




COMMUNICATION UPDATE

TO:	Mayor and Members City Council
DATE:	April 19, 2024
SUBJECT:	Proposed Regulation Detailing New Minister's Permit and Review Powers under the <i>Conservation Authorities Act</i> (Ontario Registry of Ontario 019-8320) (City Wide)
WARD(S) AFFECTED:	City Wide
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

The purpose of this Communication Update is to provide Council with a summary of the Ministry of Natural Resources and Forestry proposed regulation under the *Conservation Authorities Act*, and how the changes impact the development review processes within the City of Hamilton.

The province's efforts to increase the housing supply and streamline development approvals processes began in 2017 and included the proclamation of legislation such as Bill 23, *More Homes Built Faster Act*, which resulted in changes to the *Conservation Authorities Act*. Staff presented a detailed summary of comments on Bill 23 through Report PED22207 to Planning Committee on November 29, 2022. On April 1, 2024, provisions in the *Conservation Authorities Act* came into effect and were detailed in a Communication Update to the Mayor and Members of Council dated April 2, 2024.

The intent of Ontario Regulation 41/24 is to streamline regulatory requirements to focus on natural hazards and public safety, and as it relates to the newly proposed regulation discussed in this memo it includes new regulation making authority with respect to an updated permitting framework and powers for the Minister to 1) issue an order to prevent a Conservation Authority from issuing a permit and take over the permitting process, and 2) review a Conservation Authority permit decision at the request of the applicant.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

1. Existing Permitting Provisions for Issuing Permits under the *Conservation Authorities Act*:

- The Minister may issue an order directing a Conservation Authority not to issue a permit for development 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, the applicant of the permit and be posted on the Environmental Registry of Ontario within 30-days.
- If an order is 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.
- The Minister may refuse the permit or issue a permit subject to such conditions as the Minister determines are appropriate.

Proposed Additional Requirements for Issuing Permits:

- 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; and,
 - 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:
 - An overview of the 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. Existing Permitting Provisions for Reviewing Permits under the *Conservation Authorities Act*:

- 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 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.
- 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 the same criteria concerning natural hazards and public safety that are considered by Conservation Authorities.

Proposed Additional Requirements for Reviewing Permits:

- 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; and,
 - Mixed use developments.

Note: These 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*.

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The proposed regulation is now available at the Environmental Registry of Ontario, posting #019-8320: [Regulation detailing new Minister's Permit and Review powers under the Conservation Authorities Act. | Environmental Registry of Ontario.](#)

Impacts to the City of Hamilton

While the changes primarily affect if a permit is, or is not, issued and/or reviewed by the applicable Conservation Authority, the City's Official Plan policies and zoning remain in force and effect. The primary impact to the City from the proposed regulation may result in increased delays within the development approval processes as well as uncertainty around appealing the permitting decision by a Conservation Authority (either to the Minister or the Ontario Land Tribunal) and impacts to an appeal of a *Planning Act* application.

Please contact Anita Fabac, Acting Director, Planning and Chief Planner with any questions or comments or to set up a meeting to discuss the proposed regulation at Anita.Fabac@hamilton.ca or by phone at (905) 546-2424 Ext. 1258.

APPENDICES AND SCHEDULES ATTACHED

Not applicable.