



## Essex Region Conservation Authority

### Board of Directors

### Meeting Agenda

Meeting Date: Thursday, March 28, 2024

Time: 6:00 pm

Location and Details: Council Chambers, County of Essex Civic Centre  
360 Fairview Avenue West, Essex, ON

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- A. **BD05/24 New Conservation Authorities Act, Regulations, and Interim Policy Guidelines for Development Reviews** 14-20
- B. **BD06/24 Delegation of Powers Related to Permit Issuance, Cancellation, and Hearings** 21-23
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- D. **BD08/24 Update to ERCA's Hearing Guidelines** 30-52

**12. Reports for Information**

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None
- B. **Correspondence**
  - i. Letter from MNRF regarding Update: Regulation of Development for the Protection of People and Property from Natural Hazards in Ontario – Ministry of Natural Resources and Forestry dated February 16, 2024 53-55

**13. Committee of the Whole**

- A. **Confidential Matters related to Personnel**

**14. New Business**

**15. Other Business**

- A. **Next Meeting**

The next meeting of the ERCA Board of Directors will be held April 11, 2024, starting at 6:00 p.m. at the Essex Civic Centre.

**16. Adjournment**



A handwritten signature in black ink, appearing to read "Tim Byrne", is written over a horizontal line.

**Tim Byrne, CAO/Secretary-Treasurer**



## Essex Region Conservation Authority

### Board of Directors

### Meeting Minutes

**Meeting Date:** Thursday, February 15, 2024

**Time:** 6:00 pm

**Location and Details:** Council Chambers, County of Essex Civic Centre  
360 Fairview Avenue West, Essex, ON

#### Attendance

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**Members Present:**

Jim Morrison (Chair)	Tracey Bailey
Sue Desjarlais (Vice-Chair)	Ryan McNamara
Molly Allaire	Anthony Abraham
Jason Matyi	Larry Verbeke
Katie McGuire-Blais	Joe Bachetti
Kim DeYong	Tania Jobin
Thomas Neufeld	Angelo Marignani
	Kieran McKenzie

**Absent:**

**Regrets:**

Peter Courtney	Dayne Malloch
Michael Akpata	Mark McKenzie

**Staff Present**

Tim Byrne, CAO/Secretary-Treasurer  
Nicole Kupnicki, Corporate Services, Human Resources Manager/EA  
Shelley McMullen, CFO/Director Finance and Corporate Services  
Kevin Money, Director Conservation Services  
Danielle Breault-Stuebing, Director Community and Outreach Services  
James Bryant, Director Watershed Management Services  
Jenny Gharib, HMCA Restoration and Adaptation Strategy Coordinator  
Jacqueline Serran, DRCC Remedial Action Plan Coordinator

**Others**

#### 1. Call to Order

Good evening and welcome to the February 15, 2024, meeting of the ERCA Board of Directors. I will call the meeting to order. Thank you all.

We have regrets this evening from:

- Councillor Peter Courtney, Amherstburg
- Deputy Mayor, Mike Akpata, Lasalle
- Deputy Mayor Dayne Malloch, Pelee
- Councillor Mark McKenzie, Windsor

## 2. Land Acknowledgement

I'd like to begin by acknowledging that this land is the traditional territory of the Three Fires Confederacy of First Nations, comprised of the Ojibway, the Odawa, and the Potawatomi Peoples.

We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island - North America who have been living and working on the land from time immemorial.

## 3. Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

## 4. Approval of Agenda

### A. ERCA Board of Directors

**Resolution 18/24** Moved by Angelo Marignani  
Seconded by Molly Alliare  
THAT the Agenda of the February 15, 2024, meeting of the ERCA Board of Directors be approved. **Carried**

## 5. Hearings

None

## 6. Adoption of Minutes

### A. ERCA Board of Directors

**Resolution 19/24** Moved by Kieran McKenzie  
Seconded by Thomas Neufeld  
THAT the Minutes of the January 18, 2024, Annual General Meeting of the Board of Directors and the recommendations therein be approved as distributed. **Carried**

## 7. Business Arising from the Previous Minutes

None

## 8. Announcements

Much has taken place in the short weeks since our successful Annual General Meeting.

Bridge repairs continue along the Chrysler Canada Greenway, with intermittent sections of the trail closed during construction.

It was disappointing to learn that some conservation areas have been recent victims of vandalism. Staff have spoken to neighbours of these area and encouraged them to report any inappropriate behaviours to police and are looking at options for physical barriers to prevent these types of action in the future.

Development around the region continues at a rather frantic pace. Most significantly the Gorie Howe International Bridge continues to rise out of the Detroit River shoreline. Authority Planning and Regulation staff have been extremely busy working with the region's municipalities ensuring that hazards mapping and standards are lock-step with the municipality's official plans and zoning by-laws. On the hazard front, the region's shoreline hazard mapping is being finalized with a target date of completion of March 1, 2024.

Speaking of development around the bridge... I was pleased to attend an event hosted by the Gordie Howe International Bridge, where it was announced that they would become part of the TransCanada Trail. When ERCA opened the Chrysler Canada Greenway in the year 2000, it became the southern-most extent of the Trans Canada Trail. It is exciting to think about what new opportunities may arise as a result of this significant announcement, and I look forward to exploring them.

Staff are also gearing up to host the Maple Syrup Festival on March 9th and 10th and 16<sup>th</sup> and 17th at the John R. Park Homestead. I hope members will be able to attend.

Members are also welcome to attend the upcoming Eclipse events which will be hosted at the John R. Park Homestead and Holiday Beach Conservation Areas on April 8<sup>th</sup>, 2024.

## 9. Delegations

None

## 10. Presentations

None

## 11. Reports for Approval

### A. BD01/24 ERCA 2024 Budget Approval and Municipal Cost Apportionment Agreements

**Resolution 20/24** Moved by Joe Bachetti  
Seconded by Anthony Abraham

THAT the 2024 Draft Budget totalling \$8,888,090, be approved as the 2024 Final Budget, in accordance with Ontario Regulation 402/22 and Bylaw A-1: Administrative Procedures, and further,

THAT the Board of Directors approve the total municipal cost apportionment of \$3,288,350, including \$2,971,088 (+2.6%,\$75,965), representing the reduced operating and capital costs, directly attributable to the Category 1 mandatory programs and services, and \$317,262, (-63.7%,-\$555,850), representing the reduced operating and capital costs, attributable to the unanimously supported non-mandatory Category 3 programs and services; and further,

THAT the vote to approve Recommendation 1, by the Board of Directions, be carried by a weighted majority and recorded, satisfying Sections 16 and 23 of O. Regulation 402/22.

### Recorded Vote:

Support - Councillor Molly Allaire, Amherstburg  
Support - Councillor Jason Matyi, Essex  
Support - Councillor Katie McGuire-Blais, Essex

Support - Deputy Mayor, Kim DeYong, Kingsville  
Support - Councillor Thomas Neufeld, Kingsville  
Support - Mayor, Tracey Bailey, Lakeshore  
Support - Councillor Ryan McNamara, Lakeshore  
Support - Councillor Sue Desjarlais (Vice-Chair), Lasalle  
Support - Councillor Anthony Abraham, Leamington  
Support - Deputy Mayor, Larry Verbeke, Leamington  
Support - Deputy Mayor, Joe Bachetti, Tecumseh  
Support - Councillor Tania Jobin, Tecumseh  
Support - Councillor Angelo Marignani, Windsor  
Support - Councillor Kieran McKenzie, Windsor  
Support - Councillor Jim Morrison (Chair), Windsor

**Carried**

**Resolution 21/24** Moved by Jason Matyi  
Seconded by Molly Alliare

THAT the Board of Directors accept the discretionary and recommended municipal contributions, to a new and separate land acquisition and protection fund, from the Town of Essex in the amount of \$24,321, and the Township of Pelee in the amount of \$1,378, in accordance with respective signed Cost Apportioning Agreements and Resolution or Bylaw of Council. **Carried**

## **B. BD02/24 Hillman Marsh Climate Adaptation and Restoration Plan**

**Resolution 22/24** Moved by Kieran McKenzie  
Seconded by Sue Desjarlais

THAT BD02/24 Hillman Marsh Climate Adaptation and Restoration Plan be received for information; and further,

THAT ERCA continue to collaborate with Caldwell First Nation and other partners to implement the Hillman Marsh Conservation Area Climate Adaptation and Restoration Plan. **Carried**

## **12. Reports for Information**

### **A. BD03/24 Biological Success of the Peche Island Erosion Mitigation and Habitat Restoration Project**

**Resolution 23/24** Moved by Kieran McKenzie  
Seconded by Angelo Marignani

THAT Report BD03/24 be received for Members' information; and further,

THAT a copy of this report be forwarded to the Clerk at the City of Windsor for inclusion in an upcoming Council Agenda. **Carried**

## **B. BD04/24 Watershed Management Services Activities Report for December 2023 and January 2024**

**Resolution 24/24** Moved by Larry Verbeke  
Seconded by Sue Desjarlais

THAT the review of Regulations and Planning Applications, as presented in Report BD04/24 be received for Members' information. **Carried**

## **C. Environmental Registry Reports**

None

## **D. Correspondence**

- i. Letter from MECP regarding Amendments to the Species at Risk in Ontario List regulation made under the Endangered Species Act, 2007 dated January 31, 2024 Committee of the Whole

**Resolution 25/24** Moved by Ryan McNamara  
Seconded by Kimberly DeYong

THAT correspondence be received for Members' information. **Carried**

## **E. Confidential Matters related to Property Matters**

**Resolution 26/24** Moved by Joe Bachetti  
Seconded by Anthony Abraham

THAT the meeting move from Board of Directors to Committee of the Whole related to property matters. **Carried**

## **F. Resume Open Session**

**Resolution 27/24** Moved by Ryan McNamara  
Seconded by Kieran McKenzie

THAT the actions of the Committee of the Whole be endorsed. **Carried**

## **13. New Business**

None

## **14. Other Business.**

### **A. Next Meeting**

The next meeting of the Board of Directors will be held on April 11, 2024, starting at 6:00 p.m. in Council Chambers at the Civic Centre in Essex, ON.

**15. Adjournment**

**Resolution 28/24** Moved by Molly Alliare  
Seconded by Angelo Marignani  
THAT the February 15, 2024 meeting of the Essex Region Conservation Authority Board of Directors be adjourned. **Carried**



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Jim Morrison, Chair



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Tim Byrne, CAO/Secretary-Treasurer





## Essex Region Conservation Authority

### Executive Committee

### Meeting Minutes

**Meeting Date:** Thursday, February 15, 2024

**Time:** 5:00 pm

**Location and Details:** Council Chambers, Essex Civic Centre, Essex, ON

#### Attendance

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**Members Present:** Jim Morrison (Chair) Larry Verbeke  
Sue Desjarlais (Vice-Chair) Kieran McKenzie  
Tania Jobin

**Absent:**

**Regrets:**

**Staff Present** Tim Byrne, CAO/Secretary-Treasurer  
Nicole Kupnicki, Corporate Services, Human Resources Manager/EA  
Kevin Money, Director Conservation Services  
James Bryant, Director Watershed Management Services  
Dan Jenner, Regulations Coordinator  
Summer Locknick, Regulations Analyst

#### Others

#### 1. Call to Order

Good afternoon and welcome to the February 15, 2024, meeting of the ERCA Executive Committee.

#### 2. Land Acknowledgement

I'd like to begin by acknowledging that this land is the traditional territory of the Three Fires Confederacy of First Nations, comprised of the Ojibway, the Odawa, and the Potawatomi Peoples.

We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island - North America who have been living and working on the land from time immemorial.

#### 3. Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

#### 4. Approval of Agenda

**Resolution EC 01/24** Moved by Larry Verbeke

Seconded by Sue Desjarlais

THAT the agenda for the February 15, 2024 meeting of the ERCA Executive Committee be approved. **Carried**

#### 5. Hearings

##### A. Convene the Hearing Board

**Resolution EC 02/24** Moved by Kieran McKenzie

Seconded by Sue Desjarlais

THAT the Executive Committee sit as the Hearing Board in respect of an application(s) under Section 28 of the Conservation Authorities Act. **Carried**

We are now going to conduct hearings under Section 28 of the *Conservation Authorities Act* in respect of two applications.

We, as the Hearing Board, are unaware of the matters being brought forward and we are only now receiving and reviewing the information provided by staff this afternoon.

The Authority has adopted regulations under section 28 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse affect on (the control of flooding, erosion, dynamic beaches or pollution or conservation of land) or to permit alteration to a shoreline or watercourse or interference with a wetland. The Staff has reviewed this proposed work and a copy of the staff report has been given to the applicant.

The Conservation Authorities Act (Section 28 [12]) provides that:

"Permission required under a regulation made under clause (1) (b) or (c) shall not be refused or granted subject to conditions unless the person requesting permission has been given the opportunity to require a hearing before the authority or, if the authority so directs, before the authority's executive committee."

In holding these hearings, the Authority Board is to determine whether or not a permit is to be issued. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of each applicant.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question on the ground that the answer may tend to criminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal. However, this is a quasi-judicial process, and provides for evidence to be given in response to members' question. Therefore, staff and applicants will be asked to swear an oath or provide an affirmation to speak the truth.

In accordance with section 28 of the Act, an applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons, appeal the decision, to the Ontario Land Tribunal who may refuse the permission, or grant permission with or without conditions.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the board.

Staff will first introduce the applicant, his/her owner, and others wishing to speak, and then present the staff position. The applicant and/or their agent may then speak and make any comments on the staff position if they so desire. I would also remind everyone that the Hearing Board is open to the public. However, as stated earlier, this is a quasi-judicial process and accordingly the general public may observe but are not third-party to the matters before us today and cannot participate. We, as the Hearing Board, will question, if necessary, both the staff and the applicant/agent.

Before I ask Dan Jenner, Regulations Coordinator to introduce the applications, I would ask that he swear an oath or provide an affirmation to speak the truth for the duration of the Hearing Board.

Dan Jenner, Regulations Coordinator, Watershed Management Services took an affirmation.

Dan Jenner introduced the applications and context for the application. The Chair asked applicant (or agents for applicant) to swear oath or provide affirmation to speak the truth (as above).

i. [Haisam Habib](#)

**Resolution EC 03/24** Moved by Kieran McKenzie

Seconded by Tania Jobin

THAT the application from Haisam Habib to request relief from access (ingress and egress) policy requirements to construct a multi-dwelling unit structure at 0 Langlois Ave, City of Windsor, be approved. **Carried.**

ii. [Sandeepal Khangura c/o Satwinder Bassi](#)

**Resolution EC 04/24** Moved by Larry Verbeke

Seconded by Sue Desjarlais

THAT the application from Sandeepal Singh Khangura care of Satwinder Bassi to request relief from access (ingress and egress) policy requirements to construct a dwelling at 242 Frank Ave, City of Windsor, be approved. **Carried.**

**B. Hearing Board to Reconvene as the Executive Committee**

**Resolution EC 05/24** Moved by Larry Verbeke

Seconded by Kieran McKenzie

THAT the Hearing Board reconvene as the Executive Committee. **Carried.**

**6. Tenders**

**A. TENDER Jack Miner Wetland Construction Project, 263 Road 3W Kingsville**

**Resolution EC 06/24** Moved by Kieran McKenzie

Seconded by Sue Desjarlais

THAT the tender for Jack Miner Wetland Construction, 263 Road 3 W, Kingsville ON in the amount of \$28,970.00 (+HST) be awarded to 2775738 ON Inc. o/a Warkentin Fabricating subject to favourable review by Administration. **Carried.**

**7. Reports for Approval**

**A. EC 01/24 2024 Restoration Material (Tree Stock)**

**Resolution EC 07/24** Moved by Larry Verbeke

Seconded by Sue Desjarlais

THAT the current restoration material procurement process and estimated total costs of \$201,850 be acknowledged and approved by the Executive Committee. **Carried.**

**B. EC 02/24 John R Park Homestead Revised Scope of Work, Phase 2**

**Resolution EC 08/24** Moved by Sue Desjarlais

Seconded by Kieran McKenzie

THAT the Executive Committee receive and approve an updated Fee Proposal related to additional consulting fees for the expanded scope of work for Phase 2 of the John R. Park Homestead Restoration Project undertaken by George Robb Architect; and further,

THAT additional work and associated costs be obtained and managed within the current contract with the previously approved contractor, Heritage Restoration Incorporated. **Carried.**

**8. Committee of the Whole**

None

**9. New Business**

**10. Other Business**


**A. Next Meeting**

The next meeting of the ERCA Board of Directors will be held on Thursday, February 15, 2024, starting at 6:00 p.m. in Council Chambers at the Civic Centre, Essex.

**11. Adjournment**

**Resolution EC 09/24** Moved by Larry Verbeke  
Seconded by Tania Jobin

THAT the February 15, 2024 Meeting of the Essex Region Conservation Authority Executive Committee be adjourned. **Carried**



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**Jim Morrison**  
Chair



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**Tim Byrne**  
CAO/Secretary-Treasurer



## Essex Region Conservation Authority

### Board of Directors

BD05/24

From: James Bryant, P.Eng., Director of Watershed Management Services

Date: Tuesday, March 19, 2024

**Subject: New Conservation Authorities Act, Regulations, and Interim Policy Guidelines for Development Reviews**

Legislative Action: [Conservation Authorities Act, R.S.O. 1990, Chapter 27](#)  
[Ontario Regulation 41/24 \(Prohibited Activities, Exemptions, and Permits\)](#)  
[Ontario Regulation 42/21 \(Mandatory Programs and Services\)](#)  
[Ontario Regulation 688/21 \(Rules of Conduct in Conservation Area\)](#)

**Recommendation:** THAT the Essex Region Conservation Authority Board of Directors approve and adopt the documents listed herein under Interim Policies and Procedures, for implementation on the provincially set date of April 1, 2024.

### Summary

- Significant amendments have been made to the *Conservation Authorities Act*, along with the introduction of a new province-wide regulation specific to development activities.
- The new provisions to the *CA Act* and supporting Section 28 and 29 regulations come into effect on April 1, 2024.
- CAs are required to complete significant administrative and technical work to update resources, policies, and procedures related to development reviews in order to align with the new provisions of the *Act* and supporting regulation.

### Discussion

On February 16, 2024, the Ministry of Natural Resources and Forestry issued a “Decision Notice” on the *Environmental Registry of Ontario*, which provides notice of the province’s decision to move ahead with regulatory changes under the *Conservation Authorities Act (CA Act)*. This decision, aimed at supporting Ontario’s Housing Supply Action Plan, will enact the various changes made to the *CA Act* that have been ongoing for the past seven years, through four Bills that were introduced to the Legislative Assembly of Ontario. In addition to accelerating housing development approvals, the changes are also intended to further focus Conservation Authorities on their core mandate, support faster and less costly approvals, and streamline CA processes. Details of the relevant Bills are included in Table 1 below.

Table 1: Recent Bills that have amended the Conservation Authorities Act

Bill	Act Name	Act Date	Date of Royal Assent
139	Building Better Communities and Conserving Watersheds Act	2017	December 12, 2027
108	More Homes, More Choice Act	2019	June 6, 2019
229	Protect, Support and Recover from COVID-19 Act	2020	December 8, 2020
23	More Homes Built Faster Act	2022	November 28, 2022

Previously unproclaimed sections of the CA Act will come into force on April 1, 2024. Of significant importance are the revocation of CA-specific Section 28 and 29 regulations. More specifically, ERCA administered Section 28 and 29 of the Act through the following two regulations:

- Section 28 – *Ontario Regulation 158/06: Essex Region Conservation Authority: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*
- Section 29 – *R.R.O. 1990, Reg. 104: Conservation Areas – Essex Region*

The above noted regulations will be revoked and replaced with new Minister’s regulations, which support the changes to the CA Act. Relevant regulations that come into effect on April 1<sup>st</sup>, 2024, are described further below in Table 2.

Table 2: Relevant Regulations and Impacts

New Regulation	Date Released	Date in Effect	Impact
O. Reg. 688/21: Rules of Conduct in Conservation Areas	October 2021	April 1, 2024	R.R.O. 1990, Reg 104 is revoked. All CA S.29 regulations amalgamated into this new regulation.
O. Reg. 41/24: Prohibited Activities, Exemptions, and Permits	February 2024	April 1, 2024	O. Reg. 158/06 is revoked. All CA S.28 regulations are amalgamated into this new regulation. Includes submission requirements and exemptions.
O. Reg. 42/24: Mandatory Programs and Services	February 2024	April 1, 2024	Amends O. Reg. 686/21: Mandatory Programs and Services, originally released in December 2022. Adds permitting reporting standards and requirements.

The proclamation of the new legislative and regulatory framework necessitates updates to ERCA’s policies and procedures related to development activities. Below is a summary of the key changes that

affect the various policies and procedures currently in-place, followed by recommendations for interim policies, and required next steps.

## Summary of Key Changes

### 1. Definition of Regulation Limits

- The definition of *watercourse* was amended from “an identifiable depression in the ground in which a flow of water regularly or continuously occurs” to “a defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs”.
- The regulated area adjacent to a wetland was changed to 30 metres for all wetlands (formerly 120 metres for provincially significant wetlands or wetlands greater than 2 hectares. ERCA already applied a 30-metre regulatory/interference limit for wetlands that were not “provincially significant” and less than 2 hectares in size).
- The regulated area adjacent to floodplains is changed from “not to exceed 15 metres” to 15 metres.

### 2. Regulation Mapping

- Maps depicting regulated areas must be made available to the public on an authority’s website. This has generally been a best practice at ERCA, with best-available maps being available to the public for over 15 years.
- Regulated area mapping must be reviewed at least once annually to determine if updates are required, with updates made available to the public.
- Where significant mapping updates are to be made, an authority shall provide notice to the public, municipalities, and stakeholders at least 30 days prior to any authority meeting to consider the changes.

### 3. Permit Exemptions

- Permit exemptions are explicitly stated within Section 5 of the new Section 28 regulation (O. Reg. 41/24). Note that some of the exemptions already align with ERCA’s current practice, such as those given to floating docks and select minor road surface repairs (not roadway expansion projects).

### 4. Permit Applications

- An authority must engage in pre-consultation if requested by an applicant.
- A new detailed list of permit application requirements is provided, including fee submission, and landowner authorization. Note that such authorizations are not a departure from current ERCA practices.
- Applicants must be notified in writing, within 21 days of the Authority receiving the application if the application is deemed complete.
- Once an application is deemed complete, new studies/plans cannot be requested.



- An applicant may request an Administrative Review by an authority if no notice of complete application is received within 21 days or if the applicant disagrees with the authority's determination of a complete (or incomplete) application, including requests for additional information. Reviews must be completed within 30 days of receiving the request.
- Notice of decision for all permits must be given within 90 days of an application being deemed complete. Formerly, this had no legislative timeframe; however, best practices were 30 days for decisions on minor applications and 90 days for major applications.
- Requests for permit fee reconsideration must be responded to within 30 days and can be appealed to the Ontario Land Tribunal (OLT) for non-decision or continued objection of fee amount.

## 5. Permits

- Existing decision criteria or "tests" for a permit related to *pollution and conservation of land* were removed.
- New decision criteria or "tests" were added and include *unstable soil or bedrock, health or safety of persons, and damage or destruction of property*.
- Permit conditions are limited to those which assist in preventing or mitigating hazards or effects on health and safety or property damage, or which support permit administration.
- The maximum permit validity for permits issued by the delegated authority was increased from 24 months to 60 months.
- New powers for the Minister of Natural Resources and Forestry to issue permits and/or direct an authority not to issue a permit were added.
- Applicants may request a Minister's Review where an authority refuses to issue a permit or imposes conditions on a permit to which an applicant objects.

## 6. Enforcement

- New ability to issue "Stop Work Orders".
- Maximum fines for offences were increased:
  - In the case of an individual:
    - A fine of not more than \$50,000 or a term of imprisonment of not more than three months, or both.
    - An additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues.
  - In the case of a corporation:
    - A fine of not more than \$1,000,000.

- An additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues.

## 7. Other

- Authorities shall develop policy and procedure documents for permit applications and reviews.
- Authorities shall prepare and publish an annual report that outlines statistics on permits and its level of compliance with the requirements of *O. Reg. 41/24 Prohibited Activities, Exemptions and Permits*.

## 8. Conservation Areas (Section 29)

- Enactment of *O. Reg. 688/21 Rules of Conduct in Conservation Areas*, which replaces ERCA's current Section 29 regulation (*R.R.O. 1990, Reg 104*).
  - Outlines prohibited activities and activities requiring a permit.
  - Enforcement provisions remain unchanged.

## **Current Implementation Activities and Progress Status**

ERCA staff are working on implementing the legislative and regulatory changes; however, it is impossible to complete all of the necessary updates and documentation by April 1, 2024. To date, ERCA has addressed the following:

### Delegation of Powers:

The delegation of powers related to the issuance, cancellation, and hearings, in accordance with Section 28.4 of the amended *CA Act*, is addressed through report BD06.24.

### Appointment of Provincial Offences Officers:

The appointment of Provincial Offences Officers, in accordance with Section 30.1 of the amended *CA Act*, is addressed through report BD07.24.

### Communications:

An overview of changes has been provided to the municipal partners (Building, Planning, and Engineering) on March 20<sup>th</sup>, 2024. Further communication to the public will take place no later than March 29<sup>th</sup>, 2024, following decisions by the Board of Directors.

### Administrative Updates

Administrative updates are ongoing, with changes made to the application for permit, cover letter, and permit, which must now reference Ontario Regulation 41/24, are complete and will be implemented immediately on April 1, 2024. Staff will continue to review and make all necessary changes to all forms of communications, including the ERCA website.

### Interim Policies and Procedures

Staff are working to complete a legislative and regulatory conformity exercise of existing development review policies and will bring forward a complete update to the Board as soon as possible. Until such time, it is recommended that the following documents, in addition to various technical documents and resources typically relied upon, be approved as Interim Policies and Procedures:

- Interim Guidelines to Support Conservation Authority Administration of Ontario Regulation 41/24, 2024 (prepared by Conservation Ontario & Section 28 Committee) as amended by ERCA Administration, along with the referenced documents therein.
- Essex Region Conservation Authority Draft Regulations and Planning Policy Manual (2006)
- Essex Region Conservation Authority Policies, Guidelines and Procedures for Fill, Construction and Alteration to Waterways Regulations and Review of Planning Documents and Development Proposals (1987)
- All applicable technical studies, resources, and manuals applicable to the application of Section 28 of the *CA Act* and Ontario Regulation 41/24.

It should be noted that, the application of all policy manuals, technical resources, and the exercising of judgment related to development activities will be in accordance with the amended *Conservation Authorities Act* and Ontario Regulation 41/24. Additionally, where discrepancies exist between the text of the legislation or regulation and the policy resources listed above, the text of the legislation and regulation will prevail.

### **Next Steps**

As previously stated, implementation of all aspects related to the legislative and regulatory changes cannot be completed by April 1, 2024. Below is a list of the next steps required to be fully in compliance. It is anticipated that the Authority can be in general conformance with these changes by the start of Q3 2024.

- Mapping revisions to reflect the changes to the extent of regulated areas. It should be noted that any discrepancies, now and in the future, between the legislation or regulation and any regulatory mapping resource, the legislation and regulation will prevail.
- Finalize the update of ERCA's policies and procedures for development reviews. Public consultation will be completed as required and in line with legislative requirements.
- Review ERCA's fee policy.
- Update all legislative and regulatory references on all forms of communication.
- Continue to communicate with municipal partners.
- Review financial impacts associated with exemptions and changes to regulatory limits and plan for budgetary impacts in 2025. Numerous factors continue to affect revenue generation associated with development applications, including legislative and regulatory changes outlined herein, market conditions, and previously introduced ministerial direction (i.e., back-to-back years with fee freezes).

**Approved By:**



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Tim Byrne, CAO/Secretary Treasurer

**Attachment:**

- Interim Guidelines to Support Conservation Authority Administration of Ontario Regulation 41/24, 2024 (prepared by Conservation Ontario & Section 28 Committee) as amended by ERCA Administration (this document is available upon request by contacting [admin@erca.org](mailto:admin@erca.org))



## Essex Region Conservation Authority

### Board of Directors

BD06/24

From: James Bryant, P.Eng., Director of Watershed Management Services

Date: Wednesday, March 20, 2024

**Subject: Delegation of Powers Related to Permit Issuance, Cancellation, and Hearings**

Legislative Action: [Conservation Authorities Act, R.S.O. 1990, Chapter 27](#)  
[Ontario Regulation 41/24 \(Prohibited Activities, Exemptions, and Permits\)](#)

**Recommendation:** THAT the Essex Region Conservation Authority Board of Directors delegate powers, effective April 1, 2024, related to Permit Issuance, Cancellation, and Hearings, to those administrative positions, Board Executive Committee, and Members of the Authority (full Board), as recommended in Table 1 of BD06.24

### Summary

- The *Conservation Authorities Act* will be amended on April 1, 2024, which includes proclamation of Part VI (*Regulation of Areas Over Which Authorities Have Jurisdiction*) of the Act.
- Delegation of Powers will now be through Section 28.4 of the amended *CA Act*.
- Delegation of Powers provides continued opportunity to streamline processes.

### Discussion

On April 1, 2024, the *Conservation Authorities Act (CA Act)* will be amended, including the proclamation of Part VI (*Regulation of Areas Over Which Authorities Have Jurisdiction*). Included in this proclamation is the enactment of Section 28.4 (*Delegation of Power*). Through this subsection, an Authority may delegate any of its powers related to the issuance or cancellation of permits under the *CA Act* or the regulations, or to the holding of hearings in relation to the permits, to the Authority's Executive Committee or to any other person or body, subject to limitations or requirements that may be prescribed by regulation. Prior to April 1, 2024, delegation of such powers was through Section 28(2) of the *CA Act*. Upon proclamation of Part VI of the amended Act, Section 28(2) will be repealed and replaced with Section 28.4.

Past Board direction, most recently through BD.06.21, delegated powers related to such matter to the Chief Administrative Officer and other senior staff (Director of Watershed Management Services, Water Resources Engineer, and Regulations Coordinator). Additionally, Hearings were also delegated in such a way that either the Executive Committee or the Full Board could act as the Hearing Committee to make decisions on applications that required Board approval. The recommendations included herein are aimed to continue with the appropriate delegation of powers and align them with the amended

Conservation Authorities Act and regulation. Table 1 provides Administration’s recommendation for delegation of powers for specific activities.

Table 1: Recommended Delegation of Powers

Activity	Recommended Delegation	Rationale
Issuance & Extension of Permits  <i>(up to maximum period of validity)</i>	<ul style="list-style-type: none"> <li>• Chief Administrative Officer</li> <li>• Director of Watershed Management Services</li> <li>• Water Resources Engineer</li> <li>• Regulations Coordinator</li> <li>• Executive Committee</li> <li>• Members of the Authority (Full Board)</li> </ul>	<ul style="list-style-type: none"> <li>• Delegation of Powers to staff is consistent with past practice and provincial direction.</li> <li>• Expediency of review/issuance within legislated timeframes (new requirement)</li> <li>• Hearings further to an Authority’s notice of intent to refuse an extension request would be subject to the <i>Statutory Powers and Procedure Act</i>.</li> </ul>
Cancellation of Permits	<ul style="list-style-type: none"> <li>• Chief Administrative Officer</li> <li>• Director of Watershed Management Services</li> </ul>	<ul style="list-style-type: none"> <li>• Cancellation of permits involves opportunity for Hearing.</li> <li>• Hearings would be subject to the <i>Statutory Powers and Procedure Act</i>.</li> <li>• Decisions are subject to appeal to the Ontario Land Tribunal.</li> </ul>
Hearings <ul style="list-style-type: none"> <li>• Section 28.1 (Permits)</li> <li>• Section 28.1.2 (Mandatory Permits, Zoning Orders)</li> <li>• Section 30.4 (Stop Order)</li> </ul>	<ul style="list-style-type: none"> <li>• Executive Committee</li> <li>• Members of the Authority (Full Board)</li> </ul>	<ul style="list-style-type: none"> <li>• Consistent with past practice.</li> <li>• Hearings would be subject to <i>Statutory Powers and Procedure Act</i>.</li> <li>• Decisions are subject to appeal through request for Minister’s review or to the Ontario Land Tribunal</li> </ul>

Table 1 (Continued): Recommended Delegation of Powers

Activity	Recommended Delegation	Rationale
Administrative Reviews (requests administrative review on whether an application should be deemed "complete")	<ul style="list-style-type: none"> <li>• Chief Administrative Officer</li> <li>• Director of Watershed Management Services</li> </ul>	<ul style="list-style-type: none"> <li>• Limited timeframe to complete the review (30 days)</li> <li>• Reviewer should have knowledge of CA application processes and familiarity with CA Development policies &amp; guidelines.</li> <li>• Decision is related to confirmation of complete application / administrative processes <u>only</u>, not a decision on whether the permit should be issued.</li> <li>• Review process is not subject to <i>Statutory Powers Procedure Act</i>.</li> <li>• No mechanism within the CA Act for appeal.</li> <li>• Delegation is consistent with provincial direction.</li> </ul>
Customer Service Concerns	<ul style="list-style-type: none"> <li>• Chief Administrative Officer <i>(acting as "Client Service Facilitator")</i></li> </ul>	<ul style="list-style-type: none"> <li>• Addressing concerns, not decision making (lower risk)</li> <li>• Other high-growth CAs have "client service facilitators."</li> <li>• Consistent with Conservation Ontario Client Service Standards and Streamlining Initiative.</li> </ul>

The above recommendations will align ERCA’s delegation of powers with the new provisions in Part VI of the amended *CA Act*, as of April 1, 2024. It should also be noted that such delegation of powers presents an opportunity to further streamline administrative components of permit review and decision-making processes and enhance customer experiences with the Authority.

Approved By:




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Tim Byrne, CAO/Secretary Treasurer



## Essex Region Conservation Authority

### Board of Directors

BD07/24

From: James Bryant, P.Eng., Director of Watershed Management Services

Date: Thursday, March 21, 2024

**Subject: Appointment of Provincial Offences Officers under the CA Act and Delegation of Authority under the Trespass to Property Act**

Legislative Action: [Conservation Authorities Act, R.S.O. 1990, Chapter 27](#)  
[Ontario Regulation 41/24 \(Prohibited Activities, Exemptions, and Permits\)](#)  
[Ontario Regulation 688/21 \(Rules of Conduct in Conservation Areas\)](#)  
[Trespass to Property Act, R.S.O., 1990, c. T.21](#)  
[Provincial Offences Act, R.S.O. 1990, c. P. 33](#)

**Recommendation:** THAT the Essex Region Conservation Authority Board of Directors designate those individuals identified in Table 2 within BD07/24 as a Provincial Offences Officers under *S.30.1* of the *Conservation Authorities Act* to enforce Section 28 & 29 of the Act and applicable regulations, as amended from time to time; and further

THAT the Essex Region Conservation Authority Board of Directors also delegate those same individuals as Agents of the Authority for the purposes of the *Trespass to Property Act*.

### Summary

- The ERCA designates Provincial Offences Officers under the *Conservation Authorities Act* to ensure compliance with Section 28 and Section 29 of the Act.
- The appointment of Provincial Offences Officers is required to be consistent with the amended *Conservation Authorities Act*, *O. Reg. 41/24*, *O. Reg. 42/24*, and *O. Reg. 688/21*.
- To be designated, staff must meet minimum provincial training standards and hold a clear criminal record.
- Several staff members within the Watershed Management Services and Conservation Services departments are required to be designated as Provincial Offences Officers as it is a core responsibility of the positions.

### Discussion

The ERCA has historically appointed various individuals within positions in the Watershed Management Services and the Conservation Services departments as Provincial Offences Officers. Such officers ensure



compliance with Section 28 and Section 29 of the *Conservation Authorities Act* and applicable Section 28 and 29 regulations. Until recently, each conservation authority operated with CA-specific regulations, one each for Section 28 and 29. ERCA's two regulations were as follows:

- Section 28 – *Ontario Regulation 158/06: Essex Region Conservation Authority: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*
- Section 29 – *R.R.O. 1990, Reg. 104: Conservation Areas – Essex Region*

In general, enforcement under Section 28 of the Act relates to development activities within regulated areas, while enforcement under Section 29 of the Act relates to rules of conduct within Conservation Areas. The ERCA Board of Directors appointed Officers through regulations made under *S.28(1)(d) of the Conservation Authorities Act*, for enforcement of both Section 28 and 29 of the Act.

Recently, many changes to the Conservation Authorities Act have occurred through the following Bills:

- *Building Better Communities and Conserving Watersheds Act, 2017* (Bill 139)
- *More Homes, More Choice Act, 2019* (Bill 108)
- *Protect, Support and Recover from COVID-19 Act, 2020* (Bill 229)
- *More Homes Built Faster Act, 2022* (Bill 23)

Not all of the changes made through the above listed Acts were enacted and many required supporting regulations. Relevant regulations to Section 28 and 29 are described below in Table 1.

Table 1: Select New Regulations Related to S.28 and 29 of the CA Act

New Regulation	Date Released	Impact
O. Reg. 688/21: Rules of Conduct in Conservation Areas	October 2021	R.R.O. 1990, Reg 104 is revoked. All CA S.29 regulations amalgamated into this new regulation.
O. Reg. 41/24: Prohibited Activities, Exemptions, and Permits	February 2024	O. Reg. 158/06 is revoked. All CA S.28 regulations are amalgamated into this new regulation
O. Reg. 42/24: Mandatory Programs and Services	February 2024	Amends O. Reg. 686/21: Mandatory Programs and Services, originally released in December 2022.

As described in the table above, Section 28 and Section 29 regulations have been amalgamated, respectively, for all conservation authorities. Additionally, *O. Reg. 42/24* amended *O. Reg 686/21: Mandatory Programs and Services* requiring that the Authority satisfy its duties, functions, and responsibilities to administer *Part VI (Regulation of Areas over which Authorities Have Jurisdiction)* and *Part VII (Enforcement and Offences)* of the *CA Act* and any regulations made under those Parts. Note that *O. Reg. 41/24*, *O. Reg. 42/24*, and changes to the *CA Act* all take effect on April 1, 2024.

Further to the above noted changes, the Minister of Natural Resources and Forestry has also updated the "Class Designation" under the *Provincial Offences Act (POA)*, enabling designated Officers to exercise their duties under the *POA*, specifically related to offences under both the *CA Act* and the *Trespass to Property Act*. This "Class Designation" is attached with this report.

Therefore, to remain consistent with the amended *CA Act* and related regulations, and as of April 1, 2024, the reappointment of existing Provincial Offences Officers, and the appointment of new officers must now be in accordance with Section 30.1 of the *Conservation Authorities Act*. To be appointed as a Provincial Offences Officer under the *CA Act* by ERCA, the individual must successfully complete training in the legislation that they are to enforce. This includes the *Conservation Authorities Act*, *Provincial Offences Act*, and the *Trespass to Property Act*. Additionally, the individual being considered for appointment must provide Administration with proof of a clear criminal record. These requirements have not changed from past ERCA policies and legislation.

To conform with the new legislation, the individuals listed in Table 2 are recommended to be appointed as Provincial Offences Officers, under Section 30.1 of the *CA Act*, to ensure compliance with Sections 28 and 29 of the *Act*, and supported by the applicable regulations, for the area under the jurisdiction of the Essex Region Conservation Authority. Additionally, those listed below are also recommended to be delegated authority under the *Trespass to Property Act*.

Table 2: Individuals to be Appointed as Provincial Offences Officers under S.30.1 of the *CA Act*, and those delegated authority under the *Trespass to Property Act*.

Name	Position	Department	Appointment
Tim Byrne	CAO / Secretary-Treasurer	Corporate Services	Reappointment
Dan Jenner	Regulations Coordinator	Watershed Management Services	Reappointment
Ashley Gyori (on Leave)	Regulations Analyst	Watershed Management Services	Reappointment
Sydney Richmond (on Leave)	Regulations Analyst	Watershed Management Services	Reappointment
Bill Tate	Superintendent, Field Operations	Conservation Services	Reappointment
Nathan MacDonald	Senior Conservation Area Technician	Conservation Services	Reappointment
Bevin Martin	Senior Conservation Area Technician	Conservation Services	Reappointment

Any new staff that occupy positions with Section 28 and 29 enforcement responsibilities will be appointed, as necessary, upon successfully completing the necessary training and providing proof of a

clean Police Record Check (Criminal Record), consistent with the applicable legislation and ERCA policies.

**Approved By:**



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Tim Byrne  
CAO/Secretary Treasurer

**Attachment:**

- Ontario Minister of Natural Resources and Forestry's "Class Designation" under the *Provincial Offences Act* (March 20, 2024)



## DESIGNATION

### ONTARIO MINISTRY OF NATURAL RESOURCES AND FORESTRY

Under the authority of subsection 1(3) of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, I, GRAYDON SMITH, do hereby designate the class of persons in Column 1 of the attached Schedule as a provincial offences officer for the Acts and accompanying regulations, subject to any listed restrictions, described in Column 2 of the item.

This designation revokes Item 9 of the previous designation by the Minister of Natural Resources and Forestry, dated August 29, 2007, and comes into force on the later of April 1, 2024 and the day this designation is signed.

Dated at TORONTO this 20 day of March, 2024.

Honourable Graydon Smith  
Minister of Natural Resources and Forestry

**SCHEDULE – DESIGNATION OF PROVINCIAL OFFENCES OFFICERS**

Item	Column 1 Class of Persons	Column 2 Class of Offences
1.	Any officer appointed under section 30.1 of the <i>Conservation Authorities Act</i>	All offences under the following Acts and accompanying regulations when carrying out duties within their conservation authority:  <i>Conservation Authorities Act</i> <i>Trespass to Property Act</i>



## Essex Region Conservation Authority

### Board of Directors

BD08/24

From: James Bryant, P.Eng., Director of Watershed Management Services  
Dan Jenner, Regulations Coordinator

Date: Tuesday, March 19, 2024

**Subject: Update to ERCA's Hearing Guidelines**

Legislative Action: [Conservation Authorities Act, R.S.O. 1990, Chapter 27](#)  
[Ontario Regulation 41/24 \(Prohibited Activities, Exemptions, and Permits\)](#)

**Recommendation:** THAT the Essex Region Conservation Authority Board of Directors approve the updated Hearing Guidelines, dated March 28, 2024, which reflects changes to the *Conservation Authorities Act and Ontario Regulation 41/24*; and further,

THAT Administration make any "housekeeping" updates to the approved Hearing Guidelines, including but not limited to potential amendments based upon any new template being released by Conservation Ontario, with all revisions appropriately tracked; and further,

THAT Administration make a commitment to an annual review of the ERCA Hearing Guidelines to ensure consistency and compliance with current applicable legislation.

### Summary

- Changes to Sections 28 and Section 30 of the *Conservation Authorities Act* will come into effect on April 1, 2024. Such changes include new methods of appeals, appeal timelines, and new enforcement provisions.
- The changes to the Act necessitate updates to ERCA's Hearing Guidelines.

### Discussion

The purpose of the updated Hearing Guidelines is to reflect the changes to the *Conservation Authorities Act (CA Act)*, which come into effect on April 1, 2024. Hearing Guidelines provide a clear and consistent process for applicants that have requested a hearing by the Conservation Authority Board. The *CA Act* requires that the applicant be party to a hearing by the local Conservation Authority Board or Executive Committee (where either body sits as the "Hearing Board") for an application to be cancelled, refused or approved with or without conditions. In the past, the Members of the Authority as well as the Executive Committee have acted in the capacity of Hearing Board to hear such appeals, issue approvals with or

without conditions, and on the rare occasion, refuse a permission. In addition to such circumstances, the *CA Act* now also grants the right to a Hearing in two new situations:

- At the request of a person served an Order under Part VII (Enforcement and Offences) of the *Conservation Authorities Act*. Such an Order is generally referred to as a "Stop Work Order".
- At the request of a holder of a permission ("permit holder") when it is the Authority's intention to cancel the permission.

Both of the above noted situations are new provisions to the *Conservation Authorities Act* and will be enacted, along with a number of changes, on April 1, 2024.

In the past, Conservation Ontario (CO) worked with and on behalf of all conservation authorities, to develop a template for Hearing Guidelines, which described the process for conducting such Hearings. Generally, each Conservation Authority has used the template as a basis for Authority-specific guidelines, adopted by each respective Conservation Authority Board. Since the ERCA Board adopted the original hearing guidelines in December 2005, there have been two major updates to the document, both of which are described below.

- 2018 – reflected changes to the *CA Act* with respect to appeal processes.
- 2020 – added provisions for electronic hearings during the COVID-19 pandemic.

While it is typical of Conservation Ontario to take the lead on updating such a template, CO's focus has largely been on development review policy related to the changes to the *CA Act* and the new supporting regulations, all of which also take effect on April 1, 2024. CO has been coordinating province-wide discussions on these changes, including consolidating conservation authority-specific questions and concerns, which continue to be brought forward to the Ministry of Natural Resources and Forestry. It is CO's intention to review, update, and redistribute a more current version of the CO Hearing Guidelines soon. However, as the Members of the Essex Region Conservation Authority hears many appeals year-to-year, necessary updates to ERCA's Hearing Guidelines were completed by staff. This work was completed in advance of CO's work to ensure that the most up-to-date procedural document is available for use by Administration, the Board, and the public, and to provide a path forward that is in concert with the new legislation. Changes that have been completed include references to sections of the *CA Act* for all relevant aspects, including but not limited to appeals to the Ontario Land Tribunal and new appeal mechanisms to the Minister of Natural Resources and Forestry. The amended Hearing Guidelines are attached with this report. Along with the necessary updates with respect to changes in legislation, these updated guidelines offer improved transparency for applicants who wish to pursue an appeal to the Board.

It is recommended the attached Hearing Guidelines, which reflect changes to the *Conservation Authorities Act*, be approved. Further changes which do not affect the process and are generally administrative or "housekeeping" in nature, are recommended to be completed by ERCA Administration. Records of all such changes will be maintained within the amended Hearing Guidelines under "Revision Record and Version Tracking". Significant changes will be brought back to the Board for approval.

**Approved By:**



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Tim Byrne  
CAO/Secretary Treasurer

**Attachments:**

- Updated (draft) Hearing Guidelines March 28, 2024



Essex Region Conservation Authority's

**DRAFT**

# Hearing Guidelines

under the

## Conservation Authorities Act



Thursday, March 28, 2024

**Revision Record and Version Tracking**

Revision No.	Date	Comments/Description	Approval
0	March 28, 2024	ERCA Hearing Guidelines (2020) amended to reflect significant changes to CA Act and O. Reg. 41/24, and repeal of O. Reg. 158/06.	ERCA Board of Directors
-	-	-	-
-	-	-	-

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## Essex Region Conservation Authority' Hearing Guidelines

### 1.0 Purpose of Hearing Guidelines

The purpose of the Hearing Guidelines is to provide a clear and consistent process for applicants that have requested a hearing by the Conservation Authority Board. The Act requires that the applicant be party to a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be cancelled, refused or approved with or without conditions. The *Conservation Authorities Act* also grants a right to a Hearing for any person served an Order under Part VII of the *Conservation Authorities Act*. A permit may be refused, or conditions attached if in the opinion of the Authority it is necessary to do so to control flooding, erosion, dynamic beaches, or unstable soil or bedrock. In addition, a Hearing may be convened at the request of a holder of a permission ("permit holder") when it is the Authorities intention to cancel a permission. The Hearing Board is empowered by law to make a decision, governed by the *Statutory Powers Procedures Act*. It is the purpose of the Hearing Board to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant and to decide whether the application will be approved with or without conditions or refused, or as the case, may be cancelled.

These guidelines have been prepared as an update to the hearing guidelines and are intended to guide the Essex Region Conservation Authority Hearing Board in conducting hearings required under Part VI and VII of the *Conservation Authorities Act*. The Hearing Board are bound by its administrative procedures related to rules of order, motions, and voting and by the *Statutory Powers Procedure Act*.

The guidelines will promote the necessary consistency for applicants and ensure that hearings meet the legal requirements of the *Statutory Powers Procedures Act* without being unduly legalistic or intimidating to the participants.

### 2.0 Prehearing Procedures

#### 2.1 Apprehension of Bias

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- a) No member of the Authority taking part in the hearing should be involved, either through participation in committee or intervention on behalf of the applicant or other interested parties with the matter, prior to the hearing. Otherwise, there is a danger of an apprehension of bias which could jeopardize the hearing.
- b) Material related to the hearing should not be distributed in advance of the hearing. The Authorities Administration should provide the applicant with a copy of the staff report in advance of the hearing and the applicant should also provide any written or electronic material

to the authority a minimum of five (5) days in advance of the hearing to allow administration to prepare information packages.

- c) In instances where the Authority (or Executive Committee) requires a hearing to help it reach a determination as to whether to give permission with or without conditions or refuse a permit application, a final decision shall not be made until such time as a hearing is held. The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

## 2.2 Application

The right to a hearing is required where staff is recommending refusal of an application, the applicant objects to the conditions of approval, the Authority intends to cancel a permission, or a person has been issued a Stop Order. The applicant is entitled to reasonable notice of the hearing pursuant to the Statutory Powers Procedures Act.

## 2.3 Notice of Hearing

The Notice of Hearing shall be sent to the applicant with sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time. Hearings generally are held on predetermined dates throughout the year that coincide with the meetings of the Board of Director and its Executive Committee. The authority is not required to schedule Hearings outside of these predetermined dates.

When a permission is being cancelled or the hearing is related to a stop order, there is a need to act quickly. In this case the Authority shall provide the permit holder at least 5 (five) days notice of the date of the hearing. Notice of a hearing date may be given verbally to provide as much notice to the permit holder as reasonably possible but shall be followed with written notice.

The Notice of Hearing must contain the following:

- a) Reference to the applicable legislation under which the hearing is to be held (i.e., the *Conservation Authorities Act*).
- b) The time, place, and the purpose of the hearing.
- c) If the hearing is to be held electronically, the time, purpose of the hearing, and details about the manner in which the hearing will be held.

Note: for electronic hearings the Notice must also contain a statement that the applicant should notify the Authority if they believe holding the hearing electronically is likely to cause them significant prejudice.

- d) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing.

Note: If this applicant is being represented by an agent other than legal counsel, the owner must provide written permission allowing their agent to appear on their behalf.

- e) The reasons for the proposed refusal, conditions of approval, cancellation, or details of the stop order shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so they can be adequately prepared for the hearing.

It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.

- f) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.

- g) Reminder that the applicant is entitled to be represented at the hearing by counsel, if desired.

It is recommended that the Notice of Hearing be directed to the applicant and/or landowner by registered mail, or if sent by email, written confirmation be received. Please refer to **Appendix 1** for an example Notice of Hearing.

The written Notice of Hearing shall be signed by a person delegated the power to issue or cancels permits under Section 28.4 of the *Conservation Authorities Act*.

## 2.4 Pre-submission Reports

It is not the practice of the Conservation Authority to submit reports to the Board members in advance of the hearing (i.e., inclusion on an Authority/Executive Committee agenda). Administration should provide the applicant with a copy of the staff report in advance of the hearing and shall provide the applicant sufficient time to prepare information that the hearing board will consider in arriving at a decision.

The Parties shall ensure that a complete set of their respective information material are exchanged a minimum of two weeks prior to the hearing to provide time for review. Subsequently, this may affect the timing and scheduling of the staff hearing reports.

Where the hearing is related to a cancellation of permission or a Stop Order, the parties shall ensure that the information material is exchanged as early as possible prior to the hearing, except where the intention is only to provide verbal testimony, in which case the parties should provide a brief explanation and description of the information that will be provided. Information can be exchanged prior to the scheduling of a hearing date.

## 2.5 Hearing Information

Prior to the hearing, the applicant shall be advised of the Conservation Authority's hearing procedures upon request.

## 3.0 Hearing

### 3.1 Public Hearing

Pursuant to the Statutory Powers Procedure Act, hearings, including electronic hearings, are required to be held in public. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

While hearings will be held in public and are open to attendance by the media, the filming of the hearing or the taking of pictures will not be permitted during the hearing by any person or persons unless permitted by the Chair.

### 3.2 Hearing Participants

The *Conservation Authorities Act* does not provide for third party status at the local hearing.

### 3.3 Attendance of Hearing Board Members

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant, refuse, or cancel the permission, must be present during the full course of the hearing. If it is necessary for a member to leave, the hearing must be adjourned and resumed when either the member returns or if the hearing proceeds, even in the event of an adjournment, only those members who were present after the member left can sit to the conclusion of the hearing.

### 3.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record.

Decisions, motions, resolutions, and other matters of procedure shall be in accordance with the By-laws of the Authority.

### 3.5 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as Appendix 2.



### 3.6 Information Presented at Hearings

- a) The *Statutory Powers Procedure Act*, requires that a witness be informed of their right to object pursuant to the *Canada Evidence Act*. The *Canada Evidence Act* indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- c) The Board may authorize to receive a copy rather than the original document. However, the Board can request certified copies of the document if required.
- d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- e) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc. or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

### 3.7 Conduct of Hearing

#### 3.7.1 Record of Attending Hearing Board Members

A record shall be made of the members of the Hearing Board.

#### 3.7.2 Opening Remarks

The Chairperson shall convene the hearing with opening remarks which generally; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the *Canada Evidence Act*. It may also be the practice that the Chairperson, after general opening remarks, request specific details related to the hearing be introduced by the staff representative familiar with the matter.

In an electronic hearing, all the parties and the members of the Hearing Board must be able to hear one another and any witnesses throughout the hearing.

Please reference Appendix 3 for the typical Opening Remarks model. (may be modified at the direction of the board, or discretion of the chair to suit the applicable hearing matter)

### 3.7.3 Presentation of authority Staff Information

Staff of the Authority presents the reasons supporting the recommendation for the cancellation, refusal, conditions of approval, or Stop Order. Any reports, documents or plans that form part of the presentation shall be received as evidence in support of staff's position.

Staff and or legal counsel of the Authority should not submit new information at the hearing as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

Generally, one staff member or legal counsel should coordinate the presentation of information on behalf of Authority staff and asks questions of the applicant on behalf of Authority.

### 3.7.4 Presentation of Applicant Information

The applicant has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received as evidence of the applicant's position.

The applicant shall present information as it applies to the permit, application, or stop order in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach, or unstable soils or bedrock? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning. Additionally:

- The applicant may be represented by legal counsel or agent, if desired.
- The applicant/permit holder should consider appointing a lead agent or counsel as the primary spokesperson at the hearing.
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

The applicant should not submit new information at the hearing as the Staff of the Authority will not have had time to review and provide a professional opinion to the Hearing Board.

### 3.7.5 Questions

Members of the Hearing Board may direct questions, through the Chair, to each speaker, after the speaker has provided their initial evidence. The applicant and/or agent can make any comments or questions on the staff report.

Pursuant to the *Statutory Powers Procedure Act*, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Note that the courts have been particularly sensitive to the issue of limiting questions and there is a

tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

### 3.7.6 Deliberation

After all the information is presented, the Board may adjourn the hearing and retire in private to confer. The Board may reconvene on the same date or at some later date to advise of the Board's decision. The Board members shall not discuss the hearing with others prior to the decision of the Board being finalized.

## 4.0 Decision

The applicant must receive written notice of the decision. The applicant shall be informed of the right to appeal the decision to the appeal body and timeframe specified in the *Conservation Authorities Act* or regulation.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. As part of the Notice of Decision, the Board shall specify the primary reasons for their decision, it is sufficient to reference the staff report. The information of particular significance, which led to their decision, including the staff, and applicant(s) information shall form a component of the record of hearing.

### 4.1 Notice of Decision

The Notice of Decision should include the following information:

- a) The identification of the applicant, property and the nature of the matter that was the subject of the hearing.
- b) The decision to cancel, refuse, approve the application, or Stop Order, and details of any conditions attached by the Authority. A copy of the Hearing Board resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail, alternatively, email if a response, other than an automatic response is received. A sample Notice of Decision and cover letter has been included as Appendix 4.

The Notice of Decision shall be sent within 15 days of the decision.

### 4.2 Adoption

The Board's final decision shall be confirmed in the form of a resolution.

## 5.0 Record of Hearing

- a) The Authority shall compile a record of the hearing. Recording devices may be used to assist with this, including both audio and video recordings. The record of hearing must include the following:
- b) The application for the permit, the permit in the case of a cancellation of permission, or the stop order.
- c) The Notice of Hearing.
- d) Any orders made by the Board (e.g., for adjournments).
- e) All information received by the Board.
- f) The minutes of the meeting made at the hearing.
- g) The decision and reasons for decision of the Board.
- h) The Notice of Decision sent to the applicant.

Note that no recording (audio/video) will take place during private deliberations (in camera sessions).

## Appendix 1: Notice of Hearing – Sample

### In the Matter of

The *Conservation Authorities Act*, R.S.O. 1990, Chapter 27

### And in the Matter of an Application by

[Name]

### FOR THE PERMISSION OF THE CONSERVATION AUTHORITY

Pursuant to Regulations made under Section 28.1, Subsection 5 [28.1.2 Subsection 7], [28.3 Subsection 2] of the said Act

**TAKE NOTICE THAT** a Hearing before the Executive Committee of the Conservation Authority will be held under [insert section] of the *Conservation Authorities Act* at the offices of the Essex Region Conservation Authority (360 Fairview Avenue West, Essex, Ontario), at the hour of **XXXX** on the day of, **[Month] [Day], 20XX**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by **[Name]** to permit development within an area regulated or with respect to the cancellation of Permit #XXXXXXXX granted to (Name) by the Authority in order to ensure no adverse affect on **[the control of flooding, erosion, dynamic beaches or pollution or conservation of land/alter or interfere with a watercourse, shoreline or wetland]** on Lot X, Plan/Lot X, Concession X / [Street] in the City of [City/Town/Municipality of], [Municipality], **[River/Drain]** River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Executive Committee for the meeting of **[meeting number]**. If you intend to appear, [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact **[Officer Name]**. Written material will be required by **[date]**, to enable the Committee members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Executive Committee of the Essex Region Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the **[day]** day of **[month]**, 20**XX**.

The Executive Committee of the Conservation Authority

Per: Chief Administrative Officer/Secretary-Treasurer

## Appendix 2: Hearing Procedures

1. Motion to sit as Hearing Board. If there is a requirement that the Hearing Board meet during extended periods between regularly scheduled Board of Directors meetings, the Board of Directors delegate the authority to act as Hearing Board to the Executive Committee as provided for in the *Conservation Authorities Act*.
2. Roll Call followed by the Chair's opening remarks. For electronic hearings, the Chair shall ensure that all parties and the Hearing Board are able to hear one another and any witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the applicant/owner, their agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the staff position on the application.
5. Staff and Applicants giving evidence are required to swear an oath or state an affirmation to tell the truth.
6. Staff will present the staff report and the reasons why the application is recommended for approval or denial.

The Applicant/permit holder (and or/ agent) will have the opportunity to ask questions to staff based on their presentation.

Following the Applicant/permit holder (and or/ agent) members of the Hearing Board will have the opportunity to ask staff questions.

7. The applicant/ permit holder (and/or agent) will make a presentation to the Hearing Board.
8. Staff and or counsel for the authority will have the opportunity to ask question of the applicant/ permit holder ( and or agent) followed by questions from the Board.
9. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
10. The Hearing Board may move into camera if needed for deliberations. For electronic meetings, if the Hearing Board moves into camera, steps must be taken to separate the Hearing Board deliberation from other participants.
11. If in camera, the Hearing Board will move out of camera.
12. Members of the Hearing Board will move and second a motion.
13. A motion will be carried which will culminate in the decision.

14. The Chairperson or Acting Chairperson will advise the owner/applicant of the Hearing Board decision.
15. If decision is "to refuse" or to uphold the cancellation of a permission, the Chairman or Acting Chairman shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunal within 30 days of receipt of the reasons for the decision.
16. Motion to move out of Hearing Board.



### Appendix 3: Chair's Hearing Opening Remarks

We are now going to conduct hearings under Section 28.1 of the *Conservation Authorities Act* in respect of [number of applications, example 4] application(s).

We, as the Hearing Board, are unaware of the matters being brought forward and we are only now receiving and reviewing the information provided by staff this on this day.

The Authority administers regulations under Part 6 of the *Conservation Authorities Act*, which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse affect on (the control of flooding, erosion, dynamic beaches or unstable soils or bedrock) or to permit alteration to a shoreline or watercourse or interference with a wetland. The Staff has reviewed the proposed works and a copy of the staff report has been given to the applicant.

The *Conservation Authorities Act* Section 28.1 subsection 3 provides that:

"An authority shall not refuse an application for a permit or attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority."

In holding these hearings, the Authority Board is to determine whether or not a permit is to be issued. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given, and the submissions to be made on behalf of each applicant.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*. Under Section 5 of the *Canada Evidence Act*, a witness may refuse to answer any question on the ground that the answer may tend to criminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal. However, this is a quasi-judicial process, and provides for evidence to be given in response to members' question. Therefore, staff and applicants will be asked to swear an oath or provide an affirmation to speak the truth.

In accordance with the Act, an applicant who has been refused permission or who objects to conditions imposed on a permission, may appeal the decision to the Ontario Land Tribunal who may refuse the permission, or grant permission with or without conditions.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the board.

As a reminder, the Hearings will be conducted in accordance with the approved Hearing Guidelines. We, as the Hearing Board, will question, if necessary, both the staff and the applicant/agent.

Before I ask [staff member] to introduce the applications, I would ask that they swear an oath or provide an affirmation to speak the truth for the duration of the Hearing Board.

NOTE: modifications will be made to the general opening remarks with respect to hearings conducted for the cancellation of permissions and Stop Order

**Appendix 4: Notice of Decision – Sample (Approval/Refusal)**

[Date]

**BY REGISTERED MAIL**

[name]

[address]

**RE: NOTICE OF DECISION**

Hearing Pursuant to Section 28 [insert relevant section] of the *Conservation Authorities Act* Proposed Development

Lot [X], Plan [X] ; [number] Drive, [City] of [Application #]

Dear:

In accordance with the requirements of the *Conservation Authorities Act*, the Essex Region Conservation Authority provides the following Notice of Decision:

On **[meeting date and number]**, the Hearing Board/Authority/Executive Committee refuse/approved your application/approved your application with conditions. A copy the Boards/Committee’s resolution # has been attached for your records. Please note that this decision is based on the following reasons: **[the proposed development/alteration to a watercourse or shoreline adversely affects the control of flooding, erosion, dynamic beaches or pollution or interference with a wetland or conservation of land]**.

In accordance with the *Conservation Authorities Act*, an applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under Subsection (7), appeal to the, Minister or within 90 days or to the Ontario Land Tribunal within 90 days of receiving the reasons appeal. The Minister or Ontario Land tribunal may refuse the permission or grant permission, with or without conditions. For your information, should you wish to exercise your right to appeal the decision, you will need to follow the processes set out by the Minister or the Ontario Land Tribunal. Requests for appeal should also be sent to this conservation authority.

Should you require any further information, please do not hesitate to contact (staff contact).

Yours truly,

Chief Administrative Officer

## Appendix 5: Notice of Decision – Sample (Cancellation)

[Date]

### BY REGISTERED MAIL

[name]

[address]

### RE: NOTICE OF DECISION

Hearing Pursuant to Section 28.3 (3) of the *Conservation Authorities Act*

Permit number:

Concession, Lot, Plan

In accordance with the requirements of the *Conservation Authorities Act*, The Essex Region Conservation Authority provides the following Notice of Decision.:

On ( Meeting date and Number) the Hearing Board for the Essex Region Conservation Authority refused/ approved the cancellation of your permit. A copy o the Board’s resolution # has been attached for your records. Please note that this decision is based on the following reasons: the proposal development/ alteration to a watercourse of shoreline adversely affects the control of flooding, erosion, dynamic beaches, or unstable soils or bedrock.

For your information, should you wish to exercise your right to appeal the decision, you will need to follow the processes set out by the *Conservation Authorities Act* Section 28.3 Subsection 6.

Should you require any further information, please do not hesitate to contact (staff contact).

Yours truly

Chief Administrative Officer

Enclosure.

**From:** [ca.office \(MNRF\)](#)  
**To:** [dheinbuck@abca.ca](#); [kfurlanetto@crca.ca](#); [generalmanager@catfishcreek.ca](#); [cdarling@cloca.com](#); [quentin.hanchard@cvc.ca](#); [tim.pidduck@crowevalley.com](#); [Tim Byrne](#); [llaliberte@grca.on.ca](#); [slawson@grandriver.ca](#); [t.lanthier@greysauble.on.ca](#); [hbasit@hrca.on.ca](#); [Lisa.Burnside@conservationhamilton.ca](#); [mmajchrowski@kawarthaconservation.com](#); [elizabeth@kettlecreekconservation.on.ca](#); [r.baldwin@lsrca.on.ca](#); Tammy Cook; [jmaxwell@lprca.on.ca](#); [mark.peacock@ltvca.ca](#); [Rhonda.bateman@lrc.on.ca](#); [pbeard@mvca.on.ca](#); [David.Vallier@mattagamiregion.ca](#); [smcintyre@mvc.on.ca](#); [csharma@npca.ca](#); [Carl.Jorgensen@ConservationSudbury.ca](#); [chitra.gowda](#); [dhevenor@nvca.on.ca](#); [jsmith](#); [bmcnevin@quinteconservation.ca](#); [richard.pilon@rrca.on.ca](#); [sommer.casgrain-robertson@rvca.ca](#); [E.Downing@SVCA.ON.CA](#); [cbarrett@ssmrca.ca](#); [cbickerdike@nation.on.ca](#); [kphillips@scrca.on.ca](#); [jmackenzie@trca.on.ca](#); [annett@thamesriver.on.ca](#); [acoleman@conservationontario.ca](#); [bhorner@abca.ca](#)  
**Cc:** [Keyes, Jennifer \(MNRF\)](#); [ca.office \(MNRF\)](#)  
**Subject:** **Update: Regulation of Development for the Protection of People and Property from Natural Hazards in Ontario – Ministry of Natural Resources and Forestry**  
**Date:** February 16, 2024 3:49:22 PM

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*\*This message is being sent on behalf of Jennifer Keyes, Director, Resources Planning and Development Policy Branch, MNRF\**

Good afternoon:

I am writing to inform you of the proclamation of provisions of the *Conservation Authorities Act* (the act), as well as the approval of Ontario Regulation (O. Reg.) 41/24: Prohibited Activities, Exemptions and Permits, and amendments to O. Reg. 686/21: Mandatory Programs and Services made under the act, all of which come into effect on April 1, 2024. This updated legislative framework and regulations will clarify and streamline regulatory requirements to focus on natural hazards and public safety and provide greater transparency in the permitting process.

I would like to acknowledge the ongoing efforts of conservation authorities in implementing these much-needed changes.

### **Legislative proclamations**

The amendments to the act that have been proclaimed to come into effect on April 1, 2024, including provisions regarding:

- Appeals of permit related fees to the Ontario Land Tribunal (OLT).
- Setting out the prohibited activities in the act instead of in individual conservation authority specific regulations, and enabling exceptions to the prohibitions.
- The issuance of permits by a conservation authority, including appeals to the OLT regarding permitting decisions, requests that the Minister of Natural Resources and Forestry (the minister) review a conservation authority permit decision, and appeals to the OLT if a decision is not made by a conservation authority within 90-days.
- Minister's orders directing a conservation authority not to issue a permit and, and where such an order is made, enabling the minister to issue a permit in the place of a conservation authority.
- Mandatory requirement for conservation authorities to issue permits where a minister's order has been made under section 34.1 or 47 of the *Planning Act* (continues the approach currently in effect).
- Updated enforcement powers and offence provisions under the act, including updated provisions for the appointment of officers, stop work orders and

increased penalties.

**New regulation for the protection of people and property from natural hazards** Effective April 1, 2024, O. Reg. 41/24: Prohibited Activities, Exemptions and Permits sets out details on: prohibited activities and areas where a conservation authority permit is required, exemptions from a permit for certain low-risk activities, the process for applying for a conservation authority permit, and service requirements for conservation authorities in reviewing permit applications. The new regulation will apply to all conservation authorities and the existing 36 conservation authority- specific regulations (“Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses”) and the regulation governing their contents (O. Reg. 97/04) will be revoked. This new regulation will ensure clear and consistent requirements for conservation authorities and permit applicants while still addressing local differences. Amendments to O. Reg. 686/21: Mandatory Programs and Services, also in effect April 1, 2024, prescribes requirements for conservation authorities to prepare an annual report that outlines statistics on permits, including reporting on their level of compliance with the requirements set out in O. Reg. 41/24.

**New regulation setting out rules of conduct in Conservation Areas**

Effective April 1, 2024, [O. Reg. 668/21: Rules of Conduct in Conservation Areas](#) comes into effect, and the conservation authority specific regulations will be revoked. This single regulation sets out the rules of conduct in conservation areas across the province. This new regulation generally maintains the requirements formerly set out in the individual regulations with some minor updates and re-numbering. The Ministry is also proposing amendments to Regulation 950: Proceedings Commenced by Certificate of Offence under the *Provincial Offences Act* to update the short form wordings to reflect the new regulation, and will be in contact regarding those updates in the upcoming weeks.

A decision notice is now available at the Environmental Registry of Ontario, posting #019-2927: [Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario](#).

The new and updated regulations will be published on e-laws in the coming days and a webinar will take place during the week of March 4<sup>th</sup> for conservation authorities and Conservation Ontario, for which you will be receiving an invitation shortly.

If you have any questions, please reach out to the Ministry of Natural Resources and Forestry at [ca.office@ontario.ca](mailto:ca.office@ontario.ca). I look forward to working with you to implement these changes.

Sincerely,

Jennifer Keyes

Director, Resources Planning and Development Policy Branch  
Ministry of Natural Resources and Forestry [ca.office@ontario.ca](mailto:ca.office@ontario.ca)

**Please Note:** As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

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