



TOWN OF
Newmarket

Tree Preservation, Protection, Replacement and Enhancement Policy

2005

Planning Department

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Revised April, 2008

Background

The Tree Preservation, Protection, Replacement and Enhancement Policy detailed herein, establishes the Town of Newmarket's policy for the preservation, protection, replacement and enhancement of significant trees respecting the development approval process permitted through the Planning Act and specifically applies to lands subject to applications for official plan amendment, zoning bylaw amendment, draft plan of subdivision and site plan approval and respective amendments, minor variance (permitting new construction only) and consent.

It is the intent of this policy to educate and increase awareness within the development industry of the importance of tree preservation and protection for the health of the community by:

- Encouraging the consideration of the location of existing trees in the design of development plans prior to the submission of development applications;
- Encouraging the ongoing protection of trees during development activities on properties subject to development applications;
- Encouraging no net loss of trees through the planting of replacement trees; and
- Encouraging the planting of additional trees to enhance development properties and streetscapes beyond the requirements of boulevard trees.

Community Strategic Plan Linkages

The Town of Newmarket, in achieving and maintaining the Community Vision of - being ***Well beyond the ordinary*** strives to achieve the community expectations within the following three focus areas:

- ❖ **Living well**
- ❖ **Well-balanced**
- ❖ **Well-planned and connected**

The Tree Preservation, Protection, Replacement and Enhancement Policy assists in achieving the Community Vision through these focus areas by promoting environmental protection and natural heritage preservation, encouraging an appropriate mix of green spaces, and a long-term strategy for our natural heritage matched with a short-term action plan.

Natural Heritage Study

Between 2001 and 2003, the Town of Newmarket, in cooperation with the Lake Simcoe Region Conservation Authority, the Region of York and the Ministry of Natural Resources, piloted the Natural Heritage Study project. The goal of this study was to create a reliable and viable framework for the Town of Newmarket to achieve its environmental goals for the municipality. The Tree Preservation, Protection, Replacement and Enhancement Policy further supports this initiative at the local, individual property level.

2006 Official Plan

The 2006 Official Plan identifies the Tree Preservation, Protection, Replacement and Enhancement Policy as a tool to achieve the Council directive to promote and establish programs to increase the tree cover of the entire Town from its current level of 9% to 12%. (Section 9.3.2 - Woodlots).

General Policies

- 1.0 This policy applies to all significant trees situated on and within 4.5 metres of the lands subject to a development application, as described herein.
- 1.1 All significant trees, as identified in Section 2.0 herein, situated in the Town of Newmarket and subject to a development application may not be removed, injured, pruned or destroyed in any way without approval by the Council of the Corporation of the Town of Newmarket. Reference made to a tree herein, refers to any part of a tree, including the root system.
- 1.2 Tree pruning or root cutting of any tree located on a municipal boulevard or municipal park may only be done by Town of Newmarket staff, an authorized Arborist or other qualified professional as approved by the Town of Newmarket, authorized staff of the Regional Municipality of York, an authorized public utility, including Ontario Hydro, or the Lake Simcoe Region Conservation Authority, unless appropriate written authorization has been given by or a legal agreement has been executed with the municipality.
- 1.3 Significant trees that are identified to be protected on the lands subject to a draft plan of subdivision or site plan approval or respective amendment(s), or minor variance or consent application, must be protected by adequate fencing to the satisfaction of the Town. Recommended fencing shall include temporary chain link fence and/or other rigid or substantial fencing such as plywood hoarding, to the satisfaction of the Director of Planning, during the course of construction of the project. Fencing shall be located at minimum 2 metres from the base of the significant trees being protected or at the outer edge of the canopy, whichever is greater, or at the outer edge of the canopy in the case of a cluster, hedgerow or woodland area, to the satisfaction of the Director of Planning.
- 1.4 Any tree to be protected must be identified on a survey, and/or a tree inventory, and within a tree preservation and protection plan, prepared by a qualified tree professional, as defined in the Glossary as a certified arborist, registered professional forester, a qualified ecological consultant, or a landscape architect, qualified in determining the tree species, size, and health. (Refer to Section 3).
- 1.5 Anyone failing to adhere to the following policies and specifications detailed herein, will be financially responsible for any damage to or destruction of any trees, prior to, during and upon request by the owner for release of securities, approximately one year after the completion of the construction stage, and in the case of subdivisions, up to the assumption of the roads by the Corporation of the Town of Newmarket. (Refer to Section 5).

2.0 Identification of Trees to be Protected and Preserved

All trees to be preserved and protected must exhibit good biological health and condition for long-term survival. All trees to be preserved and protected must be: native; non-exotic; non-invasive species; or identified on the Towns' most current Recommended Plant List. Non-native, exotic and invasive species that are not significant in size may be preserved in consultation with Town staff.

- 2.1 Significant trees are defined as a mature, small or large, tree specimen located on, or within 4.5m of the property line, of the lands subject to a development application described herein. The distance to the property line shall be measured from the trunk of the tree. (Refer to Glossary for definition of small or large trees).
- 2.2 A significant tree may also possess the following additional characteristics:
 - Significant trees of a rare or heritage/native species
 - Any tree of historical or cultural significance
 - Celebration trees of any size
 - A special status tree
- 2.3 Additional trees to be preserved and protected include:
 - Trees located within a woodland area
 - Trees forming a cluster of trees (consisting of 5 or more trees and containing at least one significant tree)
 - Significant trees defining a hedgerow (consisting of 5 or more trees)

3.0 Submission Requirements

The following information will be required upon submission of a development application to the Town of Newmarket Planning Department, as described above:

- 3.1 A survey prepared, signed and sealed by an Ontario Land Surveyor identifying the location of all single, open growing significant trees and significant trees located within a cluster, hedgerow and the perimeter of the canopy of a woodland area and may indicate the approximate location of significant trees within the woodland area or provide data on the total number of significant trees within the woodland. The Town acknowledges that it may be difficult to obtain access to adjacent lands to identify significant trees located thereon. As such, the Town shall accept approximate locations and sizes of trees located on adjacent lands.
- 3.2 A Tree Inventory comprises of a base survey (prepared, signed and sealed by an Ontario Land Surveyor) and shall include information regarding the location, size (measured using dbh and height), species, and condition of the existing trees completed by a qualified tree professional.
- 3.3 A Tree Preservation, Protection, Replacement and Enhancement Plan shall include information regarding;
 - Trees to be preserved and protected
 - Species(common and botanical name)
 - Condition
 - Size
 - Health
 - Vigor
 - Defects: Rot, Included bark, Seams, Cracks, Heavy limbs. Cavities, Ribs
 - Insects and diseases
 - Location (if this has a bearing on the condition of the trees such as low lying wet areas etc.)
 - A maintenance plan/program for trees to be preserved, protected or relocated including programs or activities related to;
 - Pruning(Cleaning, Thinning, Reduction etc according to BMP for arboriculture)
 - Fertilization
 - Mulching
 - Aeration
 - Watering
 - Cabling
 - Other
 - Protection could include the installation of wood or stone mulch over the root zone for protection in addition to the tree protection fencing
 - If trees are to be moved, specific instructions will need to be added to ensure the survival of the transplanted tree(s)
 - Trees that may require replacement or approval for removal
 - Replacement tree calculations in a legend on the tree planting plan (based on aggregate inch replacement – refer to section 5.1, considering;
 - Species to be removed

- Condition of the plant to be removed.

For trees that are located on Town property the monetary value shall be calculated based on the "Guide for Plant Appraisal" 9th (or latest) edition established by the International Society of Arboriculture, or other recognized appraisal guide or method.

- 3.4 The Tree Survey, Inventory and/or the Tree Preservation, Protection, Replacement and Enhancement Plan may be submitted as one drawing/plan at the discretion of the applicant's qualified tree professional.

4.0 Post-Submission: Tree Preservation, Protection and Replacement Plans

The Town shall retain the services of a qualified tree professional to undertake a peer review of any tree preservation, protection and replacement plan submitted, as required.

- 4.1 The Town shall be reimbursed by the applicant at cost for the services rendered by the Town's consultant.
- 4.2 The Town's qualified tree consultant shall, using best efforts, review and provide written comments back to the Town Planning Department for consideration within 2 weeks of the date of receipt by the Town's qualified tree consultant.
- 4.3 No tree removal shall take place prior to official plan, zoning, draft plan or site plan approval, or in the case of minor variance or consent applications, a decision is made by the Committee of Adjustment, is obtained, which includes the approval of a Tree Preservation, Protection, and Replacement Plan.
- 4.4 No site works shall take place that may result in the damaging or destroying of trees identified as significant trees on the Tree Plan, prior to the approval by the Director of Planning.
- 4.5 The Tree Plan shall set out and identify the trees to be preserved, protected and replaced.
- 4.6 Replacement trees shall be protected by the implementation of a tree maintenance program. Every replacement tree and planted boulevard tree shall be cared for by the applicant/developer as recommended and/or approved by the Town's consulting arborist, every two years to a maximum of 10 years after planting.
- 4.7 The Town may also require the applicant/owner/developer to have a tree enhancement strategy or tree management strategy prepared by a qualified tree professional as a condition of: draft plan of subdivision approval (as identified in the Subdivision Approval Process: Design Submission Requirements and Final Plan Registration); minor variance and/or consent approval; or site plan approval including a clause in the site plan agreement.
- 4.8 The Town may also require the posting of securities for the purposes of tree preservation based on the value of the trees to be preserved, protected and replaced as per the "Guide for Plant Appraisal" 9th (or latest) edition, published by the International Society of Arboriculture, or other recognized appraisal guide or method. The amount of the security deposit shall be 100% for individual trees to be protected. In the case of woodlands to be protected, the value of the security deposit shall be based on 20% of

the total value of the woodland. However, a global security in lieu of a specific security component may be acceptable and shall be evaluated on an individual application basis in the case of draft plans of subdivision or site plan application for draft plan of condominium. Generally, the Town shall hold securities for tree protection up to final assumption of all the works, as contemplated by the subdivision agreement, or in the case of site plans, final inspection for the release of securities by the Planning Department. However, there may be special circumstances where a special clause may be included in a subdivision or site plan agreement, or as a condition of approval of a minor variance or consent application to allow for the release of securities three years after the occupancy permit is issued, upon confirmation by the Town that the trees to be protected and preserved exhibit vigorous health and have not sustained any damage as a result of site development activities.

- 4.9 The Town will require replacement trees to be planted as agreed to in the appropriate agreement or as required in the decision made by the Committee of Adjustment.
- 4.10 A qualified tree professional must undertake revisions to the Tree Plan that are required by the Town as a result of the Town's peer review, at the expense of the applicant/owner/developer, and must receive approval by the Planning Department, prior to Planning Department approvals respecting the issuance of any municipal permits.
- 4.11 Should there be any disagreement between the review and assessment made by the Town's consultant and the plans submitted, the applicant may request a decision by the Director of Planning and/or Council.
- 4.12 The Director of Planning and/or Council, may request the submission of a Tree Enhancement Plan (which may be made in combination with a Tree Preservation, Protection and Replacement Plan) as part of the tree management strategy to achieve the environmental goals of the Official Plan and/or Strategic Plan.

5.0 Compliance

It is the intent of this Tree Preservation, Protection, Replacement and Enhancement Policy to ensure that adherence to the policy is maintained on all new development sites in the Town of Newmarket and to protect and preserve significant trees as identified in a tree plan. However, it is recognized that alternate methods of compliance are required in order to balance growth and development within the Town. As such, the Town has identified two alternate methods for calculating replacement value for trees that need to be removed or have sustained damage as a result of construction and/or development.

- 5.1 Trees that have been identified to be preserved and protected in an approved tree plan which cannot be preserved or protected due to development constraints, can be removed and the Town will allow the use of the “Aggregate Inch Replacement” method for calculating tree replacement requirements, i.e. if one 30cm (11.8 inches) dbh tree is to be removed, the replacement will be 2 trees of 15cm dbh, or 3 trees of 10cm caliper, etc.. Note: invasive trees are to be included in any financial compensation requirements of this policy associated with replacement tree plantings, based on the condition of the tree as determined by a qualified tree professional.
- 5.2 It shall be the intent of the policy to plant replacement trees on the subject lands whenever feasible, to the satisfaction of the Director of Planning.
- 5.3 Efforts should be made, to the satisfaction of the Director of Planning, to replace native, heritage, culturally significant, historic or celebration trees that cannot be preserved or protected and/or trees that have been damaged or destroyed after submission of an approved tree plan with trees of the same species and size or replacement equivalent.
- 5.4 The owner/applicant shall provide financial compensation to the Town for damaged or destroyed trees that have been identified as trees to be protected or preserved in a tree plan submitted as part of a development application. Compensation shall be calculated based on the “Guide for Plant Appraisal” 9th (or latest) edition established by the International Society of Arboriculture, or other recognized appraisal guide or method.
- 5.5 Trees that have been identified in an approved tree plan as trees to be preserved or protected and have been damaged or destroyed as confirmed by the Planning Department (after receiving Council approval of the official plan amendment, zoning bylaw amendment, draft plan of subdivision approval, minor variance approval, consent approval, or site plan approval and prior to the Town’s assumption of a subdivision, receipt of the final and binding notice of a consent application, or request for release of securities in the case of a site plan approval), shall be replaced on public property at a rate of two times the diameter required by the “Aggregate Inch Replacement” method and planted at a location satisfactory to the Director of Engineering, Capital Projects and Asset Management Services in consultation with the Director of Planning. Funding for the purchase and planting of replacement trees shall be derived from drawing upon the letter of credit . Should the letter of credit be insufficient to cover the replacement plantings, the owner/applicant shall be contacted by the Director of Planning or his or her designate, to work out an acceptable replacement method to achieve the required replacement plantings.
- 5.6 Trees identified in an approved tree plan to be preserved or protected, that sustain damage or are destroyed after the Town has no obligations for approvals, shall be

valued as per the “Guide for Plant Appraisal” 9th (or latest) edition, published by the International Society of Arboriculture or other recognized appraisal guide or method and the current owner/applicant shall be responsible for the financial requirements and direct payment to the Town accordingly.

- 5.7 Replacement trees are recommended to be planted a minimum of 4.5 metres from any building, fence, walkways or permanent structure that may interfere with the growth of the tree. However, it is understood that site specific consideration is necessary due to planting constraints as approved by the Director of Planning.
- 5.8 The Town may, at its discretion, contribute the funds received from drawing on a letter of credit or fines/penalties for tree replacement requirements to the acquisition of lands of natural heritage significance.

6.0 Effective Date

This policy shall come into effect after approval of the policy by the Town of Newmarket Council and shall apply to all new official plan and zoning bylaw amendment applications, draft plan and site plan applications and amendments, minor variance applications and consent applications, revisions or amendments submitted to existing applications being processed, and shall be applied to requests for extension to draft plan of subdivision conditional approvals, at the discretion of the Director of Planning.

Glossary of Terms

Arborist: a person who is a specialist or expert in the area of the care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship and Client Services Branch, an OTA Board certified master arborist or a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a registered professional forester or a person with other similar qualifications as approved by the Commissioner.

Caliper: the diameter of a tree measured 30 cm above ground level.

Celebration tree: a tree native to Ontario, planted by the Town of Newmarket, in a municipal park, representing a living dedication, commemorating the life and in memory of a deceased person(s), also referred to as a memorial tree

Cluster of trees: a group of 5 or more trees comprising a maximum area of less than 0.2 hectares (0.5 acres)

Condition of Tree: is based on factors identified in the ISA methodology for determining condition. For the purposes of this policy, the condition of a tree shall be described as excellent, good, fair, poor, dead/dying, or maintenance recommended.

dbh: the diameter of a tree at breast height; the diameter of the tree measured 1.4 metre above ground level.

Development Application: an application requiring approval of the Planning Department for which a Tree Inventory and Tree Preservation, Protection, and Replacement Plan are required, specifically, applications for draft plan of subdivision and site plan approval and respective amendments, and minor variance and consent.

Exotic specimen: a tree specimen introduced from another country that is not native to the place where it was observed/found.

Hedgerow: a fence or defining boundary formed by a row of closely planted shrubs or trees and comprising a minimum of 5 plants

Heritage/Cultural tree: a successional or legacy tree having natural heritage or cultural significance.

Historic tree: a tree associated with a notable local or regional historical event, person, structure, or landscape.

Invasive specimen: a tree specimen having the tendency to disrupt and/or invade a natural heritage area through natural succession as identified by a qualified tree professional.

Landmark tree: a tree that marks a locality, an event of historical significance and is designated for protection and preservation.

Mature tree (large): a perennial woody plant having obtained a diameter at breast height (1.4 meters) of at least 30 cm and/or a mature height of 10 meters and over.

Mature tree (small): a perennial woody plant having obtained a diameter at breast height (1.4 meters) of at least 10 cm and/or has attained a mature height of up to 10 meters.

Native tree: a tree growing naturally in Canada, being indigenous to the area.

Natural Heritage: Natural heritage is all living organisms, natural areas and ecological communities which we inherit and leave to future generations (<http://www.mnr.gov.on.ca/MNR/nhic/glossary.cfm#P>).

Qualified tree professional: a person, including an arborist, a registered professional forester, a qualified ecological consultant, or a landscape architect, who through related training and on-the-job experience, is qualified to determine the size, species and health and condition of trees, and having at least 5 years of practical tree care experience working as a practitioner.

Rare tree: a distinct tree specimen, seldom occurring or found in the local area. A rare tree specimen may be also attributed to clear cutting events that have reduced the population of the species to approaching extinction since the occurrence of human settlement of the area, as identified by the Natural Heritage Information Centre of the Ministry of Natural Resources. It may be an endangered species as determined by a Species at Risk (SAR) assessment conducted by the Ministry of Natural Resources.

Significant tree: a special status tree, or a mature tree (small or large) specimen located on or within 4.5 m of the property line of the lands subject to a development application described herein.

Tree Type	Attribute	Yes/No
Large Mature Tree		
	30 cm dbh+	
	> or = 10 m. in height	
	Native	
	Within 4.5 m of property line	
	Rare Tree	
	Land Mark Tree	
	Heritage Tree	
	Historic Tree	
	Celebration Tree	
Small Mature Tree		
	10 cm dbh+	
	<or = 10 m. in height	
	Native	
	Within 4.5 m of property line	
	Rare Tree	
	Land Mark Tree	
	Heritage Tree	
	Historic Tree	
	Celebration Tree	

Special status tree: a tree that may be described as or have a heritage, historic, landmark, legacy, memorial, celebratory or special interest significance that should be protected and preserved.

Survey: a detailed map of an area of land, including its boundaries, area, and elevation, using geometry and trigonometry to measure angles and distances.

Tree Enhancement/Management Strategy: a long term strategy recommending phased tree plantings and woodlot management practices in addition to the minimum requirements of the tree preservation, protection, and replacement plan.

Tree Inventory: a list of trees on the property and within 4.5 metres of the boundary of the property, including information regarding location, species, condition and size.

Tree Maintenance Program: a program to ensure the health, safety and vigor of the trees identified to be maintained, either original plantings or existing trees to be cared for, replaced if necessary, pruned, pest and fungus control, removed, storm damage repaired, staked for a period as recommended by the applicants consulting arborist and approved by the Town

Base Survey: a detailed map of an area of land indicating the location, of all trees within the survey boundary and 4.5 metres of the property boundary.

Woodlands: any wooded area comprised of a dense growth of trees having a minimum area of 0.2 hectares (0.5 acres), including forest, woodlots and riparian areas.

Woodlot: any wooded area of 0.2 hectares (0.5 acres) or greater, not having less than: 400 trees of any size per acre; 300 trees measuring more than two inches in diameter per acre; 200 trees measuring more than five inches in diameter per acre; or 100 trees measuring more than eight inches in diameter per acre. (York Region Significant Woodlands Study, November 2005).

Cross-References

2006 Official Plan
Draft Plan of Subdivision Submission Requirements
Site Plan Approval Submission Requirements
Woodlot Bylaw #2007-71
Region of York Tree Bylaw #TR-0004-2005-036