

April 16, 2024

Conservation Authorities and
Natural Hazards Section
Ministry of Natural Resources and
Forestry – RPDPB
By E-mail: ca.office@ontario.ca

Matthew Rae
MPP for Perth-Wellington
By E-mail: matthew.rae@pc.ola.org

RE: Conservation Authorities Act

Please note that in response to the attached Ministry of Natural Resources and Forestry's proposal "Regulation detailing new Minister's Permit and Review powers under the Conservation Authorities Act" on April 5, 2024, Council of the Municipality of West Perth at its Regular Council Meeting held on April 15, 2024, passed the following resolution:

RESOLUTION: 122/24

Moved By: Councillor Trentowsky

Seconded by: Councillor Duck

CARRIED

"That the Council for the Municipality of West Perth recommends to the province that any proposed changes contemplated by the province be put on hold until such time that the planning statement is finalized by the province and communicated to the municipalities and that this motion be circulated to the Association of Municipalities of Ontario (AMO) All Ontario Municipalities for support."

If you require further information, please do not hesitate to contact the Clerk's Department.



Daniel Hobson
Manager of Legislative Services/Clerk
Municipality of West Perth

cc: Matthew Rae, MPP for Perth-Wellington
Association of Municipalities of Ontario (AMO)
All Ontario Municipalities

Regulation detailing new Minister's Permit and Review powers under the Conservation Authorities Act.

ERO (Environmental Registry of Ontario) number	019-8320
Notice type	Regulation
Act	Conservation Authorities Act, R.S.O. 1990
Posted by	Ministry of Natural Resources and Forestry
Notice stage	Proposal
Proposal posted	April 5, 2024
Comment period	April 5, 2024 - May 6, 2024 (31 days) Open
Last updated	April 5, 2024

This consultation closes at 11:59 p.m.

on:

May 6, 2024

Proposal summary

We are proposing a regulation specifying the circumstances under which the Minister may issue an order to prevent a conservation authority from making a permitting decision and make the permitting decision in the place of a conservation authority or may undertake a review of a conservation authority permitting decision.

Proposal details

Conservation authorities regulate development and other activities through a permitting process under the *Conservation Authorities Act* for the purposes of natural hazard management and to protect people and property from natural hazards, such as flooding and erosion. Each conservation authority implements the permitting framework based on provincial legislation, regulatory

requirements, and technical standards, as well as conservation authority board-approved policies that outline how the conservation authority administers regulations locally.

Recently proclaimed provisions in the *Conservation Authorities Act* and associated regulations came into effect on April 1, 2024, including new powers for the Minister to 1) issue an order to prevent a conservation authority from issuing a permit and to take over the permitting process in the place of a conservation authority, and 2) review a conservation authority permit decision at the request of the applicant.

The Ministry is proposing a regulation which would set out the circumstances under which these powers could be used. If the regulation is approved, public guidance would be made available on the criteria and processes outlined in the regulation.

1. Permits issued by the Minister

Existing requirements under the *Conservation Authorities Act* regarding permits issued by the Minister under section 28.1.1 include:

- The Minister may issue an order directing a conservation authority not to issue a permit to a specific individual to engage in a specified activity, or to persons who may wish to engage in a certain type or class of activity, that would be prohibited under section 28 without a permit.
- The Minister's decision to issue an order is discretionary, and it may be issued either before or after an application for a permit has been submitted to the relevant conservation authority.
- Notice of any order must be provided to affected conservation authorities, any person who applied for the permit in question prior to the order and be posted on the Environmental Registry of Ontario (ERO (Environmental Registry of Ontario)) within 30-days.
- If an order made, the Minister has the power to issue a permit in place of the conservation authority. When making a permitting decision, the Minister is required to satisfy the same criteria concerning natural hazards and public safety that are considered by conservation authorities. This includes whether the activity is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or

bedrock. It also must consider whether the activity is likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property.

- The Minister may refuse the permit or issue a permit subject to such conditions as the Minister determines are appropriate.

Proposed additional requirements that would be set out in regulation include:

- The Minister may make an order to prevent a conservation authority from making a permitting decision and take over the permitting process only if the development activity or type or class of permits pertains to or supports a specified provincial interest, including:
 - Housing (community, affordable and market-based)
 - Community services (health, long-term care, education, recreation socio-cultural, security and safety, environment)
 - Transportation infrastructure
 - Buildings that facilitate economic development or employment
 - Mixed use developments
- If a proponent wishes to petition the Minister to issue an order, the proponent must submit a request to the Minister that would include information on:
 - Overview of proposed development.
 - Why the Minister's involvement is requested (e.g., development of provincial interest, timing/urgency; permitting process to date if applicable; other barriers) and preferable to the standard process in the *Conservation Authorities Act*.
 - Indication of whether the local municipality has endorsed the project and the request for Minister's involvement (e.g., by municipal letter or resolution).
 - Status of other required project approvals including the extent of any engagement with the conservation authority in the permitting process that the applicant has had to date.

2. Permits reviewed by the Minister

Existing requirements under the *Conservation Authorities Act* relating to requests for review under section 28.1.2 regarding permits where there is an order made by the Minister of Municipal Affairs and Housing under section 34.1 or 47 of the *Planning Act* and section 28.1 regarding all other conservation authority permits include:

- An applicant who has been refused a permit or had conditions attached to a permit by a conservation authority to which the applicant objects can, within 15-days of receiving reasons for the authority's decision, submit a request to the Minister for the Minister to review the authority's decision. Alternatively, an applicant also has the option to appeal the authority's decision to the Ontario Land Tribunal.
- After receiving a request, the Minister has 30-days in which to decide whether or not they intend to conduct a review. If the Minister decides to conduct the review, a notice shall be posted on the ERO (Environmental Registry of Ontario) within 30-days of a reply indicating the Minister intends to review the decision by the authority. If the Minister does not reply within 30-days of the request, this is deemed to indicate that the Minister does not intend to conduct a review.
- After conducting a review, the Minister may confirm or vary the authority's decision or make any decision that the Minister considers appropriate, including issuing the permit subject to conditions.
- The Minister is required to base the decision on same criteria concerning natural hazards and public safety that are considered by conservation authorities. This includes whether the activity is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock. It also must consider whether the activity is likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property.

Proposed additional requirements that would be set out in regulation include:

- The Minister may conduct a review of a conservation authority permit decision only if the development activity pertains to or supports a development of specified provincial interest, including:
 - Housing (community, affordable and market-based)

- Community services (health, long-term care, education, recreation socio-cultural, security and safety, environment)
- Transportation infrastructure
- Buildings that facilitate economic development or employment
- Mixed use developments

Note: This criteria would not apply to permit reviews under section 28.1.2 regarding permits where there is an order made by the Minister of Municipal Affairs and Housing under section 34.1 or 47 of the *Planning Act*.

- The request submitted to the Minister for a review would include information on:
 - Overview of proposed development.
 - If the request relates to conditions imposed by the conservation authority to which the applicant objects, identification of the specific conditions that are subject to the request for review, the changes requested to the conditions and the rationale in support of the requested changes.
 - If the request relates to an authority's decision to refuse a permit, the rationale in support of requesting that the Minister varies the decision and issues the permit.
 - Why the Minister's involvement is requested (e.g., development of provincial interest, timing/urgency; permitting process to date; other barriers) and preferable to alternative mechanisms in the *Conservation Authorities Act*.
 - Indication of whether the local municipality has endorsed the project and/or the request for Minister's involvement (e.g., by municipal letter or resolution).
 - Status of other required project approvals.

Regulatory impact analysis

By clearly communicating the circumstances under which the Minister would consider whether to issue an order to prevent a conservation authority from making a permitting decision and to make permitting decisions in place of a conservation authority or to review a conservation authority permitting decision, this proposal would ensure that development proponents pursue the appropriate permitting channel. Efficiently navigating the permitting process is

expected to help save proponents time and resources. We expect that there will be some minor administrative costs for development proponents based on the time needed to learn about and understand the proposed changes.

Supporting materials

Related links

Conservation Authorities Act

(<https://www.ontario.ca/laws/statute/90c27#BK43>)

O. Reg. 41/24: Prohibited Activities, Exemptions and Permits

(<https://www.ontario.ca/laws/regulation/240041>)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

MNRF - RPDPB - Resources Development Section

300 Water Steet

2nd Floor South

Peterborough, ON

K9J 3C7

Canada

Comment

Let us know what you think of our proposal.

Have questions? Get in touch with the contact person below. Please include the ERO (Environmental Registry of Ontario) number for this notice in your email or letter to the contact.

[Read our commenting and privacy policies. \(/page/commenting-privacy\)](/page/commenting-privacy)

Submit by mail

Conservation Authorities and
Natural Hazards Section

Ministry of Natural Resources and
Forestry - RPDPB

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2nd Floor South Tower

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Connect with
US

Contact

Conservation Authorities and
Natural Hazards Section

 ca.office@ontario.ca