside. The Greenbelt Plan encourages external connections to prime agricultural resources and the agricultural food system beyond the boundaries of the Greenbelt. The policies which must be addressed in the updated Official Plan require protection of Greenbelt Protected Countryside which in Markham is overlaid with the Natural Heritage System. The Greenbelt Plan recognizes the relationship between agriculture, aggregates and natural heritage and provides direction on managing the resource. Municipalities are required to bring their Official Plans into conformity with the Greenbelt Plan through a comprehensive official plan review required every five years under the Planning Act.

The Oak Ridges Moraine Conservation Act and Plan requires protection of the Moraine and its "ecological and hydrological features". Policies addressing the requirements of the Oak Ridges Moraine Conservation Plan were incorporated in the Town's Official Plan in October 2004 as OPA 117. Agriculture is a permitted use in the Countryside designation.

There are two Provincial zoning orders in place in Markham. Ontario Regulation 104/72 applies to the lands south and west of the Federal land and imposes restrictions associated with noise exposure forecasts. The other Minister's zoning order is Regulation 473/73 which applies to the Parkway West Belt. Most of the land covered by this order is in Provincial ownership. Existing agricultural uses are permitted within the Zoning Orders.

In addition to the standard Provincial policy framework that applies to all municipalities, the Province has an enhanced role in Markham as a major land owner. The implications of this ownership are discussed in conjunction with consideration of the other agency and local roles.

3.3 Regional Policies

The responsibility of the Region of York with respect to agriculture is twofold. First, the Region is required to undertake a Provincial Growth Management Strategy to implement the Provincial Growth Plan which includes both intensification policies and policies to guide the development of required new community areas on rural and agricultural lands where identified and if and when required. Second, the Region is responsible for designating agricultural lands and providing a policy framework for the management of these lands. The draft Region of York Official Plan addresses agriculture through Oak Ridges Moraine policies, Greenbelt policies, Local Food policies, Agricultural Area policies (reflecting the 'prime' agricultural classification), Rural Area (reflecting the 'rural' agricultural classification) and

specialty crop lands (reflecting the ‘specialty crop’ classification). The regional agricultural classifications were established through a LEAR exercise.

As background to the Regional Official Plan amendment to implement the Growth Plan, York Region completed a Land Evaluation and Area Review (LEAR) of the regional agricultural resource. The LEAR report confirmed that the agricultural area of Markham is a prime agricultural area as defined in the Provincial Policy Statement (PPS). The findings of the LEAR analysis are the basis for the draft Regional Official Plan rural and agricultural policies that were released by the Region in June 2009. The draft Regional Official Plan distinguishes prime agricultural lands as ‘Agricultural Area’ and non-prime lands as ‘Rural Area’. In Markham, all the lands are identified as ‘Agricultural Area’, with the exception of a very small parcel located in the northwest corner of the Town. This parcel is isolated from other agricultural lands as the lands surrounding the parcel form part of 404 North Secondary Plan (OPA 149), but is contiguous with the ‘Rural’ lands to the north in Whitchurch-Stouffville. The rural designation provides continuity with the lands to the north.

In addressing the findings of the LEAR, the York draft policies are based on the goal:

To protect and support Agricultural and Rural Areas and the agricultural industry as essential components of the Regional fabric.⁷

The plan contains specific policies for the lands in the Greenbelt and the Oak Ridges Moraine. For areas outside of these designated areas, the Regional Plan recognizes the requirement to accommodate growth but specifies that growth will be managed and phased and until and unless land is required for growth, it will be protected for agriculture.

This Plan recognizes and encourages agricultural uses on lands in the new community areas until urban expansion is necessary. Agricultural uses in the new community areas and in the Rural Area are important to the Region’s economy and as a source of local food.⁸

The Markham area is addressed specifically with a proposed draft policy that states:

(...) within the Agricultural Areas in those portions of Markham, Vaughan and East Gwillimbury, not within the Oak Ridges Moraine Conservation or Greenbelt Plans, normal farm practices and a full range of agricultural uses, agriculture-related uses and secondary agricultural uses shall be permitted and encouraged until and if the lands are required for urban expansion. Redesignation of lands required for new community areas will not require an agricultural justification report but shall be subject to the urban expansion and phasing policies in Chapter 5 of this Plan and local official plans.⁹

This policy recognizes that some and perhaps all, of the existing agricultural area of Markham may be required for growth over time, but in the interim, and for as long as possible, it should be protected for agriculture. The Town will be required to implement the policies of the Regional Official Plan.

⁷ Draft Regional Official Plan June 2009. Pg 63

⁸ Ibid. pg 68

⁹ Ibid. pg 69

3.4 Rouge Park

The Rouge Park is a non-incorporated park owned by the Town, Toronto and Region Conservation Authority and the Province through Ontario Realty Corporation and managed through a partnership arrangement. The Rouge Park is planned through the Rouge Park Management Plan, the Rouge North Management Plan and a series of site specific Management Plans. The Greenbelt Plan has recognized the Rouge North Management Plan as a guiding document for Rouge Park lands located within the Greenbelt Plan. Although the Rouge Park lands in eastern Markham are predominantly centred along the Little Rouge Creek, the park contains significant acreage of agricultural lands which are planned for park purposes. The Rouge Park plans for the Little Rouge Creek and Bob Hunter Park focus primarily on natural heritage restoration and passive recreational uses; however, recent indications from the Rouge Park Alliance suggest that the Eastern Markham Management Plan, currently being developed for the lands east of the Little Rouge Corridor, will retain some agricultural land uses within the Park.

3.5 Implications for Markham

The Town of Markham is faced with a challenging set of circumstances in addressing long-term agriculture. Although it contains some of the best agricultural land in York Region, it is also identified to accommodate projected growth through the Growth Plan for the Greater Golden Horseshoe. Because of its location in Canada's largest metropolitan area, the agricultural lands in Markham are held predominantly by development interests, with most of the balance owned by Public Works Canada for the Pickering Airport site and the Province and Toronto and Region Conservation Authority for Rouge Park purposes. In balancing these competing land use objectives and complying with the Regional Official Plan policies, careful management of growth, combined with policies to support ongoing agricultural production, will be necessary to sustain an environment where agriculture can continue for the long-term. The presence of the Greenbelt, the Oak Ridges Moraine and the Rouge Park create a core area where there is an opportunity for agriculture to have a secure future subject to the support of the public landowners.

In developing policies to facilitate orderly and well planned growth, while maintaining viable agricultural production, it should be noted that the findings of the agricultural assessment conclude that contiguous areas of agricultural land with connections to other agricultural areas are best for sustainable production. Policies to continue to protect the large contiguous blocks of agricultural land linked to the protected Greenbelt and Oak Ridges Moraine lands in north and east Markham are recommended as this would provide the largest possible contiguous area for agriculture. From an agricultural perspective, therefore it is recommended that the Town review growth management options for lands in the west contiguous with the Highway 404 corridor, immediately north of the current urban boundary along Major Mackenzie Drive and west of the Little Rouge Creek.

The area in the Greenbelt and Oak Ridges Moraine in Markham provides sufficient area to support agricultural production in the long term. This long term sustainability is enhanced by the areas of agricultural land in abutting municipalities. The challenge for the Town will be to encourage agriculture in areas of the 'whitebelt' or Regionally identified 'new community areas' that are not yet allocated for growth, or that are allocated for growth for later phases in the planning period. To optimize the support for agriculture on those lands, the Town should develop agricultural policies that address the following issues:

- Maintain contiguous areas for agriculture;
- Provide growth management phasing policies with specified time frames for the release of agricultural land for development;
- Delay release of lands closest to the Greenbelt for development. Development should be directed to areas in west Markham, abutting existing development and non-agricultural uses such as golf courses;
- Confirm the Town's support by articulating an agricultural vision; and,
- Implement an agricultural strategy, to support producers in the long term.

4 An Agricultural Vision

The Phase 2 report recommended the adoption of a vision for agriculture and noted that the Town has already articulated elements of an agricultural vision in its various strategic plans including “Building Markham’s Future Together” and “Markham 2020, Strategic Directions for our Economy”. These documents refer to a viable, productive, sustainable agricultural sector in Markham’s vision for the future.

The Phase 2 findings and report were presented to Council in June of 2009. The study team received direction to continue to define a specific vision statement for agriculture and prepare an agricultural strategy. In response to this directive, it is recommended that the Town support the following objective in the Growth Management Strategy:

Encourage and support, a viable, productive and sustainable agricultural sector.

5 A Proposed Agricultural Strategy Framework

Building on the vision of a viable, productive sustainable agricultural sector, the Phase 2 report provided options for a strategy to support agriculture. Working within the legislative framework the strategy would apply to all agricultural lands in the Greenbelt and the non Greenbelt lands not identified for growth through the Growth Management Strategy. The strategy would vary depending on whether the lands are within the agricultural area where the Town’s policies are the principal control mechanism, or the Greenbelt where additional legislation including the Greenbelt Plan, Oak Ridges Moraine Plan and Rouge Park plan must be factored in moving forward. The strategy must also address the challenges that Markham faces relative to growth pressures and significant tenant lands.

The Agricultural Strategy recommended for Markham comprises two distinctive components. The first component is to strengthen, enhance and update the existing official plan policies as part of the mandated process to bring municipal planning policies into compliance with the Growth Plan and Greenbelt Plan and to reflect minimum provincial standards. Although the Town’s agricultural policies are relatively restrictive, they are dated and need to be revised in the context of the Growth Management Strategy. The second component is a tool kit of optional activities and programs that Markham could undertake to help support the agricultural community. Some of the activities require further review to ascertain their effectiveness for Markham. Some of these actions can be integrated with other studies and

initiatives such as the Green Print Plan and updates to the Economic Strategy, or undertaken independently. A number of these actions would be appropriately managed at the regional, provincial or even federal level with Markham as a supportive participant. Some of these actions are already occurring and the suggestions here are to enhance the process rather than to initiate it.

6 The Strategy: An Action Plan for Agriculture

The conclusions drawn as part of the Phase 1 and Phase 2 agricultural assessments suggest that Markham faces unusual challenges relative to supporting and enhancing a long-term sustainable agriculture presence given the significant amount of land owned by development interests and senior governments, which are made available for farming only in short term tenant arrangements. However, this situation has been ongoing in Markham for decades and a robust agriculture industry has been able to sustain itself in these circumstances. Agriculture has been relatively successful in the Town because the physical conditions, including soil and climate quality, are excellent in Markham and because the Greenbelt, Oak Ridges Moraine and Growth Plan policies both protect and incrementally manage the retention of these lands for agricultural uses. As such, it is appropriate and desirable for Markham to retain and enhance policies and programs to support a sustainable long-term agricultural presence.

The Town can assist in supporting the continuation of agricultural activity in Markham by developing a more comprehensive approach towards agricultural protection including updated official plan policies which guide decision-making on matters affecting agriculture. The actions outlined below are part of a recommended agricultural strategy for Markham.

6.1 Recommended Actions Official Plan Policies

With the implementation of the Provincial Growth Plan, Greenbelt Plan and revised Regional Official Plan policies, the Town is obligated to review its Official Plan to ensure conformity. This will provide an opportunity to prepare updated official plan policies that will address and support the proposed agricultural strategy.

The Town's current agricultural designation and policies were established in the 1970's and comprise an A1 designation for the majority of agricultural lands in the Town, A2 designation for the agricultural lands which also permit low intensity recreational uses and A3 designation which reflects the Provincial ownership of lands in eastern Markham. The A1 designation is restrictive allowing only agricultural and agricultural related uses and is generally compatible with the Provincial Policy Statement and the approach being proposed by the Region of York. The A2 designation is more permissive. Because the lands in Markham are classified as 'prime', the allowance for the recreational uses under this designation is generally not consistent with the Provincial Policy Statement and draft Region of York policies. The A3 designation identifies a process for additional study for certain lands under Provincial ownership. This approach is no longer applicable due to the recent decision by the Province on the management of their holding for Rouge Park purposes in eastern Markham. The existing agricultural official plan policies and mapping should be repealed and replaced with policies and mapping which reflect and support the new Provincial Greenbelt and Growth Plans. The following agricultural designations are recommended:

1. Agriculture

For the agricultural area unencumbered by the Greenbelt Plan and Oak Ridges Moraine Plan, policies are needed to support agricultural land uses until the lands identified through the Town's Growth Management Strategy are phased in for new urban growth. The same general policies would apply for lands subject to the Growth Management Plan and lands not included in the Growth Management Plan. However, the potential for future urban growth and the conversion of the agricultural lands within the Growth Management Strategy should be acknowledged. In the interim they would be subject to the policies of the Regional Official Plan. These policies would remain relatively restrictive similar to the Town's current A1 designation which permits only agricultural uses, and secondary and related uses to agriculture.

2. Greenbelt Agriculture/Rouge Park

For the agricultural area with the Greenbelt Plan that is also within the Rouge Park, policies are needed to reflect both the Greenbelt Plan requirements and the additional flexibility needed to support the Rouge Park. The objectives of both of these Plans are expected to be supportive and balanced in a compatible way. The Greenbelt Plan specifically directs the consideration of the Rouge North Management Plan for the Greenbelt Plan area lands which are subject to the Rouge North Management Plan and are intended to be managed as public parkland. "The Town may choose to differentiate the agricultural lands from the natural heritage lands to provide greater certainty. This approach would be consistent with the recommendations of the Town Environmental Policy Review and Consolidation Study."

3. Greenbelt Agriculture

For the agricultural area within the Greenbelt Plan and Oak Ridges Moraine Plan not forming the Rouge Park, policies are needed to reflect the long-term function of the agricultural area and the requirement to coordinate efforts with senior government to achieve a sustainable agricultural land use.

All three designations would reflect the 'prime' category of land uses established through the Regional LEAR exercise and be overlaid by the Natural Heritage System. **Figure 1** identifies the general location for these proposed agricultural land use designations. The proposed approach has been reviewed against the Town's Environmental Policy Review and Consolidation Study recommendations and the proposed approach is consistent with the recommended approach for the Town's Greenway System. The agricultural land use designations do not preclude farming and agricultural operations from continuing to operate on lands proposed for the Town's Natural Heritage Network and Greenway System. **Figure 2** shows conceptually the policy approach which allows continued agricultural land uses to occur where land is available based on tenant arrangements and where agriculture would not impact existing natural heritage and hydrologic features. This approach is proposed on both lands proposed for an agricultural land use designation and for the Natural Heritage Network land use designation. It should also be noted that agricultural activity is also currently occurring on lands within the urban settlement boundary, but which have not yet been developed for urban uses.

Figure 1 Proposed Agricultural Land Use Designations



Figure 2

Permitted Agriculture Land Uses



4. Other Policy considerations that should be addressed in the revised Official Plan policies:

- Co-ordination with the Regional Official Plan policies with respect to land uses and agricultural justification requirements.
- Establish policies to recognize and coordinate with agencies and senior governments to address competing interests and controls.
- Establish restrictive policies for severances and non-agricultural uses in accordance with Provincial Policy. The Town is permitted to be more restrictive than Provincial and Regional policies.
- Establish phasing policies to implement a new Official Plan that provides greater certainty for how and when agricultural lands within the growth plan area will be required for urban uses.
- Confirm the Markham agricultural area as prime agricultural lands as defined in the PPS and confirmed by the Regional LEAR.
- Include a series of goals articulating the importance of the agricultural resource, the intent of the Town to support ongoing production, promoting environmentally sustainable farming practices and recognizing the contribution of agriculture to the Town's economy and heritage.
- Confirm any specific considerations for lands subject to the Federal Airport Zoning Regulation such as bird hazard management practices.
- Include a comprehensive definition of agriculture, to allow operators flexibility to manage their businesses and permitting normal farm practices and a full range of agricultural uses.
- Limit accessory uses to value added / retention uses including agriculturally related and secondary uses that are related to agricultural operations and are consistent with PPS policies.
- Provide flexibility to allow a range of agriculturally related and secondary uses as defined in the PPS while protecting the integrity of the area for agriculture.
- Promote the preservation of heritage agricultural buildings.
- Requirements for compliance with Minimum Distance Separation should be included to address off site impacts and avoid potential conflicts in areas in proximity to urban areas.
- The policies should support the farmer's right to farm by referencing the Farming and Food Production Protection Act.

- Policies should be included to promote environmentally sustainable farm practices and best management practices in compliance with related legislation such as the Nutrient Management Act;
- Lot creation, with the possible exception of severance of surplus dwellings which do not result in additional residential development, should be prohibited.

6.2 Optional Policy Actions for Further Considerations

The actions listed in this section, are optional policy actions that the Town could consider to support the agricultural sector. Implementing these options could improve the potential for agriculture to survive and thrive in Markham.

1. Economic Development Strategy

Markham's recent Economic Plan - 2020 Strategic Directions for Our Economy, does include actions to strengthen and promote local agricultural links in Markham and recognizes the production of local food as an element of the Town's economy. When Vision 2020 is updated it would be appropriate to acknowledge the linkage between agriculture and local food and consider how the economic development strategy could support and encourage agricultural production, food processing and agri-tourism as an important part of the Town's economy.

Given the substantial office development in Markham and the status Markham enjoys as a thriving 'high tech and business' community in the Greater Toronto Area, Markham's Economic Strategy has traditionally focused on leading edge business and economic strategies to continue to capitalize and encourage the location of head office and major office uses. Agriculture in Canada is recognized as a leader in developing innovative practices and in advancing technology to support agriculture. Consideration could be given to expanding Markham's current economic development focus to include agriculturally related technologies that are linked to local production. Processing that uses locally grown products as input, should be encouraged.

The Town could also use the Green Print Plan as the vehicle to address the agricultural economic considerations. This would be consistent with Markham's comprehensive approach towards sustainability. The strategies employed in a primarily urban community where farming is undertaken on tenanted lands, may be different than the traditional economic strategies used to support agriculture in primarily agricultural areas. Any future economic strategy could focus on agri-tourism and agricultural activities that thrive in proximity to urban communities and that support and are compatible with the Town's High Tech focus. In developing the strategy and identifying the actions for implementation, there should ongoing consultation with the agricultural sector to incorporate actions to support agriculture.

2. Financial Incentives

Currently in Ontario, property tax rates for land that is under agricultural production may be reduced by 75%. Some municipalities offer a further reduction for land that is under production for longer periods of time. This scenario works particularly well where the agricultural lands are privately owned. In Markham, where the majority of agricultural lands are tenanted by either senior government or corporations, this incentive would have some limitations. Reduced taxes for land which provides long term lease arrangements and ongoing production could provide an incentive to those who rent land out, to enter into longer term leases with farmers. This could bring more certainty to the operator farming the land and more stability in production. Markham could consider this approach as an additional incentive to keep land in production for extended periods of time, providing it does not create an undue burden on the urban tax rate and the costs of delivery of municipal services. Should the Town wish to pursue this opportunity, discussions should be held with public and private landowners to determine an appropriate length for a lease that would trigger the ability to access additional property tax reductions, as well as review of the financial implications relative to the cost of delivery of municipal services.

There are also a number of programs in place that compensate land owners for environmental stewardship. One such program is a pilot program in Norfolk County, the Alternative Land Use System (ALUS) that compensates farmers for environmental stewardship and crop damage attributable to wildlife. This program receives funding from Agriculture and Agri-Food Canada through their Advancing Canadian Agriculture and Agri-Food Program. Alternative Land Use Services (ALUS) is a voluntary environmental program for Canadian farmers that recognizes and rewards production of ecological goods and services such as clean water and biodiversity. With the evolving natural heritage Rouge Park in eastern Markham, this is a program that the Toronto Region Conservation Authority and Rouge Park together with the Town, could explore ways to help enhance ecological benefits in the Rouge Park and manage agricultural impacts resulting from wildlife crop damage.

3. Local Food Charter

Local Food charters are a mechanism many local municipalities are adopting to respond to the need for food planning systems and integrated food policy development. A Food Charter is a statement of values and principles to guide a community's food policy. People from a broad spectrum of community interests and organizations typically meet and discuss their concerns and desires around food and agriculture policy in order to come up with a common vision and set of principles. These form the basis of a unique, local, community food charter. When a food charter is adopted by the local municipal council it becomes a public document to guide decision-making. As part of the Green Print sustainability initiative, Markham could consider developing a local food charter. The charter could address issues such as food production, distribution, food retail access, community health, waste management and economic development. The Food



Charter could also address the unique tenant issues facing the farming community. As part of this charter, Markham could adopt a “right to farm” policy based on the Farming and Food Production Protection Act (1998) that acknowledges the Town’s support for farmers and the important contribution they make to local food production. The Region of York has identified support for a Local Food Charter in the draft Regional Official Plan. Attached as **Appendices 1 to 3** are examples of Food Charters prepared by Toronto and Vancouver and a copy of the Farming and Food Protection Act which could form the basis for a local Right to Farm Policy. The Town could also work with the Region to determine how a Regional Food Charter could support the Town and if a separate Food Charter would be useful.

4. **Coordination with Rouge Park Programming and Federal Objectives**

In moving forward with policies for the east Greenbelt lands it will be essential to coordinate with the planning for the Rouge Park. Not only are there requirements in the Greenbelt Plan regarding Rouge Park that must be addressed, but the Town is a partner on the Rouge Park Alliance. There is a long history of coordination between the Town and Rouge Park and this relationship could be enhanced to support the mutual agricultural objectives of each organization in a manner that benefits the agricultural sector and Rouge Park.

There is ongoing discussion with the Rouge Park Alliance through the planning process underway in eastern Markham about the long term future of agriculture in the park. Areas of the park include extremely productive land currently under cultivation. The value of this resource and the farmers, who are managing it, should not be underestimated. Both the Greenbelt Plan and the Provincial Policy Statement assign existing agricultural uses the same rights as Natural Heritage features and allow existing agriculture to continue in natural heritage areas. Efforts should be made to integrate sustainable long-term agricultural permissions, designed in conjunction with current operators, to preserve and enhance this resource.

The Rouge Park Alliance has acknowledged the importance of agriculture and has shown willingness to incorporate agriculture in plans for the Rouge Park. The Town should take the lead by requesting a partnership between the Rouge Park Alliance, the farmers and the Town to integrate productive agriculture into future plans for the park particularly in the East Markham lands. There is a unique opportunity with the Rouge Park to include significant agricultural production in a public amenity. If done in co-operation with farmers, the Rouge Park could contribute agricultural products and provide an opportunity for urban residents to be educated about the realities of modern agriculture. The Official Plan and Rouge Park Plans should be consistent with respect to agriculture to provide certainty for all parties.

The Federal Government has taken steps in the recent past to advance a long-term plan for their lands. The Federal Green Space initiative announced in 2001 provided a venue to plan for and support a protected green space airport buffer for long-term ecological, cultural, recreational and agricultural uses on lands considered remnant for airport planning purposes. The Town could request that Transport Canada re-engage the planning process for these lands to provide an opportunity to maintain and enhance agricultural infrastructure and enhance



agricultural land use for the Green Space lands and the remainder of the Transport Canada lands in Markham.

5. **Agricultural Advisory Committee**

Many municipalities have agricultural advisory committees which provide input on agriculturally related issues. At this time, Agricultural Advisory Committees (AACs) are predominantly operating at the Regional level, including the York Region Agricultural Liaison Committee and Durham Region AAC. The mandate of these committees is established by Council and depends on the specific needs of the community but can include such items as commenting on official plan amendments, zoning changes and applications, transportation issues affecting agricultural areas, urban agriculture issues, water issues and drainage, agri-tourism policies and agricultural awareness. The AAC structure is not recognized under provincial legislation and where they exist at the local level, they are established through Council resolution.

The advantage of establishing an AAC is that where a municipality is faced with ongoing agricultural issues, the AAC can assist staff and Council with providing input on issues that impact agriculture at an advisory level. Should the Town wish to consider establishment of an Agricultural Advisory Committee, it is recommended that the Town consider a specific mandate for the AAC based on the outcomes of the Agricultural Assessment Study, Growth Management Strategy and Green Print Plan and that a Committee structure include possible representation from Transport Canada, Rouge Park, TRCA, development community and tenant farmers from the Federal, TRCA and/or provincial lands to ensure all local interests are represented. Because of the significant proportion of lands in tenant arrangements, the Town receives few planning and/or infrastructure applications, so the traditional role for an Agricultural Advisory Committee may not be sustainable.

Because of the regional nature of agriculture and agriculture support systems, any Committee established at the local level should have a clear and specific local mandate and a link to the Regional Agricultural Advisory Committee and to the Greater Toronto Area Agricultural Action Committee (GTA AAC). The Regional Committee provides a similar advisory capacity at the regional level as is being recommended at the local level. The GTA AAC is comprised of politicians and farm representatives from the four regions of the GTA and works to implement programs to support and raise the profile of agriculture across the GTA. This group has resources, knowledge and experience that could be of assistance as Markham works to support its agricultural sector. As first step, it is recommended that planning staff work more closely with these existing Agricultural Advisory Groups to determine if specific needs for Markham are being met at the regional level.

6. **Farm Promotion, Urban Agriculture, Community Gardens, Farmers Markets**

More and more farm promotion material is being prepared by municipalities to assist the public and community in locating and accessing farm products, and hours of operation for farm related tours and amenities. This can be done as a local program, but is generally more effective if done as part of a larger regional

program. Currently the Greenbelt Foundation is working to create an inventory of all farms in the Greenbelt with an associated data base to indicate the types of products grown and where they are available. Regions such as Halton, Durham, Waterloo and Perth County have farm information brochures as part of the tourism program. Examples of promotional material can be found on these region's websites. The Region of York also provides promotional material for region wide tourism which does include an agricultural component.

The Town's Sustainability Office has a mandate to deal with urban agriculture, community gardens, farmers markets and farm promotions. To date, the Office of Sustainability has established a second seasonal farmers Market in Unionville and is working with York Region Food Network to produce a produce guide to assist the Southeast Asian and Chinese communities locate culturally specific agricultural products.

7. Enhance and Expand Local Food Plus Program

The Town has shown itself to be a leader in adopting a local food policy for the municipality. This program was endorsed by Council in June 2008 and provides that 10% of all material and produce purchased by the Town comes from Local Food Plus Ontario certified farmers. The program is expected to increase by 5% each year. This program provides a very specific and positive opportunity to support the broader agricultural sector.

Local Food Plus (LFP) is a non-profit organization that brings farmers and consumers to the table to share in the benefits of environmentally and socially responsible food production. The program certifies farmers as LFP. The intent of the program is to provide farmers with a potential predictable income stream and the ability to be better stewards of their land. Institutions benefit from the opportunity to play a leading role in the long-term economic and environmental health of our communities by committing to the purchase of LFP certified products. Consumers benefit from knowing that they're supporting the Provincial economy; improving the sustainability of the land around them, and eating food that meets the highest social and environmental standards. To date, there are no LFP certified farms in Markham. There has been much discussion and debate within the farming community regarding the rigorous standards set by Local Food Plus, with no resolution of the issues.

If the LFP program is to achieve its goal of supporting farmers, the Town of Markham could review opportunities and work with farmers to enhance and improve this program so that in addition to LFP suppliers, Markham-based farmers could also take advantage of the program. Identifying ways to involve local producers in the LFP or a similar program is an issue that could be addressed by an agricultural advisory committee.

8. Farm Friendly Infrastructure

Consultations with the farming community revealed a growing need to address aging farm infrastructure and increasing rural-urban conflicts. The farm infrastructure issue falls into two categories. The first is specific to the land

owner and deals with dated and crumbling private farm infrastructure including irrigation and drainage systems. The second deals with public infrastructure such as roads.

The aging private infrastructure is a particularly difficult problem to address because of the high proportion of tenant lands owned by corporations and senior governments. The investment in agricultural infrastructure has not been made for several decades due to the anticipation of changes in land use (airport use, urbanization). Under the Ontario Drainage Act, municipalities can access grant money from the Ministry of Agriculture and Food to assist with drainage works. To date, the Town has not received any requests from the agricultural community to participate in this program. Although the grants are available, because of the large proportion of tenanted lands, this program has not been implemented in Markham. A more appropriate approach for Markham would be to work with the senior governments and TRCA to engage in a process of identifying needed farm infrastructure and encouraging a process of upgrading drainage and water systems on the protected Greenbelt lands, where appropriate and feasible. If through this process, there was an identified role for the Town, such as providing the conduit for provincial Drainage Act funds, then the Town could become more involved as necessary.

The farming community in Markham is faced with sharing the public road infrastructure with the urban and commuting population. A number of farmers in Markham farm several different areas throughout southern York and Durham Region. Although, there are some challenges moving farm equipment along congested roads in Markham, overall, most farmers have found ways to manage the situation. One opportunity that can be further explored, is the road infrastructure requirements in eastern Markham where there is expected to be long-term agriculture throughout the Greenbelt Plan area. In this area, the type of infrastructure that could be considered through capital planning or the Environmental Assessment process includes wider shoulders on municipal roads to accommodate farm equipment, internal Rouge Park laneways to permit movement of equipment, and provision of water for irrigation. These opportunities should be further explored by the Rouge Park as they complete their Management Plan for the eastern Markham lands. Other forms of rural infrastructure such as access to water for irrigation, 3 phase power or alternative source of energy would also be explored.

9. Staff Support - Agricultural Coordinator

The actions identified as a potentially big part of the optional actions reflect activities and initiatives which may require more direct involvement of municipal staff and resources to implement. Should the Town consider a more ambitious short term effort to implement the optional actions and programs, there may be a need to identify a dedicated staff resource with expertise to assist with program implementation and act as a resource to other Town staff in understanding and responding to agricultural issues.

6.3 Conclusion

The purpose of this agricultural assessment has been to evaluate the agricultural resource in Markham, confirm the status of the agricultural area in reference to the PPS, understand the nature of the existing agricultural community, identify the trends impacting it and recommend a strategy to manage agriculture as the Town moves forward.

The conclusion of the study, supported by the LEAR evaluation conducted by the Region of York, is that land outside of the existing urban boundaries in Markham is a prime agricultural area with the majority of the land being Class 1 agricultural land. The Town is fortunate to have such an outstanding resource but also faces many challenges in managing it. Although there is a committed agricultural community farming the land, much of what is farmed is in public ownership and the majority of it is rented. Farmers are facing increasing pressures which translate into uncertainty about the future. The challenge for the Town is to accommodate the growth assigned through the Growth Management Strategy and protect natural heritage resources while protecting the agricultural land base and creating circumstances which will encourage ongoing production.

To do so the Town will need to implement an agricultural strategy comprised of two distinct components: strong planning policies that protect the land base; and a variety of options and tools to be implemented with the help of many partners, which will build and support an environment for agricultural sustainability. Moving forward successfully will be challenging but doing so will protect an essential resource for the future. Markham has proved itself to be leader in introducing new and sustainable practices for its residents, implementing the recommendations arising from this assessment will provide an opportunity to add to that success.

APPENDIX 1

Toronto Food Charter

Toronto's Food Charter

In 1976, Canada signed the United Nations Covenant on Social, Economic and Cultural Rights, which includes "the fundamental right of everyone to be free from hunger." The City of Toronto supports our national commitment to food security, and the following beliefs:

Every Toronto resident should have access to an adequate supply of nutritious, affordable and culturally-appropriate food.

Food security contributes to the health and well-being of residents while reducing their need for medical care.

Food is central to Toronto's economy, and the commitment to food security can strengthen the food sector's growth and development.

Food brings people together in celebrations of community and diversity and is an important part of the city's culture.

Therefore, to promote food security, Toronto City Council will:

- ♥♥ champion the right of all residents to adequate amounts of safe, nutritious, culturally-acceptable food without the need to resort to emergency food providers
- ♥♥ advocate for income, employment, housing, and transportation policies that support secure and dignified access to the food people need
- ♥♥ support events highlighting the city's diverse and multicultural food traditions
- ♥♥ promote food safety programs and services
- ♥♥ sponsor nutrition programs and services that promote healthy growth and help prevent diet-related diseases
- ♥♥ ensure convenient access to an affordable range of healthy foods in city facilities
- ♥♥ adopt food purchasing practices that serve as a model of health, social and environmental responsibility
- ♥♥ partner with community, cooperative, business and government organizations to increase the availability of healthy foods
- ♥♥ encourage community gardens that increase food self-reliance, improve fitness, contribute to a cleaner environment, and enhance community development
- ♥♥ protect local agricultural lands and support urban agriculture
- ♥♥ encourage the recycling of organic materials that nurture soil fertility
- ♥♥ foster a civic culture that inspires all Toronto residents and all city departments to support food programs that provide cultural, social, economic and health benefits
- ♥♥ work with community agencies, residents' groups, businesses and other levels of government to achieve these goals.



Towards a food-secure city

Canada's National Action Plan for Food Security states that "Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life."¹

In May 2000, Toronto City Council voted unanimously to become a food-secure city that would strive to ensure:

- ♥ the availability of a variety of foods at a reasonable cost
- ♥ ready access to quality grocery stores, food service operations, or alternative food sources
- ♥ sufficient personal income to buy adequate foods for each household member each day
- ♥ the freedom to choose personally- and culturally-acceptable foods
- ♥ legitimate confidence in the quality of the foods available
- ♥ easy access to understandable, accurate information about food and nutrition
- ♥ the assurance of a viable and sustainable food production system.

Ten reasons why Toronto supports food security

Food is a need all people share. So is the need for food security. Food security is not someone else's problem. Nor is it a problem that can be safely ignored by anyone or any government. If our city depends on imports for basic staples, we have a food security problem. If foods aren't labelled accurately so people know exactly what's in them, we have a food security problem. If foods aren't properly

inspected, we have a food security problem. If topsoil erodes and water tables are polluted, future food security is threatened. If healthy foods aren't affordable, we're all just one layoff, one divorce, one major accident or illness away from food insecurity.

Food security, however, is not just a set of problems. It creates opportunities. There are at least ten good reasons why investments in food security are among the smartest ethical investments a city can make, and why Toronto is starting to make those investments now.

1. Food security means no-one in the city goes to bed hungry.

Toronto tries to be a city where everyone belongs, feels part of a larger community and has an opportunity to contribute. It does not want to be a city torn between haves and have-nots. The decision to make Toronto a food-secure city acknowledges that each of us is affected by the well-being of others. International studies show that people from all income groups are healthier when people from low-income groups are also healthy.² Some people see this commitment as a matter of conscience and respect for human rights. Some see it as enlightened self-interest and respect for the conditions that create a safe and liveable city. Either way, food security is essential to an open, peaceable and civil city Torontonians can take pride in.

2. Food security makes the city more affordable.

Toronto is one of the few world cities in which people from all walks of life can still afford to set up home and raise families. But

¹Canada's Action Plan for Food Security: A Response to the World Food Summit, 1998.

²For example, the poorest people in Sweden are healthier, on average, than the richest people in England. See Dennis Raphael, "Public Health Responses to Health Inequalities," *Canadian Journal of Public Health*, November-December 1998, page 89; R.G. Wilkinson, *Unhealthy Societies: The Afflictions of Inequality* (New York: Routledge, 1996); D. Vagero et al., "Health Inequalities in Britain and Sweden," *The Lancet*, 1989, no. 2, pages 35-36; D. Loon et al., "Social Class Differences in Infant Mortality in Sweden: A Comparison with England and Wales," *British Medical Journal*, 1992, vol., 305, pages 687-91.

it's an expensive place to live. During the 1990s, despite the boom in some economic sectors, the number of Toronto families living in poverty increased, both absolutely and relatively. Food banks, created as a short-term stopgap during the 1980s, became permanent fixtures in the city.

Measures that enable people to buy and prepare healthy but inexpensive food, or to grow some of their own food, help make the city more affordable to everyone.

3. Food security means every child gets a head start.

Kids need a nourishing breakfast and a good lunch to get the most from their school day. Research proves that child nutrition and learning are closely linked, and that childhood nutritional shortcomings can last a lifetime. That's why school nutrition programs are well established across Europe and the United States.

Canada is the only western industrialized country that does not have a national child nutrition program. But Toronto gives 65,000 children a head start on their day and their life with school breakfast, snack and lunch programs supported by the city, province, volunteers and local businesses.

4. Food security saves on medical care.

A healthy diet is the most cost-effective form of health care available. Heart disease, strokes, diabetes and cancer, all of which are related to diet, cost Toronto \$491 million a year in medical bills and lost productivity. Many worry that a public and universal health care system cannot sustain the burden of expensive treatments of preventable diseases. To protect Canada's health care system, especially as the population ages and chronic diseases peak, nutrition needs to be treated as a first line of defence.

5. Food security means more local jobs.

Unlike people in many world cities, Torontonians rely almost entirely on food trucked from thousands of kilometres away. That means Toronto's food dollars travel thousands of kilometres to create jobs elsewhere.

It doesn't have to be that way, especially in a region that has the best farmland in Canada. As recently as 1960, most of Toronto's food came from within 350 kilometres of the city limits. If even 1.5 % of Toronto's surface area were made available to market gardeners and greenhouse operators, we could create a \$16 million a year industry growing 10% of our city's fresh vegetables. A combination of vacant, under-used land and flat empty roofs makes that goal achievable.

6. Food security is environmentally friendly.

The more we rely on the Greater Toronto Area for food, the more we will enjoy fresh air and clean water.

Since plants store carbon dioxide and release oxygen, gardens improve air quality. Local growers also reduce the need to bring in food by truck. Trucks burn 10 times more energy in transit than is in the food itself. Growing 10% of our vegetables in the city would reduce greenhouse gas emissions by 37.9 kilotonnes a year, help meet Toronto's commitments to reduce global warming, and avoid more than \$5 million in environmental costs.³

Plants also absorb rain, and keep rainwater out of the sewage system, where it's difficult and costly to treat. Rooftop gardens collect rainfall, and lower a building's heating and cooling needs. Putting gardens on top of 20% of the city-owned buildings in Toronto

³Calculations provided by Rod MacRae, Ph.D., food policy advisor, at the request of the Toronto Food and Hunger Action Committee.

would add 16 hectares of green space to the city, providing food, oxygen and better stormwater control.

**7. Food security
reduces traffic pollution.**

Unlike many U.S. cities, Toronto boasts quality food stores within easy reach of most people. That's an amenity worth protecting.

The trend in food retail is to larger stores surrounded by huge parking lots, usually away from populated areas. As a result, people without cars are at a disadvantage, while shoppers with cars add to traffic jams and pollution. In a food-secure Toronto, people will live within walking distance of a food store and have the opportunity to exercise when they do their shopping errands.

8. Food security is good business.

Food processing, the city's largest industry sector, employs 40,000 workers. More than 120,000 people have food-related jobs, in restaurants, shops or marketing. Job security in these businesses depends on customers with food security.⁴

Toronto could create even more jobs by supplying more of its own food needs. It has a diverse and cosmopolitan populace that isn't always served by mass market products. Some people require halal or kosher meats. Vegetarians, vegans and people with food sensitivities and allergies all have special needs. These people support small, community-based processors who specialize in filling their special needs. These small companies create food security for their employees and customers.

**9. Food security
means waste not, want not.**

A typical family of four generates a tonne of food and packaging waste a year. Most of it is carted away to landfill sites, at about \$60

a tonne. What we waste could be turned into any number of resources, including methane for clean fuel, livestock feed, or compost to enrich gardens. A city that is food-secure knows the difference between waste and the feedstock for another business or project.

Toronto has many resources waiting to be used. There is idle land that could be made into gardens, and greenhouses that lie empty for part of the year. Those gardens could use recycled water and rain for irrigation. The greenhouses can use waste heat coming from power plants and boilers. Food security is about not throwing opportunities away.

10. Food security is neighbourly.

People from all cultures build communities around food. Seder ceremonies, Eid-al-Fitr festivities, Caribana picnics, family dinners at Thanksgiving, wedding feasts, anniversary banquets... most people celebrate special events by breaking bread with companions — the word companion comes from the Latin for "with" and "bread." Community gardens also bring people together in a project that beautifies and enlivens a neighbourhood.

Some elderly or disabled residents rarely enjoy eating with friends and neighbours, but find it difficult to get around, and so often eat alone. In a food-secure Toronto, they will enjoy more opportunities to join others for a meal.

Toronto is the name its original inhabitants used for "meeting place." Food honours that tradition, and helps keep Toronto a place where people of many cultures and values enrich the city with their distinctive variations on our common human needs.

⁴ Kyle Benham, "An Economic Development Strategy for the Toronto Food Sector," City of Toronto, May 1998.

APPENDIX 2

Vancouver Food Charter

VANCOUVER FOOD CHARTER

January 2007

The Vancouver Food Charter presents a vision for a food system which benefits our community and the environment. It sets out the City of Vancouver's commitment to the development of a coordinated municipal food policy, and animates our community's engagement and participation in conversations and actions related to food security in Vancouver.

VISION

The City of Vancouver is committed to a just and sustainable food system that

- contributes to the economic, ecological, and social well-being of our city and region;
- encourages personal, business and government food practices that foster local production and protect our natural and human resources;
- recognizes access to safe, sufficient, culturally appropriate and nutritious food as a basic human right for all Vancouver residents;
- reflects the dialogue between the community, government, and all sectors of the food system;
- celebrates Vancouver's multicultural food traditions.

PREAMBLE

In a food-secure community, the growing, processing and distribution of healthy, safe food is economically viable, socially just, environmentally sustainable and regionally based.

Some members of our community, particularly children, do not have reliable access to safe and nutritious food. In addition, much of the food we eat travels long distances from where it is grown and processed and is dependent on fossil fuels at every stage. Dependency on imports for our food increases our impact on the environment and our vulnerability to food shortages from natural disasters or economic set-backs. Overall food security is increasingly influenced by global factors that affect our community's ability to meet our food system goals.

Community food security needs the involvement of all members of our community, including citizens, consumers, businesses and governments. When citizens are engaged in dialogue and action around food security, and governments are responsive to their communities' concerns and recommendations, sound food policy can be developed and implemented in all sectors of the food system and the community.

In 2002, the City of Vancouver adopted sustainability as a fundamental approach for all the City's operations. The goal of a just and sustainable food system plays a significant role in achieving a "Sustainable Vancouver".

PRINCIPLES

Five principles guide our food system:

Community Economic Development

Locally-based food systems enhance Vancouver's economy. Greater reliance on local food systems strengthens our local and regional economies, creates employment, and increases food security.

Ecological Health

A whole-system approach to food protects our natural resources, reduces and redirects food waste, and contributes to the environmental stability and well-being of our local, regional, and global communities.

Social Justice

Food is a basic human right. All residents need accessible, affordable, healthy, and culturally appropriate food. Children in particular require adequate amounts of nutritious food for normal growth and learning.

Collaboration and Participation

Sustainable food systems encourage civic engagement, promote responsibility, and strengthen communities. Community food security improves when local government collaborates with community groups, businesses, and other levels of government on sound food system planning, policies and practices.

Celebration

Sharing food is a fundamental human experience. Food brings people together in celebrations of community and diversity.

To create a just and sustainable food system, we in Vancouver can:

- Be leaders in municipal and regional food-related policies and programs
- Support regional farmers and food producers
- Expand urban agriculture and food recovery opportunities
- Promote composting and the preservation of healthy soil
- Encourage humane treatment of animals raised for food
- Support sustainable agriculture and preserve farm land resources
- Improve access to healthy and affordable foods
- Increase the health of all members of our city
- Talk together and teach each other about food
- Celebrate our city's diverse food cultures

APPENDIX 3

Farming and Food Protection Act, 1998

Français

Farming and Food Production Protection Act, 1998

S.O. 1998, CHAPTER 1

Consolidation Period: From January 1, 2009 to the e-Laws currency date.

Last amendment: 2006, c. 35, Sched. C, s. 41.

It is desirable to conserve, protect and encourage the development and improvement of agricultural lands for the production of food, fibre and other agricultural or horticultural products.

Agricultural activities may include intensive operations that may cause discomfort and inconveniences to those on adjacent lands.

Because of the pressures exerted on the agricultural community, it is increasingly difficult for agricultural owners and operators to effectively produce food, fibre and other agricultural or horticultural products.

It is in the provincial interest that in agricultural areas, agricultural uses and normal farm practices be promoted and protected in a way that balances the needs of the agricultural community with provincial health, safety and environmental concerns.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. (1) In this Act,

“agricultural machinery and equipment” includes irrigation pumps, crop conditioning and drying equipment, refrigeration units and crop protection equipment; (“machines et matériel agricoles”)

“agricultural operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward; (“exploitation agricole”)

“Board” means the Normal Farm Practices Protection Board; (“Commission”)

“disturbance” means odour, dust, flies, light, smoke, noise and vibration; (“perturbation”)

“farmer” means the owner or operator of an agricultural operation; (“agriculteur”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs; (“ministre”)

“normal farm practice” means a practice that,

- (a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
- (b) makes use of innovative technology in a manner consistent with proper advanced farm management practices; (“pratique agricole normale”)

“person” includes an unincorporated association; (“personne”)

“processing” includes sawing, cleaning, treating, grading and packaging to the extent that these activities relate to products primarily from and are conducted as a part of an agricultural operation. (“traitement”) 1998, c. 1, s. 1 (1); 2002, c. 17, Sched. F, Table.

Interpretation

(2) For the purpose of the definition of “agricultural operation”, “agricultural, aquacultural, horticultural or silvicultural operation” shall be construed to include,

- (a) draining, irrigating or cultivating land;
- (b) growing, producing or raising,
 - (i) livestock, including poultry and ratites,
 - (ii) fur-bearing animals,
 - (iii) bees,
 - (iv) cultured fish,
 - (v) deer and elk,
 - (vi) game animals and birds, or
 - (vii) any additional animals, birds or fish prescribed by the Minister;
- (c) the production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, tree and turf grass, and any additional agricultural crops prescribed by the Minister;
- (d) the production of eggs, cream and milk;
- (e) the operation of agricultural machinery and equipment;
- (f) the application of fertilizers, soil conditioners and pesticides;
- (g) ground and aerial spraying;
- (h) the storage, handling or use of organic wastes for farm purposes;
- (i) the processing by a farmer of the products produced primarily from the farmer’s agricultural operation;
- (j) activities that are a necessary but ancillary part of an agricultural operation such as the movement of transport vehicles for the purposes of the agricultural operation; and
- (k) any other agricultural activity prescribed by the Minister, conducted on, in or over agricultural land. 1998, c. 1, s. 1 (2).

When farmer not liable

2. (1) A farmer is not liable in nuisance to any person for a disturbance resulting from an agricultural operation carried on as a normal farm practice. 1998, c. 1, s. 2 (1).

Not a normal farm practice

(1.1) A practice that is inconsistent with a regulation made under the *Nutrient Management Act, 2002* is not a normal farm practice. 2002, c. 4, s. 63 (1).

Reference to Board

(1.2) A judge who is required to make a determination as to whether a farm practice is a normal farm practice may refer the matter to the Board for a hearing and require the Board to report to the judge. 2002, c. 4, s. 63 (1).

Injunctions

(2) No court shall issue an injunction or other order that prohibits a farmer from carrying on the agricultural operation because it causes or creates a disturbance. 1998, c. 1, s. 2 (2).

Exceptions to subss. (1) and (2)

(3) Subsections (1) and (2) do not apply to preclude an injunction or order, in respect of a nuisance or disturbance, against a farmer who has a charge pending related to that nuisance or disturbance under the,

- (a) *Environmental Protection Act*;
- (b) *Pesticides Act*;
- (c) *Health Protection and Promotion Act*; or
- (d) *Ontario Water Resources Act*. 1998, c. 1, s. 2 (3).

Same

(4) Subsections (1) and (2) do not apply to preclude an injunction or order, in respect of a nuisance or disturbance, against a farmer who is in contravention of an order of the Board made under clause 5 (4) (b) related to that nuisance or disturbance. 1998, c. 1, s. 2 (4).

Where Act superseded

(5) This Act is subject to the *Environmental Protection Act*, the *Pesticides Act* and the *Ontario Water Resources Act*. 1998, c. 1, s. 2 (5).

Board continued

3. (1) The Farm Practices Protection Board, consisting of not less than five members appointed by the Minister, is continued under the name Normal Farm Practices Protection Board in English and Commission de protection des pratiques agricoles normales in French. 1998, c. 1, s. 3 (1).

Chair, vice-chair

(2) The Minister may designate one of the members of the Board as chair and one of the remaining members as vice-chair. 1998, c. 1, s. 3 (2).

Supervision, chair

(3) The chair of the Board is responsible for the general supervision and direction of the conduct of the affairs of the Board. 1998, c. 1, s. 3 (3).

Supervision, vice-chair

(4) If the chair is absent or unable to act, the vice-chair has all the powers of the chair. 1998, c. 1, s. 3 (4).

(5), (6) Repealed: 2006, c. 34, s. 32.

Remuneration

(7) Those members of the Board who are not public servants employed under Part III of the *Public Service of Ontario Act, 2006* shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines. 1998, c. 1, s. 3 (7); 2006, c. 35, Sched. C, s. 41.

Rules

(8) The Board may, subject to the *Statutory Powers Procedure Act*, make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it. 1998, c. 1, s. 3 (8).

Quorum

(9) The chair or vice-chair and two other members constitute a quorum. 1998, c. 1, s. 3 (9).

Powers, duties of Board

4. (1) The Board may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act. 1998, c. 1, s. 4 (1).

Dispute resolution

(2) The Board has the power,

- (a) to inquire into and resolve a dispute respecting an agricultural operation and to determine what constitutes a normal farm practice; and
- (b) to make the necessary inquiries and orders to ensure compliance with its decisions. 1998, c. 1, s. 4 (2).

Providing information

(3) The Board shall provide the Minister with any information requested by the Minister about the policies, procedures and operations of the Board. 1998, c. 1, s. 4 (3).

Studies

(4) If so ordered by the Minister, the Board shall conduct the study of any matter related to farm practices and report its findings and recommendations to the Minister. 1998, c. 1, s. 4 (4).

Applications, re disturbances

5. (1) A person directly affected by a disturbance from an agricultural operation may apply to the Board, in a form acceptable to it, for a determination as to whether the disturbance results from a normal farm practice. 1998, c. 1, s. 5 (1).

Application

(2) Every application shall state,

- (a) the nature of the complaint;
- (b) the name and address of the applicant; and
- (c) the name of the person carrying on the agricultural operation and the location of the operation. 1998, c. 1, s. 5 (2).

Hearing

(3) Subject to section 8, the Board shall hold a hearing in respect of each application. 1998, c. 1, s. 5 (3).

Action by Board

(4) After a hearing, the Board shall,

- (a) dismiss the application if the Board is of the opinion that the disturbance results from a normal farm practice;
- (b) order the farmer to cease the practice causing the disturbance if it is not a normal farm

practice; or

- (c) order the farmer to modify the practice in the manner set out in the order so as to be consistent with normal farm practice. 1998, c. 1, s. 5 (4).

Normal farm practice preserved

6. (1) No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation. 1998, c. 1, s. 6 (1).

Dispute resolution

(2) A person described in subsection (3) or a municipality may apply to the Board, in a form acceptable to it, for a determination as to whether a practice is a normal farm practice for purposes of the non-application of a municipal by-law. 1998, c. 1, s. 6 (2).

Applications

(3) An application may be made by,

- (a) farmers who are directly affected by a municipal by-law that may have the effect of restricting a normal farm practice in connection with an agricultural operation; and
- (b) persons who want to engage in a normal farm practice as part of an agricultural operation on land in the municipality and have demonstrable plans for it. 1998, c. 1, s. 6 (3).

Application

(4) Every application must,

- (a) contain a copy of the by-law in question;
- (b) state the by-law number, the date it was passed, the name of the municipality that passed it and the address of the municipal offices;
- (c) describe the practice to be reviewed; and
- (d) contain the name and address of the farmer or, if the applicant is not a farmer or a municipality, of the applicant. 1998, c. 1, s. 6 (4).

Refusal by Board

(5) The Board may refuse to hear an application if it is of the opinion that the applicant does not have a direct, personal interest in the outcome of the application or whose main reason for the application is other than to be able to carry on a normal farm practice. 1998, c. 1, s. 6 (5).

Hearing

(6) Subject to subsection (5) and section 8, upon receiving an application under subsection (2), the Board shall hold a hearing to determine whether the practice in question is a normal farm practice. 1998, c. 1, s. 6 (6).

Parties

(7) The municipality, the farmer, or if the applicant is a person described in clause (3) (b), that person are parties to the hearing. 1998, c. 1, s. 6 (7).

Same

(8) The Board may add any person who applies to be a party and who may be directly affected by its decision as a party to the hearing. 1998, c. 1, s. 6 (8).

Notice of hearing

(9) The following are entitled to notice of the hearing by the Board:

1. The parties.
2. Every owner of land that is,
 - i. within 120 metres of the area in which the farm practice is being exercised, and
 - ii. in the municipality that has passed the by-law. 1998, c. 1, s. 6 (9).

Same

(10) Notice of a hearing to the parties may be given by personal service or regular lettermail. 1998, c. 1, s. 6 (10).

Same

(11) Notice of a hearing to every one who is not a party may be given by personal service, regular lettermail or publication in a newspaper that is of sufficiently general circulation in the area surrounding the agricultural operation to give the public reasonable notice of the hearing. 1998, c. 1, s. 6 (11).

Same

(12) For the purposes of subsection (9), the owner of land shall be deemed to be the person named on the last revised assessment roll prepared under the *Assessment Act*. 2006, c. 33, Sched. Z.3, s. 11.

Municipality's obligation

(13) The municipality that passed the by-law shall provide the Board with the information necessary for the Board to determine the land owners for the purposes of subsection (9). 1998, c. 1, s. 6 (13).

Submissions

(14) A person who is not a party may make submissions relating to the determination of whether the practice in question is a normal farm practice and the parties to the hearing are entitled to respond to those submissions. 1998, c. 1, s. 6 (14).

Factors to consider

(15) In determining whether a practice is a normal farm practice, the Board shall consider the following factors:

1. The purpose of the by-law that has the effect of restricting the farm practice.
2. The effect of the farm practice on abutting lands and neighbours.
3. Whether the by-law reflects a provincial interest as established under any other piece of legislation or policy statement.
4. The specific circumstances pertaining to the site. 1998, c. 1, s. 6 (15).

Decision

(16) After the Board has completed the hearing, it shall provide a written decision stating whether the Board is of the opinion that,

- (a) the farm practice is a normal farm practice;
- (b) the farm practice is not a normal farm practice; or
- (c) the farm practice will be a normal farm practice if the farmer makes specific modifications in the practice within the time set out in the decision. 1998, c. 1, s. 6

(16).

Application

(17) This section applies to by-laws that came into force before this Act came into force. 1998, c. 1, s. 6 (17).

Limitation on power of Board

6.1 Despite any provision in section 4, 5 or 6 that gives the Board the power to determine whether a farm practice is a normal farm practice, the Board shall determine that a farm practice is a normal farm practice for the purposes of this Act if the practice is consistent with a regulation made under the *Nutrient Management Act, 2002*. 2002, c. 4, s. 63 (2).

By-laws and vehicles

7. (1) A municipal by-law that has the effect of restricting the times during which a vehicle may travel does not apply to the vehicle if,

- (a) the vehicle is going to or from an agricultural operation;
- (b) the purpose for which the vehicle is going to or from an agricultural operation and the times during which the vehicle is arriving at or leaving the operation are part of normal farm practice; and
- (c) there is no road that could serve as a reasonable alternative that the vehicle may use to travel to or from the agricultural operation. 1998, c. 1, s. 7 (1).

Dispute resolution

(2) A municipality or any person with a direct interest in the result of the application may apply to the Board, in a form acceptable to the Board, for a determination as to whether the conditions set out in subsection (1) are met in any particular case. 1998, c. 1, s. 7 (2).

Application

(3) Every application must,

- (a) contain a copy of the by-law in question;
- (b) state the by-law number, the date it was passed, the name of the municipality that passed it and the address of the municipal offices;
- (c) describe the facts to be reviewed; and
- (d) contain the name and address of the applicant if the applicant is not the municipality. 1998, c. 1, s. 7 (3).

Hearing

(4) Subject to section 8, upon receiving an application under subsection (2), the Board shall hold a hearing to determine whether the conditions in subsection (1) have been satisfied. 1998, c. 1, s. 7 (4).

Parties

(5) The municipality that passed the by-law in question, the applicant, if the municipality is not the applicant, and any other persons that the Board adds as parties are parties to the hearing. 1998, c. 1, s. 7 (5).

Same

(6) No person shall be added as a party who does not want to be a party. 1998, c. 1, s. 7 (6).

Notice of hearing

(7) The following are entitled to notice of the hearing by the Board:

1. The parties.
2. Every resident within the municipality who is likely to be disturbed by a vehicle travelling in contravention of the by-law. 1998, c. 1, s. 7 (7).

Same

(8) Notice of a hearing to the parties may be given by personal service or regular lettermail. 1998, c. 1, s. 7 (8).

Same

(9) Notice of a hearing to every one who is not a party may be given by personal service, regular lettermail or publication in a newspaper that is of sufficiently general circulation in the area surrounding the agricultural operation to give the public reasonable notice of the hearing. 1998, c. 1, s. 7 (9).

Submissions

(10) A person who is not a party may make submissions and the parties to the hearing are entitled to respond to those submissions. 1998, c. 1, s. 7 (10).

Application

(11) This section applies to by-laws that came into force before this Act came into force. 1998, c. 1, s. 7 (11).

Refusal to hear

8. (1) The Board may refuse to hear an application under section 5, 6 or 7 or, after a hearing has commenced, refuse to continue the hearing or to make a decision if in its opinion,

- (a) the subject-matter of the application is trivial;
- (b) the application is frivolous or vexatious;
- (c) the application was not made in good faith; or
- (d) the applicant has not a sufficient personal interest in the subject-matter of the application. 1998, c. 1, s. 8 (1).

Appeal

(2) Any party to a hearing under this Act may appeal an order or a decision of the Board on any question of fact, law or jurisdiction to the Divisional Court within 30 days of the making of the order or decision. 1998, c. 1, s. 8 (2).

Technical help

(3) The Board may appoint one or more persons having technical or special knowledge of any matter before the Board to assist it in any capacity in respect of that matter. 1998, c. 1, s. 8 (3).

Guidelines, etc.

9. (1) The Minister may issue directives, guidelines or policy statements in relation to agricultural operations or normal farm practices and the Board's decisions under this Act must be consistent with these directives, guidelines or policy statements. 1998, c. 1, s. 9 (1).

Adoption by reference

(2) For the purposes of subsection (1), the Minister may adopt, in whole or in part,

directives, guidelines or policy statements issued under other Acts or by another ministry. 1998, c. 1, s. 9 (2).

Other considerations

(3) Despite subsections (1) and (2), the Board is not precluded from considering any directives, guidelines and policy statements issued by the Government of Ontario that the Board considers relevant to any matter before it. 1998, c. 1, s. 9 (3).

Regulations

10. The Minister may make regulations,

- (a) prescribing, for the purpose of the definition of “agricultural operation”,
 - (i) additional animals, birds or fish,
 - (ii) additional agricultural crops,
 - (iii) other agricultural activity conducted on, in or over agricultural land, and
 - (iv) limits, expansions or clarifications of activities described within the definition;
- (b) providing for the use of forms;
- (c) prescribing fees payable in respect of an application made under this Act and authorizing refunds. 1998, c. 1, s. 10.

11. Omitted (amends or repeals other Acts). 1998, c. 1, s. 11.

12. Omitted (provides for coming into force of provisions of this Act). 1998, c. 1, s. 12.

13. Omitted (enacts short title of this Act). 1998, c. 1, s. 13.

Français

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