

Trees Act
Revised Statutes of Ontario, 1990, Chapter T.20

Definitions

1. In this Act,

"county" includes a district municipality and a regional municipality; ("comté")

"dbh" means the diameter of the stem of a tree measured at a point that is four and one-half feet above ground; ("dhp")

"forestry purposes" includes the production of wood and wood products, provision of proper environmental conditions for wildlife, protection against floods and erosion, recreation, and protection and production of water supplies; ("fins forestières")

"Minister" means the Minister of Natural Resources; ("ministre")

"woodlot" means an area having not less than,

(a)400 trees per acre of any size,

(b)300 trees per acre measuring more than two inches dbh,

(c)200 trees per acre measuring more than five inches dbh, or

(d)100 trees per acre measuring more than eight inches dbh. ("lot boisé") R.S.O. 1980, c. 510, s. 1.

TREES ON BOUNDARY LINES

Trees on boundary lines

2. An owner of land may, with the consent of the owner of adjoining land, plant trees on the boundary between such lands, and every tree so planted shall be the common property of the owners. R.S.O. 1980, c. 510, s. 2.

Injuring trees

3. Every person who ties or fastens any animal to or injures or destroys any tree growing for the purposes of shade or ornament upon a boundary line between lands, or who suffers or permits any animal in the person's charge to injure or destroy or who trims, cuts down or removes any such tree without the consent of the owners thereof, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. R.S.O. 1980, c. 510, s. 3.

TREES CONSERVATION

By-law restricting cutting of trees

4. (1) Subject to the written approval of the Minister, the council of any county or of any municipality separated from the county for municipal purposes may pass by-laws,

(a)restricting and regulating the destruction of trees by cutting, burning or other means; and

(b)providing for the appointment of officers to enforce the provisions of any by-law passed under this section.

Entry on land

(2) An officer appointed under a by-law passed under subsection (1), or any predecessor thereof, and any person acting under his or her instructions may at all reasonable times enter upon the land of any person for the purpose of,

- (a) enforcing such by-law;
- (b) determining compliance with an order made under subsection 6 (2); or
- (c) examining trees that might be affected by a minor exception authorized under subsection 9 (1).

Territorial limitation of by-law

(3) A by-law passed under subsection (1), or any predecessor thereof, may be limited territorially.

Approval of by-law

(4) The approval referred to in subsection (1) may be given before or after the by-law is passed.

Validity of past approvals of by-law

(5) Every approval heretofore given under any predecessor of subsection (1) shall be deemed to be valid whether given before or after the by-law was passed. R.S.O. 1980, c. 510, s. 4.

Exceptions

5. (1) A by-law passed under subsection 4 (1), or any predecessor thereof, does not,

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for the person's own use;
- (b) interfere with any rights or powers conferred upon a municipality by the Municipal Act;
- (c) interfere with any rights or powers of Ontario Hydro or of any agency, board or commission that is performing its functions for or on behalf of the Crown;
- (d) apply to trees growing upon any highway or upon any opened road allowance;
- (e) apply to trees growing in a woodlot that is two acres or less in area, unless the by-law provides expressly that it applies to trees in such a woodlot;
- (f) apply to trees destroyed in order to erect any building, structure or thing in respect of which a building permit is issued;
- (g) apply to trees planted for the production of Christmas trees;
- (h) apply to trees cut by a person licensed under the Surveyors Act to engage in the practice of cadastral surveying or any person in his or her employ while making a survey;
- (i) apply to trees on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (j) apply to trees destroyed in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under the Aggregate Resources Act or a predecessor of that Act; or

(k) apply to trees that are cut in accordance with good forestry practice. R.S.O. 1980, c. 510, s. 5 (1), revised.

"own use" does not include sale, etc.

(2) The expression "own use" in clause (1) (a) shall be deemed not to include any sale, exchange or other disposition of the trees that are cut.

R.S.O. 1980, c. 510, s. 5 (2).

Offences

6. (1) Every person who,

(a) directly or through any other person, contravenes any provision of a by-law passed under subsection 4 (1), or any predecessor thereof;

(b) obstructs, hinders or interferes with an officer appointed under a by-law passed under subsection 4 (1), or any predecessor thereof, or any person acting under the officer's instructions, in the discharge of the officer's duties; or

(c) fails or neglects, without just cause, to carry out an order made against the person under subsection (2),

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both.

Replanting

(2) Where a person is convicted of an offence under clause (1) (a), the court shall consider all evidence given in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the said area to replant or have replanted thereon such trees in such manner and within such period of time as the court considers just and to adequately maintain the replanted trees in such manner as the court considers proper. R.S.O. 1980, c. 510, s. 6.

MUNICIPAL REFORESTATION

County by-laws for acquiring lands for forestry purposes

7. The council of any county may pass by-laws,

(a) for acquiring by purchase, lease or otherwise land for forestry purposes;

(b) for declaring land that is owned by the municipality to be required by the municipality for forestry purposes;

(c) for planting and protecting trees on any land acquired for or declared to be required for forestry purposes;

(d) for the management of any land acquired for or declared to be required for forestry purposes and the sale or other disposition of the trees thereon;

(e) for the issuing of debentures, without the assent of the electors but subject to the approval of the Ontario Municipal Board, from time to time for the purpose of providing for the purchase of land for forestry purposes to an amount not exceeding \$25,000 to be owing at any one time;

(f) for entering into agreements for the management of any land acquired for or declared to be required for forestry purposes;

(g)for leasing, selling or otherwise disposing of any land acquired for or declared to be required for forestry purposes. R.S.O. 1980, c. 510, s. 7.

Evidence in prosecutions

8. In any prosecution under this Act,

(a)a copy of an instrument certified under section 17 of the Registry Act or a certificate of search issued under section 117 of the Land Titles Act is admissible in evidence as proof, in the absence of evidence to the contrary, of the matters therein contained; and

(b)a certificate of the Minister or Deputy Minister of Natural Resources in respect of the right, title and interest of the Crown in any trees on any land is admissible in evidence as proof, in the absence of evidence to the contrary, of the matters therein contained. R.S.O. 1980, c. 510, s. 8.

Application for minor exception

9. (1) Upon the application of the owner of any trees affected by a by-law passed under subsection 4 (1), or any predecessor thereof, or any person authorized in writing by the owner, the council of the municipality that passed the by-law may, by by-law or resolution, authorize such minor exception from the by-law in respect of such trees as in its opinion is desirable for the appropriate development or use of the land on which such trees are situate, if in its opinion the general intent and purpose of the by-law is maintained.

Notice of application

(2) Where the council of a municipality receives an application under subsection (1), the clerk of the municipality shall give notice of the application to the owners of each parcel of land that abuts the land of the owner of the trees in respect of which the application is made and to such other owners as the council considers proper.

Service of notice

(3) A notice under subsection (2) shall be deemed to be sufficiently given if served upon an owner,

(a)personally;

(b)by leaving it at the owner's place of business or residence;

(c)by registered mail addressed to the owner's place of business or residence, if known, or to the owner's place of business or residence as set forth in the last revised assessment roll of the municipality in which the land is situate; or

(d)if the place of business and residence of the owner are not known, by leaving it with any person being at least sixteen years of age on the land of the owner or by posting it in two conspicuous places on such land.

Content of notice

(4) A notice under subsection (2) shall contain,

(a)the name and address of the owner who has made the application for a minor exception or on whose behalf the application has been made;

(b)a description of the land of the owner in respect of which the application has been made;

(c)a description of the nature and extent of the trees on such land;

(d) a description of the purpose, nature and extent of the minor exception for which application has been made; and

(e) the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection (1).

Notice to applicant

(5) The clerk of the municipality shall give notice in such manner as he or she considers proper to the owner who has made the application or on whose behalf the application has been made of the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection (1).

Conditions precedent

(6) No meeting of the council shall be held to consider passing a by-law or resolution under subsection (1) unless,

(a) twenty-one days have elapsed after required notices have been given in accordance with this section; and

(b) the giving of such notices is proved by affidavit or declaration.

Entitlement to be heard

(7) The council shall hear in person, or by counsel or agent, the applicant and any person who claims that the person's land will be prejudicially affected by the by-law or resolution.

Approval of Minister not required

(8) No by-law or resolution passed under subsection (1) requires the approval of the Minister. R.S.O. 1980, c. 510, s. 9.

Payment in lieu of taxes

10. The council of a county may agree to pay annually to the council of a municipality in which the county owns land acquired or declared to be required for forestry purposes a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. R.S.O. 1980, c. 510, s. 10.

Powers of certain local municipalities

11. (1) The council of any city, town, village or township, having a population of not less than 10,000, has all the powers, privileges and authority conferred on the council of a county by section 7.

Acquisition of land in another municipality

(2) Land may be acquired under subsection (1) in another municipality with the consent of the council thereof.

Payments

(3) Where a municipality acquires land in another municipality under this section, the council of the first-mentioned municipality may agree to pay annually to the municipality in which the land is situate a sum not

exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. R.S.O. 1980, c. 510, s. 11.

Powers of township councils

12. (1) The council of any township having a population of less than 10,000 has all the powers, privileges and authority conferred by clauses 7 (a), (b), (c), (d), (f) and (g) on the council of a county. R.S.O. 1980, c. 510, s. 12 (1).

Idem

(2) The council of any township may levy by special rate a sum not exceeding \$1,000 in any year for the purpose of providing for the purchase of land for forestry purposes. R.S.O. 1980, c. 510, s. 12 (2), revised.

Approval of by-law by Minister

14. No by-law shall be finally passed under section 7, 10, 11, 12 or 13 until approved in writing by the Minister. R.S.O. 1980, c. 510, s. 14.