

**SECTION:** Protection of Property

**POLICY:** WiPo.3.1 (replaces WilPo.3.1.1 & WilPp.3.2.4)

**SUBJECT:** Protection of Property: Policy Overview

**DATE:** November 2020

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## 1.0 CONTEXT

The Ministry of Natural Resources and Forestry (MNR) works to manage and maintain wildlife populations at sustainable levels while helping to prevent and minimize human-wildlife conflict. One of Ontario's policy approaches to addressing human-wildlife conflict is to provide property owners with the tools and information to prevent and minimize conflict with wildlife that are damaging or about to damage property. The MNR works with the public, property owners, municipalities, agricultural groups and police agencies to educate, raise awareness, and provide advice on ways to address human-wildlife conflicts (URL: [www.ontario.ca/page/prevent-conflicts-wildlife](http://www.ontario.ca/page/prevent-conflicts-wildlife)). Human-wildlife conflicts vary according to geography, land use patterns, human behaviour, time of year, and the habitat and behaviour of wildlife species or individual animals.

The [Strategy for Preventing and Managing Human-Wildlife Conflicts in Ontario](#) provides provincial policy direction to prevent and manage a wide range of human-wildlife conflicts and facilitates the development and implementation of tools for dealing with specific human-wildlife conflicts and issues. [The Strategy for Preventing and Managing Human-Deer Conflicts in Southern Ontario](#) provides direction specific to addressing human-deer conflicts. Both strategies were developed as part of a collaborative approach involving several provincial ministries and a diverse group of interested stakeholders.

The *Fish and Wildlife Conservation Act*, 1997 (the Act) enables property owners or their agents to harass, capture or kill some species of wildlife if they believe on reasonable grounds that wildlife is damaging or is about to damage the person's property (Section 31 of the Act). These provisions recognize circumstances where a property owner may need to protect their property (including crops, livestock, etc.) from wildlife damage, while establishing necessary controls on how these activities are carried out to ensure proper consideration for wildlife conservation and management, humane treatment of wildlife, and the safety of property owners and others.

This policy provides an overview of protection of property under the Act.

Authorizations made under this policy are considered a disposition of a right to a Crown resource in that they provide for a person to utilize or obtain a right to a Crown resource and must comply with the Environmental Assessment (EA) Act. The ministry complies

with the EA Act in the disposition of Crown resources by following the requirements of the Class EA for Resource Stewardship and Facility Development Projects (Class EA-RSFD). Protection of property activities requiring authorizations are not pre-categorized as Category “A” and must be screened following the Class EA-RSFD. If any protection of property authorization activity screens to Category A, it is exempt from the EA Act. If the screening results in a Category B or C, the activity would be evaluated and consulted on following the process in the Class EA-RSFD.

## **2.0 WHEN AND HOW A PERSON CAN PROTECT THEIR PROPERTY**

### **2.1 Opportunities and Limitations**

Under section 31 of the Act, if a person believes on reasonable grounds that wildlife is damaging or is about to damage the person’s property, the person may harass the wildlife to deter it from damaging the person’s property or capture or kill the wildlife in protection of their property. Some restrictions apply, including:

- protection of property activities may only occur on the property owner’s land;
- the person may not harass, capture or kill more wildlife than is necessary to protect the property;
- where wildlife is not killed (i.e., is live-trapped), it must be released within 24 hours in close proximity to the capture point (unless otherwise directed by MNRF), or, if injured, sick or a juvenile, delivered to a wildlife custodian authorized by MNRF.
- the person cannot cause unnecessary suffering to the wildlife; and
- limitations on species and activities are listed below:

Moose or woodland caribou

- Must not harass, capture or kill in protection of property.

Black bear

- Must not live trap in protection of property unless specifically authorized to do so. Refer to WiPo.3.3 Protecting Property from Black Bears.

White-tailed deer

- Must not harass, capture or kill in protection of property unless specifically authorized to do so. Refer to WiPo.3.4 Protection of Agricultural Property from White-tailed Deer.
- Effective January 1, 2021, the owner or operator of an airport (as defined under the *Aeronautics Act* (Canada)) does not require MNRF authorization to harass or kill deer or elk in protection of property associated with the operation of the airport. Any harassment or killing of deer or elk must occur on airport property.

#### American elk

- Must not harass, capture or kill in protection of property unless specifically authorized to do so. Refer to WiPo.3.5 Protection of Agricultural Property from American Elk.
- Effective January 1, 2021, the owner or operator of an airport (as defined under the *Aeronautics Act* (Canada)) does not require MNR authorization to harass or kill deer or elk in protection of property associated with the operation of the airport. Any harassment or killing of deer or elk must occur on airport property.

#### Beaver dam, black bear or furbearing mammal den

- Must not damage or destroy beaver dams or dens of black bears or furbearing mammals in protection of property unless specifically exempt or authorized to do so. Refer to WiPo.3.6 Destruction of a Beaver Dam or a Black Bear or Furbearing Mammal Den.

#### Nests and eggs

- Must not destroy, take or possess in protection of property unless specifically exempt or authorized to do so. Refer to WiPo.3.7 Destruction and Possession of Nests and Eggs.

#### Species or habitat protected under the *Endangered Species Act, 2007* (ESA)

- Anyone wishing to undertake activities that may impact species or habitat protected under the ESA should contact the Ministry of the Environment, Conservation and Parks (MECP).

#### Migratory bird species found in Ontario protected by the federal *Migratory Birds Convention Act, 1994* (MBCA)

- Anyone wishing to undertake activities that may impact migratory birds protected under the MBCA must contact the Canadian Wildlife Service. Ontario Regional Office contact information can be found through the following link:  
<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/canadian-wildlife-service-contact-information.html>

A “person” includes a corporation or the employees of that corporation acting in the course of their employment. For example, a rail company employee or municipal employee could conduct activities under section 31 of the Act on the railway or municipal road land, respectively, if it is part of their job duties.

A person who is legally occupying property (e.g. has property interest through a lease or rental agreement or land use permit) may take action under the protection of property provisions as if they were the landowner.

If the occupier is a municipality, there are allowances under Section 133.2 of Ontario Regulation 665/98 (Hunting) for the municipality to hire or employ a person to hunt or trap furbearing mammals. Refer to section 2.3 of this policy for more information.

## 2.2 Use of Agents

A property owner may use an agent to act on their behalf to harass, capture or kill wildlife in protection of property. The agent must have MNRF authorization or belong to a class of agents prescribed by the regulations. An agent may charge a fee for services rendered.

### 2.2.1 Classes of Agents

Section 132 of Ontario Regulation 665/98 (Hunting) prescribes the following classes of agents as persons who can protect property for a property owner without requiring ministry authorization:

- Licensed trappers (a valid trapping licence is required).
- Members of a landowner's immediate family (i.e., grandparent, parent, spouse, child, sibling or grandchild, including equivalent step-family relationships) acting on behalf of the landowner on the landowner's own land. If this agent is using a firearm, they must meet the accreditation requirements to obtain a licence to hunt described in section 11 and 12 of O. Reg. 665/98.
- Persons whose business is primarily the business of removing nuisance wildlife if they harass wildlife or capture and release it if it is capable of being released.
- Municipal employees or agents of a municipality who have specific responsibilities related to wildlife control.
- Persons who hold a valid outdoors card and who meet the accreditation requirements for a licence to hunt described in section 11 and 12 of O. Reg. 665/98. Applies only for the purposes of killing or harassing the wildlife but not capturing it.

Any agent described above who is using a gun must possess valid firearms accreditation under the federal Firearms Act, as described in section 25.2 of O. Reg. 665/98.

A property owner or a class agent may kill wildlife in protection of property without a specific MNRF authorization, except for the species/activities noted in Section 2.1 above.

Class agents cannot conduct live-trapping of problem black bears unless specifically authorized to do so (refer to WiPo.3.3 Protecting Property from Black Bears).

Class agents whose business is primarily removing problem wildlife are restricted to live capture techniques unless they have a separate individual ministry authorization to use a firearm. To qualify as a class agent, these persons must be employed by a problem animal business or be self-employed and derive most of their income from animal control related work.

## **2.3 Wild Animal Control: Rules for Municipalities**

Municipalities may hire licensed hunters or trappers to hunt or trap furbearing mammals within their municipal boundaries to help address a specific human-wildlife conflict issue. The municipality determines the terms of any such arrangement, including the species of furbearing mammal, the hunters or trappers involved, the number of animals, and the locations and time periods that apply. Compensation for hunters and trappers is also the responsibility of the municipality. Municipalities do not require MNRF authorization to make these arrangements provided they are conducted in accordance with the rules set out under O. Reg. 665/98 (Hunting).

Hunters and trappers hired in this way must abide by relevant municipal bylaws and all applicable hunting rules and regulations (e.g., licensing, seasons, limits, quotas, firearm and trap restrictions, requirements for not allowing pelts to spoil or be destroyed).

These provisions do not allow paying of a bounty. Bounties are not legal in Ontario. Bounties don't target the specific animals causing the conflict or problem in certain areas, but rather indiscriminately target all animals across a broad region and would be of limited value in resolving individual conflict situations.

## **2.4 MNRF Authorizations for Protection of Property**

Ministry-issued individual authorizations are intended to address specific protection of property situations which tend not to be recurring in nature and are not exempted by regulation. An agent, who does not belong to the prescribed class of agents, may be individually authorized by MNRF to act on behalf of a property owner on the property owner's land. Listed below are the MNRF authorizations for protection of property activities along with reference information.

- Individual, Term or Verbal Agent Authorization – refer to WiPo.3.2 Protection of Property by Individual Agent Authorizations.
- Authorization to Trap Black Bears – refer to WiPo.3.3 Protecting Property from Black Bears.
- Deer Removal / Harassment Authorization – refer to WiPo.3.4 Protection of Agricultural Property from White-tailed Deer.
- Elk Removal / Harassment Authorization – refer to WiPo.3.5 Protection of Agricultural Property from American Elk.
- Authorization to Interfere with/Destroy a Black Bear or Furbearing Mammal Den, Beaver Dam, Black Bear in a Den – refer to WiPo.3.6 Destruction of a Beaver Dam or a Black Bear or Furbearing Mammal Den.

- Authorization to Destroy/Take/Possess Nests and/or Eggs – refer to WiPo.3.7 Destruction and Possession of Nests and Eggs

## 2.5 Sections of the Act that **DO NOT** apply to a person protecting property

Property owners and their agents are exempted from certain provisions of the Act and regulations to allow for more effective problem wildlife control. In some cases, additional authorization is required. (Note: refer to the appropriate section of the Act or regulation for exact wording).

The following describes the sections of the Act that property owners (or their agents) are exempt from and what this means for those who wish to protect their property from wildlife.

Section 5: Specially protected wildlife (as described in schedules 6 to 11 in the Act) may be harassed, killed or captured.

Note: Specially protected wildlife may also be designated threatened, endangered or extirpated under the ESA. Anyone wishing to undertake activities that may impact species or habitat protected under the ESA should contact the Ministry of the Environment, Conservation and Parks (MECP).

Section 6: A hunting or trapping licence is generally not required. However, the following licensing requirements apply to persons acting as class agents:

Trappers: Require a valid trapping licence

Hunters: For the purposes of killing or harassing the wildlife but not capturing it, persons using a firearm must hold a valid Outdoors Card and meet the accreditation requirements for a licence to hunt.

Subsection 9(1): A person may harass, capture or kill wildlife in protection of property in a provincial park or Crown Game Preserve provided the person is entitled to possess the land.

Clauses 11(1)(a)-(d): An agent can receive payment, and a property owner can pay an agent to undertake protection of property activities to address a wildlife problem. This exemption does not allow for the paying of bounties.

Section 20: A person may protect his/her property at night except for white-tailed deer and American elk.

Section 21: An agent may use a box or culvert trap to live-trap a black bear provided the agent is specifically authorized to live trap black bears, subject to controls and type of equipment indicated in the authorization.

Clause 22(2)(c): A farmer may use a body-gripping trap to trap wildlife (other than a bird) in protection of property on their own farm without a trapping licence.

Section 27: A raptor may be used to kill in protection of property, as prescribed by the regulations

Subsections 36 (1)&(2): A person may allow game wildlife other than a furbearing mammal killed in protection of property to become unsuitable for human consumption/use (e.g. flesh spoilage). Note: A deer removal authorization does not allow for spoilage.

Subsection 40(1) & Section 46: Game wildlife or specially protected wildlife captured, but not killed under section 31 of the Act may be temporarily held in captivity if released as soon as possible into the area in close proximity to the capture site (generally limited to 1km) unless otherwise directed by the Ministry (any release on private property must have landowner permission).

## **2.6 Sections of the regulations that DO apply to a person protecting property**

Property owners and their agents are exempt from many provisions of O. Reg. 665/98 (Hunting) and portions of O. Reg. 667/98 (Trapping) (e.g. seasons, daily limits or quotas). However, many provisions of the regulations that relate to safety and humane treatment still apply to protection of property activities, and are summarized below:

Hunting (O. Reg. 665/98) – Sections 75, 82 & 83

- Firearm and archery restrictions, shotgun gauge, shot size, draw weight, etc., apply to the killing of any big game species that is taken in protection of property. These restrictions are required to ensure humane treatment of wildlife and human safety.

Trapping (O. Reg. 667/98) – Sections 17-28

- Trap restrictions, relaxing cable restraint requirements, requirement for using certified killing traps and certified restraining traps for certain species (as well as exceptions), black bear trap restrictions and release requirements, leg-hold trap restrictions, live holding trap inspection requirements, snare restrictions, restrictions on the possession of body-gripping traps, and disposal of pelts of no commercial value by trappers.

## **2.7 Use of Poisons or Adhesives**

The Act prohibits the use of poison and adhesives to kill, injure or capture wildlife unless prescribed by regulation. The use of some licensed pesticides is permitted for use as authorized under the *Pesticides Act* (e.g. use of pesticides indoors for controlling mice or rats, use of Avitrol for pigeons). Regulations under the *Pesticides Act, 1990* detail

specific requirements for the use of particular pesticides (e.g. indoor use, picking up dead animals, not permitting non-lethally affected animals to escape).

## **2.8 Reporting Requirements:**

Anyone who **intends to keep** a dead black bear, furbearing mammal (including its pelt) or specially protected raptor that was killed in protection of property must register its acquisition by submitting a Notice of Possession or obtain a Licence to Possess a Pelt (WilPp.6.2.3 Report of acquisition and possession requirements/Notice of Possession Registry).

Anyone who kills a black bear in any WMU or a wolf or coyote in WMUs where a wolf/coyote tag is required in protection of property who **does not intend to keep** it must immediately report the kill to the Ministry by calling their local MNRF office.

### **2.8.1 District Reporting**

All reports of wolf or coyote must be entered in the Bear-Wolf Mortality Log – Protection of Property (form FW4019).

All reports of black bears must be entered in the [Bear Incident Reporting Tracking Application](#) (BIRTA). If BIRTA is not immediately accessible to MNRF staff, the report should be recorded on form FW4019 and subsequently entered into BIRTA no later than December 31 of that year.

## **2.9 Release and Disposal Requirements**

### **2.9.1 Release (Live Wildlife)**

O. Reg. 665/98 (Hunting) specifies that a person who captures but does not kill wildlife in protection of property shall, not later than 24 hours after capture,

- a) release the wildlife as soon as possible into the area in close proximity to the capture site unless otherwise directed by the Ministry; or
- b) deliver any wildlife that is sick, injured or immature to an authorized wildlife custodian. Injured wildlife may also be taken to a veterinarian for temporary treatment if the individual is prepared to cover any applicable costs. Property owners or their agents may also dispatch captured wildlife if they do not cause unnecessary suffering to the wildlife (including not orphaning dependent young).

Close proximity is generally considered to be as close as possible to the capture site up to one kilometre away, and in similar habitat wherever possible. If released on private property, the property owner's permission is required.

Note: Additional requirements and conditions apply to the relocation and release of black bears by authorized individuals (refer to WiPo.3.3 Protecting Property from Black Bears).

## 2.9.2 Disposal (Dead Wildlife)

A white-tailed deer and American elk that is captured or killed in protection of property shall be disposed of in accordance with ministry direction. Wildlife that has been killed in protection of property can generally be disposed at an appropriate waste disposal site. Additional requirements apply to ensuring that the pelts of furbearing mammals do not spoil unless they are of no commercial value.

Refer to section 2.8 of this policy for reporting requirements for certain species

## 3.0 REFERENCES

Legislation *Fish and Wildlife Conservation Act, 1997*

Regulations Ontario Regulation 665/98 (Hunting)  
Ontario Regulation 667/98 (Trapping)

Policies [The Strategy for Preventing and Managing Human-Wildlife Conflicts in Ontario](https://www.ontario.ca/page/strategy-preventing-and-managing-human-wildlife-conflicts-ontario) (URL: <https://www.ontario.ca/page/strategy-preventing-and-managing-human-wildlife-conflicts-ontario>)

[The Strategy for Preventing and Managing Human-Deer Conflicts in Southern Ontario](https://www.ontario.ca/page/strategy-preventing-and-managing-human-deer-conflicts-southern-ontario) (URL:

<https://intra.ontario.ca/wordpress/uploads/2018/11/SCPb-WS-HumanDeerStrategy-F-2008.pdf>)

WiPo.3.2 Protection of Property by Individual Agent Authorizations

WiPo.3.3 Protecting Property from Black Bears

WiPo.3.4 Protection of Agricultural Property from White-tailed Deer

WiPo.3.5 Protection of Agricultural Property from American Elk

WiPo.3.6 Destruction of a Beaver Dam or a Black Bear or Furbearing Mammal Den

WiPo.3.7 Destruction and Possession of Nests and Eggs

WilPp.6.2.3 Report of Acquisition Requirements/Issuance of a Certificate of Reporting

Forms FW4019 - Bear-Wolf Mortality Log

FW 5005 - License to Possess a Pelt (FURMIS only)

018-0427E - Notice of Possession

[Bear Incident Reporting Tracking Application](https://intra.ontario.ca/mnrf/bear-wise-response-training-and-handling) (BIRTA) (URL:

<https://intra.ontario.ca/mnrf/bear-wise-response-training-and-handling>)