

Rapid Assessment of Local Legislative Framework for Protecting Farmland City of St. John’s, Newfoundland and Labrador

SUMMARY

Overall, the strength of the local legislative framework to protect farmland for the City of St. John’s, Newfoundland and Labrador is **somewhat weak**. Although the local legislative framework (refer to table at end of this report) is well designed for managing growth, its weakness stems from a lack of detail regarding lands zoned for agriculture. It appears that the City defers to the Province regarding future uses of agricultural land within its jurisdiction. This rapid assessment is based on the local legislative framework, as outlined in Table 1 at the end of this report.

Strength of Local Legislative Framework: Summary Assessment

	Maximize Stability	Integrate Across Jurisdictions	Minimise Uncertainty	Accommodate Flexibility
City of St. John's	**	***	**	**

*=Very weak; *****=Very strong

ABOUT THE SITE

The City of St. John’s is the capital city of Newfoundland and Labrador and the province’s largest urban centre (Figure 1), and an important financial and commercial hub. The City is well known for its ties to the harbour and fisheries, but also supports an agricultural industry, with over 20,000 hectares of agricultural land within the City.

Planning for agricultural land in St. John’s is governed by both the City and the Province. The Province of Newfoundland and Labrador protects and regulates agricultural land through Agriculture Development Area (ADA) zoning, which includes the St. John’s Urban Region Agriculture Development Area (ADA) (Figure 2). The *St. John’s Urban Region Agriculture Development Area Order* and the *St. John’s Urban Region Agriculture Development Area Regulations* create the basis for the Development Area. Further, the Department of Municipal Affairs is responsible for regional land use plans in the province, including the *St. John’s Urban Region Regional Plan*, with the most recent amendment adopted in 2014. The purpose of the regional plan is to set out the nature of future development in the region. Figure 3, below, shows the land designated for agricultural uses in the City’s future land use map.

Note: at the time of preparing this report, the City of St. John’s was in the process of adopting a new Municipal Plan. The new draft Municipal Plan indicates a greater interest in agriculture, with policies to “support the continued growth of the agriculture industry within the City.” As such, the local legislative framework for protecting farmland would be strengthened if the new plan is adopted in its current form.

Figure 1. St. John's Newfoundland

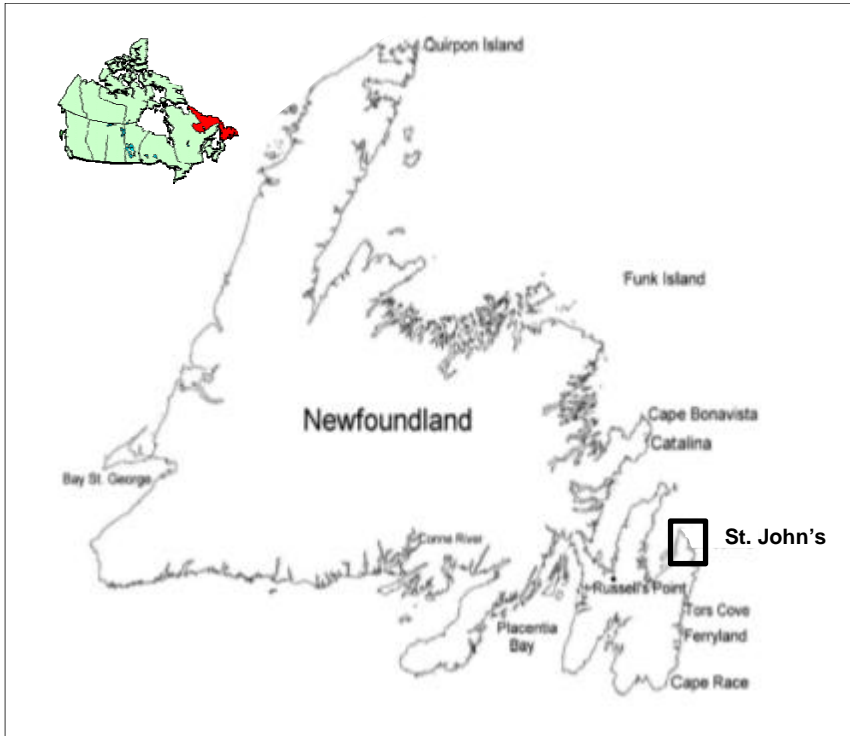
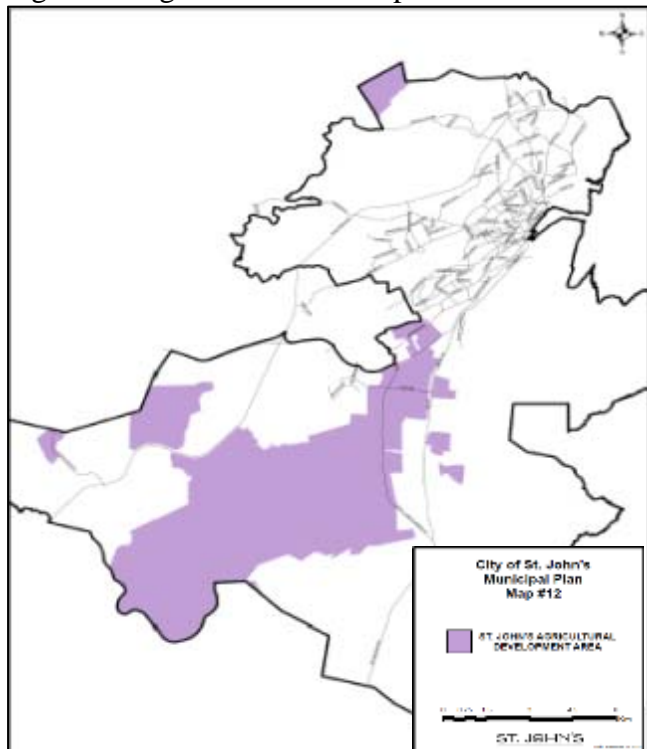
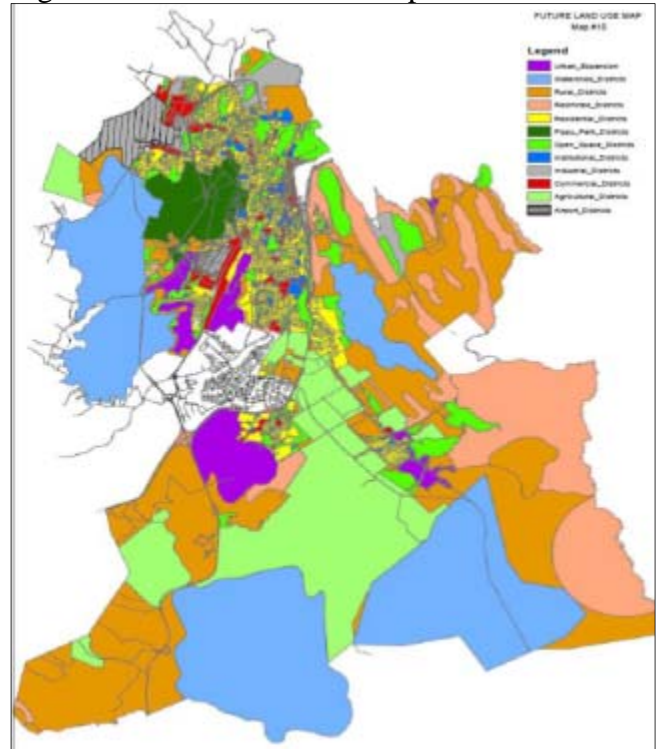


Figure 2. Agricultural Development Area



Source: Envision St. John's Draft Municipal Plan (2014)

Figure 3. Future Land Use Map



Source: Envision St. John's Draft Municipal Plan (2014)

RESULTS

Maximise stability

A stable legislative framework for protecting farmland is one that is not easily changed at the whim of shifting political interests; it is well-entrenched in acts of legislation, policy, and governance structures that are based on clear, concise language, and can hold up to court challenge. A key element of stability is a clear statement of purpose regarding farmland protection among the primary goals and objectives within each enforceable document. Thus, stability is a critical measure of the strength of an agricultural land use planning framework.

The City of St. John's legislative framework is weak in maximising stability. First, agriculture is referenced very minimally in the general policies and objectives of the Municipal Plan. Further, where referenced, the language for protection is weak. Second, there is no section dedicated to agriculture. Objectives and policies pertaining to agriculture are included in Section 8 Resource and Environmental Areas, with a main objective "to protect the natural environment, preserve water quality; and accommodate agricultural and forestry uses." The policy states, "the City shall manage development in areas with productive natural resources (i.e., agricultural, forest, watershed, and mineral) to minimize the impacts on the natural environment and to preserve the scenic quality of the rural landscape" (s.8.2.7). Within these policies and objectives, and the Resource and Environmental Areas section, there is a willingness to minimise negative impacts on agricultural land, but direct efforts to protect farmland are weak. Overall, it is not easy to see where agriculture fits as a priority, and direct attention to agriculture is obscured among other interests within the Resource and Environmental Areas section.

Integrate public priorities across jurisdictions

Integrating policies and priorities across jurisdictions is a foundation for building cohesion across provincial, regional, and local governments. One can also think of integration as a formal "linkage" that provides consistency among them. In order to successfully integrate policies across jurisdictions there must be sufficient details about the legislative context that guides and constrains local government plans and strategies.

With a moderate rating, integrating priorities with provincial legislation is the City of St. John's highest-rated principle. The framework clearly outlines the role of the Province in the designation of agricultural land, and acknowledges that the local Municipal Plan must conform to the St. John's Urban Region Regional Plan and ADA Regulations. The Municipal Plan, states, "Designated areas have been identified in accordance with the Department of Forest Resources and Agrifoods Agriculture Development Area Guidelines. Development requirements shall be in accordance with standards set by the Department of Forest Resources and Agrifoods" (s.8.3.2). These statements suggest that the City respects the Province's interests in these lands. However, there is no further explanation in the framework to describe the purpose and role of these documents in protecting agricultural land, particularly in the agricultural section of the Municipal Plan, where one would expect this information. Similarly, in the Development Regulations, the only detail on the ADA is located in the Rural Residential and Rural Residential Infill sections, where it states, "Any Development within the Agriculture Development Area shall be approved by the Department of Forestry and Agriculture of the Government of Newfoundland." Thus, the lack of reference to the City's interests in agricultural land suggests that it is willing to leave the management of agricultural land to the Province. Including more information that aligns the City's interests in agricultural land with provincial interests would strengthen the framework by more clearly integrating public priorities in protecting agricultural land.

Minimise uncertainty

The presence of uncertainty, typically introduced via ambiguous language, exceptions or gaps, is a critical measure of the weakness of an agricultural land use planning framework. Thus, in addition to maximising the stability of a legislative framework through enforceable policies, people want to know they can rely on these rules and regulations to be applied consistently under different circumstances.

As a positive contribution to minimising uncertainty, the City's legislative framework clearly identifies its agricultural land, as demarcated in the General Land Use Map and corresponds with the ADA regulation. Also, agriculture is listed as a permitted use in several other zones, including Rural Zone, Rural Residential Zone, and Rural Village Zone, and as a discretionary use under the Forestry and Watershed Zones.

Overall, however, the City of St. John's legislative framework does not help to minimise uncertainty well, therefore receiving a weak rating. The lack of stated interests concerning the ADA land suggests that the City is willing to defer to the Province, as noted above. Correspondingly, the lack of objectives and direct statements to protect agricultural land leads to uncertainty about the future of these lands from the City's perspective. Where there are policies to "manage development in areas with productive natural resources (i.e., agricultural, forest, watershed, and mineral) to minimise the impacts on the natural environment and to preserve the scenic quality of the rural landscape," these concepts are not well developed, nor are they specific to agricultural land. Additionally, without a purpose or objective statement in each of the zoning designations, the City's Development Regulations also lack detail that would help to minimise uncertainty about the use of agricultural land.

Accommodate flexibility

Creating an effective legislative framework is an act of balance, without being too stable so that it cannot be changed when needed or too strict so that it cannot be applied in a range of circumstances. Thus, flexibility is necessary in order to moderate the restrictive effects of maximising stability and minimizing uncertainty. The means to accommodate flexibility is typically done through governance mechanisms.

The lack of stability and high uncertainty at the local level undermine the City's ability to accommodate flexibility. As a result, the local legislative framework received a weak rating. By deferring the interests in agricultural to the Province through the ADA, it appears that the City has chosen to not play a strong role in protecting agricultural land within its jurisdiction.

Regarding governance of agricultural lands, the St. John's Urban Region Development Advisory Authority, a Provincial governance body, considers applications for land development within the St. John's Urban Region Agriculture Development Area Regulations. They may approve or refuse applications for development within the ADA, in keeping with the ADA's mission to protect agricultural land. Through this process, the Authority could more easily accommodate municipal interests when making its decisions if there were clear statements of policy regarding the future use of farmland. In the absence of such policy, the ability to accommodate local interests is open to ad hoc decisions and, possibly, a higher level of political influence.

Rapid Assessment: City of St. John's, NL

Table 1: City of St. John's, Newfoundland and Labrador Legislative Framework

	POLICY	LEGISLATION	GOVERNANCE
PROVINCIAL	<p>Land Use Program</p> <p>Building Agricultural Capacity in Newfoundland and Labrador</p> <p>Department of Natural Resources Strategic Plan 2014-17</p>	<p><i>Urban and Rural Planning Act</i></p> <p><i>Lands Act</i></p> <p><i>St. John's Urban Region Agriculture Development Area Oder</i></p> <p>St. John's Urban Region Agriculture Development Area Regulations</p> <p><i>Farm Practices Protection Act</i></p>	<p>Interdepartmental Land Use Committee</p> <p>Agricultural Land Consolidation Review Committee</p> <p>Farm Industry Review Board</p>
REQUIRED INTEGRATION	<p><i>URPA 15. Review of plan</i></p> <p>(2) A council and a regional authority shall, in the required form, submit a proposed plan and development regulations to the department for review.</p> <p>(3) Upon receipts of a proposed plan and development regulations submitted under subsection (2), the department shall review the plan and regulations to determine provincial and other government agency interests and may consult with departments and agencies of the province with respect to those plans and regulations.</p> <p><i>URPA 24 Government policy review and plan registration</i></p> <p>(1) The minister shall review a plan, development regulations and other documents submitted under subsection 23 (4) to determine if they are contrary to law or a policy of the government of the province and where not contrary to law or policy shall register the plan and development regulations in the planning registry that the minister shall establish in the department for that purpose.</p> <p>(4) Where the minister, does not register a plan and development regulations, he or she shall return the plan and development regulations to the council or regional authority together with reasons for their unacceptability and the council or regional authority shall make the requested changes and resubmit the plan and development regulations to the minister and subsections (1) to (3) and section 23 shall apply to that plan and those regulations.</p>		
REGIONAL		<p><i>St. John's Urban Region Regional Plan</i></p>	<p>St. John's Land Development Advisory Authority</p>
LOCAL		<p><i>City of St. John's Municipal Plan</i></p> <p>The 1994 Development Regulations</p>	<p>Planning & Development Standing Committee</p> <p>Commissioner</p>

Acts (provincial laws), bylaws (local government laws, e.g., official municipal plan) [italicised]

Enforceable policy, regulations pursuant to acts [bold]

Aspirational policy at all levels [plain text]