



1950

## c 314 Public Parks Act

Ontario

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## CHAPTER 314

**The Public Parks Act**

**1.**—(1) A park, or a system of parks, avenues, boulevards and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided. Establishment of parks.

(2) Subject to subsection 5, if a petition, praying for the adoption of this Act, is presented to the council of any county or city signed by not less than 500 electors, or to the council of any town or township signed by not less than 200 electors, or to the council of any village signed by not less than 75 electors, the council may pass a by-law giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by *The Municipal Act*. Petition and by-law therefor.

(3) If the majority of the votes is in favour of the by-law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be. Rev. Stat., c. 243. Idem.

(4) If the vote is adverse, no by-law for the same purpose shall afterwards be submitted to the electors within the same year. Restriction.

(5) It shall not be necessary for a county council to submit the by-law for the assent of the electors if the by-law, on the final reading thereof, is approved by three-fifths of the members of the council then present. R.S.O. 1937, c. 285, s. 1. When submission to electors unnecessary.

**2.** The parks, avenues, boulevards and drives, and approaches thereto, and streets connecting the same, shall be open to the public free of all charge, subject to the by-laws, rules and regulations of the board of park management, and subject also to sections 12 and 13. R.S.O. 1937, c. 285, s. 2. Parks to be open to public.

**3.**—(1) Where this Act is adopted, the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under this Act, shall be vested in and Board of park management.

exercised by a board to be called "The Board of Park Management".

Authority of board, to what streets applicable.

(2) The authority of the board shall not extend to any streets open at the time of the adoption of the Act, with the exception of streets expressly specified in the by-law adopting the Act, or which at any time or from time to time afterwards, in pursuance of an agreement between the council and the board, the council by by-law declares to be subject to this Act.

Consent of municipal council and agricultural society.

(3) Nothing in this Act shall authorize the board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein. R.S.O. 1937, c. 285, s. 3.

Management of special undertakings. Rev. Stat., c. 243.

(4) The council may by by-law appoint the board to manage, regulate and control any undertaking established under paragraph 53 of section 386 of *The Municipal Act* and thereupon the management, regulation and control thereof shall be vested in and exercised by the board, and the board shall have power to prescribe fees for admittance to or for the use of any such undertaking. 1947, c. 87, s. 1.

Constitution of board.

4. The board shall be a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents or ratepayers of the municipality, but not members of the council, and shall be appointed by the council. R.S.O. 1937, c. 285, s. 4.

Tenure of office.

5.—(1) The appointed members of the board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the order of such retirements to be determined by lot among themselves at their first meeting; but every member of the board shall continue in office until his successor is appointed and shall be eligible for reappointment.

Vacancies.

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed.

Term of office of appointed members.

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed.

(4) The first appointment of members of the board shall be made at the first regular meeting of the council held after the final passing of the by-law. First appointments.

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization; and any vacancy arising from any cause other than the expiration of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy. Subsequent appointments.

(6) The first members of the board, within 10 days after their appointment and on such day and hour as the head of the municipality shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number. Organization of board.

(7) If for any reason appointments are not made at the prescribed time, they shall be made as soon as may be thereafter. When appointments not made at required time.

(8) The chairman and secretary shall hold office at the pleasure of the board, or for such period as the board may prescribe. Tenure of office of chairman and secretary.

(9) When the chairman or secretary is absent or unable to act, the board may appoint a chairman or secretary *pro tempore*. Chairman and secretary *pro tem*.

(10) The board shall meet at least once in every month. Monthly meeting.

(11) The chairman or any two members may summon a special meeting of the board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called. Calling special meeting.

(12) The office of a member who is absent from the meetings of the board for three consecutive months, without leave of absence from the board or without reasons satisfactory to the board, shall be declared vacant by the board, and notice thereof shall be given to the council at its next meeting. Vacating office by absence.

(13) No business shall be transacted at any special or general meeting unless at least four members are present. Quorum.

(14) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original. Records.

orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. R.S.O. 1937, c. 285, s. 5.

Payment of expenses of members.

**6.**—(1) The members of the board shall serve without compensation, but each member shall be entitled to receive his actual disbursements for expenses in visiting or superintending the park or park property where the visit or service is made or rendered by direction of the board.

Prohibition against interest in contracts.

(2) No member of the board, or of the council, shall have any contract with the board, or be pecuniarily interested, directly or indirectly, in any contract or work relating to the park or park property. R.S.O. 1937, c. 285, s. 6.

Assistance.

**7.** The board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. R.S.O. 1937, c. 285, s. 7.

Custody and inspection of records.

**8.** The board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. R.S.O. 1937, c. 285, s. 8.

Accounts.

**9.** The board shall keep accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited by the auditor of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the board. R.S.O. 1937, c. 285, s. 9.

Power to make by-laws, etc.

**10.**—(1) The board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

Consent of board necessary for exercise of certain powers. Rev. Stat., c. 331.

(2) The powers conferred upon municipal councils by *The Railways Act*, so far as relates to any streets or approaches under the control of the board, shall not be exercised without the consent of the board, and no street railway or other railway shall enter upon or pass through the park.

Licensing of cabs and vehicles and sale of refreshments.

(3) The board shall have power to license cabs and other vehicles for use in a park, and to let from year to year, or for any time not exceeding 10 years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the board shall prescribe.

(4) The board shall have power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils and the penalties thereunder may be enforced and recovered.

(5) The by-laws shall be sufficiently authenticated by being signed by the chairman of the board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the board, shall be receivable as evidence without proof of any such signature. R.S.O. 1937, c. 285, s. 10.

**11.** Real and personal property may be devised, bequeathed, granted, conveyed or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith, and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments or works of art, upon such trusts and conditions as may be prescribed by the donor. R.S.O. 1937, c. 285, s. 11.

**12.—(1)** The board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

(2) Land so acquired, together with that the general management, regulation and control of which is vested in the board under section 3, exclusive of land acquired by devise or gift, shall not together exceed two thousand acres in the case of cities having a population of not less than 100,000, one thousand acres in the case of other cities or of counties, and five hundred acres in the case of towns, villages or townships.

(3) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

(4) The board shall have power to let any land not immediately required for park purposes.

(5) If it has more land than is required for park purposes, the board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be deemed most advantageous.

(6) Where a park has been purchased or has been acquired by the board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by

the owner of the land, freely, or at a nominal price or rental, the board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the board may see fit; but the powers conferred by this subsection shall not be exercisable with respect to any park unless the board has applied for and received the approval of the Ontario Municipal Board. R.S.O. 1937, c. 285, s. 12.

Municipality may empower board to manage any corporation land.

**13.**—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the board, and the board may set apart the land or any part thereof for athletic purposes or for the purposes of sport exhibitions or other lawful amusements or entertainments, and may lease it for such purposes for such times and on such terms as the board may see fit.

Council may repeal by-law.

(2) The council may repeal any by-law passed under subsection 1, and the municipal corporation may thereafter sell or otherwise dispose of the land or use it for any lawful purpose of the corporation. R.S.O. 1937, c. 285, s. 13.

Power to enter on lands and expropriate streams, etc.

**14.** The board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within 10 miles, and in the case of a town within five miles thereof, and may survey, set out and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the board, including the supply of water for artificial lakes, fountains and other park purposes, and with the consent of all parties interested capable of consenting, may divert and expropriate any river, ponds of water, springs or streams of water therein which the engineer, surveyor or other person authorized by the board may deem suitable for such purposes, and the board may contract with the owner or occupier of the land and with those having a right or interest in the water, for the purchase or renting thereof or of any part thereof, or of any privilege which may be required for the purposes of the board; but the board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. R.S.O. 1937, c. 285, s. 14.

Arbitration.

**15.** In case of any disagreement between the board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or

in the natural flow thereof, or in any such privilege, respecting the amount of purchase money or yearly rental thereof, or as to the damages which the expropriation thereof by the board will cause, or otherwise, the matter in question shall be determined by arbitration under *The Municipal Act*, as herein-  
Rev. Stat.,  
c. 243.  
 after provided. R.S.O. 1937, c. 285, s. 15.

**16.** Sections 344, 345, 347 to 349 and 351 to 360 of *The Municipal Act* shall be read as part of this Act, and shall apply  
Application  
of Rev. Stat.,  
c. 243.  
 to the board as if the board were named therein instead of the corporation or municipal council. R.S.O. 1937, c. 285, s. 16.

**17.**—(1) The board shall, in the month of February in  
Board to  
make yearly  
estimates.  
 every year, prepare an estimate of the sums required during the ensuing financial year for,

- (a) the interest on money borrowed;
- (b) payment of interest and principal on debentures;
- (c) the expense of managing, regulating and controlling any undertaking established under paragraph 53 of section 386 of *The Municipal Act*;  
Rev. Stat.,  
c. 243.
- (d) the expense of maintaining, improving and managing the parks, boulevards, avenues and streets under its control; and
- (e) the interest and instalments of purchase money for the purchase of small squares or parks. R.S.O. 1937, c. 285, s. 17 (1); 1947, c. 87, s. 2 (1).

(2) The board shall report its estimate to the council not  
When esti-  
mate to be  
reported.  
 later than the 15th day of February in each year.

(3) The council shall, in addition to all other rates and assessments for municipal purposes, levy and assess in every year a special annual rate sufficient to furnish the amount required for the year, but not exceeding one mill in the dollar upon the assessed value of all rateable real and personal property, and the rate shall be called "The Park Fund Rate", and shall be deemed to be included in the limit of the rate authorized by section 308 of *The Municipal Act*. R.S.O. 1937, c. 285, s. 17 (2, 3).  
Special rate  
for park  
purposes.

(4) When the board manages, regulates and controls  
When rate  
may be  
increased.  
 any undertaking established under paragraph 53 of section 386 of *The Municipal Act*, the maximum rate mentioned in subsection 3 shall be two mills. 1947, c. 87, s. 2 (2).

(5) Subject as hereinafter provided, the council may also,  
Power to  
issue deben-  
tures.  
 on the requisition of the board, raise by a special issue of debentures, to be called "Park Fund Debentures", the sums

required for the purpose of purchasing the land and privileges which are reported by the board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the board for park purposes. R.S.O. 1937, c. 285, s. 17 (4).

Issuing of debentures for half cost of park when remainder contributed.

(6) If at least one-half of the cost of establishing a park is contributed by private subscription or otherwise, the council shall, at the request of the board, issue debentures for the remaining one-half, but only when the annual sum required to meet the annual payments of interest and principal can be provided for without exceeding the limit of one mill in the dollar provided for in subsection 3, R.S.O. 1937, c. 285, s. 17 (5); 1947, c. 87, s. 2 (3).

By-law, when not necessary to submit to electors.

(7) It shall not be necessary to submit to the electors a by-law authorizing the issue of debentures in case the annual sum required to meet the annual payments of interest and principal does not, with a reasonable allowance for annual expenses of managing, improving and maintaining the parks and other works under the control of the board, exceed the limit of one mill in the dollar, notwithstanding any provisions to the contrary in *The Municipal Act* or any special Act relating to the municipality. R.S.O. 1937, c. 285, s. 17 (6); 1947, c. 87, s. 2 (4).

Rev. Stat., c. 243.

Currency of debentures.

(8) The debentures shall be payable within 40 years at furthest from the date of their issue.

To constitute lien.

(9) Debentures issued under the authority of this Act shall form a lien and charge upon all land which is by this Act declared to be subject to the control and management of the board.

Sale free from lien; application of proceeds.

(10) In case of a sale, the board may sell free from the lien, but the purchase money shall be applied to the payment of park debentures or to the purchase of other land for park purposes. R.S.O. 1937, c. 285, s. 17 (7-9).

Annual rate for retirement of debentures.

(11) During the currency of the debentures, the council shall withhold and retain out of and as a first charge on the annual rate the amount required to meet the annual payments of interest and principal on the debentures. R.S.O. 1937, c. 285, s. 17 (10); 1947, c. 87, s. 2 (5).

Application of provisions of Rev. Stat., c. 243.

(12) Except as otherwise expressly provided in this Act, the provisions of *The Municipal Act* as to money by-laws and the debentures to be issued thereunder shall apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder. R.S.O. 1937, c. 285, s. 17 (11).

(13) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be deposited by him to the credit of the park fund, and shall be paid out by him on the orders of the board, save as to the amount required to be retained under subsection 11. R.S.O. 1937, c. 285, s. 17 (12); 1947, c. 87, s. 2 (6).

**18.—**(1) No person shall,

- (a) wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the board or its engineers, surveyors, managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities authorized and contained in this Act;
- (b) wilfully or maliciously let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, lake or other receptacle for water connected with any such park;
- (c) cause any dog or other animal to swim in, or throw or deposit any injurious, noisome or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case the water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes or water, or encourage the same to be done;
- (d) lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the waterworks connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the board;
- (e) wash or cleanse any cloth, wool, leather, skin or animals, cause any dog or other animal to swim therein, or place any noisome or offensive thing within the distance of three miles in the case of a city, and one mile in the case of any other municipality, in any river, pond, creek, spring, source or fountain from which the water for the supply of any such park or parks is taken, or convey, cast, throw, or put any filth, dead carcass or other injurious, noisome or offensive things therein, or within the distance above-mentioned; or cause, permit or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in any way tainted or fouled;

Money,  
application  
of.

Prohibitions  
and  
penalties,  
hindering,  
etc., board  
or its  
officers;

wasting  
water;

fouling  
reservoir;

diverting  
water;

fouling  
water  
supply;

destroying  
ornamental  
trees, etc.;

(f) wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park, avenue, drive or other public place under the control of the board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein;

injuring  
animals, etc.

(g) wilfully or maliciously injure, hurt or otherwise molest or disturb any animal, bird or fish kept in any such park or in the lakes or ponds connected therewith.

Penalty.

(2) For every contravention of subsection 1, the offender shall be guilty of an offence and liable to a penalty of not less than \$1 and not more than \$20; or the offender may be imprisoned with or without hard labour, in the first instance, for a term of not more than thirty days; and the person so offending shall be liable to an action at the suit of the board to make good any damage done by him. R.S.O. 1937, c. 285, s. 18.

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