

Policy Context: Legislation, Policy, By-Laws, and Regulations Guiding Tree Protection in the Town of Whitby

The responsibility for protecting, maintaining and enhancing the forest canopy is primarily shared between public agencies, such as the Town of Whitby, the Region of Durham, the Central Lake Ontario Conservation Authority (CLOCA), the Ministry of Natural Resources and Forestry (MNRF), the Province of Ontario and, to a limited extent, the Federal Government. The various levels of jurisdiction and the key legislation and policy in each that provide a framework for protection of woodlands and the urban forest in Whitby are summarized in the following discussion.

Federal Legislation and Agencies

The federal government has a limited and indirect involvement in forest management.

- The [Canadian Forest Service \(CFS\)](#) and [Canadian Food Inspection Agency \(CFIA\)](#) provide support related to the monitoring and control of the spread of invasive pests such as the Emerald Ash Borer and the Asian Long-horned Beetle. Refer to [Ash Trees and the Emerald Ash Borer \(EAB\)](#) for additional information regarding the removal and disposal of Ash trees in the Town of Whitby.
- [Species at Risk Act](#) is federal legislation that prevents wildlife species from extinction, provides for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and manages species of special concern to prevent them from becoming endangered or threatened.
- [Migratory Birds Convention Act \(1994, c. 22\)](#) protects the nests, eggs and the young of most bird species from harassment, harm or destruction. Refer to [Migratory Birds Convention Act](#) for additional information about the requirements of this Act.
- [Plant Protection Act](#) protects plant life and the agricultural and forestry sectors of the Canadian economy by preventing the importation, exportation and spread of pests and by controlling or eradicating pests in Canada.

Provincial Legislation, Plans and Agencies

The Province of Ontario has jurisdiction over most of Ontario forests and focuses on sustainable forest management. The Provincial government's involvement in urban forest management is indirect and limited, leaving the responsibility primarily to local municipal government authorities. Although the provinces role in urban forestry matters is limited, several provincial statutes, policies and plans (as amended) impact municipal urban forest management and regulation. These include:

- The [Ontario Municipal Act, 2001](#) establishes municipal powers. Section 223.2 allows a municipality greater than 10,000 people to regulate the injury or destruction of trees on public and private lands, while Sections 135 and 146 provides the legal framework for such tree and site alteration by-laws.
- The [Ontario Planning Act R.S.O. 1990](#) empowers municipalities to develop official plans and to regulate development, including requiring trees and shrubs and parkland dedication (for example, in Sections 41, 42, and 51).
- [Provincial Policy Statement, 2020](#) guides land-use planning, protection for significant woodlands and natural heritage areas, and encourages jurisdictions to integrate green infrastructure including the urban forest.
- [Greenbelt Act, 2005](#), through the [Greenbelt Plan, 2017](#) provides permanent protection to the agricultural land base as well as ecological features and functions within the greenbelt designated lands and adjacent land areas.
- [Oak Ridges Moraine Conservation Plan, 2017](#) section 22 protects significant woodlands and related minimum vegetation protection zones (VPZ) from development or site alteration (section 22).
Refer to [Development and Woodlands in Regulated Areas](#) for more information.
- The [Ontario Heritage Act R.S.O.1990](#) allows for the designation of heritage properties and/or cultural heritage landscapes in Ontario, including trees that may have heritage value. More information about [Heritage Trees](#) is available here.
- [Forestry Act R.S.O. 1990](#) provides a legal definition for “woodland” based on stem densities, and good forestry practices; it also addresses forestry matters that may be applicable to private lands as well certain provisions pertaining to shared or “boundary” trees. Boundary trees are defined in the Glossary of Tree Terms.
- [Invasive Species Strategic Plan, 2012](#) identifies high level strategies for fighting invasive species

For more information, contact

Planning and Development
905.430.4306
planning@whitby.ca



- [Ontario's Biodiversity Strategy, 2011](#) provides a framework for engagement, threat reduction, enhanced resilience and education related to native biodiversity and ecosystems, including woodlands.
- [Conservation Authorities Act R.S.O. 1990](#) provides for the provision of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario and were initially focused on the prevention of flooding, erosion, drought, and deforestation through improved land, water and forestry management practices.
- [Ontario Ministry of Natural Resources and Forestry](#) has the overall responsibility for the sustainable management of Ontario's Crown (public) forest lands and resources. MNRF promotes healthy forest ecosystems on privately-owned forest lands through tax incentive programs for qualified landowners:
- [Ontario Managed Forest Tax Incentive Program](#)
- [Conservation Land Tax Incentive Program](#)
- [Species at Risk in Ontario List O.Reg.230/08](#) provides legislated protection for endangered species, including some tree species and wildlife habitat, requiring permits, recovery and management plans through the MNRF. Additional information is available here:

[Species at Risk Guides and Resources](#)

Endangered species within Whitby include, among others, *Juglans cinerea* (Butternut). Refer to [Endangered Species, Species at Risk and Butternut Trees](#) for more information about MNRF's specific requirements for Butternut trees.

Local Tree Protection Policies and Agencies

[Central Lake Ontario Conservation Authority \(CLOCA\)](#) is responsible for managing watershed resources within watershed boundaries of 4 major watercourses and 18 minor watercourses draining an area of over 639 square km. The CLOCA watershed stretches from the municipal boundaries of Ajax/Pickering to Clarington, and north, from Lake Ontario to the crest of the Oak Ridges Moraine. CLOCA's mission is advancing watershed health through engagement, science and conservation.

- CLOCA supports the protection of Natural Heritage Features (NHF) and the Natural Heritage System (NHS) that include a variety of features, including woodlands.
- CLOCA undertakes this in a variety of ways, including implementation of local Watershed Plan recommendations, provision of comments to local and regional municipalities on

For more information, contact

Planning and Development
905.430.4306
planning@whitby.ca



Planning Act applications and through the enforcement of Ontario Regulation 42/06 of the Conservation Authorities Act. [Ontario Regulation 42/06](#) does not directly regulate woodlands, but if the woodland is within the area of interference of a regulated feature, removal of vegetation could be considered interference and as such would be a regulated activity.

The policies of the [Durham Region Official Plan](#) provide protection for woodland features, identify a woodland canopy target, encourage native tree plantings along highways and regional right-of-way's, and for improved air quality, health and reduced energy consumption.

- The Regional Woodland Conservation and Management By-Law 30 -2020 regulates the destruction or injury of trees in woodlands generally at least one hectare in size, and requires permits for the implementation of good forestry practices or clear cutting. Refer to [Tree Protection By-Laws and Tree Removal Permits](#) for more information about Regional tree-removal permit requirements.

The policies of The [Whitby Official Plan \(Whitby OP\)](#) and various Town By-Laws address specific aspects of tree protection in the Town of Whitby.

- Staff from various departments plan, protect, maintain and enhance the Town's woodlands and urban forest in support of these policies and requirements.
- Examples of Whitby OP policies that address tree protection are provided below:
 - ❖ **Section 3.2: Sustainable Community Planning**
 - confirms the municipality's recognition of the importance of urban forests and tree canopy, including street trees, trees on private property, and in parks and in natural heritage areas, for their environmental, social and economic benefits, including their role in climate change mitigation and adaptation
 - identifies the municipality's commitment to improve Air Quality through various measures, including the improvement and enhancement of the Town's urban forest canopy
 - ❖ **Section 5: Environmental Management**
 - **5.3.1.4** requires new development to preserve and protect woodlands, and consider incorporating existing trees and hedgerows into the planning and design of any development
 - **5.3.1.5** encourages reforestation and enhancement of existing wooded and natural areas and the stewardship of privately owned woodlands through sustainable forest management practices

For more information, contact

Planning and Development
905.430.4306
planning@whitby.ca



- **5.3.7** outlines requirements for vegetation protection zones and significant woodlands in the Natural Heritage System (NHS), requiring retention and enhancement and preventing site alteration or development beyond the permitted uses defined in the Whitby OP
- **5.3.7.14** states that “the Municipality will not consider the removal of the (NHS) feature as being the basis for any application seeking development approvals on the affected lands”
- **5.4.4** addresses Tree Preservation requirements, further emphasizing the municipality’s commitment to ensuring that the Town preserves mature trees, woodlots and other vegetation of heritage significance and scenic value in all areas of development and/or redevelopment, and requiring that Tree Preservation Plans are referenced in subdivision and site plan agreements

❖ **Section 6.2: Urban Design**

- **6.2.3.15** discusses requirements for Landscaping in new development, identifying priorities for enhancing the urban forest canopy, maintaining and incorporating existing healthy trees into new development, and re-confirming requirements for Tree Inventory and Preservation Plans (further confirmed in Section **10.1.14.3** Environmental Considerations)
- **6.2.3.22** sustainable design encourages vegetation that increases the urban tree canopy

The following **By-Laws, Heritage District Designations and Guideline** provide additional protection for trees in the Town of Whitby:

- ❖ [Tree Protection By-Law 4640-00, 2000](#) prohibits and regulates the destruction or injury of trees in regulated woodlands of at least 0.2 hectares and up to one hectare in size. Refer to [Tree Removal Permits](#) for more information.
- ❖ [Property and Boulevard Maintenance By-Law 5937-15](#) requires owners and occupiers of land to maintain public boulevards including clearing snow and ice from sidewalks; item 7.2 protects trees on a municipal boulevard or other municipal property from removal.
- ❖ [Property Standards By-Law](#) prescribes standards for the maintenance and occupancy of property.
- ❖ [Parks By-Law 7419-18](#) sets standards for activities within Town parks, including open spaces, green spaces or any other area owned and used by the municipality. Item 2.3.1 prohibits the damage, defacement or removal of any vegetation from these areas.
- ❖ [Werden's Plan Neighbourhood Heritage Conservation District](#) Additional information about tree removals in this area is provided in [Heritage Trees](#).

For more information, contact

Planning and Development
905.430.4306
planning@whitby.ca



- ❖ [Brooklin Heritage Conservation District Plan \(2007\)](#) Additional information about tree removals in this area is provided in [Heritage Trees](#).
- ❖ [Guideline to Site Alteration v1.1](#) Appendix A - Engineering Drawing Technical Details, Item 9 (p. 34) requires that existing trees be identified on engineering drawings.



For more information, contact

Planning and Development
905.430.4306
planning@whitby.ca

