
Supporting Ontario's Trails Act, 2016

October 5, 2016

Overview

- Ontario has passed legislation to improve and sustain Ontario's urban, suburban, rural and remote land and water trails.
- The *Supporting Ontario's Trails Act, 2016* will help the trails community more effectively develop, operate and promote trails while enhancing the trails experience for all trail users.
- Ontario is home to over 80,000 kilometres of trails that support recreation, tourism and transportation (including active transportation).
- Each year, millions of Ontarians and visitors from outside the province experience the province's world class trails system.
- Trails encourage explorers of all ages and abilities to visit our unique communities and support local economies and jobs.
- The province is committed to providing accessible opportunities for active living, recreation and tourism on Ontario's trails for people of all abilities.
- From 2009 through 2015, the province invested \$130 million in both direct and indirect funding to support Ontario's trails.
- The province is also investing more than \$3.5 million in trails which will include adding more than 250 kilometres of trails through Ontario's Pan American/Parapan American Games Promotion, Celebration and Legacy Strategy.
- In 2014, hiking expenditures by Ontarians added \$559 million to Ontario's GDP and created more than 18,000 jobs across the province with an annual economic benefit of nearly \$1.4 billion.

Questions and Answers

Q. What is the *Supporting Ontario's Trails Act, 2016*?

- A. On June 1, 2016, Ontario passed new legislation to improve and sustain thousands of kilometres of Ontario's urban, suburban, rural and remote land and water trails while encouraging its expansion.

The *Supporting Ontario's Trails Act, 2016* will help the trails community more effectively develop, operate and promote trails while enhancing the trail experience for all trail users.

The act contains the following components:

- a stand-alone act entitled the *Ontario Trails Act, 2016*
- amendments to the *Public Lands Act*
- amendments to the *Trespass to Property Act*
- amendments to the *Occupiers' Liability Act*
- amendments to the *Motorized Snow Vehicles Act*
- amendments to the *Off-Road Vehicles Act*

Q. What was the need for the *Supporting Ontario's Trails Act, 2016*?

- A. There were a number of longstanding trail-related issues that needed to be addressed. For more than 40 years, the issues of liability, trespassing, damage to property as well as securing land and long-term access for trails have persisted in Ontario and hindered the development, maintenance and promotion of trails.

These issues have been reaffirmed several times to the Government of Ontario including during the development and launch of the Ontario Trails Strategy in 2005; during trail studies in 2007; and during province-wide consultations with stakeholders and engagement of Indigenous communities in the fall of 2013.

By addressing these issues, as well as enabling opportunities to promote and use trails for recreation, tourism and transportation (including active transportation), the *Supporting Ontario's Trails Act, 2016* will help trail managers and volunteers in Ontario to achieve the vision of a world-class trail system.

Q. Does the *Supporting Ontario's Trails Act, 2016* only affect hiking trails?

- A. No, the *Supporting Ontario's Trails Act, 2016* affects all types of trails, including non-motorized, motorized, urban, suburban, rural, and remote land and water trails.

Q. Will this legislation be accompanied by any new funding for trails?

A. The Ministry of Tourism, Culture and Sport (MTCS) currently administers the Ontario Sport and Recreation Communities Fund and the Tourism Development Fund.

Together with the Ontario Trillium Foundation, an agency of MTCS, these funding programs can and do provide financial support for trail related projects.

More information on these funding opportunities can be found through Grants Ontario: www.grants.gov.on.ca and through the Ontario Trillium Foundation: www.otf.ca.

Q. How would recognizing Ontario Trails of Distinction work?

A. The process for recognition would be developed in consultation with any appropriate persons or entities, such as provincial ministries, agencies, municipalities, stakeholders, Indigenous communities and others that have an interest in trails.

Q. How would a trail classification system be developed? What purpose would it serve? Would compliance with the classification system be mandatory?

A. A voluntary classification system would be developed in consultation with any appropriate persons or entities, such as provincial ministries, agencies, municipalities, stakeholders, Indigenous communities and others that have an interest in trails.

A trail classification system could be used to promote trails as it would provide useful information to visitors. It could include information such as type of trail use.

Better informed visitors could then select a suitable trail experience, which may reduce the likelihood of risk and injury and enhance their trail experience.

Compliance with a classification would be voluntary.

Q. How would best practices be developed? Would compliance with best practices be mandatory?

A. The types and content of voluntary best practices would be developed in consultation with any appropriate persons or entities, such as provincial ministries, agencies, municipalities, stakeholders, Indigenous communities and others that have an interest in trails.

Compliance with best practices would be voluntary.

Q. What is the current trail strategy? When will it be reviewed? How can we find out how its implementation is going?

In 2005, the Ontario Government released the [Ontario Trails Strategy](#). The strategy was developed collaboratively with a wide range of stakeholders, as well as Indigenous communities. The strategy lays out a long-term plan for developing, managing, promoting and using trails across the province

In 2013, the government conducted province wide consultations on ways to strengthen the Ontario Trails Strategy, which led to the introduction of the *Supporting Ontario's Trails Act, 2016* and the development of a Trails Action Plan.

In December 2015, the government released a Trails Action Plan. The Trails Action Plan includes 31 discrete activities that support the continued implementation of the Ontario Trails Strategy.

The Ontario Trails Strategy will be reviewed when appropriate and an initial report on progress will be released within two years of the *Ontario Trails Act, 2016* coming into force.

Q. How would targets be established? What is an example of a potential target?

A. Targets would be developed in consultation with any appropriate persons or entities, such as provincial ministries, agencies, municipalities, stakeholders, Indigenous communities and others that have an interest in trails.

Targets would be aspirational and could include items such as:

- number of Ontario trail users
- kilometers of trails mapped
- number of trails
- number of visitors taking part in a trail activity

Q. What is an easement? What is a covenant?

A. An easement is an interest in land where the landowner grants the easement holder a right of way over a piece of land. The *Ontario Trails Act, 2016* will allow an owner of land to voluntarily grant an easement to an eligible body for various purposes relating to trails. An *Ontario Trails Act, 2016* easement must be registered on title and binds subsequent owners of the land (i.e. a new owner is required to comply with the terms of the easement).

A covenant is a promise to do or not do something in relation to the land. The *Ontario Trails Act, 2016* requires the easement to contain one or more covenants, agreed upon by the owner of land and the eligible body, stating the uses and activities permitted, restricted or prohibited on the affected land and describing those uses and activities.

Q. Why are easements needed in the *Ontario Trails Act, 2016*?

A. Existing easement options, such as common law rights of way, or easements under the *Conservation Land Act* or *Ontario Heritage Act*, do not adequately address the longstanding issue of securing land and long-term access to land for use as trails. As a result, a statutory mechanism which allows for the creation of easements specifically for trails and related purposes, is included in the *Ontario Trails Act, 2016*.

Q. Would landowners be forced to grant easements?

A. No, landowners would not be forced to grant easements for trail related purposes. *Ontario Trails Act, 2016* easements would be voluntary.

Q. Does the *Ontario Trails Act, 2016* have any impact on formal or informal agreements that trail organizations may already have with landowners?

A. No, formal or informal agreements between trail organizations and willing landowners can be used to negotiate access to land for trails or trail related activities. An *Ontario Trails Act, 2016* easement provides another option that could be considered, if the landowner is willing.

Q. Easements granted under the *Conservation Land Act* are exempt from *Planning Act* approvals. Are *Ontario Trails Act, 2016* easements also exempt from approvals under the *Planning Act*?

A. No, *Ontario Trails Act, 2016* easements with a term of longer than 21 years require *Planning Act* approval.

Q. Why do *Ontario Trails Act, 2016* easements require *Planning Act* approval when *Conservation Lands Act* easements do not?

A. The oversight of these easement mechanisms is different because *Ontario Trails Act, 2016* easements do not require provincial ministry approval.

On the other hand, conservation easements must be approved by the Ministry of Natural Resources and Forestry. Subdivision control approvals under the *Planning Act*

are the only applicable oversight mechanism for the establishment of *Ontario Trails Act, 2016* easements.

Ontario Trails Act, 2016 easements may be associated with new development, which should be subject to a public review, whereas *Conservation Land Act* easements provide for the conservation and protection of natural landscapes and features (i.e. generally maintaining current conditions).

Planning Act approvals help to balance the interests of individual property owners with the wider interests and objectives of the whole community.

Q. What are the amendments to the *Occupiers' Liability Act*?

A. The *Occupiers' Liability Act* has been amended to:

- Clarify that the lower standard of care (responsibility) applies to occupiers of trail property which are not-for-profit or public sector organizations, even if there is an incidental fee related to access onto or use of the land, such as for parking; or if a public benefit or payment is given to a not-for-profit trail manager.
- Add portages to the list of lands to which the lower standard of care applies.

Q. What are the amendments to the *Motorized Snow Vehicles Act* and *Off-Road Vehicles Act*?

A. The amendments to the *Motorized Snow Vehicles Act* and *Off-Road Vehicles Act* are complementary and mirror the amended language in the *Occupiers' Liability Act*.

Q. What are the amendments to the *Public Lands Act*?

A. The *Public Lands Act* has been amended to:

- Make damage to Crown land and property an offence (this offence provision will have no effect until a regulation to define damage is made and approved).
- Enable a court to order a person, who has been convicted of this offence, to stop the activity and/or rehabilitate lands and repair any damage to property.
- Provide the Ministry of Natural Resources and Forestry with new enforcement tools to stop vehicles, inspect documents, and arrest persons suspected or caught violating the act.

- Increase the maximum penalties for offenders and the length of time to initiate charges, specifically:
 - There are different maximum penalties for individuals and corporations, and for subsequent offences. For individuals, the maximum penalties have increased from \$10,000 to \$15,000 for first offences and \$25,000 for subsequent offences. For corporations, the maximum penalties have increased to \$25,000 for first offences and \$50,000 for subsequent offences.
 - Courts can also impose an additional penalty equal to the amount of money gained by person(s) violating the Act.
 - The limitation period has been increased (from two years from offence) to two years from discovery of the offence up to a maximum of five years from when the offence was committed.

Q. What are the amendments to the *Trespass to Property Act*?

A. The *Trespass to Property Act* has been amended to:

- Raise the maximum fine for trespassing from \$2,000 to \$10,000.
- Remove the limit on the amount of damages that could be recovered in a prosecution.

More Information

For more information regarding each act, please click the appropriate link:

- [Ontario Trails Act, 2016](#)
- [Occupiers' Liability Act](#)
- [Public Lands Act](#)
- [Trespass to Property Act](#)

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