

§3252. Preservation of trees along public ways and water

1. Creation of preserved lands. For the purpose of preserving and increasing the growth of trees on land abutting any public way or located on uplands adjoining any river or other body of water, municipalities and municipal officers, acting under section 3101, may set aside and define such land, not exceeding 5 rods in width. Any municipality may appropriate money for the purposes of this section.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Regulation of lands. All trees and shrubs growing on the land set aside under subsection 1 shall be held as for park purposes. Except as provided in this section, no owner in fee of this land or any other person may injure, remove or destroy these trees or shrubs. Municipal officers may grant written license to the owner to do cutting and clearing on the land when consistent with the preservation and general improvement of the growth on the land.

Except as provided, this section does not restrict the owner's use and enjoyment of the land or authorize any person to enter on the land, except for municipal officers and conservation commissioners and their agents for the purposes of this section.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Proceedings; compensation. All proceedings relating to estimating and awarding damages under this section are governed by section 3101.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Public ways, private ways and buildings. Provided the written consent of the municipal officers is obtained first, this section does not:

A. Prevent the taking and clearing of any of the land set aside under subsection 1 that is necessary for public ways; nor [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Abridge the right of the owner or the owner's tenant to lay out a private way across that land or to clear and improve any of the land that is necessary for actual building purposes.

(1) If the municipal officers refuse to give consent for laying out a private way or for cutting and clearing any of the land that is necessary for immediate building purposes, when requested to do so in writing, that refusal is ground for a further award of damages to the owner as provided in subsection 3. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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5. Violation. Whoever violates this section:

A. Commits a civil violation for which a forfeiture of not more than \$100 may be adjudged; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Is liable to a civil action, brought by the conservation commissioners or by a taxpayer in the name and for the benefit of the municipality in which the offense is committed, for all damages sustained. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

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