INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION



Work Session: Canadian Department Program

Title: So, How Green is My Valley: The Care and Feeding of a Greenbelt

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> "*... urban sprawl represents a major negative impact on the environment, from continued degradation of wild areas to overdependence on cars, loss of farmland, and pollution of air, water and soil. I hope the greenbelt is the first of more government initiatives to control sprawl, conserve nature, reduce greenhouse gas emissions, protect air, water and soil, and get us out of our cars*. .."[1]

INTRODUCTION

In its simplest terms, a greenbelt is an area or areas of land including natural areas and rural reserves, which is located around an urban centre or along an urban growth corridor.

Greenbelts have generally been established in order to preserve environmentally sensitive areas and the unique character of those areas and of rural areas and prevent the conversion of land from green space to a built-up urban area. One of the key elements of a greenbelt is the protection against urban sprawl and development, as the three case studies in this paper will show.

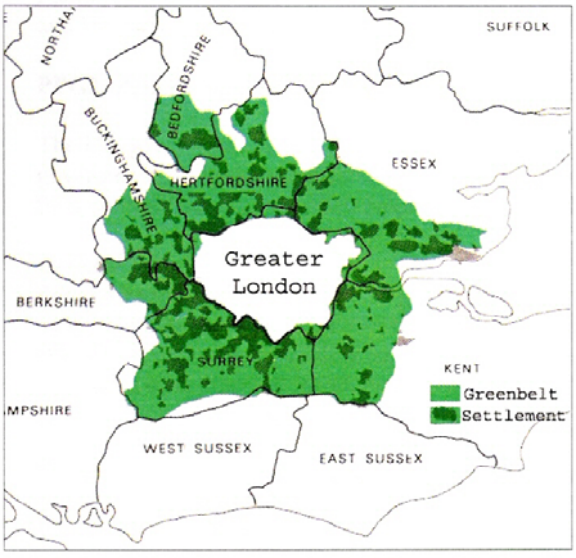


Image credit: Greater London Authority

It should be noted that the idea of a greenbelt created or supported by government is not limited to North America nor is it necessarily a recent innovation. For example, the proposal to establish a greenbelt in London, England was originally made by the Greater London Regional Planning Committee in 1935. The Metropolitan greenbelt surrounding Greater London was the first and is currently the largest greenbelt in the UK. It was originally included in an advisory Greater London

Plan prepared in 1944. In 1971, the UK government extended the Greater London greenbelt northwards to include almost all of Hertfordshire. Currently the Metropolitan Greenbelt surrounding Greater London is 514,300 hectares in size.

Nor does the creation or support of a greenbelt have to necessarily be implemented by government. For example, the Greenbelt Alliance in the San Francisco Bay Area is a non-profit land conservation and urban planning non-governmental organization that has been operating since 1958. Its mission is to make the nine-county San Francisco Bay Area a better place to live by protecting the region's greenbelt and improving the livability of its cities and towns. Of the San Francisco Bay Area's 4.5 million acres, approximately 731,000 acres are urbanized and the remaining 3.75 million acres constitute the greenbelt. From its inception, the Greenbelt Alliance has worked in partnership with diverse coalitions on public policy development, advocacy and education. They note that they have protected 1,113,000 acres of greenbelt. Since 1996 the Greenbelt Alliance has also been successful in securing twenty-one urban growth boundaries in Alameda, Marin, Santa Clara, and Sonoma counties in the San Francisco Bay Area.[2]

Nor does the creation and maintenance of a greenbelt necessarily have to be a multi-million dollar undertaking. For example, the greenbelt in the 108 Mile Ranch community (in British Columbia) comprises 1,500 acres. During the summer, cattle are allowed to graze on the greenbelt lands to ensure the grass does not get out of hand and there is a prohibition against the operation of motorized vehicles in the greenbelt. The Cariboo Regional District administers the lands for the community and the funding to undertake the required work on the lands, such as fencing or trail maintenance comes from a $10 parcel tax and some money from the weekly bingo.[3]

WHY A GREENBELT?

- The preservation of lands enhances biodiversity, reduce habitat fragmentation and improve the quality of entire ecosystems.

- The preservation of lands enhances the quality of life of an urban area and the global competitiveness of the urban area. The image of an urban area enhanced by a greenbelt can improve environmental quality, attract people who work in the area, provide recreational opportunities and encourage reinvestment.

- A greenbelt provides people with an opportunity to enjoy open countryside; rural life and natural environment and can serve as a setting for a range of activities requiring a rural or natural environment.

- A greenbelt is one tool to control urban sprawl and protect suburban productive agricultural areas and open space. Directing most of the urban development into existing urban areas can thereby increase the efficiency of the infrastructure and services.

- A greenbelt improves the water quality and quantity and reduces flooding and natural hazards through the achievement of storm water and floodplain management objectives where greenbelt areas can function as recharge, filtration and natural drainage areas. A greenbelt may also be a source of clean drinking water.

- A greenbelt preserves and protects small towns and their unique character by preventing their merging into bigger towns.

- A greenbelt sustains productive farms and forests in large, unfragmented blocks that help support vibrant rural communities.

CREATION OF A GREENBELT: THREE CANADIAN CASE STUDIES

OTTAWA – NATIONAL CAPITAL REGION GREENBELT

Overview

The National Capital Region spans the Ottawa River and covers a total area of approximately 4,660 square kilometres of which 2,720 square kilometres are located in the province of Ontario and 1,940 square kilometres are located in the province of Quebec.

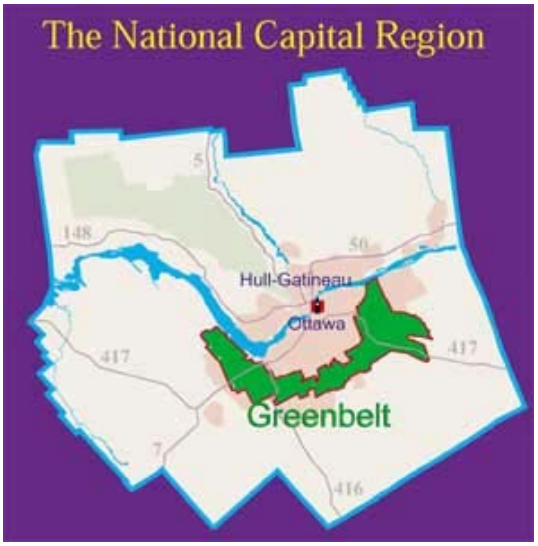


Image credit: National Capital Commission

The National Capital Region Greenbelt is approximately 200 square kilometres in size and is made up of farms, forests and wetlands in the southern part of the Region. Approximately 6,000 hectares of farmland are protected and over 3,000 hectares of new forests have been created. Over 100 kilometres of trials have been developed for recreational use. As well, currently under development is a Greenbelt Pathway which is proposed to be a continuous 56 kilometre recreational trail with links to other recreational pathway systems in the National Capital Region, the Rideau Trail in eastern Ontario and the Trans Canada Trail. The National Capital Region Greenbelt is the only greenbelt in the world that is publicly owned.

The National Capital Commission, a federal Crown corporation that plans, designs and manages federal property, currently manages the National Capital Region Greenbelt.

History

The idea of a greenbelt for the National Capital Region was conceived by Jacques Gréber, a French architect-urban planner commissioned by William Lyon Mackenzie King to work on a master plan for the capital region. During the 1940s, Mr. Gréber worked in association with local planners to create the *General Report on the Plan for the National Capital* (known as the Gréber Plan) released in 1950. The plan made a number of recommendations including:

- The creation of a national capital greenbelt;
- The creation of a scenic parkway system and shoreline restoration; and
- The expansion of Gatineau Park, which had been created in 1938.

The National Capital Commission was formed in 1959 to carry out the recommendations of the Gréber Plan. Land was assembled during the 1950's and 1960's and in 1966, the National Capital Commission entered into a 50-year forest management agreement with the government of Ontario. Since then, much of the original abandoned farmland and deteriorated forest areas have been reforested.

The Greenbelt Master Plan which was adopted in 1996 applies to all federally owned greenbelt lands and is intended to form the basis for all greenbelt decisions for the following 20-year period. The Plan also sets out policies for a connected system of natural lands, protected views, a visitor interpretation and recreational pathway system, sustainable farm and forestry and research and high-technology campuses.

Administration

The Greenbelt Master Plan is one of several policy and development documents that guide planning and land use in the National Capital Region. The *Plan for*

Canada's Capital (approved in 1999) is the overall policy document and provides general orientation and polices for all federal plans in the National Capital Region to 2050. One of the key initiatives proposed in the plan is to enhance recreational and programming links between the capital built-up area, capital urban green spaces, the greenbelt and other large forest parks within the National Capital Region. Master plans, such as the Greenbelt Master Plan, provide more specific policy direction to guide area planning and development and management decisions.

The Greenbelt Master Plan is built around two zoning mechanisms: land use zoning and an experiences network. The land use zoning uses seven land use designations (core natural area; natural area buffer; natural area linkage; cultivated landscape; rural landscape; facility zone; and infrastructure corridor) that guide management decisions through the area. Each designation does not represent a single use. A range of uses may be allowed in a given designation as long as they are compatible and contribute to common objectives. Thus, each land use designation has a dominant land use and several supporting land uses.

The experiences network is a series of areas with special visual or programming importance to provide and promote recreational activities and learning opportunities. The five network areas are: capital settings panoramas; greenbelt edges; capital arrivals; public activities visitor attractions; and visitor circulation. The network will help to define the setting of the National Capital Region, to distinguish the National Capital Region Greenbelt more clearly from adjacent areas and promote recreational and learning opportunities that capitalize on the National Capital Region Greenbelt's attributes.

As noted above, the Greenbelt Master Plan also provides for institutional land use management including the development of large infrastructure facilities in infrastructure corridors that require large, open settings such as the Macdonald Cartier International Airport and various major highways, within the greenbelt. In

order to limit fragmentation, major roads, transitways and sewer and water mains are bundled into a limited number of shared corridors.

The policies of the Greenbelt Master Plan were incorporated into the City of Ottawa's new official plan that was adopted in 2003. The official plan implements the greenbelt policies developed in the 1996 Greenbelt Master Plan including the maintenance of the existing greenbelt boundary, a prohibition on lot creation of environmentally significant and agricultural resource lands, limitations on infill development and the continuation of farming, forestry, and rural related small-scale commercial uses on land designated Greenbelt Rural.

VANCOUVER - GREEN ZONE

Overview

The Green Zone in the *Livable Region Strategic Plan* designates approximately 205,000 hectares of land (approximately 2/3 of the Greater Vancouver land and water area). The Green Zone serves two purposes, one of which is to protect the Greater Vancouver area's natural assets, including major parks, drinking watersheds, ecologically important lands and resource lands such as farmland. Secondly, the Green Zone sets long term boundaries for urban growth. The Green Zone includes ecologically important lands, outdoor recreation and scenic lands, watersheds and floodplains and

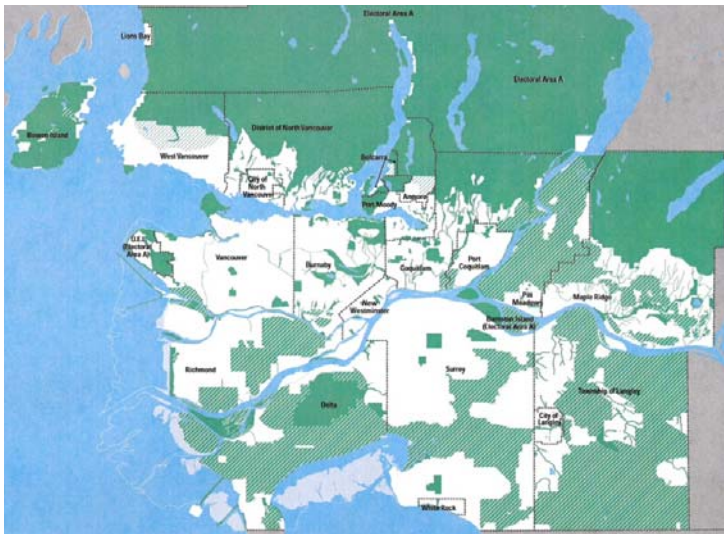


Image credit: Greater Vancouver Regional District

agricultural and forest areas. Over 91,000 hectares of land in the Green Zone are protected habitat area and approximately 54,000 hectares are in the Agricultural Land Reserve (which was established between 1974 to 1976).

The *Livable Region Strategic Plan* is a regional growth strategy to manage regional development patterns and covers an area of more than 300,000 hectares of land in the Greater Vancouver area.

In 1994, the Greater Vancouver Regional District established the Heritage Parkland Acquisition Fund which provides $3.57 million annually to acquire lands for regional parks and greenways. In 1995, the BC government and the Greater Vancouver Regional District jointly created the Lower Mainland Nature Legacy Program for the purpose of completing outstanding parkland acquisition.

History

The Greater Vancouver Regional District was incorporated in 1967 as a voluntary federation of the municipalities and electoral areas that make up the Greater Vancouver metropolitan area, to deliver essential services at the regional level. In 1990, the Greater Vancouver Regional District Board adopted *Creating Our Future*. One of the goals of the document was to establish an urban containment policy that defined the region's Green Zone. Throughout the early 1990's and before the enactment of regional growth strategies legislation, the regional district and member municipalities worked cooperatively to identity the contents of a Green Zone and member municipalities nominated lands to be included within the Green Zone.

The *Livable Region Strategic Plan*, which the Greater Vancouver Regional District and all 21 member municipalities and one electoral area adopted in 1996, contains the land use controls and non-regulatory programs for the Green Zone in the regional strategic land use plan. The four objectives of the Plan are to:

- protect the Green Zone;
- build complete communities;
- achieve a compact metropolitan region; and
- increase transportation choice.

Since 1973, agricultural land in British Columbia has been protected pursuant to the *Agricultural Land Reserve Act.*[4] The *Agricultural Land Commission Act*[5] which was passed in 2002 (and which repealed the *Agricultural Land Reserve Act*) reinforced the provincial commitment to the preservation of agricultural land and the encouragement of farming through management by the Agricultural Land Commission.

Administration

The *Local Government Act*[6] provides the mechanism to promote consistency between local official community plans and regional growth strategies through the preparation of Regional Context Statements. The link between the *Livable Region Strategic Plan* and each official community plan is the Regional Context Statement. Each official community plan must contain a Regional Context Statement that has been accepted by the Greater Vancouver Regional District Board. While all works and services provided by a board within its jurisdiction after the adoption of a regional growth strategy must be consistent with the regional growth strategy, the Board does not determine the status of lands, land uses or zones administered by its constituent municipalities, but may only accept or not accept the Regional Context Statement on the basis of its consistency. Where an official community plan does not contain a Regional Context Statement that has been accepted by the Board, the official community plan may have questionable status.

Through an implementation agreement between the Agricultural Land Commission and the Greater Vancouver Regional District Board, pursuant to the *Local Government Act*, the Agricultural Land Commission administers the *Agricultural Land Commission Act*, and determines whether or not lands can be removed from the Agricultural Land Reserve in the Green Zone. The Commission also tracks annual applications to convert agricultural land to non-agricultural uses.

Unlike the Ottawa Greenbelt Master Plan, the *Liveable Region Strategic Plan* only indicates that the Green Zone is to be protected from urbanization. Options are currently being considered by the Greater Vancouver Regional District Board to specify the type of land uses and associated densities which can be permitted in the Green Zone and to have Regional Context Statements identify how this would be achieved at the local level.

One cumbersome aspect of the administration of the *Liveable Region Strategic Plan* is that the *Local Government Act*[7] requires that amendments to regional growth strategies be unanimously approved by all of the constituent member municipalities. Any single municipality within the Greater Vancouver Regional District could block a proposed amendment to the *Liveable Region Strategic Plan* and trigger a dispute resolution process which appears to be onerous, time consuming and ultimately requires an adjudication by a third party.

The *Local Government Act* does not provide a mechanism to exclude lands from the Green Zone other than through amendment to the *Liveable Region Strategic Plan*. Changing the status of a particular Green Zone area through some other policy or mechanism, even through an exclusion from the Agricultural Land Reserves or an amendment to an official community plan does not alter the technical boundaries of the Green Zone.

GREATER TORONTO AREA - GOLDEN HORSESHOE GREENBELT

Overview

The Golden Horseshoe Greenbelt was created by O. Reg. 59/05 made under the *Greenbelt Act, 2005*[8] on February 28, 2005 and includes lands located on the Niagara Escarpment and on the Oak Ridges Moraine, which are currently protected. The greenbelt includes approximately 1.8 million acres of land in total, stretching from the Niagara River to Rice Lake, a distance of approximately 325 kilometres.

As currently constituted, the greenbelt includes approximately 1 million acres of newly protected land. The Greenbelt Area includes lands designated as Protected Countryside, as defined in the Greenbelt Plan and incorporates those lands, which currently are subject to the provisions of the Oak Ridges Moraine Conservation Plan, and the Niagara Escarpment Plan.

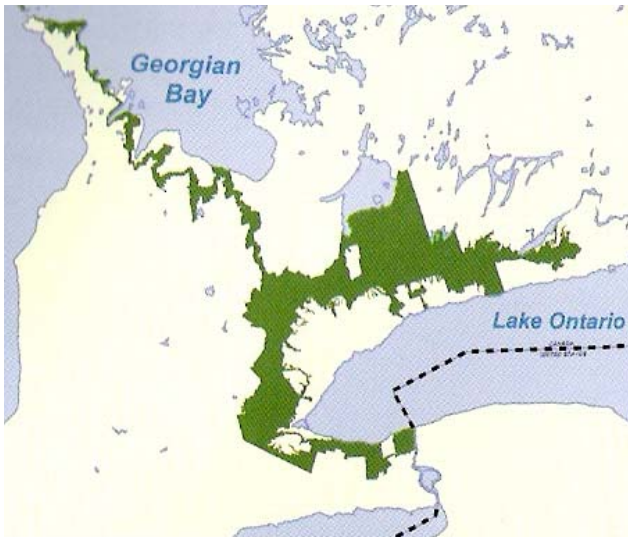


Image credit: Ministry of Municipal Affairs and Housing

The greenbelt's natural heritage system comprises approximately 535,000 acres of land and brings under the Greenbelt Plan the headwaters of all major watersheds in the western greater Toronto area. As well, the greenbelt permanently protects about 100,000 acres of the Niagara Peninsula tender fruit and good grape speciality crop areas and the 15,000-acre Holland Marsh specialty crop area.

As noted above, as at February 28, 2005, there were two land areas in the locale of the Greater Toronto Area already protected through provincial legislation.[9] The first land area was the Oak Ridges Moraine, an environmentally sensitive geological landform in south central Ontario covering approximately 190,000 hectares of land, more than 90% of which is privately owned. It comprises an irregular ridge of sandy hills stretching 160 kilometres from the Trent River in the east to the Niagara Escarpment in the west and contains the largest concentration of headwater streams in the Greater Toronto Area. It crosses 32 municipalities in three regions and four counties with approximately 65 percent of the Oak Ridges Moraine lying within the Greater Toronto Area.

The second land area was the Niagara Escarpment, a ridge of fossil rich sedimentary rock, which is 725 kilometres long, covers 1,923 square kilometres, with a maximum height of 335 metres winds from Queenston near Niagara Falls on the Niagara River to Tobermory, at the tip of the Bruce Peninsula. The Niagara Escarpment covers eight counties and regions and 37 local municipalities. The Niagara Escarpment is regulated by the Niagara Escarpment Plan which was adopted by Ontario in 1985, as Canada's first large-scale environmental land-use plan.

History

The origins of the Golden Horseshoe Greenbelt can be found in the November, 2002 Ontario Liberal Party policy statement entitled, *Growing Strong Communities*.

The policy document provided that the Liberals would, if elected, protect one million new acres of green space on the outskirts of the cities and the green space that surrounds the cities forever.[10]

The Ontario Liberal Party was elected in the Fall of 2003 to form the next government, at which time they immediately took a number of steps in order to fulfil their platform pledge. The first step was to establish a Greenbelt Study Area through the mechanism of the *Greenbelt Protection Act, 2004*,[11] (Bill 27) which received First Reading in the Ontario Legislature on December 16, 2003. The Greenbelt Study Area included lands in the Regions of Durham, Halton, Peel, York, the cities of Toronto and Hamilton, the Oak Ridges Moraine Area, the Niagara Escarpment Plan and the tender fruit and good grape lands in Niagara Region.

In order to provide for a period of time within which to study the lands, sections 4 to 7 of the *Greenbelt Protection Act, 2004* also established a moratorium that curtailed development for urban uses on those lands not already designated for urban development and lands other than lands defined as urban settlement area lands. They provided for a prohibition on the making of an application, the processing or adoption of certain planning documents by the municipality and the deemed stay of matters before the Ontario Municipal Board and matters before a Joint Board under the *Consolidated Hearings Act*.[12]

In order to maintain the status quo of those lands that were the subject of the greenbelt study area while Bill 27 was being considered by the Legislature, the Minister of Municipal Affairs and Housing also made a Minister's Zoning Order on December 16, 2003 under section 47 of the Ontario *Planning Act* to control development.[13]

Bill 27 (the *Greenbelt Protection Act, 2004*) received Royal Assent on June 24, 2004 and was deemed to be retroactive to December 16, 2003. The Act also provided for a self-repeal on December 16, 2004.[14]

In February, 2004 the Minister of Municipal Affairs and Housing appointed a thirteen-person Greenbelt Task Force to oversee the stakeholder and public

consultation process and make recommendations on the scope, content and implementation of a greenbelt. The Task Force conducted an extensive series of public consultations and in August 2004 issued *Toward a Golden Horseshoe Greenbelt: Advice and Recommendations*.

The Greenbelt Task Force provided 40 recommendations dealing with matters including: defining the greenbelt; environmental protection; agricultural protection; transportation and infrastructure; natural resources; culture; recreation and tourism; and administration and implementation. Based on the recommendations the Government started work on the legislation and policy documents in order to create a greenbelt.

On October 28, 2004, Bill 135 (the proposed *Greenbelt Act, 2005*) received First Reading in the Legislature. On the same date, a draft proposed Greenbelt Plan and Greenbelt Area map were released for public review and comment.

Administration

The *Greenbelt Act, 2005* received Royal Assent on February 24, 2005 and is deemed to be retroactive to December 16, 2004. Section 7 of the *Greenbelt Act, 2005* provides that planning decisions made under various statutes including the *Planning Act* are required to conform with the provisions of the Greenbelt Plan.

The Greenbelt Plan was created by Order-in-Council[15] pursuant to section 3 of the Act and provides overall direction with respect to all of the lands within the Greenbelt Area. The Greenbelt Plan sets out the permitted land use designations, performance standards and implementation. The Greenbelt Plan is administered through the existing planning regime under the Ontario *Planning Act* by regions and lower and single-tier municipalities.

The Act requires that municipalities bring their planning documents into conformity with the Greenbelt Plan within five years or such other period of time as the Minister may direct.[16]

Under the Greenbelt Plan, the land that is designated as Protected Countryside comprises three systems: Natural Heritage System; Agricultural System and Settlement Areas. The Natural Heritage System includes the natural heritage and water resource systems necessary to maintain biological and geological diversity, natural functions and indigenous species and ecosystems and includes about 535,000 acres (approximately 50 per cent of the Protected Countryside area).

The *Greenbelt Act, 2005* provides for a review of the Greenbelt Plan by the Minister of Municipal Affairs and Housing every ten years, but requires that the outcome of any review not result in any net loss of land in the Greenbelt Area. It is interesting to note that currently in Vancouver the issue of whether clear, firm, defined boundaries based on specific criteria is preferable to more flexible boundaries that could be determined and amended by the Greater Vancouver Region District Board. There is also discussion with respect to the incorporation of a “no net loss” policy whereby lands could potentially be removed from one area and added elsewhere as guided by specific criteria.

The *Greenbelt Act, 2005* also provides for a mechanism to amend the Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan in order to harmonize the provisions of those plans with the provisions of the Greenbelt Plan.

The Act also requires that the Minister create a Greenbelt Council[17] to assist in the ten-year review process and other matters as assigned by the Minister.

In conjunction with the legislation, a non-profit corporation, the Greenbelt Foundation, was created for the purpose of education and other stewardship activities relating to the Golden Horseshoe Greenbelt.

CONCLUSION

While differing social, political and environment circumstances make it difficult to draw detailed comparisons among the three models, there are several generalized comments that can be made:

- To varying degrees, all of the models have better managed urban growth as a focus;
- All three models have as their basis, a strategic component in the form of an overall plan or strategy;
- All plans contain a strategic component that is directly tied into the municipal land use planning process;
- All three models contain non-regulatory programs (land securement, habitat enhancement works, creation of trails and pathways, etc.) in addition to land use controls.

COMPARISON CHART OF THE THREE GREENBELT MODELS

APPROACH	STRATEGIC DIRECTION	ADMINISTRATION	REGULATORY TOOLS	NON-REGULATORY PROGRAMS
Ottawa National Capital Region Greenbelt	Land use designations and policy direction identified in Greenbelt Master Plan	Publicly owned and managed by the National Capital Commission	*National Capital Act* *Planning Act*	▪ Greenbelt Pathway (recreation trail system) ▪ Greenbelt farming and forest management
Greater Vancouver Regional District Green Zone	*Livable Region Strategic Plan* establishes a "green zone" to direct urban growth away form regional natural assets and create a long-term urban containment boundary	Implemented by municipalities through Regional Context Statements under the *Local Government Act*	*Local Government Act*	▪ Heritage Parkland Acquisition Fund and Nature Legacy Program to which GVRD contributes $3.57 Million annually ▪ Lower Mainland Nature Legacy Program – partnership between GVRD and BC government
	Agricultural Land Commission Act Implementation Agreement	Agricultural Land Commission determines whether or not lands can be removed from the Agricultural Land Reserve		
GTA Golden Horseshoe Greenbelt	Greenbelt Plan established under the *Greenbelt Act, 2005*	Implemented by municipalities under the current *Planning Act* regime.	*Greenbelt Act, 2005* *Planning Act* *Oak Ridges Moraine Conservation Act, 2001* *Niagara Escarpment Planning and Development Act*	▪ Greenbelt Foundation established in 2005 for education, stewardship activities ▪ Oak Ridges Moraine Foundation established in 2002 for education, stewardship activities

[1] David Suzuki, speaking on February 28, 2005 at Ontario Government's announcement of the final Greenbelt Plan.
[2] www.greenbelt.org
[3] www.108ranch.com
[4] R.S.B.C. 1996, c.10.
[5] S.B.C. 2002, c. 36.
[6] R.S.B.C. 1996, c. 323.
[7] Part 25 (Regional Growth Strategies), R.S.B.C. 1996, c. 323.
[8] S.O. 2005, chapter 1.
[9] The Oak Ridges Moraine is protected by the *Oak Ridges Moraine Conservation Act, 2001*, S.O. 2001, chapter 31 and administered through the Oak Ridges Moraine Conservation Plan. The Niagara Escarpment is protected by the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, chapter N.2 and administered through the Niagara Escarpment Plan.
[10] Pages 16 and 17, *Growing Strong Communities* dated November 2002.
[11] S.O. 2004, chapter 9.
[12] R.S.O. 1990, chapter C.29.
[13] Golden Horseshoe Minister's Zoning Order (O. Reg. 432/03) made December 16, 2003. It was revoked on July 20, 2004 by O.Reg. 205/04 once the *Greenbelt Protection Act, 2004* was passed.
[14] The moratorium in the *Greenbelt Protection Act, 2004* was extended by the *Greenbelt Protection Amendment Act, 2004* (Bill 157) which received First Reading on December 8, 2004 and Royal Assent on December 9, 2004. It provided that the date of repeal be extended to March 9, 2005.
[15] Approved by the Lieutenant Governor in Council, Order-in-Council No. 208/2005.
[16] Section 9 of the Act provides that municipalities are to bring their official plan policies into conformity with the Greenbelt Plan within the time frame set out under subsection 26(1) of the *Planning Act*, for the municipal five year official plan review.
[17] Section 15, *Greenbelt Act, 2005*, S.O. 2005, chapter 1.