



Hearing Package File Reference R#2023-0272

December 17, 2024 **Time: 1:00 p.m.**
SCRCA Administration Office (Remote available)
205 Millpond Cres., ON N7G 3P9

Hearing Agenda

1. Call to Order
2. Roll Call
3. Chair's Remarks
4. Staff Introduction of guests and speakers
5. Staff introduction to the nature and location of subject application
6. Staff presentation
7. Applicant presentation
8. Public comments and/or rebuttals
9. Questions from the Hearing Board
10. In Camera
11. Hearing Board Decision
12. Notice of rights to appeal (if applicable)
13. Adjournment

Hearing Package Contents

1. Proposed Motions
2. Notice of Hearing
3. Regulations Staff Hearing Report
4. Original Permit Application
5. Staff Exhibits A – L
6. Applicant Submission

Please be advised that electronic participation is dependent upon the use of compatible equipment and consistent internet connection, which is outside of the control of SCRCA staff members. Meeting locations and available technology may hinder full participation of those joining remotely (online participation during in-camera is not possible during publicly streamed meetings**); therefore, **it is strongly recommended that you attend meetings in person**, where possible. Every effort will be made to accommodate those who cannot.*

For the purpose of quorum, please inform Ashley Fletcher in advance if you are unable to attend in person.

Afletcher@scrca.on.ca, 519 245 3710 x 200

Proposed Motions for R#2023-0272 - Hearing

1. That the Board of Directors convene as a Hearing Board pursuant to Section 28.1, subsection 5 of the Conservation Authorities Act to consider Application No. R#2023-0272- from Candis MacDougall.
2. That the Hearing Board regarding Application No. R#2023-0272 go in camera at _____p.m.

(During the Hearing, a motion may be carried which could culminate in the decision; utilize Motion 4 below)

3. That the Hearing Board regarding Application No. R#2023-0272 rises out of camera at _____ p.m.
4. That the Hearing Board in accordance with the requirements of the Conservation Authorities Act, held a hearing for Candis MacDougall, Application No. R#2023-0272 on December 17, 2024 and hereby **refuses/approves** the application and directs staff to issue a Notice of Decision accompanied by the required information regarding the right to appeal (only include if refused).
5. That the Hearing Board adjourns the Hearing and reconvenes as the Board of Directors at ____ p.m.

Hearing Board Proposed Resolutions Continued

- 3.(v) Moved by: _____ Seconded by: _____
That the Hearing Board in accordance with the requirements of Section 28.1, subsection 5 of the Conservation Authorities Act, held a hearing regarding Candis MacDougall, Application No. R#2023-0272 on December 17, 2024 and hereby **refuses** the application and directs staff to issue a Notice of Decision accompanied by the required information regarding the right to appeal.

OR

- 3.(v) Moved by: _____ Seconded by: _____
That the Hearing Board in accordance with the requirements of Section 28.1, subsection 5 of the Conservation Authorities Act, held a hearing regarding Candis MacDougall, Application No. R#2023-0272 on December 17, 2024 and hereby **approves** the application and directs staff to issue a Notice of Decision.

OR

3.(v)

Moved by:

Seconded by:

That the Hearing Board in accordance with the requirements of Section 28.1, subsection 5 of the Conservation Authorities Act, held a hearing regarding Candis MacDougall, Application No. R#2023-0272 on December 17, 2024 and hereby defers the application and directs staff to provide additional information at an Executive Committee meeting and issue a Notice of Decision accompanied by the required information regarding the further review of this appeal.



205 Mill Pond Cres.,
 Strathroy, Ontario N7G 3P9
 T: 519-245-3710 F: 519-245-3348
 www.scrca.on.ca
 FORM#R11 V1

FILE REFERENCE:	R#2023-0272
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NOTICE OF HEARING

IN THE MATTER OF

The Conservation Authorities Act,
 R.S.O. 1990, Chapter C. 27 As Amended;

AND IN THE MATTER OF

An Application By: Candis MacDougall

FOR THE PERMISSION OF THE ST. CLAIR REGION CONSERVATION AUTHORITY

Pursuant to Regulations made under
 Section 28.1 (5) of said Act.

TAKE NOTICE THAT a Hearing before the Board of Directors of the St. Clair Region Conservation Authority will be held under Section 28 of the Conservation Authorities Act at the offices of said Authority at the SCRCA Administration Office, 205 Mill Pond Crescent, Strathroy, Ontario, at the hour of 1:00 pm on the 17th day of December, 2024, with respect to the application by Candis MacDougall to permit development within an area regulated by the St. Clair Region Conservation Authority under Ontario Regulation 41/24 – *Prohibited Activities, Exemptions and Permits* and made pursuant to Section 28 of the Conservation Authorities Act in order to ensure no adverse affect on the control of flooding on 4852 Forsyth Trail, Lot 50, Concession Front, Geographic Township of Plympton in the Town of Plympton-Wyoming.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Board of Directors for the meeting of BD121224. If you intend to appear, please contact Melissa Deisley. Written material will be required by November 22, 2024 to enable the Board members to review the material prior to the meeting. You are entitled to be represented at the Hearing by a representative such as legal counsel, if desired.

The recommendation for the refusal of approval is based on the reasons outlined in correspondence attached to this notice.

TAKE NOTICE THAT this hearing is governed by the provision of the Statutory Power 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 Provincial Statue. It does not relieve the witness of the obligation of 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 Status requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no acknowledgement 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 Board may proceed in your absence, and you will not be entitled to any further notice in proceedings.

DATED the 4th day of November, 2024.

The Board of Directors of the
Conservation Authority

Per:

A handwritten signature in black ink, appearing to be 'Ken Phillips', written over a horizontal line.

Ken Phillips
General Manager/Secretary-Treasurer

Meeting Date: December 12, 2024 **Item 3**
Report Date: November 22, 2024
Submitted by: Melissa Deisley, Director of Planning & Regulations

Subject: Regulations Report for the Board Of Directors
Application R#2023-0272, Ontario Regulation 41/24

Application R#2023-0272

Name: Candis MacDougall

**Location of Property: 4852 Forsyth Trail
Lot 50, Concession Front
Geographic Township of Plympton
Township of Plympton-Wyoming
County of Lambton**

Summary:

In June, 2024, the Authority received an application for development to construct a deck on the subject property on the Lake Huron Shoreline. The deck is proposed to build a covered deck approximately 272 square feet on the lake side of the existing cottage. As the application does not meet SCRCA Shoreline Development Policy requirements, it is the recommendation of staff and the SCRCA Regulations Committee that the application be denied, and that the applicant be informed of their right to a hearing in front of the Board of Directors to formally hear the application.

The enclosed information outlines all the documentation provided by the application in support of their application to construct a deck on the subject property. If you require a hard copy of the material, do not hesitate to contact the Authority to make arrangements.

Also, enclosed, is a full staff report for the application, outlining and documenting reasons for the recommendation that the application for permission be refused.

Also attached to this report you will find key components of:

1. Copy of the staff hearing report – pages 1 to 8;
2. Copy of the application and proposed site plan(s) for the development – pages 9 to 24;
3. Hearing Guidelines and procedures – page 25 and 26

Please note that the intent of the hearing is to review the technical aspects of the application and proposal at hand, and not enter into a review or debate regarding the format, process or data utilized to complete the technical background reports.

As this hearing is a formal process, please attend the meeting prepared with your questions regarding the technical aspects of the application. In order to avoid apprehension of bias staff cannot take the time to answer this type of question prior to the hearing.

bulldozing). Wave spray can be driven in-shore by winds; in freezing temperatures this can result in icing of roads, buildings and utilities close to the shore.

Prevention is the preferred approach for management of the Great Lakes shoreline hazards as it reduces or minimizes losses by modifying the loss potential by controlling, restricting and/or prohibiting development activities within the hazardous lands.

Water level fluctuations have a considerable influence on shore erosion, primarily by exposing different parts of the shore to wave action. When lake levels are high, the beach is inundated and the area of attack of breaking waves moves inland. The effectiveness of the beach as a defence is reduced and erosion increases rapidly. At low water levels, a wider beach is exposed, and waves break further away from the shore.

The applicant undertook a Coastal Engineering Assessment Report, completed by Shoreplan Engineering Limited, titled 4852 Forsyth Trail, Plympton-Wyoming, Shoreline Natural Hazards Assessment, Our File: 24-3905, dated June 12, 2024. The Shoreplan Coastal Report completed a wave uprush analysis and showed that the beach crest in front of the cottage would be overtopped and limited overtopping would occur. The report noted that the proposed deck will extend 1.4 metres into the flood hazard limit as assessed and that an 11 cm bore would reach the base of the deck. The report notes that they did not account for the steel wall in the report, as there is no reasonable method to determine the shape of any bore that will overtop the wall. It is Shoreplan Engineering's opinion that the steel wall will protect the deck from direct wave action but there will be some overtopping water and spray during a design storm event and that any bore resulting from overtopping of the wall will be lower than that predicted. – **EXHIBIT D**

An Addendum to the Coastal Report was submitted, completed by Shoreplan Engineering Limited, titled 4852 Forsyth Trail, Plympton-Wyoming, Shoreline Natural Hazards Assessment, Our File: 24-3905, Dated September 25, 2024. The addendum references a storm in November of 2020 when the water levels were high, and claimed it is reasonable to assume that the water level were at the 100-year flood level of 177.9 metres at the subject property. The events of November 1, 2020 are considered to be representative of the design conditions that are used in the flood hazard assessment. During this event, November 2020, there was no flooding in the area of the proposed deck. – **EXHIBIT E**

Proposal

The applicant has proposed to construct a covered deck, approximately 8 ft (2.4 metres) by 34 ft (10.4 metres) (approximately 272 square feet or 25.3 square metres), located on the lake side of the existing dwelling. The proposed deck is entirely within the flood hazard, as per the SCRCA Shoreline Management Plan. The deck is approximately 1.4 metres into the flood hazard as re-assessed by the applicant's engineer (Shoreplan Engineering).

The proposal does not meet Board Approved SCRCA Shoreline Development Policies. (policy is provided later in this report)

Legislation

Prior to May 2006, the Authority's involvement with shoreline development was primarily as an advisory agency to our member municipalities and the general public, providing comments with respect to Natural Hazards as per Section 3.1 of the Provincial Policy Statement.

In 2006, the *Conservation Authorities Act* was amended as part of the Red Tape Reduction Initiative and regulations implemented pursuant to Section 28 of the Act. The regulations were entitled "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses" (Ontario Regulation 171/06).

In subsequent years, numerous amendments have been made to Section 28 of the *Conservation Authorities Act* and associated Regulations. Ontario Regulation 688/21 among other provisions, requires that an Authority shall provide programs and services to ensure that the Authority satisfies its duties, function and responsibilities to administer and enforce the provisions of Parts VI and VII of the Act and any regulations made under those Parts." O.R. 688/21, s. 16. The most recent amendments to the *Conservation Authorities Act* were made in 2024.

In 2024, a new Regulation was developed, Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits. This regulation replaces the individual regulations approved in 2006.

The current legislative structure includes requirements for the administration of PART VI of the *Conservation Authorities Act* in both the *Conservation Authorities Act* and Ontario Regulation 41/24

Conservation Authorities Act (relevant sections) (EXHIBIT F)

Prohibited Activities re watercourses, wetland, etc.

28(1) No person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

2. Development activities in areas that are within the Authority's area of jurisdiction and are
 - iv. areas that are adjacent or close to the shoreline of the Great Lakes – St. Lawrence River System or to an inland lake and that may be affected by flooding, erosion, or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations.

Permits

28.1 (1) An Authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by Section 28, if in the opinion of the Authority,

- a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;

- b) the activity is not 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;
- c) any other requirements that may be prescribed by the regulations are met;

Application for Permit

(2) A person who wishes to engage in an activity that is prohibited under section 28 in an area situated in the jurisdiction of an authority may apply to the authority for a permit under this section

Hearing

(5) 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.

Reasons for decision

(7) If the authority, after holding a hearing, refuses a permit or issues the permit subject to conditions, the authority shall give the applicant written reasons for the decision

Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits (relevant sections) (EXHIBIT G)

Prohibited Activities

2. (2) For the purposes of subparagraph 2 iv of subsection 28 (1) of the Act, areas adjacent or close to the shoreline of the Great Lakes – St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards include,

- a) the area starting from the furthest offshore extent of the authority's boundary to the furthest of the following distances:
 - i. the 100-year flood level, plus the appropriate allowance for wave uprush, and if necessary, for other water related hazards, including ship generated waves, ice piling, and ice jamming, except in respect of Wanapitei Lake in the Nickel District Conservation Authority, the applicable flood standard for that lake being the one set out in item 1 of Table 16 of Schedule 1;
 - ii. the predicted long term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period;
- b) the area that is an additional 15 metres allowance inland from the area described in clause (a)

Exceptions

5. Paragraph 2 of subsection 28(1) of the Act does not apply to,
- a) the construction, reconstruction, erection or placement of,

(v) an unenclosed detached deck or patio that is 15 square metres or less, is not placed within a watercourse or wetland and does not utilize any method of cantilevering.

To summarize the above, the Authority may grant permission for a development to occur within an identified natural hazard concern area, if in the opinion of the Authority, the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or the activity is not 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.

SCRCA Shoreline Development Policies (EXHIBIT H)

SCRCA Lake Huron Shoreline Policy indicates that no new structural development is permitted within the Flood Hazard.

SCRCA Shoreline Management Plan (Baird, 2011) – Development Guidelines (EXHIBIT I)

SCRCA Shoreline Management Plan provides a table with commonly undertaken development activities within the study area, and provides direction on which activities will be permitted within each of the delineated management areas. The Development Guidelines indicates that new decks within the flood hazard should not be permitted.

Items to Consider:

While the hearing process does not address the merits of the activity or appropriateness of such a use in terms of Planning, there is some important history that is worth noting:

2002- In February 2002, the applicant applied to the Township of Plympton-Wyoming for a minor variance for a side yard deck and this lake side deck. SCRCA provided comments to the Township of Plympton-Wyoming, dated February 6, 2002 (**EXHIBIT J**). These comments were advisory comments to the Municipality as it related to Natural Hazards and Natural Heritage, as described by Provincial Policy.

The SCRCA comments note that the subject property is located within the High Hazard Area (Shoreline Management Area 1) and that high lake levels can cause beach erosion and damage to shoreline protection works, property and structures during storm events. High volumes of overtopping water can erode behind the seawall thereby removing the material which supports both the protection works and the dwelling.

SCRCA recommendations: We do not have a concern with the construction of an unattached deck to the east of the residence since this does not encroach any closer to the hazard (lake) than the existing dwelling. **Based on the severity of the hazard at this location, we do have a concern with the construction of a covered deck as proposed. The reason for the concern is both the potential to enclose the deck, as well as its location lakeward of the existing structure in a high hazard area. The structure will likely be subject to storm**

damage in the future based on technical shoreline information. We recommend the application be denied as submitted.

The deck to the east was approved, and the deck towards the lake was denied by Township of Plympton-Wyoming Committee of Adjustment.

The applicant appealed the decision to the Ontario Municipal Board (OMB) – December 10, 2002. (EXHIBIT K)

The Ontario Municipal Board approved the rear deck, key excerpts of the report:

Upon considering all the evidence presented, the Board accepts the evidence of the appellant's professional land use planner and finds that the large, covered deck, subject to conditions, will have no adverse impacts, and represents good land use planning. Given the evidence as presented by the representative of the Conservation Authority, the Board finds that a condition that the large, covered deck not be attached structurally to the cottage is appropriate.

The appeal is allowed in part and the variances applied for are authorized subject to the following conditions:

1. The large, covered deck shall be constructed substantially in accordance with the plans as shown in Attachment "1"
2. The large, covered deck shall not be attached, including the roof or cover, structurally to the cottage.

2023/2024 – SCRCA staff were approached by the applicant in 2023, regarding building the deck approved by the OMB in 2002. SCRCA staff provided a letter dated January 2024 upon seeking legal clarification from SCRCA legal representation. SCRCA informed the applicant that an application for a deck within the flood hazard would not be supported by SCRCA Board Approved Shoreline Development Policies, and that coastal engineering would be required for a complete application. Additionally, staff included the following comment: **It is our understanding that you have a decision from 2002 from the Ontario Municipal Board (OMB) to build the proposed rear (lake side) deck. The Plympton-Wyoming Committee of Adjustment refused the variance for the covered deck at the rear of the cottage. You appealed this decision to the OMB, which recommended approval of the rear deck provided that the deck is not structurally attached to the cottage. Since the OMB decision in 2002, SCRCA regulations have been updated (2006), and the Shoreline Management Plan has also been updated (2011) with more current hazard information. Based on SCRCA retained legal opinion, it is our understanding that the Planning Act decision does not supersede the Conservation Authorities Act. The proposed deck will be required to meet current SCRCA Board Approved Policies and Shoreline Management Plan. As noted above, current SCRCA policies do not support the construction of structures (including decks) within the flood hazard. If you wish to move forward with the proposed rear deck, a permit will be required from the SCRCA, and the above noted information (i.e. coastal engineering) will be required prior to a hearing before the SCRCA Board of Directors.**

Staff of the SCRCA discussed with the landowner the possibility of reducing the size of the deck and moving it outside the flood hazard as determined by the applicant's coastal report, and reducing the size of the deck to 15 square metres which would make it exempt from the Regulation and therefore would not require a permit. Staff stated that if the deck was reduced and located outside the flood hazard, then staff could approve the deck. If the deck were reduced to 15 square metres or less, it would not require a permit, even if it is located within the flood hazard.

Photographs

EXHIBIT L – shows a photo from 1973 during a high-water level event, where the shoreline saw significant erosion and deterioration.

Recommendation and Reasons:

Deny permission to construct a deck on the lake side of the existing dwelling, as the application does not adhere to SCRCA Shoreline Development Policy requirements.

The activity is likely to be impacted by flooding and erosion, and is likely to create conditions or circumstances that, in the event of a natural hazard, might result in the damage or destruction of property.

The Authority is willing to accept a reduced deck size that is directed outside of the Flood Hazard. Or alternatively, the applicant can reduce the deck to 15 square metres which would be exempt from a permit as per Section 5 of Ontario Regulation 41/24.

EXHIBITS

EXHIBIT A – Regulations Committee Report

EXHIBIT B - Map of Property

EXHIBIT C – SCRCA Shoreline Management Plan (Baird, 2011)

EXHIBIT D – Applicant Shoreline Natural Hazards Assessment (Shoreplan, 2024)

EXHIBIT E – Addendum to Shoreline Natural Hazards Assessment (Shoreplan, 2024)

EXHIBIT F – Conservation Authorities Act

EXHIBIT G – Ontario Regulation 41/24

EXHIBIT H – SCRCA Board Approved Shoreline Policies (2011)

EXHIBIT I – SCRCA Shoreline Management Plan Development Guidelines (2011)

EXHIBIT J – SCRCA Planning Comments (2002)

EXHIBIT K – OMB Decision (2002)

EXHIBIT L – Historic Picture (1973)



205 Mill Pond Cres.,
Strathroy, Ontario N7G 3P9
T: 519-245-3710 F: 519-245-3348
www.scrca.on.ca
FORM#R1 V1

FILE REFERENCE:	
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PERMIT APPLICATION

Application for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses
Conservation Authorities Act- Ontario Regulation 171/06, as amended.

Contact Information

Landowner

Name(s):	Candis MacDougall	Phone no.:	226 235-2433
Mailing Address:	602-521 Riverside Drive	Municipality:	London
Postal Code:	N6H 5E2	Email:	candismid@hotmail.com

Agent/Contractor (if applicable)

Business/Agent Name:		Phone no.:	
Mailing Address:		Municipality:	
Postal Code:		Email:	

Project Details

Location of Proposed Work Same as Landowner address

Address(s):	4852 Forsyth Trail		
Geog. Township:	Hillsboro South	Lot No.:	Pt Lot 2, Lot 3
Municipality:	Plympton-Wyoming	Concession/Plan No.:	26

General Project Description:

Freestanding deck 8'x34'7" along lakeside of cottage, sand base.

Name of Watercourse/Drain (if applicable): Lake Huron

Dates of Commencement and Completion of Project: Approximately May 15th-June 15th

Other approvals required for this project: Building Permit ZBA Severance OPA
 Minor Variance Other (please specify) I have approval from OMB.

All applications must be accompanied by (1) DIGITAL detailed site plan according to the SCRCA STANDARD SITE PLAN REQUIREMENTS included in this package.

NOTICE OF COLLECTION

The information on this form is being collected for the purpose of administering a regulation made pursuant to Section 28, *Conservation Authorities Act*, R.S.O. 1990, Chapter 27. This application and supporting documents and any other documentation received relating to this application may be released, in whole or in part, to other persons in accordance with the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990c. M56, as amended.

TERMS AND CONDITIONS

- I declare that I am the landowner of the subject property or have the signing authority for the corporation or numbered company;
- I declare the information in this application to be true;
- I agree to allow authorized representatives of the St. Clair Region Conservation Authority to enter onto the property to review this application and follow up when completed;
- I recognize and accept that the information in this application is a public record and some or all of it may be released;
- I understand that the payment of the fee does not guarantee permission from the St. Clair Region Conservation Authority;
- I understand that I am responsible for obtaining any other municipal, agency or government approvals as may be required; and
- I understand that the submission of this form does not constitute a complete application.

I authorize (*Print Name of Agent*) _____ to submit the enclosed application to the St. Clair Region Conservation Authority, and to appear on my/our behalf at any hearing(s) of the application and to provide any information or material required by the board relevant to the application for purposes of obtaining a permit for Development, Interference with Wetlands, Alterations to Shorelines and Watercourses in accordance with the requirements of Ontario Regulation 171/06.

Candis MacDougall



April 24, 2023

Print Landowner Name

Signature

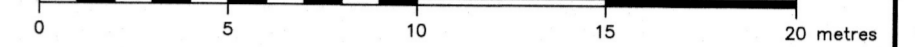
Date

For Office Use Only

Date Application Received:		Fee Received & Method:		Received By:	
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BOUNDARY & TOPOGRAPHIC SURVEY OF:
NORTH 1/2 OF LOT 2 & ALL OF LOT 3
REGISTERED PLAN 26(PY)
(GEOGRAPHIC TOWNSHIP OF PLYMPTON)
TOWN OF PLYMPTON-WYOMING
COUNTY OF LAMBTON
MONTEITH & SUTHERLAND LIMITED

scale 1:200



METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

NOTES

BEARINGS ARE UTM, DERIVED FROM OBSERVED REFERENCE POINTS BY LEICA SMARTNET REFERENCE NETWORK OBSERVATIONS (UTM ZONE 17, NAD83 CSRS, 2010)
 ON SITE BENCHMARK: TOP SPINDLE OF FIRE HYDRANT AT FRONT OF SUBJECT PROPERTY WITH AN ELEVATION OF 180.26.
 ELEVATIONS ARE GEODETIC AND REFER TO THE CANADIAN GEODETIC VERTICAL DATUM (CGVD28), BY DIRECT MEASUREMENT TO THE LEICA SMARTNET GNSS NETWORK.

LEGEND:

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT SET
- IB DENOTES IRON BAR
- SIB DENOTES STANDARD IRON BAR
- SSIB DENOTES SHORT STANDARD IRON BAR
- (MS) DENOTES MONTEITH & SUTHERLAND LTD. OLS
- (AGM) DENOTES ARCHIBALD, GRAY & MCKAY, O.L.S.
- (684) DENOTES J. GRAY, O.L.S.
- (WIT) DENOTES WITNESS
- (U) DENOTES UNKNOWN ORIGIN
- (M) DENOTES MEASURED DISTANCE
- (S) DENOTES SET DISTANCE
- (D) DENOTES DEED DISTANCE
- (RP) DENOTES REGISTERED PLAN 26(PY)
- (P1) DENOTES PLAN 25R-7252
- FH DENOTES FIRE HYDRANT
- FP DENOTES FLAG POLE
- RTW DENOTES RETAINING WALL
- ST DENOTES SONOTUBE
- UB DENOTES UTILITY BOX
- UP DENOTES UTILITY POLE
- //— DENOTES BOARD FENCE
- H— DENOTES OVERHEAD UTILITY

SURVEYOR'S CERTIFICATE:

- I CERTIFY THAT:
- 1) THIS SURVEY IS CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE LAND TITLES ACT, AND REGULATIONS MADE UNDER THEM.
 - 2) THIS SURVEY WAS COMPLETED ON MAY 15th, 2024.

MAY 15th, 2024
 DATE

Kosala Gunathillake
KOSALA GUNATHILLAKE
 ONTARIO LAND SURVEYOR

THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER V-72983

Monteith & Sutherland LIMITED

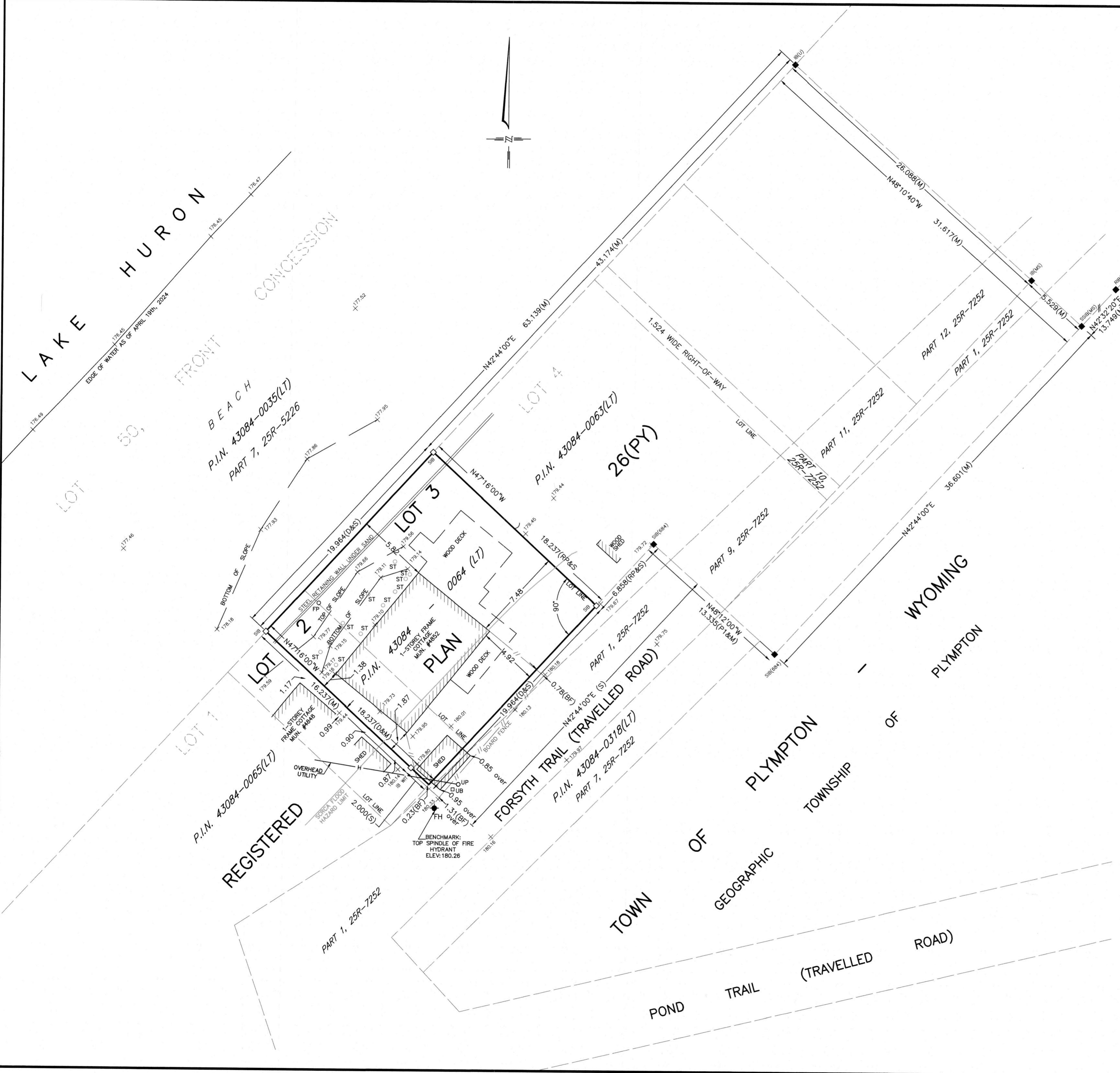
801 Upper Canada Drive
 Samia, ON, N7W 1A3
 (519)542-4300
 contact@mssurvey.com
 www.mssurvey.com

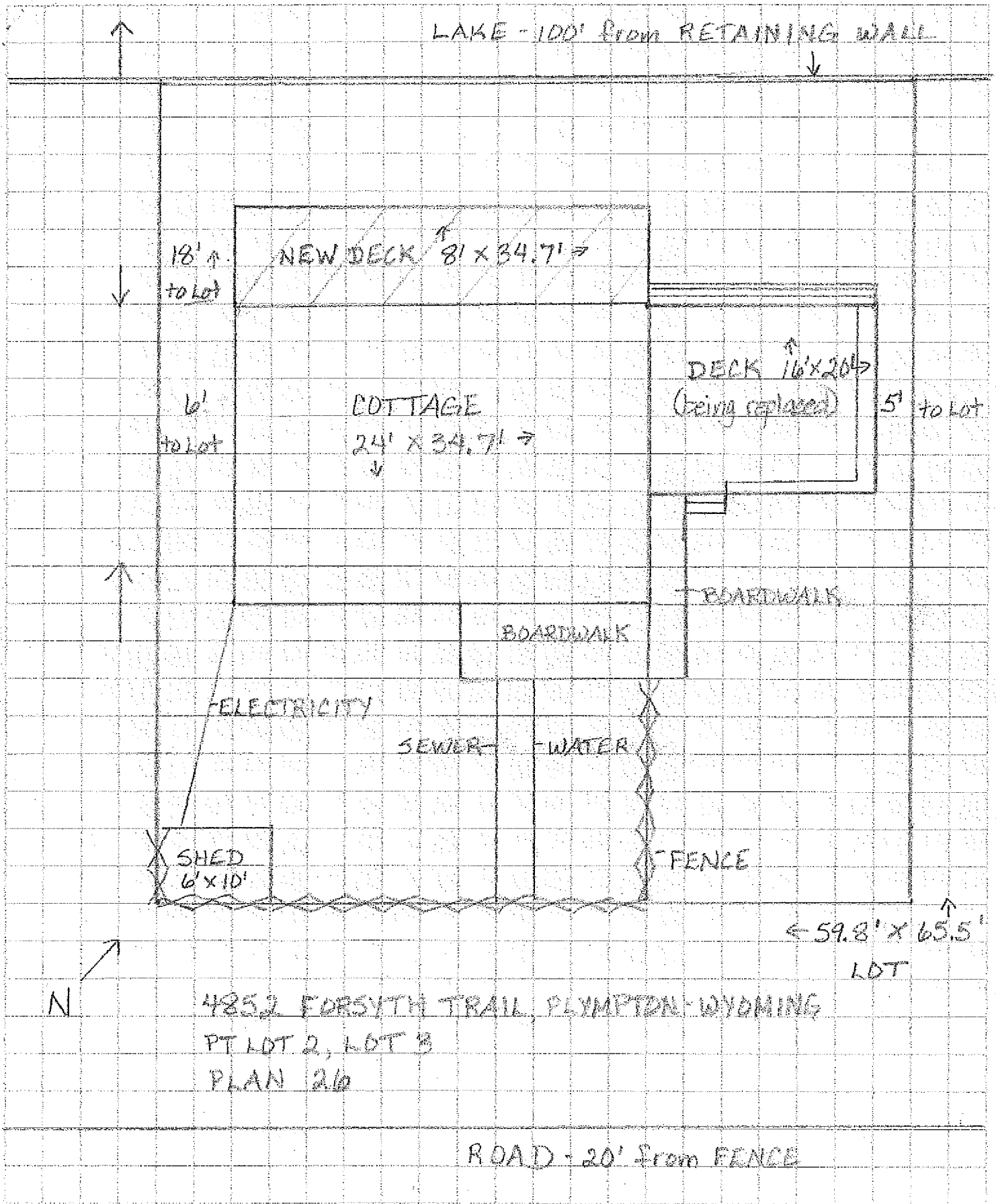
Ontario Land Surveyors | Professional Engineers

FILE NO.: **PLY-1486**

PLAN FILE NO.: **E-2611**

DRAWN BY: C.R.T./C.A.H. CHECKED BY: J.V./R.A.M. CAD DATE: 15/MAY/2024 CAD FILE NO.: AUTOCAD DRAWINGS\PLYMPTON\PLY-1486\MS DWG Files\PLY-1486_BTE-2611





N

4852 FORSYTH TRAIL PLYMPTON WYOMING
PT LOT 2, LOT 3
PLAN 26

ISSUE DATE:
DEC. 10, 2002
DECISION/ORDER NO:
1685



PL020254

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Robert MacDougall and Candis MacDougall have appealed to the Ontario Municipal Board under subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Committee of Adjustment of the Town of Plympton-Wyoming which granted in part their application numbered A-08/02 for a variance from the provisions of By-law No. 29/79, as amended, respecting 4852 Forsyth Trail
OMB File No. V020119

APPEARANCES :

Parties

Counsel

Robert and Candis MacDougall

Alan Patton

Township of Plympton-Wyoming

Lyle Curran

DECISION DELIVERED BY R.E. DRURY AND ORDER OF THE BOARD

Robert and Candis MacDougall are the owners of the property known municipally as 4852 Forsyth Trail located on the shore of Lake Huron in the Hillsboro Beach area (the "Property"). Mr. and Mrs. MacDougall applied for two minor variances from the provisions of By-law No. 29/79 for permission to construct a small deck on the easterly side of the cottage and a covered deck at the rear of the cottage overlooking the lake. The Committee of Adjustment for the Township of Plympton-Wyoming approved the variance for the easterly deck on the condition that it be limited to 15 feet in width, thereby yielding a side yard set back of 10 feet from the property line, and refused the variance for the covered deck at the rear of the cottage. Mr. and Mrs. MacDougall appealed.

One of the main issues for this hearing is whether the requested variances should be dealt with under Section 45(1) or 45(2) of the *Planning Act*. The application submitted to the Committee of Adjustment appears to have been made under section 45(1). It would also appear that the application was considered by the Committee under section 45(1). The letter of appeal filed by the appellants cites the four tests under 45(1). However, after further examination of the matter, the appellants submit that the minor variances applied for are extensions of a legal non-conforming use and therefore should be dealt with under Section 45(2). The Township submits that as a result of the renovations, a new building has been created and the cottage has been replaced. Therefore, Section 45(2) does not apply.

Having carefully considered all of the evidence presented, the Board accepts the evidence of Mr. MacDougall and finds that the works completed on the cottage constitute a renovation of the existing structure and not the construction of a new building. Further, the Board accepts the evidence of the appellant's professional land use planner and finds that the cottage is a legal non-conforming use, the requested variances are for extensions of such legal non-conforming use and therefore are properly dealt with under Section 45(2) of the Act.

The County of Lambton Official Plan contains policies pertaining to Environmental Constraints, which apply to this Property. The County Plan provides that local municipalities will develop policies that address existing development on Environmental Constraint lands to address issues including minor building additions.

The Township of Plympton-Wyoming Official Plan contains policies for the consideration of applications to permit an extension or enlargement of a non-conforming use. These policies include matters that the Council will have regard to in considering such applications. The Board accepts the evidence of the appellant's professional land use planner and finds that the requested variances conform to the policies of the Township Official Plan and that the matters that must be regarded when considering

applications to permit an extension or enlargement of a non-conforming use have been properly addressed.

There was no dispute as to the requested variance for the small deck. The Township's professional land use planner and the representative from the Conservation Authority both testified that they had no objection to the construction of the small deck with a side yard setback of 5 feet. The Township's professional land use planner had issued a report to the Committee of Adjustment indicating that there was no objection to a side yard setback of 5 feet. The appellant's professional land use planner testified that the adjoining neighbour had requested a set back of only 3 feet. Further, he testified there were no objections from any neighbours and that a set back of 5 feet was consistent with development in the area. The Board accepts the evidence of the appellant's professional land use planner and finds that the requested variance for the construction of the small deck with a side yard setback of 5 feet will have no adverse impacts and represents good land use planning.

With respect to the variance for the large covered deck, the representative from the Conservation Authority testified that the Property is situate in the High Hazard Designation under the Authority's Shoreline Management Plan. Accordingly there are concerns with damage resulting from high water levels, wave action, and erosion. The representative from the Conservation Authority testified that a detached deck is not a concern in the High Hazard Area provided that the roof over the deck is not attached to the cottage.

The Township's professional land use planner noted two concerns with the large covered deck, that it could be damaged by wave action and erosion in a storm event and that it could easily be converted to living space. With respect to the first point, the Township's professional land use planner acknowledged that the Township had recently installed servicing along the shoreline with no additional protection. With respect to the conversion of the large covered deck, it was acknowledged that if such works were

completed without a building permit, the Township would have enforcement remedies available to it.

Upon considering all of the evidence presented, the Board accepts the evidence of the appellant's professional land use planner and finds that the large covered deck, subject to conditions, will have no adverse impacts and represents good land use planning. Given the evidence as presented by the representative of the Conservation Authority, the Board finds that a condition that the large covered deck not be attached structurally to the cottage is appropriate.

The appeal is allowed in part and the variances applied for are authorized subject to the following conditions:

1. The large covered deck shall be constructed substantially in accordance with the plans as shown in Attachment "1".
2. The large covered deck shall not be attached, including the roof or cover, structurally to the cottage.

The Board so orders.

"R.E. Drury"

R.E. DRURY
MEMBER

"J.A. SMOUT"

J. A. SMOUT
MEMBER

STORM DRAINAGE is provided to the subject land by:

- Sewers Ditches Swales Other means (specify)

OTHER APPLICATIONS - If known, indicate if the subject land is the subject of an application under the Act for:

- Approval of a plan of subdivision (under section 51) File # Status
- Consent (under section 53) File # Status
- Previous application (under section 45) File # Status

ATTACHMENT "1"

PL020254

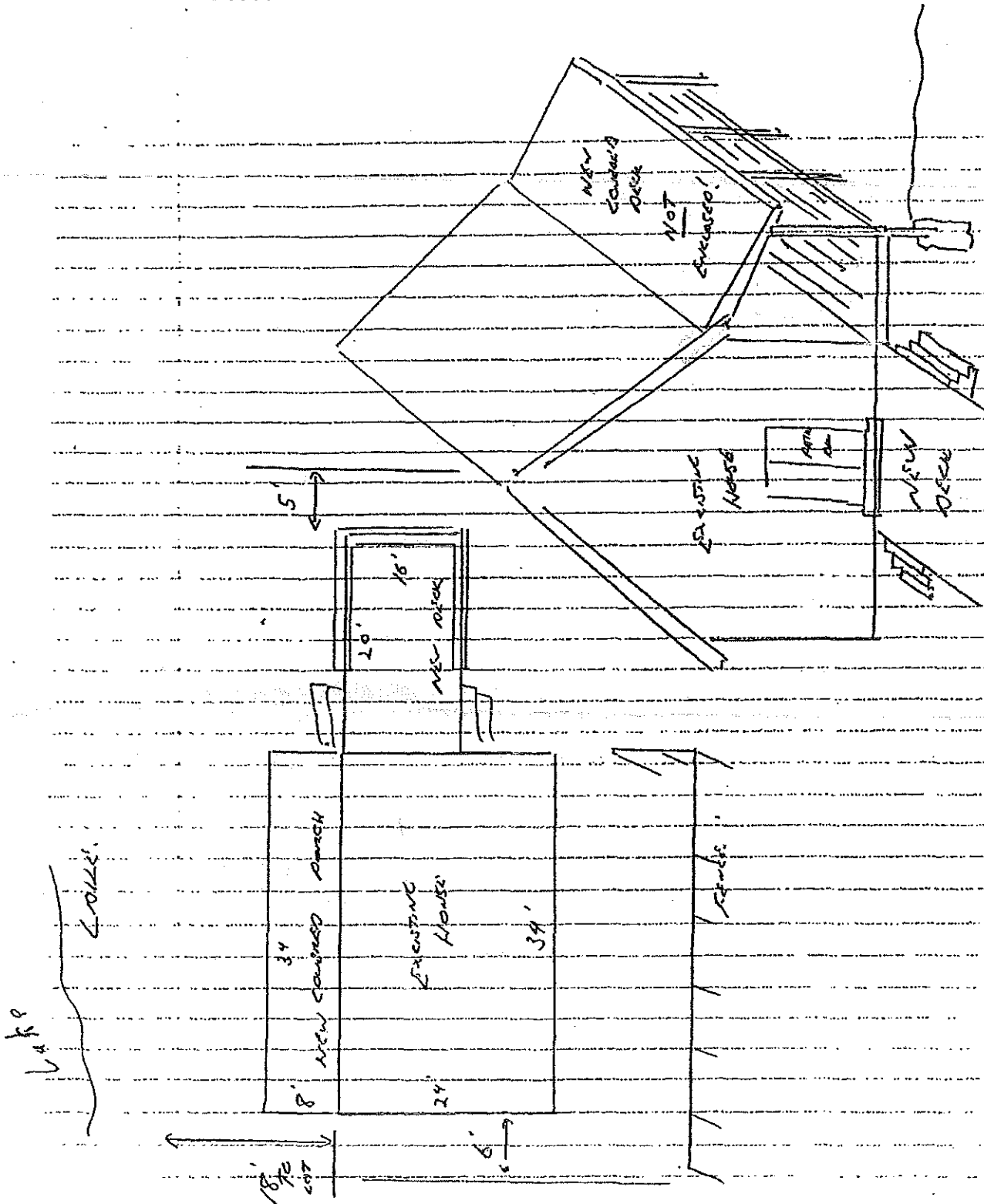




Photo 1



Photo 2



Photo 3



Photo 4

These pictures were taken in September, 2024. The first picture, Photo 1, is the MacDougall cottage at 4852 Forsyth Trail taken from the edge of the water looking at the cottage. Note the triple sliding door in the center of the cottage.

For orientation purposes I will say that the sun sets in the west over the lake. Since the MacDougall cottage is located in Hillsboro south, cottages to the right of the first picture will be referred to as being south, and cottages to the left of the first picture will be to the north.

Photo 2 is taken facing north from the north west corner of the MacDougall side deck. Photo 3 is the same cottage taken facing east. Note the deck on the front of the cottage. It was built in 1973 after the retaining wall was installed after the high water. The deck in the pictures is the original deck from 1973. During the past 51 years, there has been no damage to the deck due to high waters, nor has it been undermined by high water, nor has there been water under or on top of that deck.

The retaining wall continues along the front of the MacDougall cottage and it was all installed in 1973 as well. Note the arrows on the third picture pointing to the retaining wall. The wall is usually visible in front of this cottage as the owner had consistently had the sand pushed away from the front of it down to the edge of the water until approximately 2019. It is slightly visible towards the MacDougall

cottage but for the most part it is covered in sand. The proposed front deck will be approximately 44" above the retaining wall. There will be approximately 7' of ground from the finished edge of the proposed front deck to the edge of the retaining wall. The flagpole in front of the MacDougall cottage is just inside the retaining wall. The original wooden flagpole came down in a windstorm in 2022 and was replaced in the same location.

Photo 4 is looking south. You can see the edge of the neighbour's deck on the right hand side of the picture which is also the edge of their retaining wall. Note how this property juts approximately 34' farther towards the lake. The retaining wall for their property plus the next 3 properties is below the cement blocks which you can see at the end of the grass. It is approximately 3' lower than the height of my retaining wall and much closer to the lake.



Photo 5

Photo 5 is the cottage beside the MacDougall cottage to the south. You can see how much farther forward it is towards the lake, including its deck. They put in a retaining wall after the high waters in 1985 and have not had any water go over it since then.



Photo 6

Photo 6 is the next cottage to the south, the last cottage on the beach in Hillsboro south. Note the edge of the retaining wall in the foreground of the picture, which continues in the same line as MacDougall's. There has been no damage to their structures since they have been built.

The next 4 pictures, Photos 7, 8, 9, and 10, were taken in 2020 when the water was high and the only beach available in all of Hillsboro North and South was in front of the MacDougall cottage and the ones on either side of it. With the water lapping against all the retaining walls to the north, the wall in front of the MacDougall cottage remained covered in sand.



Photo 7



Photo 8



Photo 9



Photo 10

2021 was the first and only year since I bought my cottage in 1992 that the retaining wall was exposed and stairs were needed to go from the cottage level down to the water level. The waves did not splash against the wall or up over the wall during that summer. There was still 30' of beach before the edge of the lake.



Photo 11

May 27, 2021



Photo 12



Photo 13 - July 16, 2021

The circle is around the top of a barrel filled with cement. There are barrels buried along the lakeside of the retaining wall in front of the MacDougall cottage and the one to the north of it. Only a couple of them were exposed in 2021 and we put tubes in them to hold umbrellas.



Photo 14 - Feb 20, 2022

The sand is back.



Photo 15

2011

Photo 16

Every year the sand drifts over the retaining wall in front of the cottage and I pay to have it pushed down onto the beach by a tractor. Photos 15, 16, 17 and 18 show the before and after of this event for 2 of the years. Some years there is more sand than others. You can see the hatch in the front cinder blocks which is the only access to beneath the cottage where the hot water heater is, as well as the water meter, outside tap shut offs and furnace. My hesitation in building a front deck was with maintaining access to the hatch. I am having a hatch put inside the cottage now.



Photo 17

2015

Photo 18

Photos 19, 20 and 21 are from the high waters in 1985. My retaining wall had been in place since 1973. My neighbour to the south did not have a retaining wall yet. The areas inside the yellow highlighter show the area on the lake side of the cottage where the planned front deck would be. The red arrows point to the flagpole and the black arrow shows the retaining wall. Note the green grass still in place after the high waters. I am told the wall held and the cottage was not touched by the high water.

Photo 19



Photo 20



Photo 21

Appendix B

HEARING PROCEDURES

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chairperson's opening remarks. For electronic hearings, the Chairperson shall ensure that all parties and the Hearing Board are able to clearly hear one another and any witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff will present the staff report included in the Authority/Executive Committee agenda.
6. The applicant and/or their agent will present their material
7. Staff and/or the conservation authority's agent may question the applicant and/or their agent if reasonably required for a full and fair disclosure of matters presented at the Hearing.¹
8. The applicant and/or their agent may question the conservation authority staff and/or their agent if reasonably required for full and fair disclosure of matters presented at the Hearing.²
9. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
10. The Hearing Board will move into camera. For electronic meetings, the Hearing Board will separate from other participants for deliberation.
11. Members of the Hearing Board will move and second a motion.
12. A motion will be carried which will culminate in the decision.
13. The Hearing Board will move out of camera.
14. The Chairperson or Acting Chairperson will advise the owner/applicant of the Hearing

¹ As per the Statutory Powers Procedure Act a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

² As per the Statutory Powers Procedure Act a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

Board decision.

15. If decision is "to refuse", the Chairperson or Acting Chairperson shall notify the owner/applicant of his/her right to appeal the decision to the Mining and Lands Tribunal within 30 days of receipt of the reasons for the decision.
16. Motion to move out of Hearing Board and sit as Executive Committee.

**St. Clair Region Conservation Authority
Regulations Committee Report**

October 8, 2024

Subject: Ontario Regulation 41/24, Prohibited Activities, Exemptions and Permits

From: Melissa Deisley, Director of Planning & Regulations

Committee Members: Ken Phillips, General Manager
Melissa Deisley, Director of Planning & Regulations
Girish Sankar, Director of Water Resources
Jeff Vlasman, Regulations Coordinator
Rashida Naznin, Environmental Engineer
Meagan Weber, Regulations Officer
Merrick Van Der Vaart, Regulations Officer

Applications:

1. **Name:** Candis MacDougall

Location of Property: 4852 Forsyth Trail
Lot 50, Concession Front
Geographic Township of Plympton
Township of Plympton-Wyoming
County of Lambton

Background:

An application has been received by the Authority requesting permission to build a deck on the lake side of the existing dwelling. The applicant has an OMB Decision from 2002 approving the deck location.

The subject property is located on the Lake Huron Shoreline, in Hillsboro Beach area. The SCRCA Shoreline Management Plan 2011 indicates that erosion rates along this reach of shoreline are low at approximately 0.08 metres per year. The bluff height in the vicinity of this area is 13 metres. The subject property is located at the toe of the bluff, so is not impacted by the erosion of the bank. The subject property is located within the Flood Hazard (Shoreline Area 1), which is defined as between the water's edge and a line defined by the 100-year flood line plus a 15 metre wave uprush allowance.

SCRCA Board Approved Lake Huron Shoreline Policy indicates no new structural development is permitted within the Flood Hazard.

The SCRCA Shoreline Management Plan (Baird, 2011) Development Guidelines indicates new decks are not permitted within the Flood Hazard (Shoreline Area 1)

Development Activity	Lakeshore Area 1			Lakeshore Area 2	
	Flood	Dynamic Beach	Erosion	Dynamic Beach	Erosion
Existing Developed Lots					
Repairs/Maintenance (No intensification of use)	Yes	Yes	Yes	Yes	Yes
Interior Alterations (No intensification of use)	Yes	Yes	Yes	Yes	Yes
Minor Additions (less than 30% of area of existing dwelling)	No	No	Conditional ¹	Yes - landward of foredune and design must minimize dune impact**	Dependent upon Erosion Rate **
Major Additions (equal to or greater than 30% of area of existing dwelling)	No	No	No	Yes - landward of foredune and existing dwelling and design must minimize dune impact**	Dependent upon Erosion Rate & landward of existing dwelling**
Rebuilding of dwelling destroyed by forces other than flooding and erosion	yes - if same size and utilizes maximum lot depth (most landward location)			Yes - most landward location and design must minimize dune impact	yes - most landward location
Rebuilding of dwelling destroyed by flooding and/or erosion	No	No	No	No	No
Relocation of dwelling away from shoreline	Optional on the part of the landowner; encouraged by CA			Owner should consider this as a future option, depending on severity of hazard	
Existing Vacant Lots (Infilling)					
New Dwellings*	No	No	No	Conditional ³	Conditional ⁴
Septic Systems	No	No	No	Yes-most landward location	Yes - most landward location
New Development					
Creation of New Lot(s) (ie. Severance, subdivisions)	No	No	No	No	No
Technical Severance***	Yes	Yes	Yes	Yes	Yes
Lot Consolidation	Yes	Yes	Yes	Yes	Yes
Land Use designation/zone changes	Support Changes to planning documents to Hazard, Natural Environment or Open Space designations			Support Changes to planning documents to a lakeshore overlay (subscript "L") designation	
	Do not support proposed zoning, land use designation or official plan changes which further intensify land use: ie. Seasonal residential to multi-unit dwelling				
Accessory Structures					
Unattached Garages	No	No	No	No	Dependent upon Erosion Rate & landward of existing dwelling
Major Structures (structure greater than 14m ²)	No	No	No	No	Dependent upon Erosion Rate & landward of existing dwelling
Minor Structures (10 m ² - 14m ²)	No	No	Conditional ²	Yes - impact to dune minimized	Dependent upon Erosion Rate & landward of existing dwelling
Swimming Pools	No	No	No	No	Dependent upon Erosion Rate & landward of existing dwelling
New Septic Systems	No	No	No	Yes - landward of existing dwelling	Yes - landward of existing dwelling
Decks (Existing)					
Repair and Maintenance	Yes	Yes	Yes	Yes	Yes
Decks (New)	No	No	No closer than 3m to top of bank and not connected to	If landward of the foredune - size restriction may apply & design must minimize impact to dune	Yes

Description of Reach 28, Shoreline Management Plan:

Shoreline Characteristics

Beach

-sand beach typically ±10 metres wide at normal summer water levels, becoming narrow during periods of high lake levels

-Hillsboro South on remnant dune feature located between beach and backshore bluff

Bluff

-high bluff in Hillsboro North; well vegetated with mature trees
-some localized instability due to landside influences (drainage, loading, etc.)

Development

-seasonal residential development
-cottages located on bluff face and along top of bluff in Hillsboro North
-cottages in Hillsboro South located on remnant dune feature at the beach

Protection works

-steel sheet pile groynes supplemented by vertical sheet pile, concrete and rock seawalls and retaining walls, and rubble mounds

Erosion Issues

- Long term recession rate is generally low at <0.3 metres/year
- Beach erosion and wave uprush damage during storms and high lake level periods
- Historical damage to protection works, property and structures located on the bluff face/beach

MNR Technical Guidelines suggest that new decks and boardwalks can be permitted provided they are not connected to dwellings within the flood hazard, provided safety concerns due to flood hazards are addressed considering site conditions and nature and use of development.

<p>Decks, boardwalks, fixed walkways (not connected to dwelling)</p>	<p>Permitted provided safety concerns due to flood hazards are addressed considering site conditions and nature and use of development. Advise of flood risk and potential damage. Do not reduce existing ingress/egress. Level of safety varies with ingress/egress (i.e., limited access points or continuous access).</p>
--	--

Staff issued an inquiry letter to the applicant, dated January 23, 2024 outlining that the SCRCA could not approve a deck within the flood hazard. The letter

indicated that an Engineering Assessment must be completed which should address the following:

- Development outside the flood hazard limit
- Coastal Engineered shoreline hazards assessment (review of coastal processes, flooding and erosion hazards, etc.) and if required, coastal engineered protection must be undertaken. The assessment and protection must meet established professional engineered standards and procedures. Engineering seal required;
 - Protection works must adhere to the standards outlined in the MNR Great Lakes – St. Lawrence River System and Large inland Lakes Technical Guides (Technical Guide for Great Lakes – St. Lawrence River Shorelines. PART 7, Addressing the Hazard);
- Topographic Survey
- Potentially a geotechnical report

The inquiry letter also indicated legal advice from SCRCA lawyer that previous OMB approval does not supersede SCRCA Ontario Regulation 41/24 (Previous O.R. 171/06) approvals. Applicant would be required to go through proper SCRCA permitting process and/or potentially hearing before the Board and must meet present day regulation policies.

The SCRCA planning file from 2002 from SCRCA Director of Planning to Township of Plympton-Wyoming, outlined that the proposed deck is situated within the High Hazard Area (Shoreline Management Area 1) which is the most hazardous portion of the shoreline. The residence is situated on a remnant dune feature behind the beach. High volumes of overtopping water can erode the area behind the seawall thereby removing the material which supports both the protection works and the dwelling. Failure of the structure can occur. **Recommendation from SCRCA:** We do not have a concern with the construction of an unattached deck to the east of the residence since this does not encroach any closer to the hazard (lake) than the existing dwelling. Based on the severity of the hazard at this location, we do have a concern with the construction of a covered deck as proposed. The reason for the high concern is both the potential to enclose the deck as well as its location lakeward of the existing structure in a high hazard area. The structure will likely be subject to storm damage in the future based on technical shoreline information. We recommend the application be denied as submitted.

The OMB Report states that the OMB accepts the evidence of the appellant's professional land use planner and finds that the large, covered deck subject to conditions, will have no adverse impacts and represents good land use planning. Given the evidence as presented by the representative of the Conservation Authority, the Board finds that a condition that the large covered deck not be attached structurally to the cottage is appropriate. The appeal is allowed in part and the variances applied for are authorized subject to the following conditions:

1. The large covered deck shall be constructed substantially in accordance with the plans as shown in Attachment "1".
2. The large covered deck shall not be attached, including the roof or cover, structurally to the cottage.

The applicant submitted a coastal report which re-evaluated the flood hazard on the subject property. The deck is still located within the flood hazard per the Coastal Engineering Assessment.

The size of the deck is approximately 272 sq. ft., which does not meet current exemptions under O.R. 41/24 (161 sq. ft). Discussed with landowner if they could reduce the size of the deck and locate it outside the flood hazard, applicant said this would not be feasible based on the layout of the house/where the door is.

Discussion:

Applicant submitted application that included:

- Deck Plans
 - Construction of a new deck 8 ft by 34.7 ft on the lake side of the existing cottage (total square footage is 272 sq. ft)
 - Deck will be unattached to the house
 - Deck will be unenclosed
 - Deck length is the length of the existing house
 - 4' deep cement piers 14" diameter
- OMB Decision, December 10, 2002
 - OMB decision was to approve the deck with two conditions being:
 - The large covered deck shall be constructed in accordance with the plans;
 - The large covered deck shall not be attached, including the roof or cover, structurally to the cottage;
- Coastal Report dated June 12, 2024, with addendum September 25, 2024
 - Coastal report states that the deck will extend 1.4 metres into the flood hazard limit as defined in the assessment
 - Predicted bore height will be only 11 cm high at the edge of the deck and this should not be viewed as presenting a significant flooding risk. The surface of the deck will be at least 1 m above the ground over which the bore will travel.
 - The steel wall will protect the deck from direct wave action, but there will be some overtopping water and spray during a design storm
 - Neighbouring cottages have lakeside decks and have not been damaged in 30 years.
- Topo Boundary Survey



- Pictures from applicant showing the existing conditions, and past conditions of the site over the years

Recommendation:

The proposed deck construction does not meet SCRCA Board Approved Lake Huron Shoreline Policies. It is recommended that this Application for Permission be denied and that the applicant be informed of their right to a Hearing before the Authority Board of Directors.

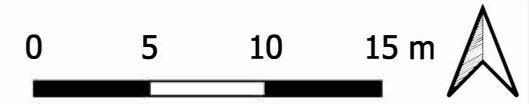
Action: Email applicant to advise that the application has been denied and inform them of their right to a Hearing before the Authority Board of Directors.

Legend

-  Areas Affected by Regulations
-  Flood Hazard (Wave Uprush)



**4852 Forsyth Trail
Plympton-Wyoming**



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THIS IS NOT A PLAN OF SURVEY. Aerial Photography Date: Spring 2020
Map Created by: Melissa Deisley

Baird

oceans
engineering
lakes
design
rivers
science
watersheds
construction

Lake Huron Shoreline Management Plan Update - 2011

St. Clair Region Conservation Authority

December 5, 2011

11502.101

Board of Directors approval - Motion #BD-15-089



REACH 28

HILLSBORO BEACH (NORTH AND SOUTH) AROUND HICKORY CREEK

Plympton Township (includes Registered Plan 26)

MEASUREMENT NUMBERS 694-706

Plympton Maps 31 and 32

Shoreline Characteristics

- beach -sand beach typically ±10 metres wide at normal summer water levels, becoming narrow during periods of high lake levels
-Hillsboro South on remnant dune feature located between beach and backshore bluff
- bluff -high bluff in Hillsboro North; well vegetated with mature trees
-some localized instability due to landside influences (drainage, loading, etc.)
- development -seasonal residential development
-cottages located on bluff face and along top of bluff in Hillsboro North
-cottages in Hillsboro South located on remnant dune feature at the beach
- protection works -steel sheet pile groynes supplemented by vertical sheet pile, concrete and rock seawalls and retaining walls, and rubble mounds

Erosion Issues

- long term recession rate is generally low at < 0.3 metres/year
- beach erosion and wave uprush damage during storms and high lake level periods
- historical damage to protection works, property and structures located on the bluff face/beach

Objective of Protection Works

- limit storm wave uprush damages
- provide recreational beach

Recommendations

- community approach to construction and maintenance of protection works is recommended
- maintain existing groynes; where groyne cells are not full, "nourish" with suitable beach sand (clean sand and gravel, D₅₀ > 0.3mm)
- vertical seawalls and retaining walls are not recommended
- supplement or replace existing vertical walls with sloping rubblemound revetments to reduce wave impact and beach erosion
- any new groyne construction should include prefilling of groyne cells with suitable beach sand
- for more detailed information and guidance, refer to the supporting document entitled Design Considerations for Shore Protection Structures (Baird, 1992)

*Shoreline Reach Characteristics, F.J. Reinders Lake Huron Shoreline Processes Study, 1989 and MNR Technical Guidelines

Management Area Delineation (by SCRCA)

Shoreline Area	Descriptions	Applicable Column in Shoreline Development Guidelines
	694-701 —between the water’s edge and a line defined by the 100 year flood line plus a 15 m wave uprush allowance	Flood
	704-707 -between the water’s edge and a line defined by the slope stability allowance measured landward from the toe of the bluff	Erosion
Shoreline Area 2	-between Shoreline Area 1 and a line defined by a 30 metre erosion allowance measured from the top of the bluff	Erosion

June 12, 2024

Ms. Candis MacDougall
602-521 Riverside Drive
London, ON N6H 5E2

candismid@hotmail.com

Dear Ms. MacDougall

**Re: 4852 Forsyth Trail, Plympton-Wyoming
Shoreline Natural Hazards Assessment
Our File: 24-3905**

As requested, we have visited the above noted site in Plympton-Wyoming and offer the following assessment of the existing natural hazards related to the Lake Huron shoreline. This assessment is required for your dealings with the St. Clair Region Conservation Authority (SCRCA). It is our understanding that you wish to construct a deck along the rear (lakeside) of your existing cottage.

General site dimensions and topographic information are based on a May 2024 survey plan prepared by Monteith and Sutherland Limited. That survey plan was used as a base for Figure 1 of this report. All elevations referenced in this report are relative to Canadian Geodetic Vertical Datum (CGVD28).

A site review was carried out by a Shoreplan engineer on February 22, 2024, and the photographs presented below were taken at that time. The water level during our visit was approximately 176.5m as recorded by the Canadian Hydrographic Service water level gauge in Goderich.

Existing Conditions

The subject property is located on the beach side of Forsyth Trail and is approximately 20m wide. The shoreline has been characterized as an eroding cohesive shore although there is currently a significant sand deposit on top of the cohesive shore. The shoreline runs from southwest to northeast, with someone looking offshore facing to the northwest. Figure 1 is a site plan of the subject property and the beach fronting the property.

There is an existing cottage fronted by a 30m wide sand beach. The beach crest extends up to elevation 179.8m in front of the cottage. There is a steel retaining wall with a top elevation of approximately 179.3m that extends across the width of the subject property and onto or beyond the adjacent properties. The wall is 8m lakeward of the front of the cottage.

Photo 1 is a southeasterly looking view of the existing one-storey cottage located on the property. A portion of the steel wall fronting the cottages is visible in this photograph. Photo 2 and Photo 3 respectively show northeasterly and southwesterly views of the shoreline

SHOREPLAN

Natural Hazards

The natural hazards considered for this assessment include the dynamic beach hazard, the flood hazard and the erosion hazard as defined in the Natural Hazards Policies (3.1) of the Provincial Policy Statement of the Planning Act (PPS). Each hazard is discussed separately below. Our assessment is consistent with the general methods prescribed in the MNR (2001) technical guidelines published to support the PPS. We also relied on information contained in the 2011 Lake Huron Shoreline Management Plan Update downloaded from the SCRCA website. SCRCA bases their technical reviews on the material presented in that plan.

Dynamic Beach Hazard

SCRCA's Lake Huron Shoreline Management Plan (SMP) update does not apply a dynamic beach designation in this reach. It indicates that the erosion hazard governs. We therefore have not applied a Dynamic Beach Allowance here.

Flood Hazard

The Provincial Policy Statement defines the limit of the flood hazard as the 100-year flood level plus a wave uprush allowance. MNR determined the 100-year flood level to be 177.9 metres along this section of shoreline. The wave allowance is calculated for a 20-year return period wave occurring at the 100-year water instantaneous water level (the 100-year flood level). SCRCA's policy is to measure wave uprush from the location of the historic 100-year flood level, which was mapped during the 1988 Flood Damage Reduction Program. The location of the historic 100-year flood level was provided to us in digital format by SCRCA and is shown on Figure 1.

The 20-year return period wave condition was determined from an extreme value analysis of hourly wave data from the U.S. Army Corps of Engineers WIS hindcast database for station 93265. It was transferred inshore using a two-dimensional spectral wave transformation model which showed the design wave to have a significant wave height of 1.7m in a water depth of 3.4m.

We carried out a wave uprush analysis using a composite slope wave uprush program. That program calculates the equivalent slope uprush solution for profiles by applying a number of different wave runup equations, depending on site conditions. For this site we used the embankment wave uprush equation described in the EurOtop (2018) overtopping manual.

A typical profile derived from the topographic survey plan was shifted so that it matched the SCRCA historic flood line at elevation 177.9m. The portion of the profile landward of the steel wall was not shifted because of the protection provided by the wall.

Our analysis showed that the beach crest in front of the cottage would be overtopped and limited overtopping would occur. We therefore used the Cox and Machemehl (1986) method to estimate the overland bore propagation

due to an overtopping wave. Figure 2 shows the overtopping bore height as a function of the distance from the front of the cottage. This shows the calculated flood hazard limit to be 1m in front of the cottage, as shown on the site plan Figure 1.

Erosion Hazard

The erosion hazard limit consists of two components, an erosion allowance plus a stable slope allowance. The erosion allowance is based on a 100-year time frame and is calculated first so that the stable slope allowance can be applied to the point where the shoreline is expected to be in 100 years.

The erosion allowance is calculated as 100 times the average annual recession rate for unprotected shoreline. SCRCA's SMP update shows an average annual recession rate of 0.08 m/yr for this shoreline reach (Reach 28). That produces an 8.0m erosion allowance, which is to be measured from the toe of the bank. There is no discernable toe of bank so the erosion allowance is measured from the position of the long term average Lake Huron water level, which is 176.43m. This is close enough to the waterline on the provided survey plan that the waterline may be treated as the toe of bank.

The provincial default stable slope allowance is 3: 1 (horizontal: vertical). With a beach crest elevation of 179.7m this gives a stable slope allowance of 9.8m. The erosion allowance and stable slope allowance are shown on the site plan Figure 1. Together they form the erosion hazard limit. The entire property is outside the erosion hazard.

Proposed Deck

It is proposed that an 8 foot (2.4m) wide by 34 foot (10.4m) long deck be added to the rear (lakeside) of the existing cottage. Our analysis shows the proposed deck will extend 1.4m into the flood hazard limit as defined in this assessment. We note, however, that Figure 2 shows the predicted bore height will be only 11cm high at the edge of the deck and this should not be viewed as presenting a significant flooding risk. The surface of the deck will be at least 1m above the ground over which the bore will travel.

We also note that our analysis method has not accounted for the influence that the steel wall will have on the overtopping wave. There is no reasonable method to determine the shape of any bore that will overtop the wall, then the beach landward of the wall, before reaching the deck. It is our expectation that the wall will cause any overtopping flow to have a lower bore height than that assumed from the analysis method we used, but there are no specific procedures to support this expectation.

The steel wall will protect the deck from direct wave action, but there will be some overtopping water and spray during a design storm event. Record monthly Lake Huron water levels occurred in 2020, as can be seen from the hydrograph in Figure 3. Your experience with how that wall affected wave

conditions, if they even reached the wall, will provide valuable insight into the potential flood risk for the deck.

We also note that both neighbouring cottages have lakeside decks. We understand there were decks present for the 30 years you have owned your cottage, although the deck to the south was recently replaced due to its age. You indicated that neither deck was damaged by waves at any time over those 30 years. It is logical to conclude that a deck at your cottage would not have been damaged either.

SHOREPLAN

Summary

The SCRCA 2011 SMP update describes this site as a cohesive shore, so a dynamic beach hazard was not assessed. The entire property is outside the erosion hazard as defined using the 0.08 m/yr average annual erosion rate from the plan and the provincial default stable slope.

Our wave uprush and overtopping analysis showed the proposed deck will protrude 1.4m into the flood hazard, but that analysis could not consider the protection provided by the steel wall that fronts the property. The analysis showed that an 11cm high bore would reach the base of the deck which will be at least 1m above the ground over which the bore will travel. It is our expectation that any bore resulting from overtopping of the wall will be lower than that predicted using the method we employed. We also note the neighbouring decks have not been damaged over the 30 years you have owned your cottage, including during the storms that occurred during the 2020 record high water levels.

We trust that these comments will assist you as you develop your plans for these properties. Please do not hesitate to call us if you have any questions regarding this letter.

Yours truly,

Shoreplan Engineering Limited



Bruce Pinchin, P. Eng.



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SHOREPLAN

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Photo 1 Southeasterly View of Existing Cottage, February 2024



Photo 2 Southwesterly View of Adjacent Beach, February 2024



SHOREPLAN

Photo 3 Northeasterly View of Adjacent Beach, February 2024



Figure 2 Overland Bore Height

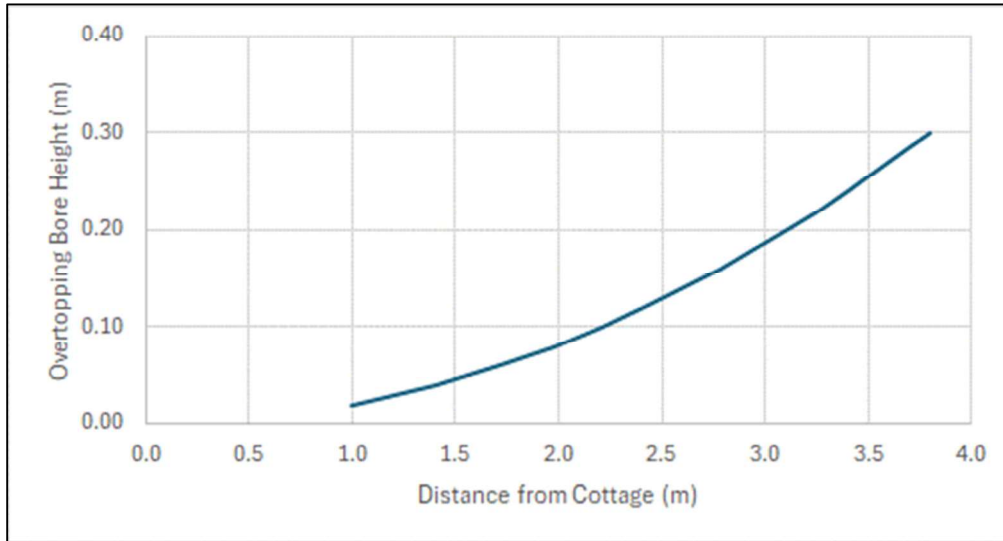
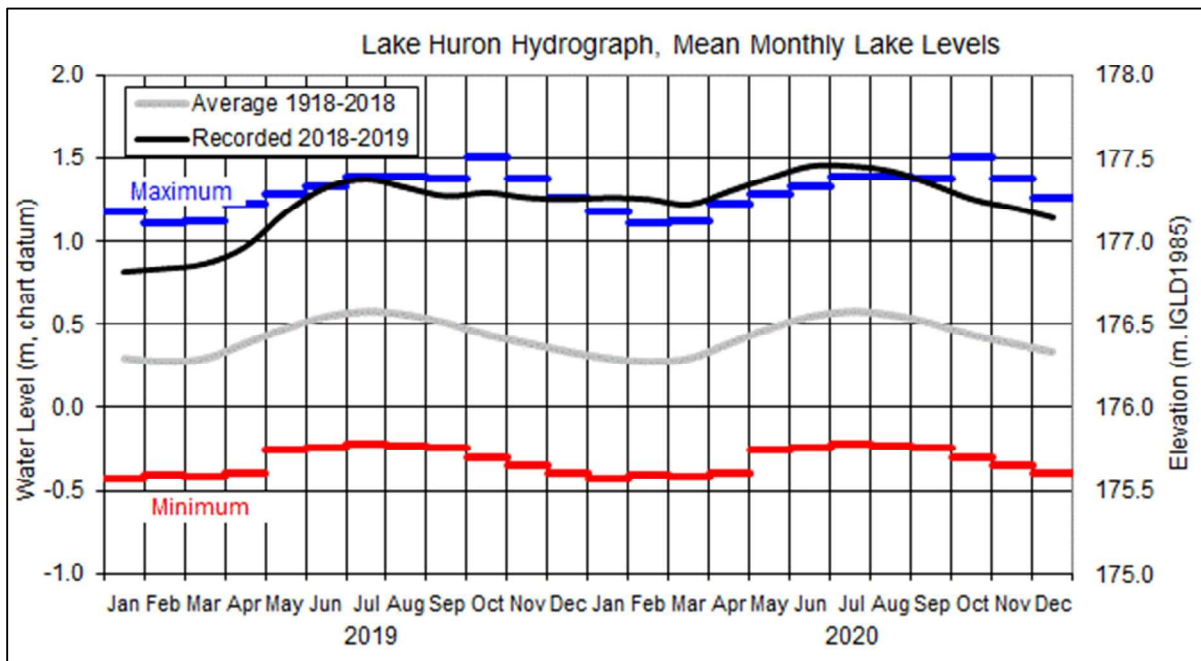


Figure 3 Lake Huron Hydrograph



Addendum

SHOREPLAN

To: Candis MacDougall
candismid@hotmail.com

From: Bruce Pinchin P. Eng.

Date: September 25, 2024

Re: **4852 Forsyth Trail, Plympton-Wyoming
Shoreline Natural Hazards Assessment
Our File: 24-3905**

This is an addendum to our September 24, 2024 natural hazard assessment for the above noted property. It describes the conditions from a major Lake Huron storm event in late 2020 that essentially matched the design conditions used in our flooding hazard assessment. It offers confirmation that that the proposed cottage deck will not be at undue risk due to flooding.

The Provincial Policy Statement defines the limit of the flood hazard as the 100-year flood level plus a wave uprush allowance. The wave allowance is calculated for a 20-year return period wave occurring at the 100-year water instantaneous water level (the 100-year flood level).

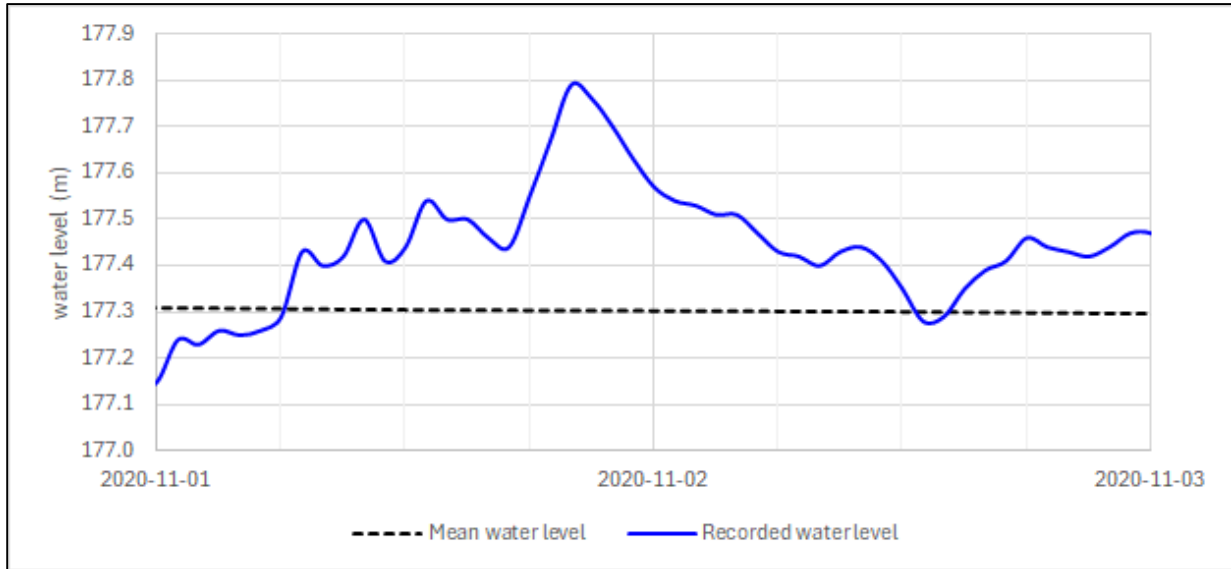
We do not have any recorded water level data near Hillsborough Beach but there is a Canadian Hydrographic Service gauge at Goderich. Data from that gauge was used by MNR during their water level analyses. They calculated the 100-year water level at Goderich to be 177.8m. The 100-year water level for the shoreline sector including Hillsborough Beach is 177.9m. This 0.1m difference is due to higher surges in the Hillsborough sector.

A major Lake Huron storm occurred on November 11, 2020. Figure 1 shows hourly water levels measured at Goderich, as well as the mean water level calculated with a 15-day rolling mean average. The water level at the peak of the storm was 177.8m, which is the 100-year water level for Goderich. It was caused by a 0.5m high surge. It is reasonable to assume that the higher surge at Hillsborough would have produced a water level of 177.9m there.

The wave data used during our flood hazard analysis was taken from the U.S. Army Corps of Engineers WIS hindcast database for station 93265. Our extreme value analysis of that data showed the 20-year return period wave to have a significant wave height of 5.2m with a peak wave period of 10.5s. The wave at the peak of the November 1, 2020 storm had a significant wave height of 4.8m with a peak wave period of 10.1s. This is only marginally lower than the 20-year wave. These are deep water waves, and the nearshore wave heights are much lower due to refraction and breaking. For all practical purposes, the storm event that occurred on November 1 can be considered representative of the 20-year return period storm.

The implication of this is that the events of November 1, 2020 can be considered to represent the design conditions that are to be used in a flood hazard assessment. As no flooding occurred in the area of the proposed deck on November 1, this supports our conclusion that it would be appropriate for SCRCA to approve your deck plans.

Figure 1 Goderich Water Levels, November 1 and 2, 2020



Français

Conservation Authorities Act

R.S.O. 1990, CHAPTER C.27

Consolidation Period: From June 6, 2024 to the [e-Laws currency date](#).

Last amendment: 2024, c. 16, Sched. 12, s. 16.

Legislative History: 1993, c. 27, Sched.; 1994, c. 27, s. 127; 1996, c. 1, Sched. M, s. 40-47; 1996, c. 32, s. 66; 1997, c. 5, s. 64; 1997, c. 26, Sched.; 1997, c. 29, s. 54; 1997, c. 43, Sched. G, s. 19; 1998, c. 3, s. 33; 1998, c. 15, Sched. E, s. 3; 1998, c. 18, Sched. I, s. 1-14; 2000, c. 5, s. 8; 2001, c. 8, s. 203; 2001, c. 9, Sched. K, s. 1; 2002, c. 17, Sched. F, Table; 2004, c. 8, s. 46, Table; 2006, c. 3, Sched. D; 2006, c. 21, Sched. F, s. 105; 2006, c. 22, s. 113; 2006, c. 32, Sched. C, s. 8; 2008, c. 7, Sched. A, s. 19; 2009, c. 12, Sched. L, s. 2; 2010, c. 16, Sched. 10, s. 1; 2011, c. 9, Sched. 27, s. 22; 2017, c. 8, Sched. 17, s. 5; 2017, c. 23, Sched. 4 (but see 2019, c. 9, Sched. 2, s. 10 and 2020, c. 36, Sched. 6, s. 27); 2017, c. 23, Sched. 5, s. 20-23; 2018, c. 16, s. 3; 2019, c. 9, Sched. 2; (but see 2020, c. 36, Sched. 6, s. 28); 2020, c. 36, Sched. 6, s. 1-25 (but see 2021, c. 4, Sched. 6, s. 81 and 2022, c. 21, Sched. 2, s. 15); 2021, c. 4, Sched. 6, s. 39; 2022, c. 21, Sched. 2, s. 1-15; 2024, c. 16, Sched. 12, s. 16.

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PART I

PURPOSE AND INTERPRETATION

Purpose

0.1 The purpose of this Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario. 2017, c. 23, Sched. 4, s. 1.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 1 - 12/12/2017

Definitions

1 In this Act,

“advisory board” means an advisory board appointed by an authority; (“conseil consultatif”)

“authority” means a conservation authority established by or under this Act or a predecessor of this Act; (“office”)

“executive committee” means the executive committee appointed by an authority; (“comité de direction”)

“land” includes buildings and any estate, term, easement, right or interest in, to, over or affecting land; (“bien-fonds”)

“Minister” means the Minister of Natural Resources and Forestry or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“municipality” means a local municipality, and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue money under section 69 of that Act; (“municipalité”)

“operating expenses” include,

- (a) salaries, per diems and travel expenses of employees and members of an authority,
- (b) rent and other office costs,
- (c) program expenses,
- (d) costs that are related to the operation or maintenance of a project, but not including the project’s capital costs, and
- (e) such other costs as may be prescribed by regulation; (“dépenses d’exploitation”)

“participating municipality” means a municipality that is designated by or under this Act as a participating municipality; (“municipalité participante”)

“project” means a work undertaken by an authority for the furtherance of its objects; (“projet”)

“watershed” means an area drained by a river and its tributaries. (“bassin hydrographique”) R.S.O. 1990, c. C.27, s. 1; 1996, c. 1, Sched. M, s. 40; 1998, c. 18, Sched. I, s. 1; 2002, c. 17, Sched. F, Table; 2017, c. 23, Sched. 4, s. 2; 2019, c. 9, Sched. 2, s. 1; 2022, c. 21, Sched. 2, s.1.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 40 (1, 2) - 30/01/1996; 1998, c. 18, Sched. I, s. 1 - 18/12/1998

2002, c. 17, Sched. F, Table - 01/01/2003

2017, c. 23, Sched. 4, s. 2 (1, 2) - 01/07/2023

2019, c. 9, Sched. 2, s. 1 - 02/02/2021

2022, c. 21, Sched. 2, s. 1 - 28/11/2022

Existing aboriginal or treaty rights

1.1 For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*. 2020, c. 36, Sched. 6, s. 1.

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 1 - 02/02/2021

PART II

ESTABLISHMENT OF CONSERVATION AUTHORITIES

Meeting to establish authority for watershed

2 (1) Where the councils of any two or more municipalities situate either wholly or partly within a watershed by resolution request the Minister to call a meeting for the establishment of an authority for the watershed or any defined part thereof, the Minister shall fix a time and place for such a meeting and shall forthwith notify the council of every municipality either wholly or partly within the watershed or part thereof. R.S.O. 1990, c. C.27, s. 2 (1).

Representatives at meeting

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers:

1. Where the population is 1,000,000 or more, seven representatives.
- 1.1 Where the population is 500,000 or more but less than 1,000,000, six representatives.
- 1.2 Where the population is 250,000 or more but less than 500,000, five representatives.
2. Where the population is 100,000 or more but less than 250,000, four representatives.
3. Where the population is 50,000 or more but less than 100,000, three representatives.
4. Where the population is 10,000 or more but less than 50,000, two representatives.
5. Where the population is less than 10,000, one representative. R.S.O. 1990, c. C.27, s. 2 (2); 2001, c. 9, Sched. K, s. 1 (1).

Authority of representatives

(3) The representatives so appointed have authority to vote and generally act on behalf of their respective municipalities at the meeting. R.S.O. 1990, c. C.27, s. 2 (3).

Quorum

(4) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint. R.S.O. 1990, c. C.27, s. 2 (4); 2017, c. 23, Sched. 4, s. 4.

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. K, s. 1 (1) - 29/06/2001

2017, c. 23, Sched. 4, s. 4 - 12/12/2017

Establishment, jurisdiction and initial financing

Establishment and jurisdiction of authority

3 (1) Upon receipt by the Minister of a resolution passed at a meeting held under section 2 and at which a quorum was present by not less than two-thirds of the representatives present thereat requesting the establishment of an authority, the Lieutenant Governor in Council may establish a conservation authority and designate the municipalities that are the participating municipalities and the area over which the authority has jurisdiction. R.S.O. 1990, c. C.27, s. 3 (1); 2017, c. 23, Sched. 4, s. 5 (1).

Where only part of municipality in watershed

(2) Where a municipality is only partly within the watershed, the Lieutenant Governor in Council may include the whole or that part of the municipality in the area over which the authority has jurisdiction. R.S.O. 1990, c. C.27, s. 3 (2).

Name of authority

(3) The name of each authority shall be determined by the Lieutenant Governor in Council and shall conclude with the words “conservation authority” in English and shall include the words “office de protection de la nature” in French. R.S.O. 1990, c. C.27, s. 3 (3).

Corporate body

(4) Every authority is a body corporate. R.S.O. 1990, c. C.27, s. 3 (4).

Borrowing power

(5) Every authority may, for its purposes, borrow on the promissory note of the authority such money as may be required until payment to the authority of any grants and of sums to be paid to the authority by the participating municipalities. R.S.O. 1990, c. C.27, s. 3 (5); 2017, c. 23, Sched. 4, s. 5 (2).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 5 (1, 2) - 12/12/2017

Upper-tier municipalities

Regional municipalities to act in place of local municipalities

4 (1) An upper-tier municipality that was established as a regional municipality before the day subsection 6 (1) of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force,

- (a) shall act in the place of the local municipalities within the regional municipality for the purpose of appointing representatives to attend a meeting for the establishment or enlargement of a conservation authority or the

amalgamation of conservation authorities and for the purpose may appoint representatives in the numbers to which the local municipalities would otherwise have been entitled; and

- (b) shall be a participating municipality in the place of such of the local municipalities within the regional municipality as are wholly or partly within the area under the jurisdiction of a conservation authority and shall appoint to each such authority the number of members to which the local municipalities would otherwise have been entitled as participating municipalities. R.S.O. 1990, c. C.27, s. 4 (1); 2017, c. 23, Sched. 4, s. 6 (1).

(2) REPEALED: 2017, c. 23, Sched. 4, s. 6 (2).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 6 (1, 2) - 12/12/2017

Toronto and Region Conservation Authority

5 (1) The Metropolitan Toronto and Region Conservation Authority is continued under the name Toronto and Region Conservation Authority in English and Office de protection de la nature de Toronto et de la région in French, and has jurisdiction in all matters provided for in this Act over the area under its jurisdiction on December 31, 1990, as it may be altered under this Act. 1997, c. 26, Sched.

(2) REPEALED: 2001, c. 9, Sched. K, s. 1 (2).

Designation of participating municipalities and area

(3) The Lieutenant Governor in Council may designate,

- (a) the municipalities that are the participating municipalities of the Toronto and Region Conservation Authority; and
(b) the area over which the Toronto and Region Conservation Authority has jurisdiction. 1997, c. 26, Sched.

Members

(4) Despite subsections 14 (1), (2) and (5) but subject to subsection 14 (2.1), the number of members appointed to the Toronto and Region Conservation Authority by the City of Toronto shall, at all times, be equal to the total number of members appointed by the other participating municipalities. 1997, c. 26, Sched.; 2001, c. 9, Sched. K, s. 1 (3).

Section Amendments with date in force (d/m/y)

1997, c. 26, Sched. - 01/01/1998

2001, c. 9, Sched. K, s. 1 (2, 3) - 29/06/2001

Hamilton Region Conservation Authority

6 (1) The Hamilton Region Conservation Authority is continued under the name Hamilton Region Conservation Authority in English and Office de protection de la nature de la région de Hamilton in French, and has jurisdiction in all matters provided for in this Act over the area under its jurisdiction on the 31st day of December, 1990, as it may be altered under this Act. R.S.O. 1990, c. C.27, s. 6 (1).

(2) REPEALED: 2001, c. 9, Sched. K, s. 1 (4).

Designation of participating municipalities and area

(3) The Lieutenant Governor in Council may designate the municipalities that are the participating municipalities of the Hamilton Region Conservation Authority and the area under its jurisdiction. R.S.O. 1990, c. C.27, s. 6 (3).

(4) REPEALED: 2000, c. 5, s. 8.

Section Amendments with date in force (d/m/y)

2000, c. 5, s. 8 - 01/01/2001

2001, c. 9, Sched. K, s. 1 (4) - 29/06/2001

Grand River Conservation Authority

7 (1) The Grand River Conservation Authority is continued under the name Grand River Conservation Authority in English and Office de protection de la nature de la rivière Grand in French as a conservation authority under this Act. R.S.O. 1990, c. C.27, s. 7 (1).

Designation of participating municipalities and area

(2) The Lieutenant Governor in Council may designate the municipalities that are the participating municipalities of the Grand River Conservation Authority and the area over which it has jurisdiction. 2001, c. 9, Sched. K, s. 1 (5).

(3) REPEALED: 2001, c. 9, Sched. K, s. 1 (5).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. K, s. 1 (5) - 29/06/2001

Grouping of municipalities

8 The participating municipalities may designate any group of municipalities that shall be considered as one municipality for the purpose of appointing a member or members to a conservation authority and provide for the appointment of the member or members to be appointed by a group of municipalities. R.S.O. 1990, c. C.27, s. 8; 1998, c. 18, Sched. I, s. 2.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 2 - 18/12/1998

Establishment of authority for two or more watersheds

9 Where the councils of any three municipalities situate either wholly or partly within the area comprising two or more watersheds by resolution request the Minister to call a meeting for the establishment of an authority for such watersheds or any defined parts thereof, the provisions of sections 2 and 3 apply with necessary modifications. R.S.O. 1990, c. C.27, s. 9.

PART III

ENLARGING AREAS OF JURISDICTION, AMALGAMATIONS AND DISSOLUTIONS

Enlargement of authority's area

10 (1) If an authority has been established, the council of a municipality that is completely or partly outside the jurisdiction of the authority may call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include an area specified by the municipality. 1998, c. 18, Sched. I, s. 3 (1).

Notice of meeting

(1.1) Notice of the meeting shall be given to each participating municipality of the authority and to any municipality that is completely or partly within the area specified under subsection (1). 2017, c. 23, Sched. 4, s. 8.

Representatives

(2) Each municipality that receives notice of the meeting may appoint the number of representatives to attend the meeting that is determined in accordance with subsection 2 (2). 2017, c. 23, Sched. 4, s. 8.

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities are entitled to appoint under subsection (2). 2017, c. 23, Sched. 4, s. 8.

Resolution

(4) At a meeting held under this section at which a quorum is present, a resolution may be passed to do all of the following:

1. Agree to enlarge the area over which the authority has jurisdiction.
2. Designate participating municipalities for the enlarged area.
3. Designate the enlarged area over which the authority has jurisdiction. 2017, c. 23, Sched. 4, s. 8.

Two-thirds majority vote

(5) A resolution described in subsection (4) shall be passed by a majority of at least two-thirds of the representatives present at the meeting. 2017, c. 23, Sched. 4, s. 8.

Resolution in effect

(6) A resolution described in subsection (4) takes effect on such terms as it may specify despite anything to the contrary in the order in council establishing the authority. 2017, c. 23, Sched. 4, s. 8.

Minister's copy

(7) The municipality that called a meeting under subsection (1) shall provide the Minister with a copy of any resolution described in subsection (4) passed at the meeting promptly after the resolution is passed. 2017, c. 23, Sched. 4, s. 8.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 3 (1, 2) - 18/12/1998

2017, c. 23, Sched. 4, s. 8 - 12/12/2017

Amalgamation of authorities

11 (1) If two or more authorities have been established for adjoining watersheds or parts thereof, one or more of the authorities or the council of a participating municipality of one of the authorities may call a meeting to consider the establishment of one authority to have jurisdiction over the areas that are under separate jurisdictions. 1998, c. 18, Sched. I, s. 4 (1); 2017, c. 23, Sched. 4, s. 9 (1).

Notice of meeting

(1.1) Notice of the meeting shall be given to each participating municipality of the relevant authorities. 2017, c. 23, Sched. 4, s. 9 (2).

Public notice

(1.2) The body or bodies that call a meeting under subsection (1) shall ensure that, at least 14 days before the meeting, notice of the meeting is,

- (a) published in a newspaper having general circulation in each participating municipality, including in the electronic version of the newspaper where available; or
- (b) if there is no newspaper of general circulation in a participating municipality, posted on a website maintained by the municipality and in at least one prominent place in the municipality. 2017, c. 23, Sched. 4, s. 9 (2).

Public representations

(1.3) No vote shall be taken on a resolution requesting amalgamation of the authorities unless members of the public have been given an opportunity at the meeting to make representations on the issue. 2017, c. 23, Sched. 4, s. 9 (2).

Representatives

(2) Each municipality that receives notice of the meeting may appoint the number of representatives to attend the meeting that is determined in accordance with subsection 2 (2). 2017, c. 23, Sched. 4, s. 9 (3).

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities are entitled to appoint under subsection (2). 2017, c. 23, Sched. 4, s. 9 (3).

Resolution

(4) At a meeting held under this section at which a quorum is present, a resolution may be passed to do all of the following:

1. Establish a new authority that has jurisdiction over areas that previously were under the separate jurisdiction of the two or more existing authorities of the adjoining watersheds.
2. Dissolve the existing authorities.
3. Designate the participating municipalities for the new authority.
4. Designate the area over which the new authority has jurisdiction. 2017, c. 23, Sched. 4, s. 9 (4).

Two-thirds majority vote

(4.1) A resolution described in subsection (4) shall be passed by a majority of at least two-thirds of the representatives present at the meeting. 2017, c. 23, Sched. 4, s. 9 (4).

Approval by Minister

(4.2) The authorities or the municipality who called a meeting under subsection (1) shall submit the resolution passed in accordance with subsection (4.1) to the Minister for approval and the Minister may approve the resolution with such changes and on such terms and conditions as he or she considers appropriate. 2017, c. 23, Sched. 4, s. 9 (4).

Resolution in effect

(4.3) The resolution takes effect in accordance with the terms of the resolution and the Minister's approval. 2017, c. 23, Sched. 4, s. 9 (4).

Assets and liabilities of former authorities

(5) When the establishment of a new authority and the dissolution of the existing authorities take effect under subsection (4.3), all the assets and liabilities of the dissolved authorities vest in and become assets and liabilities of the new authority. R.S.O. 1990, c. C.27, s. 11 (5); 2017, c. 23, Sched. 4, s. 9 (5).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 4 (1, 2) - 18/12/1998

2017, c. 23, Sched. 4, s. 9 (1-5) - 12/12/2017

12 REPEALED: 1998, c. 18, Sched. I, s. 5.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 5 - 18/12/1998

Participating municipalities following annexation, etc.

13 Where a new municipality is erected or two or more municipalities are amalgamated or any area is annexed to a municipality and any part of the resulting municipality is within the area over which an authority has jurisdiction, such resulting municipality shall be deemed to have been designated a participating municipality by the Lieutenant Governor in Council. R.S.O. 1990, c. C.27, s. 13.

Dissolution of authority

13.1 (1) An authority shall call a meeting of the members of the authority to consider the dissolution of the authority if, by resolution, the councils of two or more participating municipalities request the meeting. 1996, c. 1, Sched. M, s. 41.

Public notice

(1.1) The authority that calls a meeting under subsection (1) shall ensure that, at least 14 days before the meeting, notice of the meeting is,

- (a) published in a newspaper having general circulation in each participating municipality, including in the electronic version of the newspaper where available; or
- (b) if there is no newspaper of general circulation in a participating municipality, posted on a website maintained by the municipality and in at least one prominent place in the municipality. 2017, c. 23, Sched. 4, s. 10 (1).

Quorum

(2) Despite subsection 16 (2), a quorum at a meeting called under this section consists of two-thirds of the members of the authority. 1996, c. 1, Sched. M, s. 41; 2017, c. 23, Sched. 4, s. 10 (2).

(3), (4) **REPEALED:** 2017, c. 23, Sched. 4, s. 10 (3).

Public representations

(5) No vote shall be taken on a resolution requesting dissolution of the authority unless members of the public have been given an opportunity at the meeting to make representations on the issue. 1996, c. 1, Sched. M, s. 41.

Criteria for dissolution

(6) The Lieutenant Governor in Council may dissolve the authority, on such terms and conditions as the Lieutenant Governor in Council considers appropriate, if,

- (a) the Minister receives a resolution requesting the dissolution passed by at least two-thirds of the members of the authority present and entitled to vote at a meeting held under this section and at which a quorum was present;
- (b) the Minister is satisfied that acceptable provision has been made for future flood control and watershed interests and for the disposition of all assets and liabilities of the authority; and
- (c) the Minister is satisfied that acceptable provision has been made for future protection of drinking water sources. 1996, c. 1, Sched. M, s. 41; 2006, c. 22, s. 113 (1); 2019, c. 9, Sched. 2, s. 2.

(7) **REPEALED:** 2017, c. 23, Sched. 4, s. 10 (4).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 41 - 30/01/1996

2006, c. 22, s. 113 (1) - 03/07/2007

2017, c. 23, Sched. 4, s. 10 (1-4) - 12/12/2017

2019, c. 9, Sched. 2, s. 2 - 02/02/2021

PART IV MEMBERSHIP AND GOVERNANCE

Members of authority

14 (1) Subject to subsection (3), members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers set out in subsection 2 (2) for the appointment of representatives. 2017, c. 23, Sched. 4, s. 12 (1); 2020, c. 36, Sched. 6, s. 2 (1).

Members of council appointed

(1.1) When appointing members of an authority, the council of a participating municipality shall ensure that at least 70 per cent of its appointees are selected from among the members of the municipal council, subject to subsection (1.2). 2020, c. 36, Sched. 6, s. 2 (2).

Exception

(1.2) Upon application by a participating municipality, the Minister may grant permission to the municipality to select less than 70 per cent of its appointees to an authority from among the members of the municipal council, subject to such conditions or restrictions as the Minister considers appropriate. 2020, c. 36, Sched. 6, s. 2 (2).

Changes in number of members

(2) The total number of municipally appointed members of the authority and the number of municipal councillors that each participating municipality may appoint shall be adjusted as required to ensure compliance with subsection (1) if the municipalities that are participating municipalities change or the population of a participating municipality changes. 2001, c. 9, Sched. K, s. 1 (6); 2020, c. 36, Sched. 6, s. 2 (3).

Agreement on number of members

(2.1) Despite subsections (1), (2) and (5), the total number of members of the authority and the number of members that each participating municipality may appoint may be determined by an agreement that is confirmed by resolutions passed by the councils of all of the participating municipalities. 2001, c. 9, Sched. K, s. 1 (6).

Municipal agreement

(2.2) If the participating municipalities of an authority enter into an agreement with respect to the total number of municipally appointed members of the authority and the total number of members each municipality may appoint, the authority shall, within 60 days after the agreement is executed,

- (a) provide a copy of the agreement to the Minister; and
- (b) make the agreement available to the public by posting it on the authority's website and by any other means the authority considers appropriate. 2020, c. 36, Sched. 6, s. 2 (4).

Same, transition

(2.3) If an agreement referred to in subsection (2.2) is in force on the day subsection 2 (4) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, the relevant authority shall provide a copy of the agreement to the Minister within 60 days after that day. 2020, c. 36, Sched. 6, s. 2 (4).

Qualification

(3) Every member of an authority shall be resident in a participating municipality in which the authority has jurisdiction. R.S.O. 1990, c. C.27, s. 14 (3).

Member from agricultural sector appointed

(4) In addition to the members of an authority appointed in accordance with subsections (1) to (2.1), an additional member may be appointed to the authority by the Minister as a representative of the agricultural sector. 2020, c. 36, Sched. 6, s. 2 (5).

Limitation on voting

(4.0.1) The member of an authority appointed under subsection (4) shall not vote on,

- (a) a resolution to enlarge an authority's area of jurisdiction that is presented at a meeting called under section 10;
- (b) a resolution to amalgamate an authority with another authority that is presented at a meeting called under section 11;

- (c) a resolution to dissolve the authority that is presented at a meeting called under section 13.1; or
- (d) a resolution relating to any budgetary matter that is presented at a meeting held under section 16. 2020, c. 36, Sched. 6, s. 2 (5).

Term

(4.1) A member shall be appointed for a term of up to four years, as may be determined by the council that appoints the member or, in the case of a member appointed under subsection (4), by the Minister. 2017, c. 23, Sched. 4, s. 12 (2); 2020, c. 36, Sched. 6, s. 2 (6).

Same

(4.2) A member's term begins at the first meeting of the authority after his or her appointment and expires immediately before the first meeting of the authority after the appointment of his or her replacement. 2017, c. 23, Sched. 4, s. 12 (2).

Replacement of member

(4.3) Despite subsections (4.1) and (4.2), a member may be replaced by the council of the participating municipality that appointed the member or, in the case of a member appointed under subsection (4), by the Minister. 2017, c. 23, Sched. 4, s. 12 (2); 2020, c. 36, Sched. 6, s. 2 (7).

Reappointment

(4.4) A member is eligible to be reappointed. 2017, c. 23, Sched. 4, s. 12 (2).

Where part of municipality in authority's area

(5) Where part only of a municipality is situated in an area over which an authority has jurisdiction, the number of members appointed for the municipality shall be based on the population of that part only of the municipality, and the population shall be deemed to be the same proportion of the total population of the whole municipality as the area of that part of the municipality is of the total area of the municipality. R.S.O. 1990, c. C.27, s. 14 (5).

(6) REPEALED: 1996, c. 1, Sched. M, s. 42.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 42 - 30/01/1996; 1998, c. 18, Sched. I, s. 6 - 18/12/1998

2001, c. 9, Sched. K, s. 1 (6) - 29/06/2001

2017, c. 23, Sched. 4, s. 12 (1, 2) - 12/12/2017

2020, c. 36, Sched. 6, s. 2 (1-7) - 02/02/2021

14.1

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 2, s. 3 - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

Meetings of authority

15 (1) The first meeting of an authority shall be held at such time and place as may be determined by the Minister and, in each year thereafter, the authority shall hold at least one meeting before the 1st day of March and at least one meeting after the 1st day of July and such other meetings as it considers necessary to effectively conduct the affairs of the authority. R.S.O. 1990, c. C.27, s. 15 (1).

Copies of minutes to members

(2) Within 30 days after any meeting of an authority or of an executive committee, the secretary-treasurer of the authority shall send a copy of the minutes of the meeting to each member of the authority. R.S.O. 1990, c. C.27, s. 15 (2); 1998, c. 18, Sched. I, s. 7.

Agenda, minutes to be made public

(2.1) Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, the authority shall,

- (a) make the agenda for a meeting of the authority or of its executive committee available to the public before the meeting takes place; and
- (b) make the minutes of a meeting of the authority or of its executive committee available to the public within 30 days after the meeting. 2020, c. 36, Sched. 6, s. 3.

Same

(2.2) An agenda for a meeting or its minutes that are to be made available to the public under subsection (2.1) shall be made available by posting them on the authority's website and by any other means the authority considers appropriate. 2020, c. 36, Sched. 6, s. 3.

Open meetings

(3) Every meeting held by the authority shall be open to the public, subject to such exceptions as may be specified in the by-laws of the authority. 2017, c. 23, Sched. 4, s. 13.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 7 - 18/12/1998

2017, c. 23, Sched. 4, s. 13 - 12/12/2018

2020, c. 36, Sched. 6, s. 3 - 02/02/2021

Decision-making at meetings

16 (1) Each member of an authority is entitled to one vote. 1998, c. 18, Sched. I, s. 8.

Quorum

(2) At any meeting of an authority, a quorum consists of one-half of the members appointed by the participating municipalities, except where there are fewer than six such members, in which case three such members constitute a quorum. R.S.O. 1990, c. C.27, s. 16 (2); 2006, c. 22, s. 113 (2).

Majority vote

(3) A majority vote of the members present at any meeting is required upon all matters coming before the meeting. R.S.O. 1990, c. C.27, s. 16 (3).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 8 - 18/12/1998

2006, c. 22, s. 113 (2) - 03/07/2007

Chair, vice-chair

17 (1) At the first meeting held in each year or at such other meeting as may be specified by the authority's by-laws, the authority shall appoint a chair and one or more vice-chairs from among the members of the authority. 1996, c. 1, Sched. M, s. 43; 2017, c. 23, Sched. 4, s. 14.

Term of chair, vice-chair

(1.1) A chair or vice-chair appointed under subsection (1) shall hold office for a term of one year and shall serve for no more than two consecutive terms. 2020, c. 36, Sched. 6, s. 4.

Representation from each municipality

(1.2) An authority in respect of which more than one participating municipality has been designated shall appoint chairs and vice-chairs from among the members appointed to the authority by each participating municipality on a rotating basis so as to ensure that a member appointed to the authority by a particular participating municipality cannot be appointed to succeed an outgoing chair or vice-chair appointed to the authority by the same participating municipality. 2020, c. 36, Sched. 6, s. 4.

Exception

(1.3) Despite subsections (1.1) and (1.2), upon application by an authority or a participating municipality, the Minister may grant permission to the authority or participating municipality to, subject to such conditions or restrictions as the Minister considers appropriate,

- (a) appoint a chair or vice-chair for a term of more than one year or to hold office for more than two consecutive terms; or
- (b) appoint as chair or vice-chair of the authority a member who was appointed to the authority by the same participating municipality that appointed the outgoing chair or vice-chair. 2020, c. 36, Sched. 6, s. 4.

Vacancy

(2) Subject to subsection (1), upon the death of the chair or a vice-chair, or upon the incapacity of the chair or a vice-chair to act, or upon the chair or a vice-chair ceasing to be a member of the authority, the remaining members may appoint a member to fill such vacancy. R.S.O. 1990, c. C.27, s. 17 (2).

Absence of chair and vice-chairs

(3) In the event of the absence of the chair and the vice-chairs from any meeting of an authority, the members present shall appoint an acting chair who, for the purposes of such meeting, has all the powers and shall perform all the duties of the chair. R.S.O. 1990, c. C.27, s. 17 (3).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 43 - 30/01/1996

2017, c. 23, Sched. 4, s. 14 - 12/12/2017

2020, c. 36, Sched. 6, s. 4 - 02/02/2021

Employees and advisory boards

Employees

18 (1) An authority shall appoint a secretary-treasurer and may appoint such other employees as it considers necessary who shall hold office during the pleasure of the authority and shall receive such salary or other remuneration as the authority determines, payable out of the funds of the authority. R.S.O. 1990, c. C.27, s. 18 (1).

Advisory boards

(2) An authority shall establish such advisory boards as may be required by regulation and may establish such other advisory boards as it considers appropriate. 2017, c. 23, Sched. 4, s. 15.

Same

(3) An advisory board shall comply with any requirements that may be prescribed by regulation with respect to its composition, functions, powers, duties, activities and procedures. 2017, c. 23, Sched. 4, s. 15.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 15 - 12/12/2017

Executive committee

19 (1) The authority may appoint an executive committee from among the members of the authority. R.S.O. 1990, c. C.27, s. 19 (1).

Chair, vice-chair

(2) The chair and vice-chair of the authority shall be the chair and vice-chair of the executive committee. R.S.O. 1990, c. C.27, s. 19 (2).

(3) REPEALED: 1998, c. 18, Sched. I, s. 9.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 9 - 18/12/1998

By-laws

19.1 (1) An authority may make by-laws,

- (a) respecting the meetings to be held by the authority, including providing for the calling of the meetings and the procedures to be followed at meetings, specifying which meetings, if any, may be closed to the public;
- (b) prescribing the powers and duties of the secretary-treasurer;
- (c) designating and empowering officers to sign contracts, agreements and other documents on behalf of the authority;
- (d) delegating all or any of its powers to the executive committee except,
 - (i) the termination of the services of the secretary-treasurer,
 - (ii) the power to raise money, and
 - (iii) the power to enter into contracts or agreements other than those contracts or agreements as are necessarily incidental to the works approved by the authority;
- (e) providing for the composition of its executive committee and for the establishment of other committees that it considers advisable and respecting any other matters relating to its governance;

- (f) respecting the roles and responsibilities of the members of the authority and of its officers and senior staff;
- (g) requiring accountability and transparency in the administration of the authority including,
 - (i) providing for the retention of records specified in the by-laws and for making the records available to the public,
 - (ii) establishing a code of conduct for the members of the authority, and
 - (iii) adopting conflict of interest guidelines for the members of the authority;
- (h) respecting the management of the authority's financial affairs, including auditing and reporting on the authority's finances;
- (i) respecting the by-law review required under subsection (3) and providing for the frequency of the reviews; and
- (j) respecting such other matters as may be prescribed by regulation. 2017, c. 23, Sched. 4, s. 16.

Conflict with other laws

(2) If a by-law made by an authority conflicts with any provision of the *Municipal Conflict of Interest Act* or the *Municipal Freedom of Information and Protection of Privacy Act* or a provision of a regulation made under one of those Acts, the provision of the Act or regulation prevails. 2017, c. 23, Sched. 4, s. 16.

Periodic review of by-laws

(3) At such regular intervals as may be determined by by-law, an authority shall undertake a review of all of its by-laws to ensure, amongst other things, that the by-laws are in compliance with any Act referred to in subsection (2) or any other relevant law. 2017, c. 23, Sched. 4, s. 16.

By-laws available to public

(4) An authority shall make its by-laws available to the public in the manner it considers appropriate. 2017, c. 23, Sched. 4, s. 16.

Transition

- (5) An authority shall make such by-laws under this section as are required for its proper administration,
 - (a) in the case of an authority that was established on or before the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of that day; and
 - (b) in the case of an authority that is established after the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of the day the authority is established. 2017, c. 23, Sched. 4, s. 16.
- (6) REPEALED: 2020, c. 36, Sched. 6, s. 5.

Direction by Minister

(7) The Minister may give an authority a written direction to make or amend a by-law on any matter described in subsection (1), in accordance with the direction, within such period of time as may be specified in the direction. 2017, c. 23, Sched. 4, s. 16.

Compliance

(8) The authority that receives a direction under subsection (7) shall comply with the direction within the time specified in the direction. 2017, c. 23, Sched. 4, s. 16.

Regulation where failure to comply

(9) If an authority fails to adopt a by-law in accordance with the direction made under subsection (7), the Minister may make regulations in relation to the matters set out in the direction that are applicable in the area of jurisdiction of the authority. 2017, c. 23, Sched. 4, s. 16.

Same

(10) Any regulation made by the Minister under subsection (9) prevails over any conflicting by-law that the authority may have adopted. 2017, c. 23, Sched. 4, s. 16.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 16 - 12/12/2017

2020, c. 36, Sched. 6, s. 5 - 02/02/2021

PART V
OBJECTS, POWERS AND DUTIES

Objects

- 20** (1) The objects of an authority are to provide, in the area over which it has jurisdiction,
- (a) the mandatory programs and services required under section 21.1;
 - (b) any municipal programs and services that may be provided under section 21.1.1; and
 - (c) any other programs or services that may be provided under section 21.1.2. 2020, c. 36, Sched. 6, s. 6 (1).

Same

- (2) Subject to any other Act relating to gas or oil resources, authorities may enter into agreements to allow exploration, storage and extraction by others in order to share in the revenue from use of gas or oil resources owned by them if,
- (a) the use is compatible with the conservation, restoration, development and management of other natural resources; and
 - (b) extraction occurs on land adjacent to, but not on, conservation authority land. 1998, c. 18, Sched. I, s. 10; 2020, c. 36, Sched. 6, s. 6 (2).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 10 - 18/12/1998

2017, c. 23, Sched. 4, s. 18 - 12/12/2017

2020, c. 36, Sched. 6, s. 6 (1, 2) - 01/10/2021

Powers of authorities

- 21** (1) For the purposes of accomplishing its objects, an authority has power,
- (a) to research, study and investigate the watershed and to support the development and implementation of programs and services intended to further the purposes of this Act;
 - (b) for any purpose necessary to any project under consideration or undertaken by the authority, to enter into and upon any land, with consent of the occupant or owner, and survey and take levels of it and make such borings or sink such trial pits as the authority considers necessary;
 - (c) to acquire by purchase, lease or otherwise any land that it may require, and, subject to subsections (2) and (4), to sell, lease or otherwise dispose of land so acquired;
 - (d) despite subsection (2), to lease for a term of five years or less land acquired by the authority;
 - (e) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;
 - (f) to enter into agreements for the purchase of materials, employment of labour and other purposes as may be necessary for the due carrying out of any project or to further the authority's objects;
 - (g) to enter into agreements with owners of private lands to facilitate the due carrying out of any project;
 - (h) to determine the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them;
 - (i) to erect works and structures and create reservoirs by the construction of dams or otherwise;
 - (j) to control the flow of surface waters in order to prevent floods or pollution or to reduce the adverse effects thereof;
 - (k) to alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority, and to divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole;
 - (l) to use lands that are owned or controlled by the authority for purposes, not inconsistent with its objects, as it considers proper;
 - (m) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;

(m.1) REPEALED: 2017, c. 23, Sched. 4, s. 19 (3).

- (n) to collaborate and enter into agreements with ministries and agencies of government, municipal councils and local boards and other organizations and individuals;
- (o) to plant and produce trees on Crown lands with the consent of the Minister, and on other lands with the consent of the owner, for any purpose;
- (p) REPEALED: 2020, c. 36, Sched. 6, s. 7 (4).
- (q) generally to do all such acts as are necessary for the due carrying out of any project or as may be desirable to further the objects of the authority. R.S.O. 1990, c. C.27, s. 21; 1996, c. 1, Sched. M, s. 44 (1, 2); 1998, c. 18, Sched. I, s. 11; 2017, c. 23, Sched. 4, s. 19; 2020, c. 36, Sched. 6, s. 7; 2022, c. 21, Sched. 2, s. 2 (1).

Notice to Minister

(2) Subject to subsection (6), if the Minister has made a grant to an authority under section 39 in respect of land, the authority shall not sell, lease or otherwise dispose of the land under clause (1) (c) without providing a written notice of the proposed disposition to the Minister at least 90 days before the disposition. 2022, c. 21, Sched. 2, s. 2 (2).

Same

(3) If an authority is required to consult the public and post a notice of proposed disposition under subsection (4), the notice to the Minister required under subsection (2) shall, at a minimum, describe how the comments received during the public consultation, if any, were considered by the authority prior to the disposition. 2022, c. 21, Sched. 2, s. 2 (2).

Public consultation prior to disposition

(4) Subject to subsection (6), an authority shall conduct a public consultation and post a notice of the consultation on its website if the authority proposes, under clause (1) (c), to sell, lease or otherwise dispose of land in respect of which the Minister has made a grant under section 39 and the land includes,

- (a) areas of natural and scientific interest, lands within the Niagara Escarpment Planning Area or wetlands as defined in section 1 of the *Conservation Land Act*;
- (b) the habitat of threatened or endangered species;
- (c) lands in respect of which the authority has entered into an agreement with the Minister in relation to forestry development under section 2 of the *Forestry Act*; or
- (d) land that is impacted by a type of natural hazard listed in subsection 1 (1) of Ontario Regulation 686/21 (Mandatory Programs and Services) made under this Act. 2022, c. 21, Sched. 2, s. 2 (2).

Length of public consultation and content of notice

(5) The public consultation under subsection (4) shall last for a minimum of 45 days and the notice of public consultation to be posted on the authority's website prior to the proposed disposition shall include,

- (a) a description of the type of land referred to in clauses (4) (a) to (d) that the authority is proposing to dispose of;
- (b) the proposed date of the disposition; and
- (c) the proposed future use of the lands, if known. 2022, c. 21, Sched. 2, s. 2 (2).

Exceptions

(6) With regard to a disposition of land in respect of which the Minister has made a grant to an authority under section 39, the authority is not required to provide a notice to the Minister under subsection (2) or consult the public and post a notice under subsection (4) if,

- (a) the disposition is for provincial or municipal infrastructure and utility purposes;
- (b) the province, the provincial agency, board or commission affected by the disposition or the municipal government, agency, board or commission affected by the disposition has approved it; and
- (c) the authority informs the Minister of the disposition. 2022, c. 21, Sched. 2, s. 2 (2).

Minister's direction on disposition proceeds

(7) If the Minister receives a notice under subsection (2), the Minister may, within 90 days after receiving the notice, direct the authority to apply a specified share of the proceeds of the disposition to support programs and services provided by the authority under section 21.1. 2022, c. 21, Sched. 2, s. 2 (2).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 44 (1-3) - 30/01/1996; 1998, c. 18, Sched. I, s. 11 - 18/12/1998

2010, c. 16, Sched. 10, s. 1 (1) - 25/10/2010

2017, c. 23, Sched. 4, s. 19 (1, 2, 4, 5) - 12/12/2017; 2017, c. 23, Sched. 4, s. 19 (3) - 01/01/2023

2020, c. 36, Sched. 6, s. 7 (1-4) - 02/02/2021

2022, c. 21, Sched. 2, s. 2 (1, 2) - 01/01/2023

Mandatory programs and services

21.1 (1) An authority shall provide the following programs or services within its area of jurisdiction:

1. Programs or services that meet any of the following descriptions and that have been prescribed by the regulations:
 - i. Programs and services related to the risk of natural hazards.
 - ii. Programs and services related to the conservation and management of lands owned or controlled by the authority, including any interests in land registered on title.
 - iii. Programs and services related to the authority's duties, functions and responsibilities as a source protection authority under the *Clean Water Act, 2006*.
 - iv. Programs and services related to the authority's duties, functions and responsibilities under an Act prescribed by the regulations.
2. Programs or services, other than programs or services described in paragraph 1, that have been prescribed by the regulations on or before the first anniversary of the day prescribed under clause 40 (3) (i). 2020, c. 36, Sched. 6, s. 8 (1).

Same, Lake Simcoe Region Conservation Authority

(2) In addition to the programs and services required to be provided under subsection (1), the Lake Simcoe Region Conservation Authority shall provide, within its area of jurisdiction, such programs and services as are prescribed by the regulations and are related to its duties, functions and responsibilities under the *Lake Simcoe Protection Act, 2008*. 2020, c. 36, Sched. 6, s. 8 (1).

Standards and requirements

(3) Programs and services required to be provided under subsections (1) and (2) shall be provided in accordance with such standards and requirements as may be set out in the regulations. 2020, c. 36, Sched. 6, s. 8 (1).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 20 (1) - 12/12/2017; 2017, c. 23, Sched. 4, s. 20 (2) - no effect - see 2019, c. 9, Sched. 2, s. 10 (1) - 06/06/2019

2019, c. 9, Sched. 2, s. 4 - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 8 (1) - 01/10/2021

Municipal programs and services

21.1.1 (1) Subject to subsection (1.1), an authority may provide, within its area of jurisdiction, municipal programs and services that it agrees to provide on behalf of a municipality situated in whole or in part within its area of jurisdiction under a memorandum of understanding, or such other agreement as may be entered into with the municipality, in respect of the programs and services. 2020, c. 36, Sched. 6, s. 8 (1). 2022, c. 21, Sched. 2, s. 3 (1).

Exception, prescribed Acts

(1.1) An authority shall not provide under subsection (1), within its area of jurisdiction, a municipal program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act. 2022, c. 21, Sched. 2, s. 3 (2).

Memorandum, agreement available to public

(2) An authority shall make a memorandum of understanding or other agreement available to the public in such manner as may be determined in the memorandum or agreement. 2020, c. 36, Sched. 6, s. 8 (1).

Periodic review of memorandum, agreement

(3) An authority and a municipality who have entered into a memorandum of understanding or other agreement shall review the memorandum or agreement at such regular intervals as may be determined in the memorandum or agreement. 2020, c. 36, Sched. 6, s. 8 (1).

Terms and conditions

(4) Programs and services that an authority agrees to provide on behalf of a municipality shall be provided in accordance with,

- (a) the terms and conditions set out in the memorandum of understanding or agreement; and
- (b) such standards and requirements as may be prescribed. 2020, c. 36, Sched. 6, s. 8 (1).

Conflict

(5) If there is a conflict between the terms and conditions set out in the memorandum of understanding or agreement and the prescribed standard and requirements, the prescribed standards and requirements prevail. 2020, c. 36, Sched. 6, s. 8 (1).

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 2, s. 4 - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 8 (1) - 01/10/2021

2022, c. 21, Sched. 2, s. 3 (1, 2) - 01/01/2023

Other programs and services

21.1.2 (1) Subject to subsection (1.1), in addition to programs and services described in sections 21.1 and 21.1.1, an authority may provide, within its area of jurisdiction, any other programs and services that it determines are advisable to further the purposes of this Act. 2020, c. 36, Sched. 6, s. 8 (1); 2022, c. 21, Sched. 2, s. 4 (1).

Exception, prescribed Acts

(1.1) An authority shall not provide under subsection (1), within its area of jurisdiction, a program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act. 2022, c. 21, Sched. 2, s. 4 (2).

Agreement

(2) On and after the day prescribed by the regulations, if financing under section 25 or 27 by a participating municipality is necessary in order for an authority to provide a program or service authorized to be provided under subsection (1), the program or service shall not be provided by the authority unless an agreement that meets the following criteria has been entered into between the authority and the participating municipality in respect of the program or service:

1. The agreement must provide for the participating municipality to pay to the authority,
 - i. an apportioned amount under section 25 in connection with a project related to the program or service, or
 - ii. an apportioned amount under section 27 in respect of the program or service.
2. The agreement must include provisions setting out the day on which the agreement terminates and a requirement that it be reviewed by the parties within the period specified in the regulations for the purpose of determining whether or not the agreement is to be renewed by the parties.
3. The agreement must meet such other requirements as may be prescribed by the regulations. See: 2020, c. 36, Sched. 6, s. 8 (2).

Terms and conditions

(3) Programs and services that an authority agrees to provide under an agreement described in subsection (2) shall be provided in accordance with,

- (a) such terms and conditions as may be set out in the agreement; and
- (b) such standards and requirements as may be prescribed. See: 2020, c. 36, Sched. 6, s. 8 (2).

Conflict

(4) If there is a conflict between the terms and conditions set out in an agreement described in subsection (2) and the prescribed standards and requirements, the prescribed standards and requirements prevail. See: 2020, c. 36, Sched. 6, s. 8 (2).

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 2, s. 4 - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 8 (1, 2) - 01/10/2021

2022, c. 21, Sched. 2, s. 4 (1, 2) - 01/01/2023

Consultation

21.1.3 An authority shall carry out such consultations with respect to the programs and services it provides as may be required by regulation and shall do so in the manner specified by regulation. 2020, c. 36, Sched. 6, s. 8 (1).

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 2, s. 4 - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 8 (1) - 01/10/2021

Transition plan re s. 21.1.2 (2)

21.1.4 (1) Every authority shall develop and implement a transition plan for the purpose of ensuring that it will be in compliance with subsection 21.1.2 (2) by the day prescribed by the regulations for the purpose of that subsection. 2020, c. 36, Sched. 6, s. 9.

Contents

(2) The transition plan shall address the following matters in accordance with the regulations:

1. Preparation by the authority of an inventory of the authority's programs and services.
2. Consultation by the authority with participating municipalities on the inventory of programs and services mentioned in paragraph 1.
3. If financing under section 25 or 27 by a participating municipality is necessary in order for the authority to provide a program or service authorized to be provided under subsection 21.1.2 (1), steps to be taken by the authority for the purposes of seeking to enter into an agreement with the participating municipality in respect of that program or service.
4. Such other matters as may be prescribed by the regulations. 2020, c. 36, Sched. 6, s. 9.

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 2, s. 4 - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 9 - 01/10/2021

Fees for programs and services

21.2 (1) The Minister may determine classes of programs and services in respect of which an authority may charge a fee. 2017, c. 23, Sched. 4, s. 21.

Publication of list

(2) The Minister shall publish the list of classes of programs and services in respect of which an authority may charge a fee in a policy document and distribute the document to each authority. 2017, c. 23, Sched. 4, s. 21.

Updating list

(3) If the Minister makes changes to the list of classes of programs and services in respect of which an authority may charge a fee, the Minister shall promptly update the policy document referred to in subsection (2) and distribute the new document to each authority. 2017, c. 23, Sched. 4, s. 21.

Where authority may charge fee

(4) An authority may charge a fee for a program or service that it provides only if it is set out on the list of classes of programs and services referred to in subsection (2). 2017, c. 23, Sched. 4, s. 21.

Amount of fee

(5) The amount of a fee charged by an authority for a program or service it provides shall be,

- (a) the amount prescribed by the regulations; or
- (b) if no amount is prescribed, the amount determined by the authority. 2017, c. 23, Sched. 4, s. 21.

Fee schedule

- (6) Every authority shall prepare and maintain a fee schedule that sets out,
- (a) the list of programs and services that it provides and in respect of which it charges a fee; and
 - (b) the amount of the fee charged for each program or service or the manner in which the fee is determined. 2017, c. 23, Sched. 4, s. 21.

Fee policy

- (7) Every authority shall adopt a written policy with respect to the fees that it charges for the programs and services it provides, and the policy shall set out,
- (a) the fee schedule described in subsection (6);
 - (b) the frequency within which the fee policy shall be reviewed by the authority under subsection (9);
 - (c) the process for carrying out a review of the fee policy, including the rules for giving notice of the review and of any changes resulting from the review; and
 - (d) the circumstances in which a person may request that the authority reconsider a fee that was charged to the person and the procedures applicable to the reconsideration. 2017, c. 23, Sched. 4, s. 21.

Fee policy to be made public

- (8) Every authority shall make the fee policy available to the public in a manner it considers appropriate. 2017, c. 23, Sched. 4, s. 21.

Periodic review of fee policy

- (9) At such regular intervals as may be determined by an authority, the authority shall undertake a review of its fee policy, including a review of the fees set out in the fee schedule. 2017, c. 23, Sched. 4, s. 21.

Notice of fee changes

- (10) If, after a review of a fee policy or at any other time, an authority wishes to make a change to the list of fees set out in the fee schedule or to the amount of any fee or the manner in which a fee is determined, the authority shall give notice of the proposed change to the public in a manner it considers appropriate. 2017, c. 23, Sched. 4, s. 21.

Reconsideration of fee charged

- (11) Any person who considers that the authority has charged a fee that is contrary to the fees set out in the fee schedule, or that the fee set out in the fee schedule is excessive in relation to the service or program for which it is charged, may apply to the authority in accordance with the procedures set out in the fee policy and request that it reconsider the fee that was charged. 2017, c. 23, Sched. 4, s. 21.

Powers of authority on reconsideration

- (12) Upon reconsideration of a fee that was charged for a program or service provided by an authority, the authority may,
- (a) order the person to pay the fee in the amount originally charged;
 - (b) vary the amount of the fee originally charged, as the authority considers appropriate; or
 - (c) order that no fee be charged for the program or service. 2017, c. 23, Sched. 4, s. 21.

Reconsideration of fees for permit applications

- (13) If an authority receives a request for reconsideration of a fee charged for an application for a permit made under subsection 28.1 (2), the authority shall make its decision within 30 days after receiving the request. 2020, c. 36, Sched. 6, s. 10.

Appeal if no decision

- (14) If an authority fails to reconsider a fee described in subsection (13) within 30 days of receiving the request for reconsideration, the person who made the request may appeal the amount of the fee directly to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 10; 2021, c. 4, Sched. 6, s. 39 (1).

Payment of fee

- (15) If, after reconsideration of a fee charged for an application for a permit made under subsection 28.1 (2), an authority orders a person to pay the fee under clause (12) (a) or (b), the person shall pay the fee in accordance with the order. 2020, c. 36, Sched. 6, s. 10.

Payment of fee under protest and appeal

(16) A person who pays a fee under subsection (15) may,

- (a) when paying the fee, indicate to the authority in writing that the fee is being paid under protest; and
- (b) within 30 days after payment of the fee, appeal the amount charged by the authority upon reconsideration to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 10; 2021, c. 4, Sched. 6, s. 39 (1).

Appeal of fee in fee schedule

(17) For greater certainty, an appeal of the amount of a fee under subsection (14) or clause (16) (b) applies even if the amount charged was set out in the fee schedule prepared by the authority under subsection (6). 2020, c. 36, Sched. 6, s. 10.

Hearing

(18) The Ontario Land Tribunal shall hear an appeal made under subsection (14) or clause (16) (b). 2020, c. 36, Sched. 6, s. 10; 2021, c. 4, Sched. 6, s. 39 (1).

Powers on appeal

(19) After hearing the appeal, Ontario Land Tribunal may,

- (a) dismiss the appeal;
- (b) vary the amount of the fee charged by the authority; or
- (c) order that no fee be charged. 2020, c. 36, Sched. 6, s. 10; 2021, c. 4, Sched. 6, s. 39 (1).

Refund

(20) If the Ontario Land Tribunal makes an order under clause (19) (b) or (c), it may order that the authority provide a refund to the appellant in such amount as the Tribunal determines. 2020, c. 36, Sched. 6, s. 10; 2021, c. 4, Sched. 6, s. 39 (1).

Where dismissal required

(21) Despite subsection (19), the Ontario Land Tribunal shall dismiss the appeal if it determines that the fee complies with a regulation made under clause 40 (3) (b). 2020, c. 36, Sched. 6, s. 10; 2021, c. 4, Sched. 6, s. 39 (1).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 21 - 01/01/2023

2020, c. 36, Sched. 6, s. 10 – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (1) – 01/04/2024

Minister's direction re fee changes

21.3 (1) The Minister may give a written direction to an authority directing it not to change the amount of any fee it charges under subsection 21.2 (10) in respect of a program or service set out in the list referred to in subsection 21.2 (2), for the period specified in the direction. 2022, c. 21, Sched. 2, s. 5.

Compliance

(2) An authority that receives a direction under subsection (1) shall comply with the direction within the time specified in the direction. 2022, c. 21, Sched. 2, s. 5.

Section Amendments with date in force (d/m/y)

2022, c. 21, Sched. 2, s. 5 - 01/01/2023

Agreement re road

22 An authority and any municipality may enter into agreement for the construction or maintenance of a road or the reconstruction or maintenance of an existing road under the jurisdiction of the municipality for the purpose of providing access to lands of the authority used or to be used for park or recreational purposes. R.S.O. 1990, c. C.27, s. 22.

Minister's powers

23 (1) Despite any powers conferred on an authority by this Act, the Minister may, when and for such periods as he or she considers necessary in the public interest,

- (a) require an authority to carry out flood control operations in a manner specified by the Minister;

- (b) require an authority to follow instructions issued by the Minister for the operation of one or more of the authority's water control structures; or
- (c) take over the operation of one or more of an authority's water control structures and require the authority to reimburse the Minister for any costs incurred by the Minister as a result. 1996, c. 1, Sched. M, s. 45.

Areas not under jurisdiction of authority

(2) Despite any powers conferred on the council of a municipality under this or any other Act, in an area that is not under the jurisdiction of an authority, the Minister may, when and for such periods as he or she considers necessary in the public interest,

- (a) require the council of a municipality to carry out flood control operations in a manner specified by the Minister;
- (b) require the council of a municipality to follow instructions issued by the Minister for the operation of one or more of the water control structures operated by the council; or
- (c) take over the operation of one or more of the water control structures operated by the council of a municipality and require the council to reimburse the Minister for any costs incurred by the Minister as a result. 1996, c. 1, Sched. M, s. 45.

Definition

(3) In subsection (2),

“municipality” includes an upper-tier municipality. 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 45 - 30/01/1996

2002, c. 17, Sched. F, Table - 01/01/2003

Information required by Minister

23.1 (1) An authority shall provide the Minister with such information as the Minister may require in relation to its operations, including the programs and services it provides. 2017, c. 23, Sched. 4, s. 22.

Same

(2) The information shall be provided at the time and in the manner as the Minister may specify. 2017, c. 23, Sched. 4, s. 22.

Publication

(3) If directed by the Minister to do so, an authority shall publish all or such portion of the information provided to the Minister under subsection (1) and shall do so at the time and in the manner specified by the Minister. 2017, c. 23, Sched. 4, s. 22.

Investigator

(4) The Minister may, at any time, appoint one or more investigators to conduct an investigation of an authority's operations, including the programs and services it provides. 2019, c. 9, Sched. 2, s. 5.

Powers of investigator

- (5) For the purposes of an investigation under subsection (4), an investigator may,
 - (a) inquire into any or all of the authority's affairs, financial and otherwise;
 - (b) require the production of any records that may relate to the authority's affairs;
 - (c) inspect, examine, audit and copy anything required to be produced under clause (b);
 - (d) conduct a financial audit of the authority's operations, including its programs and services; and
 - (e) require any member of the authority and any other person to appear before the investigator and give evidence on oath about the authority's affairs. 2019, c. 9, Sched. 2, s. 5.

Application of *Public Inquiries Act, 2009*

(6) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation under subsection (4). 2019, c. 9, Sched. 2, s. 5.

Report of investigator

(7) On completion of an investigation, an investigator shall report in writing to the Minister, who shall promptly transmit a copy of the report to the authority. 2019, c. 9, Sched. 2, s. 5.

Cost of investigation

(8) The Minister may require the authority to pay all or part of the cost of an investigation under subsection (4). 2019, c. 9, Sched. 2, s. 5.

Immunity for investigators

(9) No action or other proceeding shall be instituted against an investigator appointed under subsection (4) for any act done in good faith in the performance or intended performance of their duties under this Act or for any alleged neglect or default in the performance in good faith of their duties. 2020, c. 36, Sched. 6, s. 11.

Same

(10) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (9) does not relieve the Crown of any liability to which it would otherwise be subject as a result of the actions of an investigator appointed under subsection (4). 2020, c. 36, Sched. 6, s. 11.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 22 - 12/12/2017

2019, c. 9, Sched. 2, s. 5 - 02/02/2021

2020, c. 36, Sched. 6, s. 11 - 02/02/2021

Minister's order, etc.

23.2 (1) If, after reviewing the report of an investigator made under subsection 23.1 (7), the Minister believes that an authority has failed, or is likely to fail, to comply with a provision of this Act or the regulations or of any other Act or regulation that applies to the authority, the Minister may,

- (a) order the authority to do or refrain from doing anything to avoid, prevent or remedy the non-compliance; or
- (b) if the Minister believes it is advisable to do so, recommend to the Lieutenant Governor in Council that an administrator be appointed to take over the control and operation of the authority under section 23.3. 2020, c. 36, Sched. 6, s. 12.

Compliance with order

(2) An authority shall comply with an order made under clause (1) (a) within the time specified in the order. 2020, c. 36, Sched. 6, s. 12.

Public availability

(3) The Minister shall make every order made under clause (1) (a) available to the public in the manner the Minister considers appropriate. 2020, c. 36, Sched. 6, s. 12.

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 12 - 02/02/2021

Appointment of administrator

23.3 (1) If the Minister makes a recommendation under clause 23.2 (1) (b), the Lieutenant Governor in Council may make an order appointing an administrator to take over the control and operations of the authority, including the provision of programs and services that the authority provides. 2020, c. 36, Sched. 6, s. 12.

Powers of administrator

(2) The administrator may exercise all the powers and shall perform all the duties of the authority and of its members subject to such terms and conditions as may be specified in the appointment or by the Minister. 2020, c. 36, Sched. 6, s. 12.

Notice to authority

(3) The Minister shall ensure that a copy of an order under subsection (1) is delivered to the authority and to the participating municipalities as soon as is practical after it is made. 2020, c. 36, Sched. 6, s. 12.

Powers of Minister

(4) The Minister may issue directions to the administrator with regard to any matter within the jurisdiction of the administrator and the administrator shall carry out the directions. 2020, c. 36, Sched. 6, s. 12.

Immunity for administrator

(5) No action or other proceeding shall be instituted against an administrator appointed under subsection (1) for any act done in good faith in the performance or intended performance of their duties under this Act or for any alleged neglect or default in the performance in good faith of their duties. 2020, c. 36, Sched. 6, s. 12.

Same

(6) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (5) does not relieve the Crown of any liability to which it would otherwise be subject as a result of the actions of an administrator appointed under subsection (1). 2020, c. 36, Sched. 6, s. 12.

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 12 - 02/02/2021

Projects requiring approval

24 (1) Before proceeding with a project that involves money granted by the Minister under section 39, the authority shall file plans and a description with the Minister and obtain his or her approval in writing. 2017, c. 23, Sched. 4, s. 23.

Terms and conditions

(2) The Minister may impose terms and conditions on an approval given under subsection (1). 2022, c. 21, Sched. 2, s. 6 (2).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. M, s. 46 - 30/01/1996; 1996, c. 32, s. 66 (1, 2) - 01/01/1993

2017, c. 23, Sched. 4, s. 23 - 01/07/2023; 2017, c. 23, Sched. 5, s. 20 - 03/04/2018

2021, c. 4, Sched. 6, s. 39 (2) - 01/06/2021

2022, c. 21, Sched. 2, s. 6 (1) - 01/01/2023; 2022, c. 21, Sched. 2, s. 6 (2) - 01/07/2023

Recovery of project capital costs

25 (1) An authority may, from time to time, determine the amount of capital costs to be incurred in connection with a project and apportion the capital costs to the participating municipalities in accordance with the regulations. 2017, c. 23, Sched. 4, s. 23.

Limitation

(1.1) Subject to subsections (1.2) and (1.3), an authority shall not, on and after the day prescribed by the regulations, include in the apportionment any capital costs in connection with a project related to a program or service authorized to be provided under subsection 21.1.2 (1). 2019, c. 9, Sched. 2, s. 6.

Same

(1.2) An authority shall include in the apportionment of capital costs to a participating municipality any capital costs in connection with a project related to a program or service that has been identified in an agreement between the municipality and the authority as described in subsection 21.1.2 (2). 2019, c. 9, Sched. 2, s. 6.

Extension of time

(1.3) If the circumstances prescribed by the regulations apply in respect of an authority, a person designated by the Minister may, by written notice to the authority, specify that a later day than the day prescribed by the regulations under subsection (1.1) applies to the authority and if such a notice is issued, the prohibition set out in subsection (1.1) applies to the authority on and after the day set out in the notice. 2019, c. 9, Sched. 2, s. 6.

Notice of apportionment

(2) An authority shall send a notice of apportionment in writing to each participating municipality setting out the amount of the capital costs for a project that has been apportioned to the participating municipality. 2017, c. 23, Sched. 4, s. 23.

Payment of apportioned amount

(3) Each participating municipality shall pay to the authority the portion of the capital costs for a project that is specified in the notice of apportionment in accordance with the requirements set out in the notice and with this section. 2017, c. 23, Sched. 4, s. 23.

How money to be raised

(4) Each participating municipality may issue debentures to provide financing for the capital costs for a project of an authority. 2017, c. 23, Sched. 4, s. 23.

Where money raised over several years

(5) If the notice of apportionment requires a municipality to raise its portion of the capital costs for a project over a period of two or more years, the municipality shall, within 30 days of receiving the notice of apportionment, give the authority written notice of how it will pay its portion of the capital costs. 2017, c. 23, Sched. 4, s. 23.

Debt due

(6) The amount of the portion of the capital costs for a project that is specified in a notice of apportionment sent to a participating municipality is a debt due by the participating municipality to the authority and may be enforced by the authority as such. 2017, c. 23, Sched. 4, s. 23.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 23 - 01/07/2023; 2017, c. 23, Sched. 5, s. 21 (1, 2) - 03/04/2018

2019, c. 9, Sched. 2, s. 6 - 01/07/2023

2021, c. 4, Sched. 6, s. 39 (3, 4) - 01/06/2021

Review of apportionment of capital costs

26 (1) Any participating municipality that receives a notice of apportionment under section 25 may, within 30 days after receiving the notice of apportionment, apply to the Ontario Land Tribunal, or to such other body as may be prescribed by regulation, for a review of the apportionment among the participating municipalities of the capital costs for the relevant project. 2017, c. 23, Sched. 4, s. 23; 2017, c. 23, Sched. 5, s. 22; 2021, c. 4, Sched. 6, s. 39 (5).

Same

(2) The participating municipality that makes an application under subsection (1) shall send a copy of the notice of application to the authority and to every other participating municipality of the authority. 2017, c. 23, Sched. 4, s. 23.

Hearing

(3) The Ontario Land Tribunal, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the apportionment of capital costs among the participating municipalities, including considering whether the apportionment complies with section 25 and the regulations and whether the portion apportioned to the municipality is otherwise appropriate. 2017, c. 23, Sched. 4, s. 23; 2017, c. 23, Sched. 5, s. 22; 2021, c. 4, Sched. 6, s. 39 (5).

Parties

(4) The parties to the hearing are the applicant municipality, the authority, any other participating municipality of the authority that requests to be a party, and such other persons as the Ontario Land Tribunal, or such other body as may be prescribed by regulation, may determine. 2017, c. 23, Sched. 4, s. 23; 2017, c. 23, Sched. 5, s. 22; 2021, c. 4, Sched. 6, s. 39 (5).

Requirement to pay costs stayed

(5) A participating municipality that makes an application under this section is not required to pay the portion of the capital costs that was apportioned to the municipality under the notice of apportionment until the determination of the application. 2017, c. 23, Sched. 4, s. 23.

Delay of notice

(6) A participating municipality that makes an application under this section is not required to give notice under subsection 25 (5) until 30 days after the final determination of the application. 2017, c. 23, Sched. 4, s. 23.

Powers on hearing

(7) Upon hearing an application under this section, the Ontario Land Tribunal, or such other body as may be prescribed by regulation, may confirm or vary the apportionment of the capital costs by the authority among the participating municipalities. 2017, c. 23, Sched. 4, s. 23; 2017, c. 23, Sched. 5, s. 22; 2021, c. 4, Sched. 6, s. 39 (5).

Decision final

(8) A decision under subsection (7) is final. 2017, c. 23, Sched. 4, s. 23.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 127 - 09/12/1994; 1996, c. 32, s. 66 (3) - 01/01/1993

2017, c. 23, Sched. 4, s. 23 - 01/07/2023; 2017, c. 23, Sched. 5, s. 22 - 03/04/2018

2021, c. 4, Sched. 6, s. 39 (5) - 01/07/2023

Recovery of operating expenses

27 (1) Every year an authority shall determine its operating expenses for the subsequent year and apportion those expenses to the participating municipalities in accordance with the regulations. 2017, c. 23, Sched. 4, s. 24 (1).

Limitation

(1.1) Subject to subsections (1.2) and (1.3), an authority shall not, on and after the day prescribed by the regulations, include in the apportionment any operating expenses related to a program or service authorized to be provided under subsection 21.1.2 (1). 2019, c. 9, Sched. 2, s. 7 (1).

Same

(1.2) An authority shall include in the apportionment of operating expenses to a participating municipality any operating expenses related to a program or service that has been identified in an agreement between the municipality and the authority as described in subsection 21.1.2 (2). 2019, c. 9, Sched. 2, s. 7 (1).

Extension of time

(1.3) If the circumstances prescribed by the regulations apply in respect of an authority, a person designated by the Minister may, by written notice to the authority, specify that a later day than the day prescribed by the regulations under subsection (1.1) applies to the authority and if such a notice is issued, the prohibition set out in subsection (1.1) applies to the authority on and after the day set out in the notice. 2019, c. 9, Sched. 2, s. 7 (1).

Fixed portion for some municipalities

(2) Despite subsections (1) and (1.1) and subject to the regulations, an authority may establish a fixed minimal amount as the portion of the authority's operating expenses that a participating municipality is required to pay each year, and may apportion that amount to the municipality instead of the portion determined under subsections (1) and (1.1) in any year in which the fixed minimal amount exceeds the portion determined under subsections (1) and (1.1). 2017, c. 23, Sched. 4, s. 24 (1); 2019, c. 9, Sched. 2, s. 7 (2).

Notice of apportionment

(3) An authority shall send a notice of apportionment in writing to each participating municipality setting out the amount of the operating expenses that has been apportioned to the participating municipality. 2017, c. 23, Sched. 4, s. 24 (1).

Payment of apportioned amount

(4) Each participating municipality shall pay to the authority the portion of the operating expenses that is specified in the notice of apportionment in accordance with the requirements set out in the notice and with this section. 2017, c. 23, Sched. 4, s. 24 (1).

Debt due

(5) The amount of the portion of the operating expenses specified in a notice of apportionment sent to a participating municipality is a debt due by the participating municipality to the authority and may be enforced by the authority as such. 2017, c. 23, Sched. 4, s. 24 (1).

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991; 1996, c. 1, Sched. M, s. 47 (1-4) - 30/01/1996; 1997, c. 29, s. 54 (1, 2) - 01/01/1998

2017, c. 8, Sched. 17, s. 5 (1, 2) - 01/04/2018; 2017, c. 23, Sched. 4, s. 24 (1) - 01/07/2023

2019, c. 9, Sched. 2, s. 7 (1, 2) - 01/07/2023

2021, c. 4, Sched. 6, s. 39 (6) - 01/06/2021

Review of apportionment of operating expenses

27.1 (1) Any participating municipality that receives a notice of apportionment under section 27 may, within 30 days of receiving the notice, apply to the Ontario Land Tribunal, or to such other body as may be prescribed by regulation, for a review of the apportionment of the operating expenses. 2017, c. 23, Sched. 4, s. 24 (1); 2021, c. 4, Sched. 6, s. 39 (7).

Same

(2) The participating municipality that makes an application under subsection (1) shall send a copy of the notice of application to the authority and to every other participating municipality of the authority. 2017, c. 23, Sched. 4, s. 24 (1).

Hearing

(3) The Ontario Land Tribunal, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the apportionment of the operating expenses, including considering whether the apportionment complies with section 27 and the regulations and whether the portion apportioned to the municipality is otherwise appropriate. 2017, c. 23, Sched. 4, s. 24 (1); 2021, c. 4, Sched. 6, s. 39 (7).

Parties

(4) The parties to the hearing are the applicant municipality, the authority, any other participating municipality of the authority that requests to be a party and such other persons as the Ontario Land Tribunal, or such other body as may be prescribed by regulation, may determine. 2017, c. 23, Sched. 4, s. 24 (1); 2021, c. 4, Sched. 6, s. 39 (7).

No stay

(5) The appellant municipality shall comply with the notice of apportionment pending the determination of the application. 2017, c. 23, Sched. 4, s. 24 (1).

Powers on hearing

(6) Upon hearing an application under this section, the Ontario Land Tribunal, or such other body as may be prescribed by regulation, may confirm or vary the apportionment of the operating expenses by the authority among the participating municipalities and may order participating municipalities to pay such portion of the operating expenses as it determines. 2017, c. 23, Sched. 4, s. 24 (1); 2021, c. 4, Sched. 6, s. 39 (7).

Decision final

(7) A decision under subsection (6) is final. 2017, c. 23, Sched. 4, s. 24 (1).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 24 (1) - 01/07/2023; 2017, c. 23, Sched. 4, s. 24 (2) - no effect - see 2020, c. 36, Sched. 6, s. 27 - 08/12/2020

2020, c. 36, Sched. 6, s. 13 - no effect - see 2021, c. 4, Sched. 6, s. 81 (1) - 01/06/2021

2021, c. 4, Sched. 6, s. 39 (7) - 01/06/2021; 2021, c. 4, Sched. 6, s. 39 (8) - no effect - see 2021, c. 4, Sched. 6, s. 81 (1) - 01/06/2021

Other amounts owing to authority

Specified municipality

27.2 (1) In this section,

“specified municipality” means, when used in reference to an authority,

- (a) a municipality that is designated under the regulations made under the *Clean Water Act, 2006* as a participating municipality for the authority for the purposes of that Act but that is not one of the authority’s participating municipalities under this Act, or
- (b) a municipality that is designated under the regulations made under the *Lake Simcoe Protection Act, 2008* as a participating municipality for the Lake Simcoe Region Conservation Authority for the purposes of that Act but that is not one of the authority’s participating municipalities under this Act. 2019, c. 9, Sched. 2, s. 8 (1).

Determination of amounts owing by specified municipality

(2) An authority may, from time to time and in accordance with the regulations, determine the amounts owed by any of its specified municipalities in connection with the programs and services the authority provides in respect of the *Clean Water Act, 2006* and *Lake Simcoe Protection Act, 2008*. 2019, c. 9, Sched. 2, s. 8 (1).

Notice

(3) If the authority determines under subsection (2) that amounts are owing by any of its specified municipalities, the authority shall send a notice in writing to the specified municipality, setting out the amounts that the specified municipality owes to the authority. 2019, c. 9, Sched. 2, s. 8 (1).

Payment of amounts

(4) Subject to subsections (5) to (10), each specified municipality shall pay to the authority the amounts specified in the notice in accordance with the requirements set out in the notice. 2019, c. 9, Sched. 2, s. 8 (1).

Review of notice

(5) Any specified municipality that receives a notice under subsection (3) may, within 30 days after receiving the notice, apply to the Ontario Land Tribunal, or to such other body as may be prescribed by regulation, for a review of the amounts owing. 2019, c. 9, Sched. 2, s. 8 (1); 2021, c. 4, Sched. 6, s. 39 (9).

Same

(6) The specified municipality that makes an application under subsection (5) shall send a copy of the notice of application to the authority and to every other participating municipality and specified municipality of the authority. 2019, c. 9, Sched. 2, s. 8 (1).

Hearing

(7) The Ontario Land Tribunal, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the amounts owing, including considering whether the determination of the amounts owing was carried out in accordance with subsection (2). 2019, c. 9, Sched. 2, s. 8 (1); 2021, c. 4, Sched. 6, s. 39 (9).

Parties

(8) The parties to the hearing are the applicant municipality, the authority, any other participating municipality or specified municipality of the authority that requests to be a party and such other persons as the Ontario Land Tribunal, or such other body as may be prescribed by regulation, may determine. 2019, c. 9, Sched. 2, s. 8 (1); 2021, c. 4, Sched. 6, s. 39 (9).

Powers on hearing

(9) Upon hearing an application under this section, the Ontario Land Tribunal, or such other body as may be prescribed by regulation, may confirm or vary the amounts owing and may order the specified municipality to pay the amounts. 2019, c. 9, Sched. 2, s. 8 (1); 2021, c. 4, Sched. 6, s. 39 (9).

Decision final

(10) A decision under subsection (9) is final. 2019, c. 9, Sched. 2, s. 8 (1).

Debt due

(11) The amounts owed to the authority set out in a notice sent to a specified municipality or in an order under subsection (9), as the case may be, are a debt due by the specified municipality to the authority and may be enforced by the authority as such. 2019, c. 9, Sched. 2, s. 8 (1).

Section Amendments with date in force (d/m/y)

2019, c. 9, Sched. 2, s. 8 (1) - 01/07/2023; 2019, c. 9, Sched. 2, s. 8 (2) - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 14 - no effect - see 2021, c. 4, Sched. 6, s. 81 (2) - 01/06/2021

2021, c. 4, Sched. 6, s. 39 (9) - 01/06/2021; 2021, c. 4, Sched. 6, s. 39 (10) - no effect - see 2021, c. 4, Sched. 6, s. 81 (2) - 01/06/2021

PART VI REGULATION OF AREAS OVER WHICH AUTHORITIES HAVE JURISDICTION

Prohibited activities re watercourses, wetlands, etc.

28 (1) No person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

1. Activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.
2. Development activities in areas that are within the authority's area of jurisdiction and are,
 - i. hazardous lands,

- ii. wetlands,
- iii. river or stream valleys the limits of which shall be determined in accordance with the regulations,
- iv. areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to an inland lake and that may be affected by flooding, erosion or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations, or
- v. other areas in which development should be prohibited or regulated, as may be determined by the regulations. 2017, c. 23, Sched. 4, s. 25; 2022, c. 21, Sched. 2, s. 7 (1).

Exception, aggregates

(2) The prohibitions in subsection (1) do not apply to an activity approved under the *Aggregate Resources Act* after December 18, 1998, the date the *Red Tape Reduction Act, 1998* received Royal Assent. 2017, c. 23, Sched. 4, s. 25.

Same, prescribed activities

(3) The prohibitions in subsection (1) do not apply to an activity or a type of activity that is prescribed by regulation and is carried out in accordance with the regulations. 2017, c. 23, Sched. 4, s. 25.

Same, prescribed areas

- (4) The prohibitions in subsection (1) do not apply to any activity described in that subsection if it is carried out,
- (a) in an area that is within an authority’s area of jurisdiction and specified in the regulations; and
 - (b) in accordance with any conditions specified in the regulations. 2017, c. 23, Sched. 4, s. 25.

Same, *Planning Act*

(4.1) Subject to subsection (4.2), the prohibitions in subsection (1) do not apply to an activity within a municipality prescribed by the regulations if,

- (a) the activity is part of development authorized under the *Planning Act*; and
- (b) such conditions and restrictions as may be prescribed for obtaining the exception and on carrying out the activity are satisfied. 2022, c. 21, Sched. 2, s. 7 (2).

Same

(4.2) If a regulation prescribes activities, areas of municipalities or types of authorizations under the *Planning Act* for the purposes of this subsection, or prescribes any other conditions or restrictions relating to an exception under subsection (4.1), the exception applies only in respect of such activities, areas and authorizations and subject to such conditions and restrictions. 2022, c. 21, Sched. 2, s. 7 (2).

Definitions

(5) In this section,

“development activity” means a development activity as defined by regulation; (“activité d’aménagement”)

“hazardous land” means hazardous land as defined by regulation; (“terrain dangereux”)

“watercourse” means a watercourse as defined by regulation; (“cours d’eau”)

“wetland” means a wetland as defined by regulation. (“terre marécageuse”) 2017, c. 23, Sched. 4, s. 25.

Section Amendments with date in force (d/m/y)

1998, c. 15, Sched. E, s. 3 (1, 2, 7, 8) - 01/04/1999; 1998, c. 18, Sched. I, s. 12 - 18/12/1998

2009, c. 12, Sched. L, s. 2 - 14/05/2009

2010, c. 16, Sched. 10, s. 1 (2, 3) - 25/10/2010

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

2018, c. 16, s. 3 (1) - 01/01/2019

2021, c. 4, Sched. 6, s. 39 (11) - 01/06/2021

2022, c. 21, Sched. 2, s. 7 (1, 2) – 01/04/2024

28.0.1 REPEALED: 2020, c. 36, Sched. 6, s. 15 (2).

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 15 (1) - 08/12/2020; 2020, c. 36, Sched. 6, s. 15 (2) – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (12) - 01/06/2021

2022, c. 21, Sched. 2, s. 8 (1-13) - 28/11/2022

Permits

28.1 (1) An authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of the authority,

- (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) the activity is not 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; and
- (c) any other requirements that may be prescribed by the regulations are met. 2017, c. 23, Sched. 4, s. 25; 2022, c. 21, Sched. 2, s. 9 (1).

Application for permit

(2) A person who wishes to engage in an activity that is prohibited under section 28 in an area situated in the jurisdiction of an authority may apply to the authority for a permit under this section. 2017, c. 23, Sched. 4, s. 25.

Same

(3) An application for a permit shall be made in accordance with the regulations and include such information as is required by regulation. 2017, c. 23, Sched. 4, s. 25.

Conditions

(4) Subject to subsection (5), an authority may issue a permit with or without conditions. 2017, c. 23, Sched. 4, s. 25.

Hearing

(5) 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. 2017, c. 23, Sched. 4, s. 25.

Renewable energy projects

(6) In the case of an application for a permit to engage in development related to a renewable energy project as defined in subsection 2 (1) of the *Electricity Act, 1998*,

- (a) the authority shall not refuse the permit unless it is of the opinion that it is necessary to do so to control flooding, erosion, dynamic beaches or unstable soil or bedrock; and
- (b) despite subsection (4), the authority shall not attach conditions to the permit unless the conditions relate to controlling flooding, erosion, dynamic beaches or unstable soil or bedrock. 2017, c. 23, Sched. 4, s. 25; 2018, c. 16, s. 3 (2); 2022, c. 21, Sched. 2, s. 9 (2).

Reasons for decision

(7) If the authority, after holding a hearing, refuses a permit or issues the permit subject to conditions, the authority shall give the applicant written reasons for the decision. 2017, c. 23, Sched. 4, s. 25.

Request for Minister's review

(8) Subject to the regulations, where the authority refuses a permit or imposes any conditions on a permit to which the applicant objects, the applicant may, 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. 2020, c. 36, Sched. 6, s. 16 (2).

Reply by Minister

(9) Within 30 days after receiving a request under subsection (8), the Minister shall reply to the request and indicate in writing to the applicant and the authority whether or not the Minister intends to conduct a review of the authority's decision. Failure on the part of the Minister to reply to a request within the 30 day period is deemed to be an indication that the Minister does not intend to review the authority's decision. 2020, c. 36, Sched. 6, s. 16 (2).

Same

(10) If a reply given under subsection (9) indicates that the Minister intends to conduct a review, the Minister may in the reply require the applicant and the authority to provide the Minister with such information as the Minister considers necessary to conduct the review. 2020, c. 36, Sched. 6, s. 16 (2).

Information

(11) The applicant and the authority shall submit to the Minister such information as was specified in the reply given under subsection (9) within the time period specified in the reply. 2020, c. 36, Sched. 6, s. 16 (2).

Publication of notice of review

(12) The Minister shall publish on the Environmental Registry notice of the Minister's intention to review a decision made by an authority and shall do so within 30 days of giving a reply to that effect under subsection (9). 2020, c. 36, Sched. 6, s. 16 (2).

No hearing required

(13) The Minister is not required to hold a hearing while conducting a review of an authority's decision. 2020, c. 36, Sched. 6, s. 16 (2).

Conferring with persons, etc.

(14) Before making a decision with respect to a review, the Minister may confer with any person or body that the Minister considers may have an interest in the review. 2020, c. 36, Sched. 6, s. 16 (2).

Minister's decision

(15) After conducting a review of an authority's decision, 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. 2020, c. 36, Sched. 6, s. 16 (2).

Same

(16) The Minister shall base any decision under subsection (15) on the criteria set out in clauses (1) (a), (b) and (c). 2020, c. 36, Sched. 6, s. 16 (2).

Reasons

(17) If, upon conducting a review of an authority's decision, the Minister decides to refuse to issue a permit or to issue a permit subject to conditions, the Minister shall give the applicant and the authority written reasons for the decision. 2020, c. 36, Sched. 6, s. 16 (2).

Copy to authority

(18) If the Minister issues a permit under subsection (15), the Minister shall give a copy of the permit to the authority within five days after the permit is issued. 2020, c. 36, Sched. 6, s. 16 (2).

Decision final

(19) A decision made by the Minister under subsection (15) is final. 2020, c. 36, Sched. 6, s. 16 (2).

Appeal to Tribunal

(20) Within 90 days after receiving the reasons for the authority's decision under subsection (7), the applicant may appeal the authority's decision to the Ontario Land Tribunal, subject to subsection (21). 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13).

Exception

(21) An applicant who submitted a request under subsection (8) for the Minister to conduct a review of an authority's decision shall not appeal the decision to the Ontario Land Tribunal under subsection (20) unless,

- (a) the Minister's reply under subsection (9) indicated that the Minister refused to conduct the review; or
- (b) 30 days have elapsed following the day the applicant submitted the request for a Minister's review and the Minister has not made a reply under subsection (9). 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13).

Appeal, no decision by authority

(22) If an application for a permit is made to the authority and the application complies with subsection (3), and if the authority fails to give the applicant notice of a decision with respect to the application within 90 days after the application is

made, the applicant may appeal the application directly to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13); 2022, c. 21, Sched. 2, s. 9 (3).

Appeal, no decision by Minister

(23) If the Minister indicates in a reply given under subsection (9) that the Minister intends to review an authority's decision and the Minister fails to make a decision within 90 days of giving the reply, the applicant may, within the next 30 days, appeal the authority's decision directly to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13).

Notice of Appeal

(24) A notice of an appeal under subsection (20), (22) or (23) shall be sent to the Ontario Land Tribunal and to the authority by registered mail. 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13).

Hearing by Tribunal

(25) The Ontario Land Tribunal shall fix a date for a hearing of an appeal under subsection (20), (22) or (23), give notice to all interested parties and give all necessary direction for the hearing. 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13).

Powers of the Tribunal

(26) The Ontario Land Tribunal has authority to take evidence, to refuse the permit or to order the authority to issue the permit, with or without conditions. 2020, c. 36, Sched. 6, s. 16 (2); 2021, c. 4, Sched. 6, s. 39 (13).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

2018, c. 16, s. 3 (2) - 01/01/2019

2020, c. 36, Sched. 6, s. 16 (1) - no effect - see 2022, c. 21, Sched. 2, s. 15 - 28/11/2022; 2020, c. 36, Sched. 6, s. 16 (2) – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (13) – 01/04/2024

2022, c. 21, Sched. 2, s. 9 (1-3) – 01/04/2024

Permits issued by Minister

Minister's order

28.1.1 (1) Despite subsection 28.1 (1) and subject to the regulations, the Minister may, by order,

- (a) direct an authority not to issue a permit to a person who wishes to engage in a specified activity that, without the permit, would be prohibited under section 28 in the area of jurisdiction of the authority; or
- (b) direct the authorities that are specified in the order not to issue permits to persons who may wish to engage in a type or class of activity described in the order that, without the permit, would be prohibited under section 28 and to continue to refrain from doing so for such period as may be specified in the order. 2020, c. 36, Sched. 6, s. 17.

Minister's power

(2) If an order is made under subsection (1), the Minister has the power to issue a permit to engage in any activity described in the order that would otherwise be prohibited under section 28 if, in the Minister's opinion, the criteria described in clauses 28.1 (1) (a), (b) and (c) are satisfied. 2020, c. 36, Sched. 6, s. 17.

Same

(3) An order made under clause (1) (a) may be made either before or after an application for a permit has been submitted to the relevant authority. 2020, c. 36, Sched. 6, s. 17.

Same

(4) An order made under clause (1) (b) may provide that it applies to activities even if applications for permits have been submitted to the relevant authorities and decisions with respect to the applications are currently pending. 2020, c. 36, Sched. 6, s. 17.

Notice of order

(5) Notice of an order made under subsection (1) shall be,

- (a) given to every authority that is directed by the order not to issue one or more permits;

- (b) given to any person who submitted an application for the permits in question before the order was made where the application is still pending; and
- (c) posted on the Environmental Registry within 30 days of being made. 2020, c. 36, Sched. 6, s. 17.

Information forwarded to Minister

- (6) If an application for a permit to engage in an activity is submitted to an authority under section 28.1 before the day an order is made under this section directing the authority to not issue such a permit,
- (a) the authority shall forward to the Minister all documents and information relating to the application that were submitted by the applicant and shall do so within the time period set out in the order, if any; and
 - (b) the applicant shall forward to the Minister such further information as the Minister may specify in the order and shall do so within the time period set out in the order, if any. 2020, c. 36, Sched. 6, s. 17.

Application to Minister

- (7) If an order is made under this section that prevents an authority from issuing a permit to engage in an activity in circumstances where an application for such a permit has not yet been submitted to the authority but may be submitted in the future,
- (a) any person who wishes to engage in the activity shall submit to the Minister,
 - (i) an application for a permit to do so that includes such information as may be specified in the regulation,
 - (ii) a fee in the same amount as the fee that the person would have paid to the authority had the application been submitted to the authority, and
 - (iii) any information that the Minister believes is necessary to make a determination with respect to the issuance of the permit and that may be specified in the order; and
 - (b) if the authority receives an application for such a permit after the day the order is made, the authority shall direct the applicant to submit the application in accordance with clause (a). 2020, c. 36, Sched. 6, s. 17.

Conferring with persons, etc.

- (8) Before making a decision with respect to an application for a permit, the Minister may confer with any person or body that the Minister considers may have an interest in the application. 2020, c. 36, Sched. 6, s. 17.

Conditions

- (9) The Minister may issue a permit subject to such conditions as the Minister determines are appropriate. 2020, c. 36, Sched. 6, s. 17.

Reasons

- (10) If the Minister refuses a permit or issues a permit subject to conditions, the Minister shall give the applicant written reasons for the decision and shall provide a copy of the reasons to the relevant authority. 2020, c. 36, Sched. 6, s. 17.

Copy to authority

- (11) If the Minister issues a permit under this section, the Minister shall give a copy of the permit to the authority that has jurisdiction over the watershed for which the permit is valid within five days after the permit is issued. 2020, c. 36, Sched. 6, s. 17.

Decision final

- (12) A decision made by the Minister with respect to an application for a permit is final. 2020, c. 36, Sched. 6, s. 17.

Appeal

- (13) If an application for a permit is made or forwarded to the Minister under this section and the application complies with the requirements of subsection 28.1 (3) or clause (7) (a) of this section, as the case may be, and if the Minister fails to give the applicant notice of a decision with respect to the application within 90 days after the application is made, the applicant may appeal the application directly to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 17; 2021, c. 4, Sched. 6, s. 39 (14).

Same

- (14) Subsections 28.1 (24), (25) and (26) apply with necessary modifications to an appeal to the Ontario Land Tribunal made under subsection (13). 2020, c. 36, Sched. 6, s. 17; 2021, c. 4, Sched. 6, s. 39 (14).

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 17 – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (14) – 01/04/2024

Mandatory permits, zoning orders

28.1.2 (1) This section applies to any application submitted to an authority under section 28.1 for a permit to carry out a development project in the authority's area of jurisdiction if,

- (a) an order has been made by the Minister of Municipal Affairs and Housing under section 47 of the *Planning Act* authorizing the development project under that Act;
- (b) the lands in the authority's area of jurisdiction on which the development project is to be carried out are not located in the Greenbelt Area designated under section 2 of the *Greenbelt Act, 2005*; and
- (c) such other requirements as may be prescribed are satisfied. 2020, c. 36, Sched. 6, s. 17; 2022, c. 21, Sched. 2, s. 10 (1); 2024, c. 16, Sched. 12, s. 16 (1).

Definition

(2) In this section,

“development project” means development activity as defined in subsection 28 (5) or any other act or activity that, without a permit issued under this section or section 28.1, would be prohibited under section 28. 2020, c. 36, Sched. 6, s. 17; 2022, c. 21, Sched. 2, s. 10 (2).

Permit to be issued

(3) Subject to the regulations, an authority that receives an application for a permit to carry out a development project in the authority's area of jurisdiction shall issue the permit if all of the requirements in clauses (1) (a), (b) and (c) are satisfied. 2020, c. 36, Sched. 6, s. 17.

Same

(4) For greater certainty, an authority shall not refuse to issue a permit to carry out a development project under subsection (3) despite,

- (a) the prohibitions in subsection 28 (1) and the fact that the development project may not meet the criteria for issuing a permit under subsection 28.1 (1); and
- (b) anything in subsection 3 (5) of the *Planning Act*. 2020, c. 36, Sched. 6, s. 17.

Conditions prescribed by regulations

(5) A permit granted under this section is subject to such conditions as may be prescribed. 2020, c. 36, Sched. 6, s. 17; 2022, c. 21, Sched. 2, s. 10 (3).

Conditions specified by authority

(6) Subject to subsection (7), an authority may attach conditions to the permit, including conditions to mitigate,

- (a) any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) any conditions or circumstances created by the development project 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; or
- (c) any other matters that may be prescribed by regulation. 2020, c. 36, Sched. 6, s. 17; 2022, c. 21, Sched. 2, s. 10 (4).

Hearing

(7) An authority shall not attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority. 2020, c. 36, Sched. 6, s. 17.

Reasons for conditions

(8) If, after holding a hearing, an authority issues a permit subject to conditions, the authority shall give the permit holder written reasons for deciding to attach the conditions. 2020, c. 36, Sched. 6, s. 17.

Request for Minister's review

(9) A permit holder who objects to any conditions attached to the permit by an authority may, within 15 days of the reasons being given under subsection (8), submit a request to the Minister for the Minister to review the conditions, subject to the regulations. 2022, c. 21, Sched. 2, s. 10 (5).

Minister's review

(10) Subsections 28.1 (9) to (14) apply with necessary modifications to a Minister's review conducted pursuant to a request made under subsection (9). 2020, c. 36, Sched. 6, s. 17.

Minister's decision

(11) After conducting a review of an authority's decision, the Minister may confirm or vary the conditions attached by the authority to a permit, including removing conditions or requiring that such additional conditions be attached to the permit as the Minister considers appropriate. 2020, c. 36, Sched. 6, s. 17; 2022, c. 21, Sched. 2, s. 10 (6).

Same

(12) In making a decision under subsection (11), the Minister shall consider,

- (a) effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) conditions or circumstances created by the development project 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; or
- (c) any other matters as may be prescribed by the regulations. 2020, c. 36, Sched. 6, s. 17; 2022, c. 21, Sched. 2, s. 10 (7).

Decision final

(13) A decision made by the Minister under subsection (11) is final. 2020, c. 36, Sched. 6, s. 17.

Appeal

(14) A permit holder who objects to any conditions attached to the permit by an authority may, within 90 days of the reasons being given under subsection (8), appeal to the Ontario Land Tribunal to review the conditions if,

- (a) the permit holder has not submitted a request under subsection (9) to the Minister to review the conditions; or
- (b) the permit holder has submitted a request to the Minister to review the conditions under subsection (9) and,
 - (i) 30 days have elapsed following the day the permit holder submitted the request and the Minister did not make a reply in accordance with subsection 28.1 (9), or
 - (ii) the Minister made a reply in accordance with subsection 28.1 (9) indicating that the Minister refused to conduct the review. 2020, c. 36, Sched. 6, s. 17; 2021, c. 4, Sched. 6, s. 39 (14); 2022, c. 21, Sched. 2, s. 10 (8).

Same

(15) If the Minister indicates in a reply given in accordance with subsection 28.1 (9) that the Minister intends to review an authority's decision and the Minister fails to make a decision within 90 days of giving the reply, the permit holder may, within the next 30 days, appeal the conditions attached by the authority directly to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 17; 2021, c. 4, Sched. 6, s. 39 (14); 2022, c. 21, Sched. 2, s. 10 (9).

Same

(16) Subsections 28.1 (24), (25) and (26) apply with necessary modifications to an appeal made under subsection (14) or (15). 2020, c. 36, Sched. 6, s. 17.

Agreement

(17) An authority that issues a permit to carry out a development project under this section shall enter into an agreement with respect to the development project with the permit holder and the authority and the permit holder may add a municipality or such other person or entity as they consider appropriate as parties to the agreement. 2020, c. 36, Sched. 6, s. 17.

Content of agreement

(18) An agreement under subsection (17) shall set out actions or requirements that the permit holder must complete or satisfy in order to compensate for ecological impacts and any other impacts that may result from the development project. 2020, c. 36, Sched. 6, s. 17.

Limitation on development

(19) No person shall begin a development project until an agreement required under subsection (17) has been entered into. 2020, c. 36, Sched. 6, s. 17.

Same

(19.1) If a regulation made under subsection 40 (4) provides that a development project may begin prior to entering into an agreement under subsection (17), but an agreement is not entered into by the date identified in the regulation, no person shall carry out the development project until such time the agreement is entered into. 2022, c. 21, Sched. 2, s. 10 (10).

Conflict

(20) If the conditions attached to a permit issued under this section conflict with the terms of an order made under section 47 of the *Planning Act*, the terms of the order shall prevail. 2022, c. 21, Sched. 2, s. 10 (11); 2024, c. 16, Sched. 12, s. 16 (2).

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 17 - 01/04/2024

2021, c. 4, Sched. 6, s. 39 (14) - 01/04/2024

2022, c. 21, Sched. 2, s. 10 (1-11) - 01/04/2024

2024, c. 16, Sched. 12, s. 16 (1, 2) - 06/06/2024

Period of validity

28.2 A permit shall be valid for a period to be determined in accordance with the regulations. 2017, c. 23, Sched. 4, s. 25.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

Cancellation of permits

28.3 (1) An authority may cancel a permit issued under section 28.1 or 28.1.1 if it is of the opinion that the conditions of the permit have not been met or that the circumstances that are prescribed by regulation exist. 2017, c. 23, Sched. 4, s. 25; 2020, c. 36, Sched. 6, s. 18 (1).

Notice

(2) Before cancelling a permit, an authority shall give a notice of intent to cancel to the permit holder indicating that the permit will be cancelled on a date specified in the notice unless the holder requests a hearing under subsection (3). 2017, c. 23, Sched. 4, s. 25.

Request for hearing

(3) Within 15 days of receiving a notice of intent to cancel a permit from the authority, the permit holder may submit a written request for a hearing to the authority. 2017, c. 23, Sched. 4, s. 25.

Hearing

(4) The authority shall set a date for the hearing and hold the hearing within a reasonable time after receiving a request for a hearing. 2017, c. 23, Sched. 4, s. 25.

Power

(5) After a hearing, the authority may confirm, rescind or vary the decision to cancel a permit. 2017, c. 23, Sched. 4, s. 25.

Appeal

(6) If the authority confirms the cancellation of a permit or makes another order under subsection (5) to which the permit holder objects, the permit holder may, within 90 days of receiving notice of the authority's decision, appeal the decision to the Ontario Land Tribunal. 2020, c. 36, Sched. 6, s. 18 (2); 2021, c. 4, Sched. 6, s. 39 (15).

Same

(7) A notice of an appeal under subsection (6) shall be sent to the Ontario Land Tribunal and to the authority by registered mail. 2020, c. 36, Sched. 6, s. 18 (2); 2021, c. 4, Sched. 6, s. 39 (15).

Hearing

(8) The Ontario Land Tribunal shall fix a date for a hearing of an appeal under subsection (6), give notice to all interested parties and give all necessary direction for the hearing. 2020, c. 36, Sched. 6, s. 18 (2); 2021, c. 4, Sched. 6, s. 39 (15).

Powers of the Tribunal

(9) The Ontario Land Tribunal has authority to take evidence, to confirm, rescind or vary the decision to cancel the permit, with or without conditions. 2020, c. 36, Sched. 6, s. 18 (2); 2021, c. 4, Sched. 6, s. 39 (15).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

2020, c. 36, Sched. 6, s. 18 (1, 2) – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (15) – 01/04/2024

Delegation of power

28.4 An authority may delegate any of its powers relating to the issuance or cancellation of permits under this 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 any limitations or requirements that may be prescribed by regulation. 2017, c. 23, Sched. 4, s. 25.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

Regulations: activities affecting natural resources

28.5 (1) The Lieutenant Governor in Council may make regulations with respect to activities that may impact the conservation, restoration, development or management of natural resources and that may be carried out in the areas of jurisdiction of authorities, including regulations,

- (a) identifying activities that have or may have an impact on the conservation, restoration, development or management of natural resources for the purposes of the regulation;
- (b) regulating those activities;
- (c) prohibiting those activities or requiring that a person obtain a permit from the relevant authority to engage in the activities in the authority's area of jurisdiction. 2017, c. 23, Sched. 4, s. 26.

Same

(2) A regulation under clause (1) (c) that requires that a person obtain a permit from the relevant authority to engage in an activity described in subsection (1) may,

- (a) provide for applications to be made to an authority for the permit and specify the manner, content and form of the application;
- (b) provide for the issuance, expiration, renewal and cancellation of a permit;
- (c) require hearings in relation to any matter referred to in clauses (a) and (b) and specify the person before whom, or the body before which, the matter shall be heard, provide for notices and other procedural matters relating to the hearing and provide for an appeal from any decision. 2017, c. 23, Sched. 4, s. 26.

Same

(3) A regulation made under this section may be limited in its application to one or more authorities or activities. 2017, c. 23, Sched. 4, s. 26.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 26 – 01/04/2024

Regulations: public use of authority's property

29 (1) The Minister may make regulations with respect to land and other property owned by authorities including regulations,

- (a) regulating and governing the use by the public of the lands and the works, vehicles, boats, services and things of the authority;
- (b) providing for the protection and preservation from damage of the property of the authority;
- (c) prescribing fees for the occupation and use of lands and works, vehicles, boats, recreational facilities and services;
- (d) prescribing permits designating privileges in connection with use of the lands or any part thereof and prescribing fees for permits;
- (e) regulating and governing vehicular and pedestrian traffic and prohibiting the use of any class of vehicle or classes of vehicles;

- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices;
- (g) prescribing terms and conditions under which horses, dogs and other animals may be allowed on the lands or any part thereof;
- (h) subject to the *Forest Fires Prevention Act* and the regulations made thereunder, prohibiting or regulating and governing the use, setting and extinguishment of fires. R.S.O. 1990, c. C.27, s. 29 (1); 1998, c. 18, Sched. I, s. 13 (1); 2017, c. 23, Sched. 4, s. 27 (1).

(1.1), (1.2) REPEALED: 2017, c. 23, Sched. 4, s. 27 (2).

Same

(2) A regulation made under this section may be limited in its application to one or more authorities. 2017, c. 23, Sched. 4, s. 27 (2).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 13 (1-3) - 18/12/1998

2017, c. 23, Sched. 4, s. 27 (1, 2) – 01/04/2024

30 REPEALED: 2017, c. 23, Sched. 4, s. 28.

Section Amendments with date in force (d/m/y)

2006, c. 21, Sched. F, s. 105 - 25/07/2007

2017, c. 23, Sched. 4, s. 28 - 12/12/2017

**PART VII
ENFORCEMENT AND OFFENCES**

Appointment of officers

30.1 An authority may appoint officers for the purposes of ensuring compliance with this Act and the regulations. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 14 - 18/12/1998

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Entry without warrant, permit application

30.2 (1) An officer appointed by an authority under section 30.1 may enter any land situated in the authority’s area of jurisdiction, without a warrant and without the consent of the owner or occupier, if,

- (a) an application has been submitted under section 28.1 or 28.1.1 for a permit to engage in an activity with respect to the land;
- (b) the entry is for the purpose of determining whether to issue a permit; and
- (c) the officer has given reasonable notice of the entry to the owner or occupier of the property. 2020, c. 36, Sched. 6, s. 19 (1).

Entry without warrant, compliance

(1.1) An officer appointed by an authority under section 30.1 may enter any land situated in the authority’s area of jurisdiction, without a warrant and without the consent of the owner or occupier, if,

- (a) the entry is for the purpose of ensuring compliance with subsection 28 (1), 28.1.2 (19) or 28.1.2 (19.1), with a regulation made under section 28.5 or with the conditions of a permit issued under section 28.1, 28.1.1 or 28.1.2 or issued under a regulation made under clause 28.5 (1) (c);
- (b) the officer has reasonable grounds to believe that a contravention of a provision of the Act or a regulation referred to in clause (a) or of a condition of a permit referred to in clause (a) is causing or is likely to cause significant damage and,
 - (i) the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or

(ii) in the event of a natural hazard, the damage will or is likely to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and

(c) the officer has reasonable grounds to believe that the entry is required to prevent or reduce the effects or risks described in clause (b). 2020, c. 36, Sched. 6, s. 19 (1); 2022, c. 21, Sched. 2, s. 11.

No entry to buildings

(2) The power to enter land under subsection (1) or (1.1) does not authorize the entry into a dwelling or other building situated on the land. 2017, c. 23, Sched. 4, s. 29; 2020, c. 36, Sched. 6, s. 19 (2).

Time of entry

(3) The power to enter land under subsection (1) or (1.1) may be exercised at any reasonable time. 2017, c. 23, Sched. 4, s. 29; 2020, c. 36, Sched. 6, s. 19 (2).

Power upon entry

(4) An officer who enters land under subsection (1) or (1.1) may do any of the following things:

1. Inspect any thing that is relevant to the inspection.
2. Conduct any tests, take any measurements, take any specimens or samples, set up any equipment and make any photographic or other records that may be relevant to the inspection.
3. Ask any questions that are relevant to the inspection to the occupant of the land. 2017, c. 23, Sched. 4, s. 29; 2020, c. 36, Sched. 6, s. 19 (2).

No use of force

(5) Subsection (1) or (1.1) does not authorize the use of force. 2017, c. 23, Sched. 4, s. 29; 2020, c. 36, Sched. 6, s. 19 (2).

Experts, etc.

(6) An officer who enters land under this section may be accompanied and assisted by any person with such knowledge, skills or expertise as may be required for the purposes of the inspection. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

2020, c. 36, Sched. 6, s. 19 (1, 2) – 01/04/2024

2022, c. 21, Sched. 2, s. 11 (1, 2) – 01/04/2024

Searches

Search with warrant

30.3 (1) An officer may obtain a search warrant under Part VIII of the *Provincial Offences Act* in respect of an offence under this Act. 2017, c. 23, Sched. 4, s. 29.

Assistance

(2) The search warrant may authorize any person specified in the warrant to accompany and assist the officer in the execution of the warrant. 2017, c. 23, Sched. 4, s. 29.

Search without warrant

(3) If an officer has reasonable grounds to believe that there is something on land that will afford evidence of an offence under this Act but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the officer may, without warrant, enter and search the land. 2017, c. 23, Sched. 4, s. 29.

No entry to buildings

(4) The power to enter land under subsection (3) does not authorize the entry into a dwelling or other building situated on the land. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Stop order

30.4 (1) An officer appointed under section 30.1 may make an order requiring a person to stop engaging in or not to engage in an activity if the officer has reasonable grounds to believe that,

- (a) the person has engaged in, is engaging in or is about to engage in the activity and, as a result, is contravening or will contravene,
 - (i) subsection 28 (1), 28.1.2 (19) or 28.1.2 (19.1) or a regulation made under section 28.5, or
 - (ii) the conditions of a permit issued under section 28.1, 28.1.1 or 28.1.2 or issued under a regulation made under clause 28.5 (1) (c);
- (b) the activity has caused, is causing or is likely to cause significant damage and,
 - (i) the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or
 - (ii) in the event of a natural hazard, the damage will or is likely to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and
- (c) the order will prevent or reduce the damage described in clause (b). 2020, c. 36, Sched. 6, s. 20 (1); 2022, c. 21, Sched. 2, s. 12.

Information to be included in the order

- (2) The order shall,
 - (a) specify the provision that the officer believes is being or is about to be contravened;
 - (b) briefly describe the nature of the contravention and its location;
 - (c) briefly describe the nature of the damage being caused or likely to be caused by the activity; and
 - (d) state that a hearing on the order may be requested in accordance with this section. 2020, c. 36, Sched. 6, s. 20 (1).

Service of order

(3) An order under this section shall be served personally or by registered mail addressed to the person against whom the order is made at the person's last known address. 2017, c. 23, Sched. 4, s. 29.

Registered mail

(4) An order served by registered mail shall be deemed to have been served on the fifth day after the day of mailing, unless the person served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the order until a later date. 2017, c. 23, Sched. 4, s. 29.

Effective date

(5) An order under this section takes effect when it is served, or at such later time as is specified in the order. 2017, c. 23, Sched. 4, s. 29.

Right to hearing

(6) A person who is served with an order under this section may request a hearing before the authority or, if the authority so directs, before the authority's executive committee by mailing or delivering to the authority, within 30 days after service of the order, a written request for a hearing that includes a statement of the reasons for requesting the hearing. 2017, c. 23, Sched. 4, s. 29.

Powers of authority

- (7) After holding a hearing, the authority or executive committee, as the case may be, shall,
 - (a) confirm the order;
 - (b) amend the order; or
 - (c) remove the order, with or without conditions. 2017, c. 23, Sched. 4, s. 29.

Reasons for decision

(8) The authority or executive committee, as the case may be, shall give the person who requested the hearing written reasons for the decision. 2017, c. 23, Sched. 4, s. 29.

Appeal

(9) Within 30 days after receiving the reasons in subsection (8), the person who requested the hearing may appeal to the Minister or to a body prescribed by the regulations and, after reviewing the submissions, the Minister or the prescribed body may,

- (a) confirm the order;
- (b) amend the order; or
- (c) remove the order, with or without conditions. 2017, c. 23, Sched. 4, s. 29; 2020, c. 36, Sched. 6, s. 20 (2).

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

2020, c. 36, Sched. 6, s. 20 (1, 2) – 01/04/2024

2022, c. 21, Sched. 2, s. 12 (1, 2) – 01/04/2024

Offences

30.5 (1) Every person is guilty of an offence if the person contravenes,

- (a) subsection 28 (1), 28.1.2 (19) or 28.1.2 (19.1);
- (b) a regulation respecting activities permitted under subsection 28 (3), (4) or (4.1) or a regulation made under section 28.5;
- (c) the conditions of a permit that was issued under section 28.1, 28.1.1 or 28.1.2 or under a regulation made under clause 28.5 (1) (c); or
- (d) a stop order issued under section 30.4. 2020, c. 36, Sched. 6, s. 21; 2022, c. 21, Sched. 2, s. 13.

Penalty

(2) A person who commits an offence under subsection (1) is liable on conviction,

- (a) in the case of an individual,
 - (i) to a fine of not more than \$50,000 or to a term of imprisonment of not more than three months, or to both, and
 - (ii) to an additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues; and
- (b) in the case of a corporation,
 - (i) to a fine of not more than \$1,000,000, and
 - (ii) to an additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues. 2017, c. 23, Sched. 4, s. 29.

Monetary benefit

(3) Despite the maximum fines set out in clauses (2) (a) and (b), a court that convicts a person of an offence under clause (1) (a) or (b) may increase the fine it imposes on the person by an amount equal to the amount of the monetary benefit that was acquired by the person, or that accrued to the person, as a result of the commission of the offence. 2017, c. 23, Sched. 4, s. 29.

Contravening s. 29 regulations

(4) Every person who contravenes a regulation made under section 29 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 2017, c. 23, Sched. 4, s. 29.

Obstruction of officer

(5) Every person who prevents or obstructs an officer from entering land under section 30.2 or 30.3 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

2020, c. 36, Sched. 6, s. 21 – 01/04/2024

2022, c. 21, Sched. 2, s. 13 (1, 2) – 01/04/2024

Limitation period

30.6 A proceeding shall not be commenced with respect to an offence under subsection 30.5 (1), (4) or (5) more than two years after the day on which the offence first comes to the attention of an officer appointed under section 30.1. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Rehabilitation orders

30.7 (1) In addition to any other remedy or penalty provided by law, the court, upon convicting a person of an offence under clause 30.5 (1) (a) or (b), may order the convicted person to,

- (a) remove, at the convicted person's expense, any development within such reasonable time as the court orders; and
- (b) take such actions as the court directs, within the time the court may specify, to repair or rehabilitate the damage that results from or is in any way connected to the commission of the offence. 2017, c. 23, Sched. 4, s. 29.

Non-compliance with order

(2) If a person does not comply with an order made under subsection (1), the authority having jurisdiction may arrange for any removal, repair or rehabilitation that was required of a person under subsection (1) to be carried out. 2017, c. 23, Sched. 4, s. 29.

Liability for certain costs

(3) The person to whom an order is made under subsection (1) is liable for the cost of any removal, repair or rehabilitation arranged by an authority under subsection (2), and the amount is recoverable by the authority by action in a court of competent jurisdiction. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

PART VIII MATTERS RELATING TO LAND AND WATER USE

31 REPEALED: 2020, c. 36, Sched. 6, s. 22.

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 22 - 02/02/2021

Restrictions on projects

Crown land affected

32 (1) Where any land required for the carrying out of a project or a part thereof is Crown land, a plan and description of the land prepared and signed by an Ontario land surveyor and signed by the chair or vice-chair of the authority shall be deposited with the Minister, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister. R.S.O. 1990, c. C.27, s. 32 (1).

Interference with public work

(2) Where a project or a part thereof may interfere with a public work of Ontario, the authority shall file with the Minister of Infrastructure a plan and description of the project or a part thereof together with a statement of the interference with the public work that may occur and a statement of the manner in which the authority proposes to remedy the interference, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Infrastructure. R.S.O. 1990, c. C.27, s. 32 (2); 1998, c. 15, Sched. E, s. 3 (3); 2011, c. 9, Sched. 27, s. 22.

Interference with highway

(3) Where a project or a part thereof will interfere with a public road or highway, the authority shall file with the Minister of Transportation a plan and description of the project or a part thereof together with a statement of the interference with the public road or highway that will occur and a statement of the manner in which the authority proposes to remedy the interference, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Transportation. R.S.O. 1990, c. C.27, s. 32 (3).

Costs, how to be borne

(4) The cost of rebuilding any road, highway, bridge, public work or any part thereof and the cost of any other work that any of the Ministers of the Crown may require to be done under this section shall be borne by the authority, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario. R.S.O. 1990, c. C.27, s. 32 (4); 1998, c. 15, Sched. E, s. 3 (4).

Section Amendments with date in force (d/m/y)

1998, c. 15, Sched. E, s. 3 (3, 4) - 01/04/1999

2011, c. 9, Sched. 27, s. 22 - 06/06/2011

Assessment of lands of authority

33 (1) Land vested in an authority, except works erected by an authority for the purposes of a project, is taxable for municipal purposes by levy under section 312 of the *Municipal Act, 2001* or section 277 of the *City of Toronto Act, 2006*, as the case may be, upon the assessment and classification of such land determined in each year by the Municipal Property Assessment Corporation and the land shall be assessed under the *Assessment Act* as if the works erected by the authority on the land had not been erected. 1997, c. 5, s. 64 (1); 1997, c. 43, Sched. G, s. 19; 2001, c. 8, s. 203; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 8.

Assessment of rented property

(2) Despite subsection (1), section 18 of the *Assessment Act* applies with necessary modifications in respect of lands vested in an authority. R.S.O. 1990, c. C.27, s. 33 (2).

Notice

(3) The Municipal Property Assessment Corporation shall deliver or mail to each authority concerned and to the clerk of each municipality in which any of the land is situated a notice setting out the assessment and the classification of the land in the municipality. 1997, c. 5, s. 64 (2); 1997, c. 43, Sched. G, s. 19; 2001, c. 8, s. 203.

Reconsideration under *Assessment Act*

(4) The authority may request a reconsideration under section 39.1 of the *Assessment Act*. 1997, c. 5, s. 64 (3).

Appeal to the Assessment Review Board

(5) The authority or the municipality may appeal to the Assessment Review Board under section 40 of the *Assessment Act* and the last day for appealing is the day that is 90 days after the authority or the clerk of the municipality, as applicable, is notified. 2008, c. 7, Sched. A, s. 19.

***Assessment Act* to apply**

(6) The *Assessment Act* applies, with necessary modifications, with respect to a request for a reconsideration or an appeal. 2008, c. 7, Sched. A, s. 19.

(7) REPEALED: 1997, c. 5, s. 64 (3).

Assessment for next year's taxation

(8) The assessment of land under subsection (1) shall be determined by the Municipal Property Assessment Corporation in each year for the purpose of taxation in the following year. R.S.O. 1990, c. C.27, s. 33 (8); 1997, c. 5, s. 64 (4); 1997, c. 43, Sched. G, s. 19; 2001, c. 8, s. 203.

Section Amendments with date in force (d/m/y)

1997, c. 5, s. 64 (1-4) - 01/01/1998; 1997, c. 43, Sched. G, s. 19 - 31/12/1998; 1998, c. 3, s. 33 - 11/06/1998

2001, c. 8, s. 203 - 29/06/2001

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 8 - 01/01/2007

2008, c. 7, Sched. A, s. 19 - 14/05/2008

Cemetery lands

34 (1) Where the carrying out of a project will require the use of a cemetery or other place of interment of human remains, the authority shall acquire other suitable lands for the interment of the bodies contained in the cemetery or other place of interment. R.S.O. 1990, c. C.27, s. 34 (1).

Notice to plot owners

(2) The authority shall forward a notice to the owner of each lot in the cemetery or other place of interment, but, if the owner or the owner's whereabouts is unknown, the notice shall, wherever possible, be forwarded to some other person having an interest in the plot through relationship or otherwise to a deceased person buried therein. R.S.O. 1990, c. C.27, s. 34 (2).

Publication of notice

(3) The authority shall also cause a notice to be published once a week for at least three weeks in a newspaper having general circulation in the locality where the cemetery or other place of interment is located, which notice shall state,

- (a) that the cemetery or other place of interment has been acquired for the purposes of the authority;
- (b) that other land, describing it, has been acquired by the authority for the purpose of reintering the bodies;
- (c) that the authority will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for reinterment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and
- (d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the authority, may cause any body interred in the cemetery or other place of interment to be removed to any other place of interment at the expense of the owner or person if the owner or person obtains permission from the authority and effects the removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the authority determines. R.S.O. 1990, c. C.27, s. 34 (3).

Removal of bodies

(4) The authority has full power to cause the removal of any body from the cemetery or place of interment to any lands acquired under subsection (1) despite any other Act and to authorize the removal by any other person of the body for reinterment in any other cemetery or place of interment. R.S.O. 1990, c. C.27, s. 34 (4).

Removal of headstones

(5) Where a body is removed and reinterred, any headstone or other stone shall be removed and re-erected at the place of reinterment. R.S.O. 1990, c. C.27, s. 34 (5).

Conveyance of lands for reinterment

(6) The authority shall render land, including fences and buildings, acquired for the reinterment of bodies, in a fit and proper condition and shall convey the land to the owner of the cemetery or other place of interment from which the bodies were removed. R.S.O. 1990, c. C.27, s. 34 (6).

Right to use water power

35 (1) The authority has the right to use any water power created upon lands vested in it for its own uses. 1998, c. 15, Sched. E, s. 3 (5).

(2) REPEALED: 2006, c. 3, Sched. D, s. 1.

Obligation to pay

(3) Any person using water power created upon authority lands shall pay to the authority an annual reasonable compensation for the use of the water power. 1998, c. 15, Sched. E, s. 3 (5).

Arbitration

(3.1) Where the authority and a person described in subsection (3) are unable to agree on the amount of the annual compensation, the matter shall be arbitrated under the *Arbitration Act, 1991*. 1998, c. 15, Sched. E, s. 3 (5).

Charge for power

(4) Subject to review by the Minister of Natural Resources, an authority shall charge persons who at the time of the establishment of the authority are, or thereafter become, users of power derived by them from the use of the waters of the watershed for any additional power generated from increased head or flow due to the works undertaken by the authority. R.S.O. 1990, c. C.27, s. 35 (4); 1998, c. 15, Sched. E, s. 3 (6).

When section not to apply

(5) This section does not apply to water power reserved to the Crown under the *Public Lands Act*. R.S.O. 1990, c. C.27, s. 35 (5).

Section Amendments with date in force (d/m/y)

1998, c. 15, Sched. E, s. 3 (5, 6) - 01/04/1999

2006, c. 3, Sched. D, s. 1 - 19/10/2006

PART IX MISCELLANEOUS

Assent of electors not necessary

36 Where by this Act any power is conferred or duty imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, the power may be exercised and the duty shall be performed by the council of the municipality without the assent of the electors. R.S.O. 1990, c. C.27, s. 36.

Delegation

36.1 (1) The Minister may in writing delegate any of his or her powers or duties under this Act to an employee in the Ministry specified in the delegation, other than the power to make a regulation under this Act. 2020, c. 36, Sched. 6, s. 23.

Same

(2) A reference in this Act or the regulations to the Minister shall, for the purpose of a delegation under subsection (1), be deemed to be a reference to the delegate. 2020, c. 36, Sched. 6, s. 23.

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 23 - 02/02/2021

Spending by authority

37 All money that is paid to an authority for specified purposes under this Act may be spent by the authority as it considers proper. 2017, c. 23, Sched. 4, s. 32.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 32 - 12/12/2017

Annual audit

38 (1) Every authority shall cause its accounts and transactions to be audited annually by a person licensed under the *Public Accounting Act, 2004* and shall ensure that the annual audit is prepared in accordance with generally accepted accounting principles for local governments recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada, as they exist from time to time. 2020, c. 36, Sched. 6, s. 24 (1).

Auditor

(2) No person shall be appointed as auditor of an authority who is or during the preceding year was a member of the authority or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the authority other than for services within his or her professional capacity. R.S.O. 1990, c. C.27, s. 38 (2).

Auditor's report

(3) An authority shall, upon receipt of the auditor's report of the examination of its accounts and transactions, forthwith forward a copy of the report to each participating municipality and to the Minister. R.S.O. 1990, c. C.27, s. 38 (3).

Report made publicly available

(4) Within 60 days of receiving the auditor's report, an authority shall make the report available to the public on its website and by any other means that the authority considers appropriate. 2020, c. 36, Sched. 6, s. 24 (2).

Section Amendments with date in force (d/m/y)

2004, c. 8, s. 46, Table - 01/11/2005

2020, c. 36, Sched. 6, s. 24 (1, 2) - 02/02/2021

Grants

39 Grants may be made by the Minister to any authority out of the money appropriated therefor by the Legislature in accordance with such conditions and procedures as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1990, c. C.27, s. 39.

Regulations, Lieutenant Governor in Council

40 (1) The Lieutenant Governor in Council may make regulations,

- (a) governing advisory boards established under subsection 18 (2), including requiring authorities to establish one or more advisory boards and prescribing requirements with respect to the composition, functions, powers, duties, activities and procedures of any advisory board that is established;
- (b) governing programs and services that authorities may provide including,
 - (i) prescribing mandatory programs and services for the purposes of subsections 21.1 (1) and (2),
 - (ii) prescribing Acts for the purposes of subparagraph 1 iv of subsections 21.1 (1), and
 - (iii) respecting standards and requirements applicable to programs and services for the purposes of subsection 21.1 (3);
- (c) governing the apportionment of an authority's capital costs in connection with a project for the purposes of section 25;
- (d) governing reviews under sections 26 and 27.1, including prescribing a body that may conduct such reviews instead of the Ontario Land Tribunal;
- (e) governing the apportionment of an authority's operating expenses for the purposes of section 27, prescribing expenses as operating expenses for the purposes of section 27, governing the amount that participating municipalities are required to pay under section 27, including the fixed amount that a participating municipality may be required to pay under subsection 27 (2), and restricting and prohibiting the apportionment of certain types of operating expenses;
- (f) governing budgetary matters relating to authorities including,
 - (i) prescribing matters as budgetary matters for the purposes of clause 14 (4.0.1) (d) and for the regulations,
 - (ii) respecting the process authorities must follow when preparing a budget and the consultations that are required, and
 - (iii) providing for rules and procedures governing meetings at which budgetary matters are discussed, including the quorum for such meetings and the rules respecting voting on budgetary matters, and providing for those rules and procedures to apply despite anything in section 16.
- (g) governing exceptions under subsection 28 (4.1) from the prohibitions set out in subsection 28 (1), including,
 - (i) prescribing municipalities to which the exception applies,
 - (ii) respecting any conditions or restrictions that must be satisfied to obtain the exception, or in carrying out the activity, including conditions or restrictions applying to the municipality in which the exception applies,
 - (iii) prescribing activities, areas of municipalities, types of authorizations under the *Planning Act* and other conditions or restrictions for the purposes of subsection 28 (4.2),
 - (iv) governing transitional matters resulting from an exception under subsection 28 (4.1);
- (h) governing Minister's reviews of decisions made by an authority to refuse to issue a permit or to issue permits subject to conditions that may be requested under subsection 28.1 (8), including prescribing circumstances under which reviews may or may not be requested or conducted;
- (i) governing transitional matters resulting from the implementation of Minister reviews requested under subsection 28.1 (8) and from the coming into force of section 28.1.1;
- (j) governing the issuance of permits by the Minister under section 28.1.1 including prescribing circumstances in which the Minister may or may not make an order under subsection 28.1.1 (1);
- (k) governing transitional matters relating to the repeal of section 28.0.1 by subsection 15 (2) of Schedule 6 of the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* and any permissions that were granted under that section prior to the repeal and the enactment of section 28.1.2;
- (l) governing Minister's reviews requested under subsection 28.1.2 (9) and appeals under subsections 28.1.2 (14) and (15) and specifying circumstances in which a review may not be requested or an appeal may not be made;
- (m) prescribing a body for the purposes of subsection 30.4 (9);
- (n) defining any term that is used in this Act and that is not defined in this Act;
- (o) respecting anything that is necessary or advisable for the proper administration of this Act. 2020, c. 36, Sched. 6, s. 25 (1); 2021, c. 4, Sched. 6, s. 39 (16, 17); 2022, c. 21, Sched. 2, s. 14 (1).

Same

(2) The standards and requirements established for programs and services in a regulation made under clause (1) (b) may include standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency. 2020, c. 36, Sched. 6, s. 25 (1).

Regulations, Minister

- (3) The Minister may make regulations,
- (a) prescribing matters that may be the subject of by-laws made under clause 19.1 (1) (j);
 - (b) respecting the amount of any fee that may be charged by an authority in relation to a program or service, including determining the manner in which the fee is calculated;
 - (c) respecting standards and requirements applicable to programs and services for the purposes of clauses 21.1.1 (4) (b) and 21.1.2 (3) (b);
- (c.1) prescribing Acts for the purposes of subsections 21.1.1 (1.1) and 21.1.2 (1.1);
- (d) prescribing the period for the purposes of paragraph 2 of subsection 21.1.2 (2);
 - (e) prescribing requirements for the purposes of paragraph 3 of subsection 21.1.2 (2);
 - (f) governing consultations that an authority must carry out for the purposes of section 21.1.3;
 - (g) governing the matters to be addressed in a transition plan under section 21.1.4 and prescribing additional matters to be addressed, including requiring the submission to the Ministry of the inventory mentioned in paragraph 1 of subsection 21.1.4 (2);
 - (h) governing the information that authorities must provide to the Minister under section 23.1, including the publication of that information;
 - (i) prescribing a day for the purposes of subsections 25 (1.1) and 27 (1.1);
 - (j) prescribing circumstances for the purposes of subsections 25 (1.3) and 27 (1.3);
 - (k) governing the determination of amounts owed under subsection 27.2 (2). 2020, c. 36, Sched. 6, s. 25 (1); 2022, c. 21, Sched. 2, s. 14 (2, 3).

Minister's regulations, ss. 28 to 28.4

- (4) The Minister may make regulations,
- (a) governing the prohibitions set out in section 28, including,
 - (i) prescribing the limits on river and stream valleys for the purposes of subparagraph 2 iii of subsection 28 (1),
 - (ii) determining or specifying areas for the purposes of subparagraph 2 iv of subsection 28 (1),
 - (iii) determining or specifying areas in which development should be prohibited or regulated for the purposes of subparagraph 2 v of subsection 28 (1),
 - (iv) prescribing activities or types of activities to which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities or types of activities may be carried out and any conditions or restrictions that apply to the activity or type of activity,
 - (v) prescribing areas in which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities may be carried out in such areas, and any conditions or restrictions that apply to carrying out activities in such areas,
 - (vi) defining “development activity”, “hazardous land”, “watercourse” and “wetland” for the purposes of section 28;
 - (b) governing applications for permits under section 28.1, the issuance of the permits and the power of authorities to refuse permits, including prescribing requirements that must be met for the issuance of permits under clause 28.1 (1) (c), conditions that may or may not be attached to a permit or circumstances in which a permit may be cancelled under section 28.3 and respecting the period for which a permit is valid under section 28.2;
 - (c) REPEALED: 2022, c. 21, Sched. 2, s. 14 (5).
 - (d) prescribing requirements for the purposes of clause 28.1.2 (1) (c);
 - (e) governing permits issued under section 28.1.2 including,

- (i) requiring that permits be issued within a specified time period after the application for the permit is submitted to an authority,
- (i.1) limiting the types of conditions that an authority may attach to a permit under section 28.1.2;
- (ii) prescribing conditions for the purposes of subsection 28.1.2 (5),
- (iii) prescribing matters for the purposes of clause 28.1.2 (6) (c);
- (f) prescribing matters for the purposes of clause 28.1.2 (12) (c);
- (g) governing agreements required under subsection 28.1.2 (17) including,
 - (i) prescribing the content of the agreements,
 - (ii) specifying the time within which agreements are to be concluded and signed;
- (h) specifying lands or development projects to which section 28.1.2 does not apply;
- (h.1) exempting lands or development projects from subsections 28.1.2 (5), (17) and (19), subject to such conditions or restrictions as may be specified;
- (i) governing the delegation of powers by an authority under section 28.4 and prescribing any limitations or requirements related to the delegation;
- (j) respecting anything necessary or advisable for the effective implementation or enforcement of sections 28 to 28.4. 2020, c. 36, Sched. 6, s. 25 (2); 2022, c. 21, Sched. 2, s. 14 (4-7).

General or particular

(5) A regulation made under this section may be general or particular in its application. 2020, c. 36, Sched. 6, s. 25 (3).

Section Amendments with date in force (d/m/y)

2010, c. 16, Sched. 10, s. 1 (4) - 25/10/2010

2017, c. 23, Sched. 4, s. 33 (1, 2) - no effect - see 2019, c. 9, Sched. 2, s. 10 (2) - 06/06/2019; 2017, c. 23, Sched. 5, s. 23 - 03/04/2018

2019, c. 9, Sched. 2, s. 9 (1-3) - no effect - see 2020, c. 36, Sched. 6, s. 28 - 08/12/2020

2020, c. 36, Sched. 6, s. 25 (1, 3) - 01/10/2021; 2020, c. 36, Sched. 6, s. 25 (2) – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (16) - 01/10/2021; 2021, c. 4, Sched. 6, s. 39 (17) - 01/06/2021

2022, c. 21, Sched. 2, s. 14 (1, 4-7) – 01/04/2024; 2022, c. 21, Sched. 2, s. 14 (2) - 28/11/2022; 2022, c. 21, Sched. 2, s. 14 (3) - 01/01/2023

Rolling incorporations

41 A regulation made under this Act that adopts a document by reference may adopt the document as it may be amended from time to time after the regulation is made. 2017, c. 23, Sched. 4, s. 34.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 34 - 12/12/2017

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ONTARIO REGULATION 41/24
made under the
CONSERVATION AUTHORITIES ACT

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PROHIBITED ACTIVITIES, EXEMPTIONS AND PERMITS

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Definitions

1. (1) In section 28 of the Act and in this Regulation,

“development activity” means,

- (a) the construction, reconstruction, erection or placing of a building or structure of any kind,
- (b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- (c) site grading, or
- (d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere; (“activité d’aménagement”)

“hazardous land” means land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock; (“terrain dangereux”)

“watercourse” means a defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs; (“cours d’eau”)

“wetland” means land that,

- (a) is seasonally or permanently covered by shallow water or has a water table close to or at its surface,
- (b) directly contributes to the hydrological function of a watershed through connection with a surface watercourse,
- (c) has hydric soils, the formation of which have been caused by the presence of abundant water, and
- (d) has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which have been favoured by the presence of abundant water. (“terre marécageuse”)

(2) The definition of “wetland” in subsection (1) does not include periodically soaked or wet land used for agricultural purposes which no longer exhibits a wetland characteristic referred to in clause (c) or (d) of that definition.

Prohibited activities, subparagraph 2 iii of s. 28 (1) of the Act

2. (1) For the purposes of subparagraph 2 iii of subsection 28 (1) of the Act, river or stream valleys include river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined as follows:

1. Where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of the bank, plus 15 metres, to a similar point on the opposite side.
2. Where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 metres, to a similar point on the opposite side.
3. Where the river or stream valley is not apparent, the valley extends,
 - (i) to the furthest of the following distances:
 - A. the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard to a similar point on the opposite side, and
 - B. the distance from the predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood event standard to a similar point on the opposite side, and
 - (ii) an additional 15-metre allowance on each side, except in areas within the jurisdiction of the Niagara Peninsula Conservation Authority.

(2) For the purposes of subparagraph 2 iv of subsection 28 (1) of the Act, areas adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards include,

- (a) the area starting from the furthest offshore extent of the authority's boundary to the furthest of the following distances:
 - (i) the 100-year flood level, plus the appropriate allowance for wave uprush, and, if necessary, for other water-related hazards, including ship-generated waves, ice piling and ice jamming, except in respect of Wanapitei Lake in the Nickel District Conservation Authority, the applicable flood event standard for that lake being the one set out in item 1 of Table 16 of Schedule 1,
 - (ii) the predicted long-term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period, and
 - (iii) where a dynamic beach is associated with the waterfront lands, an allowance of 30 metres inland to accommodate dynamic beach movement, except in the areas within the jurisdictions of the Mattagami Region Conservation Authority, the Nickle District Conservation Authority and the North Bay-Mattawa Conservation Authority where the allowance is 15 metres inland; and
- (b) the area that is an additional 15 metres allowance inland from the area described in clause (a).

(3) For the purposes of subparagraph 2 v of subsection 28 (1) of the Act, other areas in which development activities are prohibited are the areas within an authority's area of jurisdiction that are within 30 metres of a wetland.

Applicable Flood Event Standards

3. The applicable flood event standards with respect to an authority, for the purposes of paragraph 3 of subsection 2 (1) and to determine the maximum susceptibility to flooding of lands or areas in the area of jurisdiction of an authority are the standards specified in Schedule 1 as those standards are described in Schedule 2.

Maps of regulated areas

4. (1) An authority shall develop maps depicting the areas within the authority's area of jurisdiction where development activities are prohibited under paragraph 2 of subsection 28 (1) of the Act which shall be filed at the head office of the authority and made available to the public on the authority's website, and by any other means that the authority considers advisable.

- (2) At least once annually, the authority shall,
 - (a) review the maps referred to in subsection (1) and determine if updates to the maps are required;
 - (b) make and file such updates to the maps at its head office if required; and
 - (c) make the updated maps available to the public on its website and by any other means it considers advisable.

(3) Where new information or analysis becomes available that may result in significant updates to the areas where development activities are prohibited under paragraph 2 of subsection 28 (1) of the Act, including enlargements or reductions

to such areas, the authority shall ensure that stakeholders, municipalities and the public are notified of the proposed changes in any manner that the authority considers advisable, including making any relevant information or studies available online at least 30 days prior to an authority meeting during which the proposed changes are on the agenda.

(4) Where significant changes to the areas where development activities are prohibited have been made in accordance with subsection (3), the authority shall promptly update the maps described in subsection (1).

(5) For greater certainty, in case of a conflict regarding the boundaries of the areas where development activities are prohibited under paragraph 2 of subsection 28 (1) of the Act, the description of those areas in that paragraph and in section 2 of this Regulation prevail over the depiction of the areas in the maps referred to in subsection (1) of this section.

Exceptions

5. Paragraph 2 of subsection 28 (1) of the Act does not apply to,

- (a) the construction, reconstruction, erection or placement of,
 - (i) a seasonal or floating dock that,
 - (A) is 10 square metres or less,
 - (B) does not require permanent support structures, and
 - (C) can be removed in the event of flooding,
 - (ii) a rail, chain-link or panelled fence with a minimum of 75 millimetres of width between panels, that is not within a wetland or watercourse,
 - (iii) agricultural in-field erosion control structures that are not within and that do not have any outlet of water directed or connected to a watercourse, wetland or river or stream valley,
 - (iv) a non-habitable accessory building or structure that,
 - (A) is incidental or subordinate to the principal building or structure,
 - (B) is 15 square metres or less, and
 - (C) is not within a wetland or watercourse, or
 - (v) an unenclosed detached deck or patio that is 15 square metres or less, is not placed within a watercourse or wetland and does not utilize any method of cantilevering;
- (b) the installation of new tile drains that are not within a wetland or watercourse, within 30 metres of a wetland or within 15 metres of a watercourse, and that have an outlet of water that is not directed or connected to a watercourse, wetland or river or stream valley, or the maintenance or repair of existing tile drains;
- (c) the installation, maintenance or repair of a pond for watering livestock that is not connected to or within a watercourse or wetland, within 15 metres of a wetland or a watercourse, and where no excavated material is deposited within an area where subsection 28 (1) of the Act applies;
- (d) the maintenance or repair of a driveway or private lane that is outside of a wetland or the maintenance or repair of a public road, provided that the driveway or road is not extended or widened and the elevation, bedding materials and existing culverts are not altered;
- (e) the maintenance or repair of municipal drains as described in, and conducted in accordance with the mitigation requirements set out in the Drainage Act and the Conservation Authorities Act Protocol, approved by the Minister and available on a government of Ontario website, as it may be amended from time to time; and
- (f) the reconstruction of a non-habitable garage with no basement, if the reconstruction does not exceed the existing footprint of the garage and does not allow for a change in the potential use of the garage to create a habitable space.

Pre-submission consultation

6. (1) Prior to submitting an application for a permit under section 28.1 of the Act, an authority and the applicant may engage in pre-submission consultation for the purposes of confirming the requirements of a complete application to obtain a permit for the activity in question, which may include,

- (a) requests by the authority to the applicant for,
 - (i) initial information on the proposed activity such as a description of the project and any associated plans, or
 - (ii) details about the property upon which the activities are proposed to be carried out, including copies of plans, maps or surveys; or
- (b) meetings between the authority and the applicant prior to the submission of an application, including any site visits to the property where the activities are proposed to be carried out.

(2) If the applicant requests a pre-submission consultation under subsection (1), the authority is required to engage in the pre-submission consultation.

Application for permit

7. (1) An application for a permit under section 28.1 of the Act shall be submitted to an authority and shall include,

- (a) a plan of the area showing the type and location of the proposed development activity or a plan of the area showing plan view and cross-section details of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;
- (b) the proposed use of any buildings and structures following completion of the development activity or a statement of the purpose of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland;
- (c) the start and completion dates of the development activity or other activity;
- (d) a description of the methods to be used in carrying out an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;
- (e) the elevations of existing buildings, if any, and grades and the proposed elevations of any buildings and grades after the development activity or other activity;
- (f) drainage details before and after the development activity or other activity;
- (g) a complete description of any type of fill proposed to be placed or dumped;
- (h) a confirmation of authorization for the proposed development activity or other activity given by the owner of the subject property, if the applicant is not the owner; and
- (i) any other technical information, studies or plans that the authority requests including information requested during pre-submission consultations between the authority and the applicant.

(2) Upon receipt of the information required under subsection (1) and payment by the applicant of the fee charged by the authority under subsection 21.2 (4) of the Act, the authority shall notify the applicant in writing, within 21 days, whether or not the application complies with subsection 28.1 (3) of the Act and is deemed to be a complete application.

(3) If the authority notifies an applicant under subsection (2) that the application is complete, the authority shall not require new studies, technical information or plans under clause (1) (i) from the applicant to make a determination on the application, unless agreed to by the authority and the applicant. For greater certainty, the authority may ask the applicant for clarification or further details regarding any matter related to the application.

Request for review

8. (1) An applicant may request a review by the authority if,

- (a) the applicant has not received a notice from the authority within 21 days in accordance with subsection 7 (2);
- (b) the applicant disagrees with the authority's determination that the application for a permit is incomplete; or
- (c) the applicant is of the view that a request by the authority for other information, studies or plans under clause 7 (1) (i) is not reasonable.

(2) A review requested by an applicant under subsection (1) shall be completed by the authority no later than 30 days after it is requested and the authority shall, as the case may be,

- (a) confirm that the application meets the requirements of subsection 7 (1) and is complete or provide reasons why the application is incomplete; or
- (b) provide reasons why a request for other information, studies or plans under clause 7 (1) (i) is reasonable or withdraw the request for all or some of the information, studies or plans.

Conditions of permits

9. (1) An authority may attach conditions on a permit issued under section 28.1 of the Act only if, in the opinion of the authority, the conditions,

- (a) assist in preventing or mitigating any effects on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) assist in preventing or mitigating any effects on human health or safety or any damage or destruction of property in the event of a natural hazard; or
- (c) support the administration or implementation of the permit, including conditions related to reporting, notification, monitoring and compliance with the permit.

(2) In addition to the conditions referred to in subsection (1), the Lake Simcoe Region Conservation Authority may attach conditions to a permit that relate to designated policies and other policies in the Lake Simcoe Protection Plan that apply to the issuance of the permit.

Lake Simcoe Protection requirements

10. For the purpose of clause 28.1 (1) (c) of the Act, a decision to issue a permit within the area of jurisdiction of the Lake Simcoe Region Conservation Authority shall,

- (a) conform with any designated policies in the Lake Simcoe Protection Plan that apply to the issuance of the permit; and
- (b) have regard to any other policies in the Lake Simcoe Protection Plan that apply to the issuance of the permit.

Period of validity of permits and extensions

11. (1) The maximum period of validity of a permit issued under sections 28.1, 28.1.1 and 28.1.2 of the Act, including any extension, is 60 months.

(2) If a permit is issued for less than the maximum period of validity, the holder of a permit may, at least 60 days before the expiry of the permit, submit an application for an extension of the permit to,

- (a) the authority that issued the permit, in the case of permits issued under section 28.1 or 28.1.2 of the Act; or
- (b) the Minister, in the case of permits issued under section 28.1.1 of the Act.

(3) An authority or the Minister, as the case may be, may approve an extension of the period of validity of a permit that was issued for a period of less than 60 months but the total period of validity of the permit, including the extension, shall not exceed 60 months.

(4) If an authority intends to refuse a request for an extension, the authority shall give notice of intent to refuse to the holder of the permit, indicating that the extension will be refused unless the holder requests a hearing under subsection (5).

(5) Within 15 days of receiving a notice of intent to refuse a request for an extension, the holder of the permit may submit a written request for a hearing to the authority.

(6) If a request for hearing is submitted under subsection (5), the authority shall hold the hearing within a reasonable time, and shall give the holder at least five days notice of the date of the hearing.

(7) After holding a hearing under subsection (6), the authority may,

- (a) confirm the refusal of the extension; or
- (b) grant an extension for such period of time as it deems appropriate, as long as the total period of validity of the permit does not exceed the applicable maximum period specified in subsection (1).

Policy and procedure documents re permits

12. Each authority shall develop policy and procedure documents with respect to permit applications and reviews that, at a minimum, include the following:

1. Additional details regarding the pre-submission consultation process described in section 6 as well as additional details related to complete permit application requirements.
2. Procedures respecting the process for a review under section 8.
3. Standard timelines for the authority to make a decision on permit applications following a notification that an application is complete under subsection 7 (2), as the authority determines advisable.
4. Any other policies and procedures, as the authority considers advisable, for the purpose of administering the issuance of permits under Part VI of the Act.
5. A process for the periodic review and updating of the authority's policy and procedure documents, including procedures for consulting with stakeholders and the public during the review and update process, as the authority considers advisable.

Commencement

13. This Regulation comes into force on the later of the day subsection 25 (2) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force and the day this Regulation is filed.

SCHEDULE 1
FLOOD EVENT STANDARDS

1. For the following conservation authorities, the applicable flood event standards are those specified in Table 1 below:
 1. Ausable Bayfield Conservation Authority.

2. Catfish Creek Conservation Authority.
3. Credit Valley Conservation Authority.
4. Ganaraska Region Conservation Authority.
5. Grand River Conservation Authority.
6. Halton Region Conservation Authority.
7. Kettle Creek Conservation Authority.
8. Maitland Valley Conservation Authority.
9. Saugeen Valley Conservation Authority.
10. Toronto and Region Conservation Authority.

TABLE 1

Item	Areas	Applicable Flood Event Standards
1.	All areas	The Hurricane Hazel Flood Event Standard, the 100 Year Flood Event Standard and the 100-year flood level plus wave uprush

2. For the following conservation authorities, the applicable flood event standards are those specified in Table 2 below:

1. Cataraqui Region Conservation Authority.
2. Long Point Region Conservation Authority.
3. Quinte Region Conservation Authority.
4. Raisin Region Conservation Authority.
5. South Nation River Conservation Authority.

TABLE 2

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard and the 100-year flood level plus wave uprush

3. For the following conservation authorities, the applicable flood event standards are those specified in Table 3 below:

1. Mississippi Valley Conservation Authority.
2. Rideau Valley Conservation Authority.

TABLE 3

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard

4. For the following conservation authorities, the applicable flood event standards are those specified in Table 4 below:

1. Mattagami Region Conservation Authority.
2. Nottawasaga Valley Conservation Authority.
3. Sault Ste. Marie Region Conservation Authority.

TABLE 4

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard, the Timmins Flood Event Standard, and the 100-year flood level plus wave uprush

5. For the Crowe Valley Conservation Authority, the applicable flood event standards are those specified in Table 5 below:

TABLE 5

Item	Areas	Applicable Flood Event Standards
1.	All	The 100 Year Flood Event Standard, the

	areas	Timmins Flood Event Standard, the Hurricane Hazel Flood Event Standard and the 100-year flood level
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6. For the Kawartha Region Conservation Authority, the applicable flood event standards are those specified in Table 6 below:

TABLE 6

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard and the Timmins Flood Event Standard

7. For the Central Lake Ontario Conservation Authority, the applicable flood event standards are those specified in Table 7 below:

TABLE 7

Item	Areas	Applicable Flood Event Standards
1.	Pringle Creek and Darlington	The 100 Year Flood Event Standard
2.	Lake Ontario in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Hurricane Hazel Flood Event Standard

8. For the Essex Region Conservation Authority, the applicable flood event standards are those specified in Table 8 below:

TABLE 8

Item	Areas	Applicable Flood Event Standards
1.	The main branch and the east branch (Silver Creek) of the Ruscom River, and its tributaries within the Town of Lakeshore and the Town of Kingsville and the main and north branch of Canard River in the Town of LaSalle, Concessions I and II, and on the main branch of the Canard River in the Town of Amherstburg, Concessions I, II, III and IV	The March 1985 Flood Event Standard
2.	All other areas	The 100 Year Flood Event Standard

9. For the Grey Sauble Conservation Authority, the applicable flood event standards are those specified in Table 9 below:

TABLE 9

Item	Areas	Applicable Flood Event Standards
1.	The Sauble River Watershed	The 100 Year Flood Event Standard
2.	Lake Huron and Georgian Bay in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other watersheds	The Timmins Flood Event Standard

10. For the Hamilton Region Conservation Authority, the applicable flood event standards are those specified in Table 10 below:

TABLE 10

Item	Areas	Applicable Flood Event Standards
1.	Watercourses WCO, WCI, WC2, 3, 4, 5.0, 5.1, 6.0, 6.1, 6.2, 6.3, 6.4, 7.0, 7.1, 7.2, 7.3, 8.0, 9.0, 10.0, 10.1, 10.2, 11.0 and 12.0 as indicated on Map Figure 1 of Project 98040-A, Stoney Creek, Stormwater Management Assessment, prepared by Philips Engineering and located at the Hamilton Region Conservation Authority head office and Hamilton Harbour in the Great Lakes-St. Lawrence River System	The 100-year flood level
2.	Lake Ontario in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Hurricane Hazel Flood Event Standard

11. For the Lake Simcoe Region Conservation Authority, the applicable flood event standards are those specified in Table 11 below:

TABLE 11

Item	Areas	Applicable Flood Event Standards
1.	Bunker's Creek and Sophia Creek	The 100 Year Flood Event Standard
2.	Talbot River and the Trent-Severn waterway	The Timmins Flood Event Standard
3.	Lake Simcoe	The 100-year flood level plus wave uprush
4.	All other areas	The Hurricane Hazel Flood Event Standard

12. For the Lakehead Region Conservation Authority, the applicable flood event standards are those specified in Table 12 below:

TABLE 12

Item	Areas	Applicable Flood Event Standards
1.	The main channel of the Kaministiquia River	The 100 Year Flood Event
2.	Lake Superior in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	Timmins Flood Event Standard

13. For the Lower Thames Valley Conservation Authority, the applicable flood event standards are those specified in Table 13 below:

TABLE 13

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 1937 Regulatory Flood Event Standard and the 100-year flood level plus wave uprush

14. For the Lower Trent Region Conservation Authority, the applicable flood event standards are those specified in Table 14 below:

TABLE 14

Item	Areas	Applicable Flood Event Standards
1.	The main channels of Rice Lake and Trent River	The rainfall, snowmelt, or a combination of rainfall and snowmelt, that would produce the water surface elevations above Canadian Geodetic Datum described in Table 1 of Schedule 3
2.	Lake Ontario in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Timmins Flood Event Standard

15. For the Niagara Peninsula Conservation Authority, the applicable flood event standards are those specified in Table 15 below:

TABLE 15

Item	Areas	Applicable Flood Event Standards
1.	The watersheds associated with Shriner's Creek, Ten Mile Creek and Beaverdam Creek (including Tributary W-6-5) in the City of Niagara Falls	The Hurricane Hazel Flood Event Standard
2.	Lake Ontario and Lake Erie in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The 100 Year Flood Event Standard

16. For the Nickel District Conservation Authority, the applicable flood event standards are those specified in Table 16 below:

TABLE 16

Item	Areas	Applicable Flood Event Standards
1.	Wanapitei Lake	The maximum flood allowance elevation of 267.95 metres Canadian Geodetic Datum (in accordance with Ontario Power Generation's Licence of Occupation Agreement #6168)
2.	All other areas	The Timmins Flood Event Standard and the 100 Year Flood Event Standard

17. For the North Bay-Mattawa Conservation Authority, the applicable flood event standards are those specified in Table 17 below:

TABLE 17

Item	Areas	Applicable Flood Event Standards
1.	Chippewa Creek and its tributaries below the North Bay Escarpment, Parks Creek, the Mattawa River in the Town of Mattawa and the La Vase River	The 100 Year Flood Event Standard
2.	Lake Nipissing	100-year flood level plus wave uprush
3.	All other areas	The Timmins Flood Event Standard

18. For the Otonabee Region Conservation Authority, the applicable flood event standards are those specified in Table 18 below:

TABLE 18

Item	Areas	Applicable Flood Event Standards
1.	Rice Lake, Stony Lake, Clear Lake, Lovesick Lake, Deer Bay, Buckhorn Lake, Chemong Lake, Pigeon Lake, Katchiwanooka Lake and Lower Buckhorn Lake	The rainfall, snowmelt, or a combination of rainfall and snowmelt, that would produce the water surface elevations above Canadian Geodetic Datum described in Table 2 of Schedule 3.
2.	All other areas	The Timmins Flood Event Standard

19. For the St. Clair Region Conservation Authority, the applicable flood event standards are those specified in Table 19 below:

TABLE 19

Item	Areas	Applicable Flood Event Standards
1.	Perch Creek	The 100 Year Flood Event Standard
2.	Lake Huron, Lake St. Clair and St. Clair River in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Hurricane Hazel Flood Event Standard

20. For the Upper Thames Region Conservation Authority, the applicable flood event standards are those specified in Table 20 below:

TABLE 20

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 1937 Flood Event Standard

**SCHEDULE 2
DESCRIPTION OF STANDARDS**

1. The Hurricane Hazel Flood Event Standard means a storm that produces over a 48-hour period,
 - (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 1; or
 - (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 1 is modified by the percentage amount shown in Column 2 of Table 2 opposite the corresponding size of the drainage area set out Column 1 of Table 2.

TABLE 1

73 millimetres of rain in the first 36 hours
6 millimetres of rain in the 37th hour
4 millimetres of rain in the 38th hour
6 millimetres of rain in the 39th hour
13 millimetres of rain in the 40th hour
17 millimetres of rain in the 41st hour
13 millimetres of rain in the 42nd hour
23 millimetres of rain in the 43rd hour
13 millimetres of rain in the 44th hour
13 millimetres of rain in the 45th hour
53 millimetres of rain in the 46th hour
38 millimetres of rain in the 47th hour
13 millimetres of rain in the 48th hour

TABLE 2

Column 1 Drainage Area (square kilometres)	Column 2 Percentage
26 to 45 both inclusive	99.2
46 to 65 both inclusive	98.2
66 to 90 both inclusive	97.1
91 to 115 both inclusive	96.3
116 to 140 both inclusive	95.4
141 to 165 both inclusive	94.8
166 to 195 both inclusive	94.2
196 to 220 both inclusive	93.5
221 to 245 both inclusive	92.7
246 to 270 both inclusive	92.0
271 to 450 both inclusive	89.4
451 to 575 both inclusive	86.7
576 to 700 both inclusive	84.0
701 to 850 both inclusive	82.4
851 to 1000 both inclusive	80.8
1001 to 1200 both inclusive	79.3
1201 to 1500 both inclusive	76.6
1501 to 1700 both inclusive	74.4
1701 to 2000 both inclusive	73.3
2001 to 2200 both inclusive	71.7
2201 to 2500 both inclusive	70.2
2501 to 2700 both inclusive	69.0
2701 to 4500 both inclusive	64.4
4501 to 6000 both inclusive	61.4
6001 to 7000 both inclusive	58.9
7001 to 8000 both inclusive	57.4

2. The Timmins Flood Event Standard means a storm that produces over a 12-hour period,

- (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 3; or
- (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 3 is modified by the percentage amount shown in Column 2 of Table 4 opposite the corresponding size of the drainage area set out in Column 1 of Table 4.

TABLE 3

15 mm of rain in the 1st hour
20 mm of rain in the 2nd hour
10 mm of rain in the 3rd hour
3 mm of rain in the 4th hour
5 mm of rain in the 5th hour
20 mm of rain in the 6th hour
43 mm of rain in the 7th hour
20 mm of rain in the 8th hour
23 mm of rain in the 9th hour
13 mm of rain in the 10th hour
13 mm of rain in the 11th hour
8 mm of rain in the 12th hour

TABLE 4

Column 1 Drainage Area (km ²)	Column 2 Percentage
26 to 50 both inclusive	97
51 to 75 both inclusive	94
76 to 100 both inclusive	90
101 to 150 both inclusive	87
151 to 200 both inclusive	84
201 to 250 both inclusive	82

251 to 375 both inclusive	79
376 to 500 both inclusive	76
501 to 750 both inclusive	74
751 to 1000 both inclusive	70
1001 to 1250 both inclusive	68
1251 to 1500 both inclusive	66
1501 to 1800 both inclusive	65
1801 to 2100 both inclusive	64
2101 to 2300 both inclusive	63
2301 to 2600 both inclusive	62
2601 to 3900 both inclusive	58
3901 to 5200 both inclusive	56
5201 to 6500 both inclusive	53
6501 to 8000 both inclusive	50

3. The 100 Year Flood Event Standard means rainfall, snowmelt, or a combination of rainfall and snowmelt, producing at any location in a river, creek, stream or watercourse a peak flow that has a probability of occurrence of one per cent during any given year.

4. The 100-year flood level means the peak instantaneous still water level plus an allowance for wave uprush and other water-related hazards for inland lakes and the Great Lakes-St. Lawrence River System that has a probability of occurrence of one per cent during any given year.

5. The March 1985 Flood Event Standard means the flood levels observed, surveyed and mapped, and located at the Essex Region Conservation Authority head office, along portions of the relevant prescribed watercourses that exceeded the 100 Year Flood Event Standard.

6. The 1937 Flood Event Standard means the historical observed 1937 flood on the Thames River. This event is equivalent to the combination of events that caused the flood event on the Thames River in April of 1937. The 1937 flood event is estimated to be equivalent to a 1 in 250-year return flood.

7. The 1937 Regulatory Flood Event Standard means the historical observed 1937 flood on the Thames River. This event is equivalent to a flow of 1,540 cubic metres per second (cms) commencing at Delaware and proportionately reducing until 1,160 cms at Thamesville and 1,125 cms at Chatham. The 1937 flood event is estimated to be equivalent to a 1 in 250-year return flood.

SCHEDULE 3 WATER SURFACE ELEVATIONS

1. The water surface elevations above Canadian Geodetic Datum applicable to Item 1 in Table 14 of Schedule 1 are shown in Table 1.

TABLE 1
LOWER TRENT REGION CONSERVATION AUTHORITY

Location	Water Surface Elevation
Rice Lake	187.9 metres
Trent River below Dam #1 (Trenton)	77.2 metres
Trent River below Dam #2 (Sidney)	81.3 metres
Trent River below Dam #3 (Glen Miller)	87.7 metres
Trent River below Dam #4 (Batawa)	95.7 metres
Trent River below Dam #5 (Trent)	101.7 metres
Trent River below Dam #6 (Frankford)	107.9 metres
Trent River below Dam #7 (Glen Ross)	113.5 metres
Trent River below Dam #8 (Meyers)	117.9 metres
Trent River below Dam #9 (Hagues Reach)	128.1 metres
Trent River below Dam # 10 (Ranney Falls)	143.4 metres
Trent River below Dam #11 (Campbellford)	148.3 metres
Trent River below Dam #12 (Crowe Bay)	154.3 metres
Trent River below Dam #13 (Healy Falls)	175.5 metres

Trent River below Dam #14 (Hastings)	186.7 metres
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2. The water surface elevations above Canadian Geodetic Datum applicable to Item 1 in Table 18 of Schedule 1 are shown in Table 2.

TABLE 2
OTONABEE REGION CONSERVATION AUTHORITY

Water Body	Water Surface Elevation
Rice Lake	187.90 metres
Stony Lake	235.95 metres
Clear Lake	235.95 metres
Lovesick Lake	242.16 metres
Deer Bay	244.31 metres
Buckhorn Lake	247.12 metres
Chemong Lake	247.12 metres
Pigeon Lake	247.12 metres
Katchiwanooka Lake	233.68 metres
Lower Buckhorn Lake	244.31 metres

Made by:
Pris par :

Le ministre des Richesses naturelles et des Forêts,

GRAYDON SMITH
Minister of Natural Resources and Forestry

Date made: December 5, 2023
Pris le : 5 décembre 2023

Français

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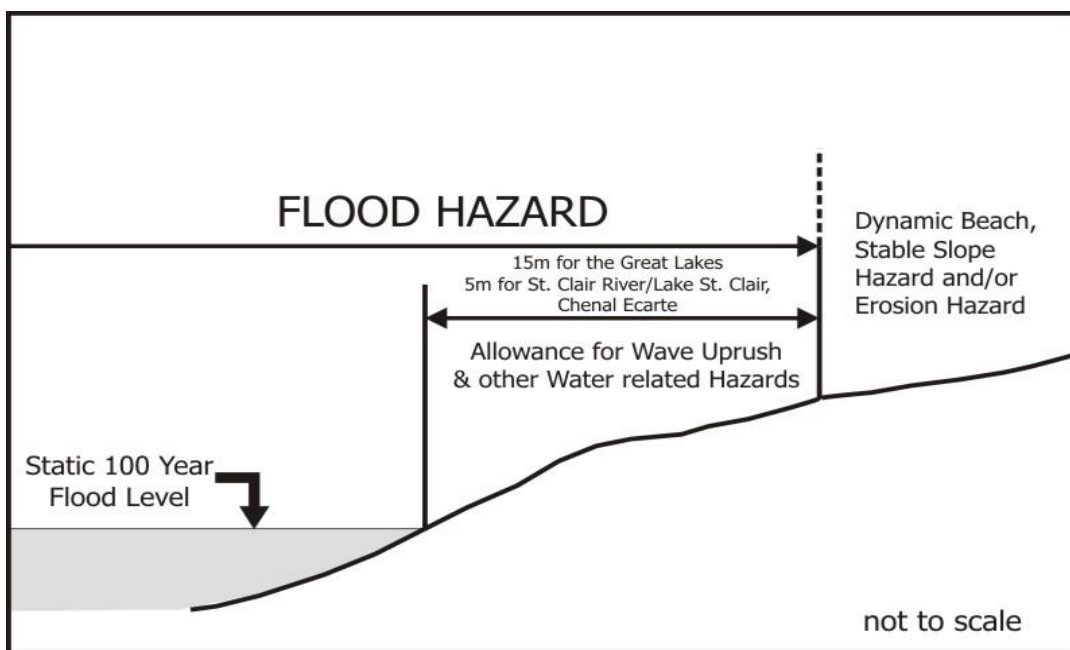
St. Clair Region Conservation Authority – Ontario Regulation 41/24

Shoreline Policies – Includes Lake Huron Shoreline, St. Clair River/Chenal Ecarte Shoreline and Lake St. Clair Shoreline within the SCRCA Area of Jurisdiction

Regulation Limit Determination

The Regulation Limit within the SCRCA area of jurisdiction along the Lake Huron, St. Clair River/Chenal Ecarte and Lake St. Clair Shorelines is comprised of the following:

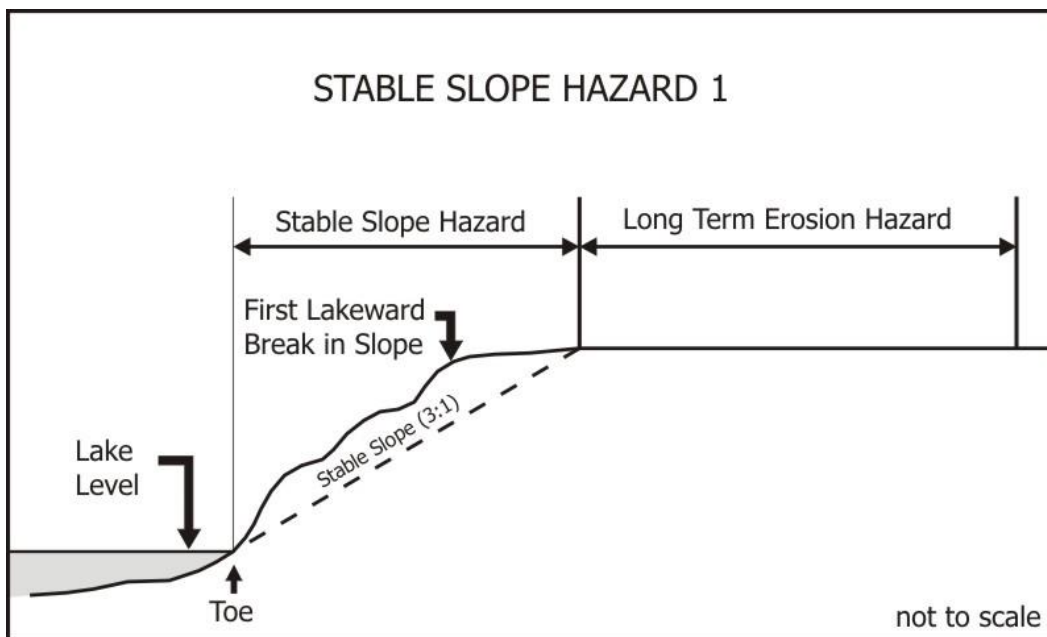
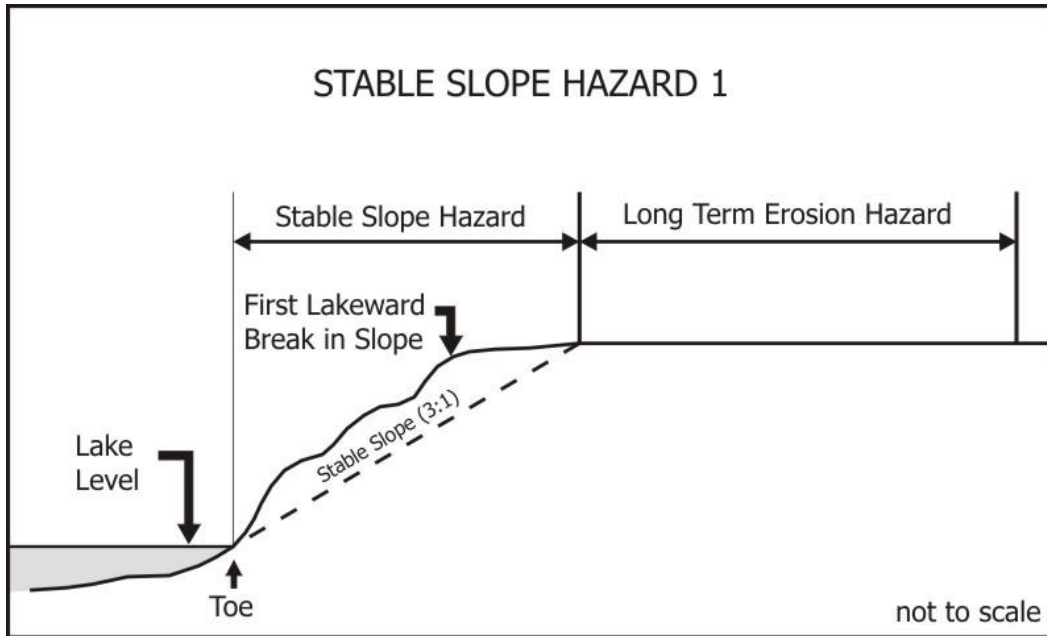
1. Flood hazard - The flood hazard is comprised of the 1:100 year static high water level for the associated waterbody, plus the appropriate allowance for wave uprush and if necessary, for other water-related hazards, including ship generated waves, ice piling and ice jamming.
 - a. The allowance for wave uprush and wave related processes on Lake Huron is 15 metres.
 - b. The allowance for wave uprush and wave related processes along the St. Clair River/Chenal Ecarte and Lake St. Clair is 5 metres.



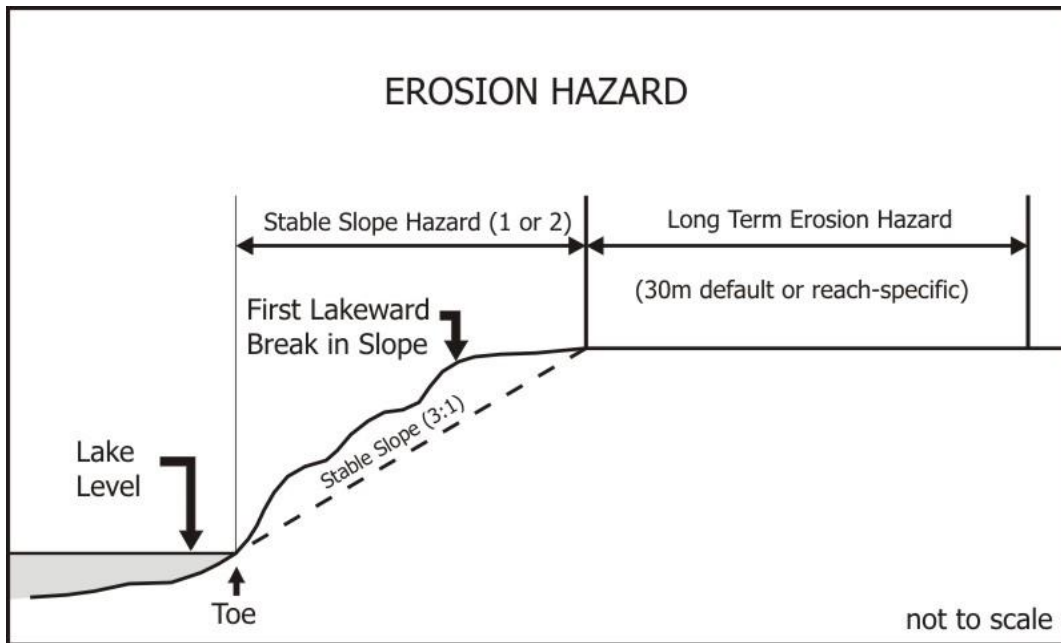
The 1:100 year static high water levels for the entire shoreline within the SCRCA area of jurisdiction are outlined in the attached appendix:

2. Stable Slope Hazard – The Stable Slope Hazard is that slope gradient where bluff shoreline is considered to have a stable angle of repose and includes all bluff shoreline with a bluff height greater than 3 metres.

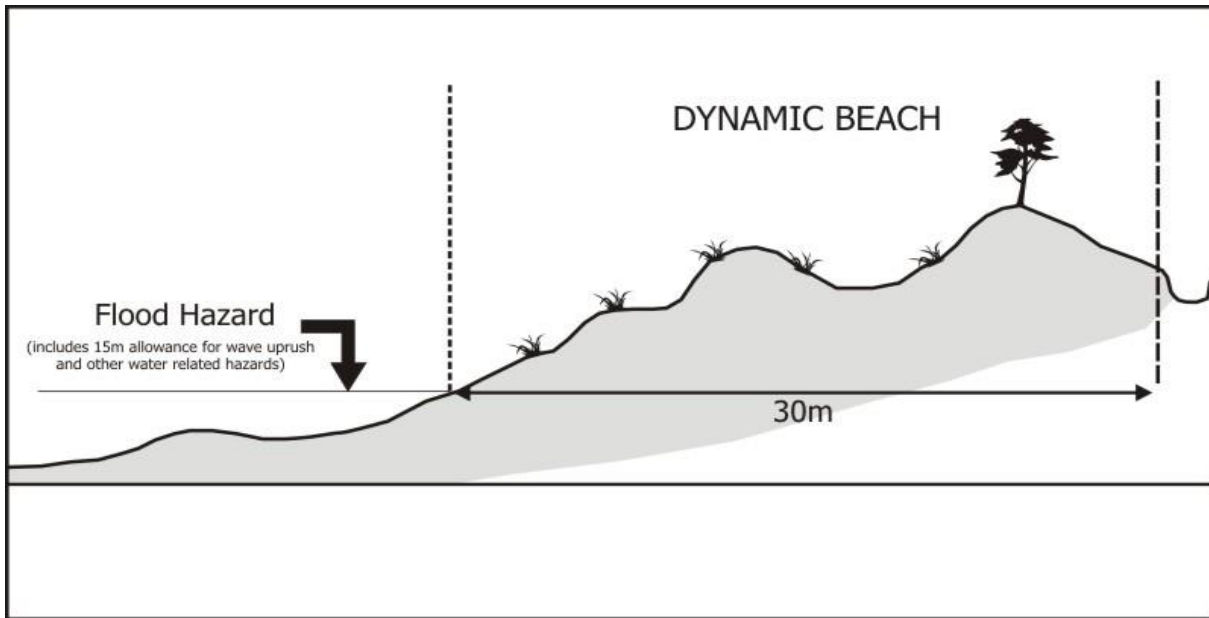
- a. For all bluffs with a gradient of 3:1(run:rise) or steeper, the Stable Slope Hazard is the 3:1 (run:rise) top of bank.
- b. For those bluffs with a gradient of less than 3:1(run:rise) (more gentle), the Stable Slope Hazard is the physical top of bank.
- c. For the reach of St. Clair River Shoreline between the Communities of Corunna and Mooretown, with the Township of St. Clair, the Stable Slope Hazard has been determined within the Geotechnical Report completed by Terraprobe, dated July 4th, 1994.



3. Erosion Hazard – the Erosion Hazard is an allowance to accommodate recession of the shoreline bank over a projected 100-year timeframe.
 - a. For the shoreline within the SCRCA area of jurisdiction north of Townsend Line (the municipal boundary between the Town of Plympton Wyoming and the Municipality of Lambton Shores) the Erosion Hazard is equivalent to 30 metres from the Stable Slope Hazard.
 - b. For the remainder of the Lake Huron Shoreline, Recession Rates have been identified within the SCRCA Shoreline Management Plan and these Recession Rates form the Erosion Hazard. Reach specific Recession Rate Data is attached to this document as an appendix



4. Dynamic Beach Hazard – The Dynamic Beach Hazard is comprised of the Flood Hazard plus an additional 30 metres to allow for Dynamic Beach processes of sand deposition during periods of low or calm water levels and sand removal during periods of high-water levels of storm activities. The Dynamic Beach Hazard only applies to the reach of Lake Huron Shoreline within the SCRCA area of jurisdiction known as Ipperwash Beach.



5. 15 Metre Allowance – a 15-metre allowance is added onto the greatest of the aggregate of the above Shoreline Hazard components.

Shoreline Policies

In general, new development is prohibited within a Shoreline Hazard, except as noted in the following policies.

1. New development (including demolition and reconstruction of an existing dwelling) may be permitted within the 15-metre allowance, referred to in item 5 above, where it has been demonstrated to the satisfaction of the SCRCA that:
 - a. The adjacent hazard will not be aggravated by the proposed development;
 - b. The development will not be impacted by the adjacent hazard;
 - c. The development maintains a minimum 6 metre setback from the physical top of bank of a bluff;
 - d. Ingress/egress considerations are addressed;
 - e. An access route for maintenance or repairs to the shoreline is maintained. This access could include an access to the top of bank as well as to the toe of bank, dependent upon the hazard.
2. The SCRCA reserves the right to request additional technical studies or additional information in order for staff to make a recommendation to the SCRCA Board of Directors on the application.
3. On existing lots of record within areas where greater than 50% of the properties have been developed and an adequate development envelope outside the hazard does not exist, limited new development may be permitted where it has been demonstrated that the following criteria have been addressed to the satisfaction of the SCRCA that:
 - a. **Stable Slope Hazard:**

- i. No new structural development is permitted within the Stable Slope Hazard, except as noted below:
 1. Development may be permitted within the Stable Slope Hazard along the reach of St. Clair River Shoreline between Corruna and Mooretown, provided the following criteria have been addressed to the satisfaction of the SCRCA:
 - a. The proposed development is no more susceptible to hazard than existing development on the property or on adjacent properties;
 - b. The proposed development utilizes the most landward location possible;
 - c. The proposed development is supported by a site-specific geotechnical investigation, completed in conjunction with the Terraprobe Report of 1994;
 - d. All recommendations contained within the site specific Geotechnical Investigation and Terraprobe Report (1994) are addressed.
- b. **Flood Hazard:**
 - i. No new structural development is permitted within the Flood Hazard, except as noted below;
 1. Development may occur within the Flood Hazard along the St. Clair River, Chenal Ecarte and Lake St. Clair where the 1:100 year flood would inundate vast areas of land and would not be subject to wave uprush or wave related hazards, provided the following criteria have been addressed to the satisfaction of the SCRCA:
 - a. Refer to *General Rural Area Flood Plain Policies, Tier 2 – Low Risk due to Flooding*, for development requirements.
- c. **Erosion Hazard:**

For new structural development within the Erosion Hazard:

 1. The development must be setback a minimum distance equivalent to the Stable Slope Hazard plus 60% of the Erosion Hazard while considering the protection works standard and access standard to the maximum extent and level possible;
 - a. For those areas where reach specific recession rates have not been identified, the applicant may retain the services of a qualified Professional Engineer with coastal processes experience to determine a reach specific annual average recession rate and 60 times this annual average recession rate may be utilized as the setback for 60% of the Erosion Hazard;

2. For those areas where the stable angle of repose for a shoreline bluff appears to be a gradient steeper than the 3:1 (run:rise) slope, the applicant may retain the services of a qualified Geotechnical Engineer to determine an engineered stable slope gradient. This assessment must be completed under the direction of a Professional Engineer with coastal processes experience to ensure that coastal erosion and slope failure processes are addressed within the Geotechnical Report;
3. Structures must be designed to be readily moveable as certified by a structural engineer and incorporate suitable design and size considerations;
4. Most of the existing properties in the Bluepoint Subdivision fall within the combined Stable Slope Hazard and Erosion Hazard. A Bluepoint Bluff Erosion Protection Benefit/Cost Analysis (2003) concluded that the economic viability of shore protection was not favourable. Considering that long term erosion protection is not feasible, the following policy applies for the severe erosion area (Lots 5-10, 15-37, 40-41, Plan 28, and Lots 1-18, 27-33, Plan 448). Where a suitable building envelope does not exist to meet the above policy requirements, new development may be permitted within the hazard areas along Bluepoint Drive, provided the following additional criteria have been addressed to the satisfaction of the SCRCA:
 - a. The development maintains a setback equivalent to the Stable Slope Allowance plus 50-year Erosion Hazard;
Note: The reduction of the 60-year erosion hazard setback requirement to a 50 year erosion hazard setback is deemed as reasonable, as the 50 year erosion hazard has historically been utilized in municipal planning documents.
 - b. All remaining requirements of this policy section have been addressed;
 - c. The proponent provides certification to the SCRCA that a hazard lands acknowledgement agreement and survey of the property be Registered on Title for the property. The OLS survey will clearly delineate the Stable Slope Hazard and 50-year Erosion Hazard.
5. The construction of accessory structures and additions to residential dwellings may be permitted within the Erosion Hazard, provided the following criteria have been addressed to the satisfaction of SCRCA:
 - a. The proposed addition does not intensify the use of the existing structure;

- b. The proposed addition does not increase the occupancy of the existing structure;
 - c. The proposed addition/accessory structure does not aggravate the existing hazard;
 - d. The proposed addition/accessory structure does not diminish maintenance access to any existing protection works.
 6. Minor Additions (includes screened enclosures of attached decks):
 - a. Total proposed area for the addition is less than 30% of the existing foundation area, or footprint area (whichever is the lesser amount);
 - b. Meets a minimum setback the greater of:
 - 7.5 Meters from the Stable Slope Hazard
(Note: for bluff shoreline with low erosion rates, the minimum setback from the Stable Slope Hazard can be reduced to 6 metres at the discretion of SCRCA staff)
 - OR
 - 25-year Erosion Hazard from the Stable Slope Hazard;
 - c. Limit of 2 minor additions permitted. The time period considered reasonable between additions is determined by staff.
 7. Major Additions:
 - a. Total proposed area for the addition is greater than 30% and less than 50% of the existing foundation area, or footprint area (whichever is the lesser amount);
 - b. Meets the minimum setback the greater of:
 - 15 Meters from the Stable Slope Hazard
(Note: for bluff shoreline with low erosion rates, the minimum setback from the Stable Slope Hazard can be reduced to 6 metres at the discretion of SCRCA staff)
 - OR
 - 50-year Erosion Hazard from the Stable Slope Hazard;
 - c. The development is located at the most landward extent possible and utilizes the maximum lot width possible.
 8. Additions greater than 50% of the footprint of foundation area (whichever is the lesser amount) of the existing structure must meet the requirements for new structural development;
 9. Major Accessory Structures and Septic Systems:

- a. Non-habitable structures with a footprint or foundation area (whichever is the lesser amount) 15 square metres, or any non-habitable structure with utilities other than limited electrical;
 - b. Meets the minimum setback the greater of:
 - 15 Meters from the Stable Slope Hazard
(Note: for bluff shoreline with low erosion rates, the minimum setback from the Stable Slope Hazard can be reduced to 6 metres at the discretion of SCRCA staff)
- OR
- 50-year Erosion Hazard from the Stable Slope Hazard;
 - c. The development is located landward of the existing dwelling;
 - d. The development is located at the most landward extent possible and utilizes the maximum lot width possible.

d. Dynamic Beach Hazard:

New structural development is generally prohibited within the Dynamic Beach Hazard, except as noted below;

1. Reconstruction of an existing dwelling may be permitted within the Dynamic Beach Hazard provided the following criteria are addressed to the satisfaction of the SCRCA:
 - a. The development is designed by, or reviewed and approved by, a Professional Engineer with experience in Coastal Processes;
 - b. That Dynamic Beach processes are not negatively impacted or by the proposed development;
 - c. The development is located at the most landward extent possible and utilizes the maximum lot width possible.
2. Additions to existing structures, may be permitted within the Dynamic Beach Hazard provided the following criteria are addressed to the satisfaction of the SCRCA:
 - a. The addition is designed by, or reviewed and approved by, a Professional Engineer with experience in Coastal Processes;
 - b. That Dynamic Beach processes are not negatively impacted or by the proposed development;
 - c. The proposed addition is no more susceptible to hazard than existing development on the property;
 - d. The addition is located at the most landward extent possible and utilizes the maximum lot width possible.

3. Accessory structures may be permitted within the Dynamic Beach Hazard provided the following criteria are addressed to the satisfaction of the SCRCA:
 - a. The accessory structure is designed by, or reviewed and approved by, a Professional Engineer with experience in Coastal Processes;
 - b. That Dynamic Beach processes are not negatively impacted or by the proposed development;
 - c. The accessory structure is located landward of the dwelling;
 - d. The accessory structure is located at the most landward extent possible and utilizes the maximum lot width possible;
 - e. The adjacent hazard will not be aggravated by the proposed structural development;
 - f. The development maintains a minimum of 6 metre setback from the physical top of bank of the bluff;
 - g. Ingress/egress considerations are addressed;
 - h. An access route for maintenance or repair purposes is maintained. This access could include an access to the top of bank as well as the toe of the bank, dependant on the hazard.
4. The Authority will not permit the installation of erosion protection, where the intent of the erosion protection is to increase the potential development envelope on the property.
5. The Authority encourages the relocation of structures that are subject to potential future natural hazards processes. In those circumstances where relocation is not possible or feasible, the Authority may permit the installation/construction of new shoreline protection as a method of offering protection to an existing structure where it has been demonstrated to the satisfaction of the SCRCA that:
 - a. The intent of the proposed shoreline protection is well defined;
 - b. The shoreline protection has been designed using accepted scientific and coastal engineering principles by a Professional Engineer with experience in coastal processes;
 - i. This includes assessment of and certification that the proposed shoreline protection will not negatively impact updrift or downdrift properties – **regardless of future maintenance practices**;
 - ii. Certification that the protection works will not aggravate existing hazards and/or create new hazards to updrift or downdrift properties – **regardless of future maintenance practices**;
 - iii. Certification that the shoreline protection will offer protection to the property and associated existing structures for a period of time equal to the residual life expectancy of the existing structures on the property;

- iv. Certification that the design includes suitable maintenance access provisions regardless of hazard conditions;
 - v. In areas of existing development, protection works should be coordinated with adjacent properties;
 - vi. Certification that the protection is environmentally sound.
6. Repair of existing shoreline protection may be permitted provided the following criteria are addressed to the satisfaction of the SCRCA:
 - a. The size, location and footprint of the protection works remains the same;
 - b. The repair works are designed by, or reviewed and approved by a Professional Engineer with experience in coastal processes;
 - i. Certification that repairs will not aggravate existing hazards and/or create new hazards to updrift or downdrift properties.
7. Fill placement or removal, re-grading or site alteration may be permitted within the Stable Slope Hazard, Dynamic Beach Hazard or Flood Hazard areas provided the following criteria are addressed to the satisfaction of the SCRCA:
 - a. The proposed works are completed for environmentally sound reasons (ie. repair of existing erosion issues, supplementing beach sands to encourage dune formation, etc.);
 - b. The proposed works are supported by an opinion letter and/or report and/or drawings from a suitably qualified Professional Engineer indicating how the works should be completed such that;
 - i. The proposed fill placement will not negatively impact updrift or downdrift properties;
 - ii. The proposed fill placement will not aggravate the hazard.
8. Any development application received by the Authority which does not clearly meet and address all of the relevant required criteria as outlined above will be taken to the St. Clair Region Conservation Authority Regulations Committee for review.
9. At the discretion of SCRCA staff, any development proposal that may impact the control of flooding, erosion, dynamic beaches, unstable soil or bedrock, or is likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health and safety of persons or result in the damage or destruction of property may be taken to the St. Clair Region Conservation Authority Regulation Committee for review.

Baird

oceans
engineering
lakes
design
rivers
science
watersheds
construction

Lake Huron Shoreline Management Plan Update - 2011 St. Clair Region Conservation Authority

December 5, 2011
11502.101



Table 6.1 SCRCA Board Approved April 2006

SCRCA Lake Huron Shoreline Development Guidelines

Development Activity	Lakeshore Area 1			Lakeshore Area 2	
	Flood	Dynamic Beach	Erosion	Dynamic Beach	Erosion
Existing Developed Lots					
Repairs/Maintenance (No intensification of use)	Yes	Yes	Yes	Yes	Yes
Interior Alterations (No intensification of use)	Yes	Yes	Yes	Yes	Yes
Minor Additions (less than 30% of area of existing dwelling)	No	No	Conditional ¹	Yes - landward of foredune and design must minimize dune impact**	Dependent upon Erosion Rate **
Major Additions (equal to or greater than 30% of area of existing dwelling)	No	No	No	Yes - landward of foredune and existing dwelling and design must minimize dune impact**	Dependent upon Erosion Rate & landward of existing dwelling**
Rebuilding of dwelling destroyed by forces other than flooding and erosion	yes - if same size and utilizes maximum lot depth (most landward location)			Yes - most landward location and design must minimize dune impact	yes - most landward location
Rebuilding of dwelling destroyed by flooding and/or erosion	No	No	No	No	No
Relocation of dwelling away from shoreline	Optional on the part of the landowner; encouraged by CA			Owner should consider this as a future option, depending on severity of hazard	
Existing Vacant Lots (Infilling)					
New Dwellings*	No	No	No	Conditional ³	Conditional ⁴
Septic Systems	No	No	No	Yes-most landward location	Yes - most landward location
New Development					
Creation of New Lot(s) (ie. Severance, subdivisions)	No	No	No	No	No
Technical Severance***	Yes	Yes	Yes	Yes	Yes
Lot Consolidation	Yes	Yes	Yes	Yes	Yes
Land Use designation/zone changes		Support Changes to planning documents to Hazard, Natural Environment or Open Space designations			Support Changes to planning documents to a lakeshore overlay (subscript "L") designation
		Do not support proposed zoning, land use designation or official plan changes which further intensify land use: ie. Seasonal residential to multi-unit dwelling			
Accessory Structures					
Unattached Garages	No	No	No	No	Dependent upon Erosion Rate & landward of existing dwelling
Major Structures (structure greater than 14m ²)	No	No	No	No	Dependent upon Erosion Rate & landward of existing dwelling
Minor Structures (10 m ² - 14m ²)	No	No	Conditional ²	Yes - impact to dune minimized	Dependent upon Erosion Rate & landward of existing dwelling
Swimming Pools	No	No	No	No	Dependent upon Erosion Rate & landward of existing dwelling
New Septic Systems	No	No	No	Yes - landward of existing dwelling	Yes - landward of existing dwelling
Decks (Existing)					
Repair and Maintenance	Yes	Yes	Yes	Yes	Yes
Decks (New)	No	No	No closer than 3m to top of bank and not connected to dwelling - size restriction may apply	If landward of the foredune - size restriction may apply & design must minimize impact to dune	Yes
Boardwalks and/or stairs (existing)					
Repair and Maintenance	Yes	Yes	Yes	Yes	Yes
Boardwalks and/or stairs (new)	No	Yes - may require design by coastal engineer	Yes - may require design by coastal engineer	Yes - may require design by coastal engineer	Yes - may require design by coastal engineer
Site Alteration					
Fill Placement	Conditional ⁵	Conditional ⁶	Conditional ⁶	Conditional ⁵	Conditional ⁶
Fill Removal	Conditional ⁵	Conditional ⁶	Conditional ⁶	Conditional ⁵	Conditional ⁶
Re-grading	Conditional ⁵	Conditional ⁶	Conditional ⁶	Conditional ⁵	Conditional ⁶
In Water Structures					
Groynes					
New	No				
Partial Replacement	Yes				
Complete Replacement	Yes - design by coastal engineer indicating no impact on littoral transport and coastal processes, with approval of adjacent landowners				
Repair and Maintenance	Yes				
Shoreline Protection					
Repair and Maintenance	Yes				
Partial Replacement	Yes				
New (includes complete replacement)	yes - design by coastal engineer indicating no impact on littoral transport and coastal processes, with approval of adjacent landowners				
Notes: Proposed development partially located within two zones automatically defaults to more restrictive zone requirements					

Definition

Development:

- the construction, reconstruction, erection or placing of a building or structure of any kind
- any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- site grading
- the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere

Legend

Yes - Permissible

No - not allowed

Conditional¹ - yes, provided calculated erosion rate is less than 0.3 m/yr and slope stability is addressed

Conditional² - yes, provided structure is inland from primary dwelling if calculated erosion rates are greater than 0.3m/yr

Conditional³ - yes, one dwelling, most landward location, building is movable by design, impacts to dunes is minimized and outside critical main dune feature, and provided that more than 50% of existing lots/parcels in the residential/cottage area are developed**

Conditional⁴ - yes, dependent upon erosion rate - one dwelling, most landward location and outside 60 year recession (50year Measurement # 587-626), building is movable by design, and provided that more than 50% of existing lots/parcels in the residential/cottage area are developed**.

Conditional⁵ - yes, provided BMPs followed

Conditional⁶ -yes, as part of engineered shoreline stabilization or flood proofing

*Includes redevelopment

** Coastal assessment and/or protection must meet established coastal professional engineering standards and procedures

***A technical severance is a boundary adjustment where no new lot is created.

Works clearly falling within the following criteria will not require written permission of the St. Clair Region Conservation Authority:

- a. Seasonal removal of sand around existing dwellings in dune or dynamic beach areas and as necessary to permit entrance into existing structures
- b. Seasonal removal of sand from roads/laneways
- c. Erection, Construction or placement of structure less than 9m² with no utilities

Plympton VAR
2002 A08/0.

Item 5
Exhibit J

sc



ST. CLAIR REGION CONSERVATION AUTHORITY

205 Mill Pond Crescent, Strathroy, Ontario, N7G 3P9

Tel.: 519-245-3710
Fax.: 519-245-3348

February 6, 2002

Ms. Netty McEwen, Secretary-Treasurer
Township of Plympton Wyoming
Committee of Adjustment
546 Niagara Street
Wyoming, Ontario
N0N 1T0

FAXED
feb 6/02

OMB
hearing
July 9/02
Cross Reference
Mr. MacDermall
represented
by Alan Paton
Greg Pardo

Dear Madam:

Re: Minor Variance Application A-08/02
Part Lot 2, Lot 3, Plan 26
4852 Forsyth Trail, Hillsboro Beach South
Applicant: Robert/Candice MacDougall (Agent: Bob Braun)

St. Clair Region Conservation Authority staff have reviewed the above noted application as it relates to Natural Hazards and Natural Heritage Features, as described by Provincial Policy.

The applicant is requesting permission to construct a covered deck lakeside of the residence and construct a deck on the east side of residence in the Hazard Zone. The subject property is situated within the High Hazard Area or Shoreline Management Area 1, which is the most hazardous portion of the shoreline. The residence is situated on a remnant dune feature behind the beach. While lake levels are currently low and the beach wide, high lake levels can cause beach erosion and damage to protection works, property and structures during storm events. Historical damage has been documented on the subject property. A map indicating the extent of the High Hazard Area and a historic photo is attached for your reference.

Our records indicate that the existing shore protection is not sufficient to protect the structure. The seawall is not designed high enough to prevent overtopping by waves during storm events. High volumes of overtopping water can erode the area behind the seawall thereby removing the material which supports both the protection works and the dwelling. Failure of the structure can occur.

Recommendation

We do not have a concern with the construction of an unattached deck to the east of the residence since this does encroach any closer to the hazard (lake) than the existing dwelling.

Based on the severity of the hazard at this location, we do have a concern with the construction of a covered deck as proposed. The reason for the concern is both the potential to enclose the deck as well as its location lakeward of the existing structure in a high hazard area. The structure will likely be subject to storm damage in the future based on technical shoreline information.

We recommend the application be denied as submitted.

If there are any questions or comments, please contact the undersigned. A copy of the decision would be appreciated.

Yours truly,

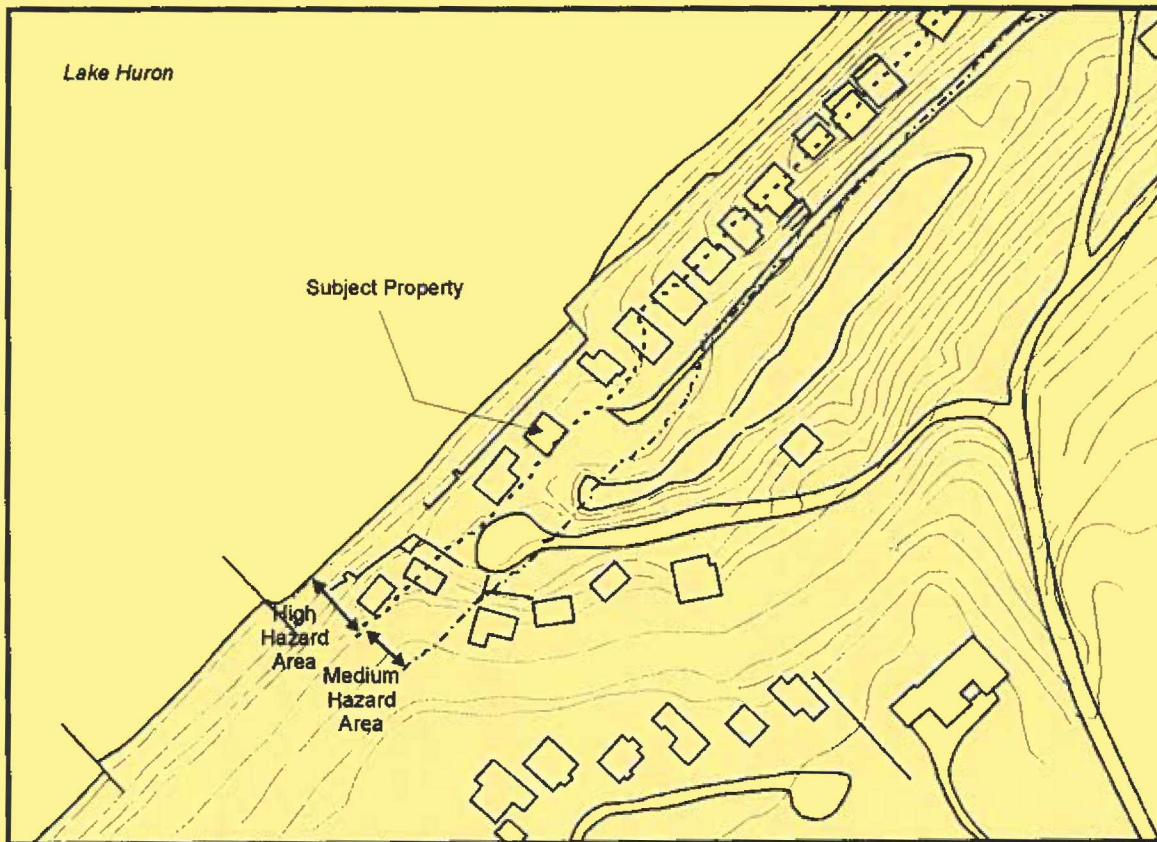
Patricia Hayman
Director of Planning

Encl.

cc: County of Lambton Planning and Development Dept.

Att: W. Nywenig


planning\planning\plywyA_08 Feb2002 MacDougall



Legend:

- 100 year Flood line plus 15 metres
- . - . - 100 year Flood line plus 30 metres
- Contours

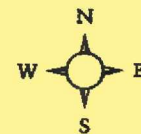
**Minor Variance A-08/02
4852 Forsyth Trail**

Scale: 1:2,000

 m 10 0 30 m

Location:
 Lake Huron Shoreline, Hillsboro

Date:
 February 2002

File:
 D:\Maps\...MacDougall.cdr



**205 Mill Pond Cres.
 Strathroy, ON
 N7G 3P9**
 Tel: (519) 245-3710
 Fax: (519) 245-3348

ISSUE DATE:
DEC. 10, 2002

DECISION/ORDER NO:
1685



Ontario
 Ontario Municipal Board
 Commission des affaires municipales de l'Ontario

Received:			
Return to:		PL020254	
Name	Initials	Name	Circle
		Geoff	
		Chris	
		Steve	
		Muriel	
		Diane	
		Mark	
		Maria	

Item 5
 Exhibit K

Robert MacDougall and Candis MacDougall have appealed to the Ontario Municipal Board under subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Committee of Adjustment of the Township of Plympton-Wyoming which granted in part their application numbered A-08/02 for a variance from the provisions of By-law No. 29779, as amended, respecting 4852 Forsyth Trail
 OMB File No. V020119

Comments:

APPEARANCES:

Parties

Counsel

Robert and Candis MacDougall

Alan Patton

Township of Plympton-Wyoming

Lyle Curran

DECISION DELIVERED BY R.E. DRURY AND ORDER OF THE BOARD

Robert and Candis MacDougall are the owners of the property known municipally as 4852 Forsyth Trail located on the shore of Lake Huron in the Hillsboro Beach area (the "Property"). Mr. and Mrs. MacDougall applied for two minor variances from the provisions of By-law No. 29/79 for permission to construct a small deck on the easterly side of the cottage and a covered deck at the rear of the cottage overlooking the lake. The Committee of Adjustment for the Township of Plympton-Wyoming approved the variance for the easterly deck on the condition that it be limited to 15 feet in width, thereby yielding a side yard set back of 10 feet from the property line, and refused the variance for the covered deck at the rear of the cottage. Mr. and Mrs. MacDougall appealed.

One of the main issues for this hearing is whether the requested variances should be dealt with under Section 45(1) or 45(2) of the *Planning Act*. The application submitted to the Committee of Adjustment appears to have been made under section 45(1). It would also appear that the application was considered by the Committee under section 45(1). The letter of appeal filed by the appellants cites the four tests under 45(1). However, after further examination of the matter, the appellants submit that the minor variances applied for are extensions of a legal non-conforming use and therefore should be dealt with under Section 45(2). The Township submits that as a result of the renovations, a new building has been created and the cottage has been replaced. Therefore, Section 45(2) does not apply. *

Having carefully considered all of the evidence presented, the Board accepts the evidence of Mr. MacDougall and finds that the works completed on the cottage constitute a renovation of the existing structure and not the construction of a new building. Further, the Board accepts the evidence of the appellant's professional land use planner and finds that the cottage is a legal non-conforming use, the requested variances are for extensions of such legal non-conforming use and therefore are properly dealt with under Section 45(2) of the Act.

The County of Lambton Official Plan contains policies pertaining to Environmental Constraints, which apply to this Property. The County Plan provides that local municipalities will develop policies that address existing development on Environmental Constraint lands to address issues including minor building additions.

The Township of Plympton-Wyoming Official Plan contains policies for the consideration of applications to permit an extension or enlargement of a non-conforming use. These policies include matters that the Council will have regard to in considering such applications. The Board accepts the evidence of the appellant's professional land use planner and finds that the requested variances conform to the policies of the Township Official Plan and that the matters that must be regarded when considering

completed without a building permit, the Township would have enforcement remedies available to it.

Upon considering all of the evidence presented, the Board accepts the evidence of the appellant's professional land use planner and finds that the large covered deck, subject to conditions, will have no adverse impacts and represents good land use planning. Given the evidence as presented by the representative of the Conservation Authority, the Board finds that a condition that the large covered deck not be attached structurally to the cottage is appropriate.

The appeal is allowed in part and the variances applied for are authorized subject to the following conditions:

1. The large covered deck shall be constructed substantially in accordance with the plans as shown in Attachment "1".
2. The large covered deck shall not be attached, including the roof or cover, structurally to the cottage.

The Board so orders.

"R.E. Drury"

R.E. DRURY
MEMBER

"J.A. SMOUT"

J. A. SMOUT
MEMBER

STORM DRAINAGE is provided to the subject land by:

Sewers Ditches Swales Other means (specify)

OTHER APPLICATIONS - If known, indicate if the subject land is the subject of an application under the Act for:

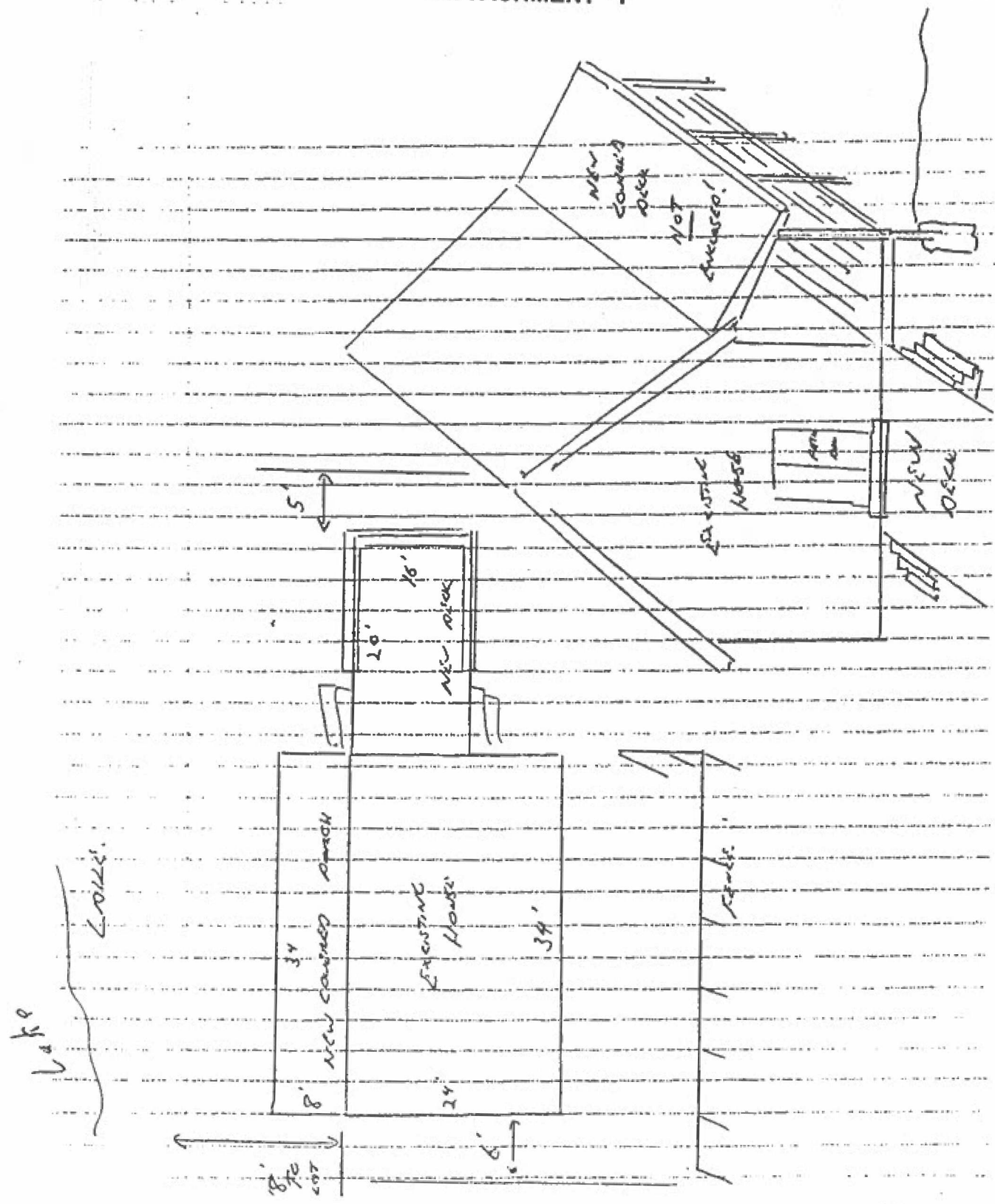
Approval of a plan of subdivision (under section 51) File # Status

Consent (under section 53) File # Status

Previous application (under section 45) File # Status

ATTACHMENT "1"

PL020254



1973



DECK LAYOUT 1: SINGLE BEAM OPTION

SCALE: 1/4" = 1'-0"

DECK BOARD MATERIAL

(Check one)

- PRESSURE TREATED
- CEDAR

DECK BOARD SIZE

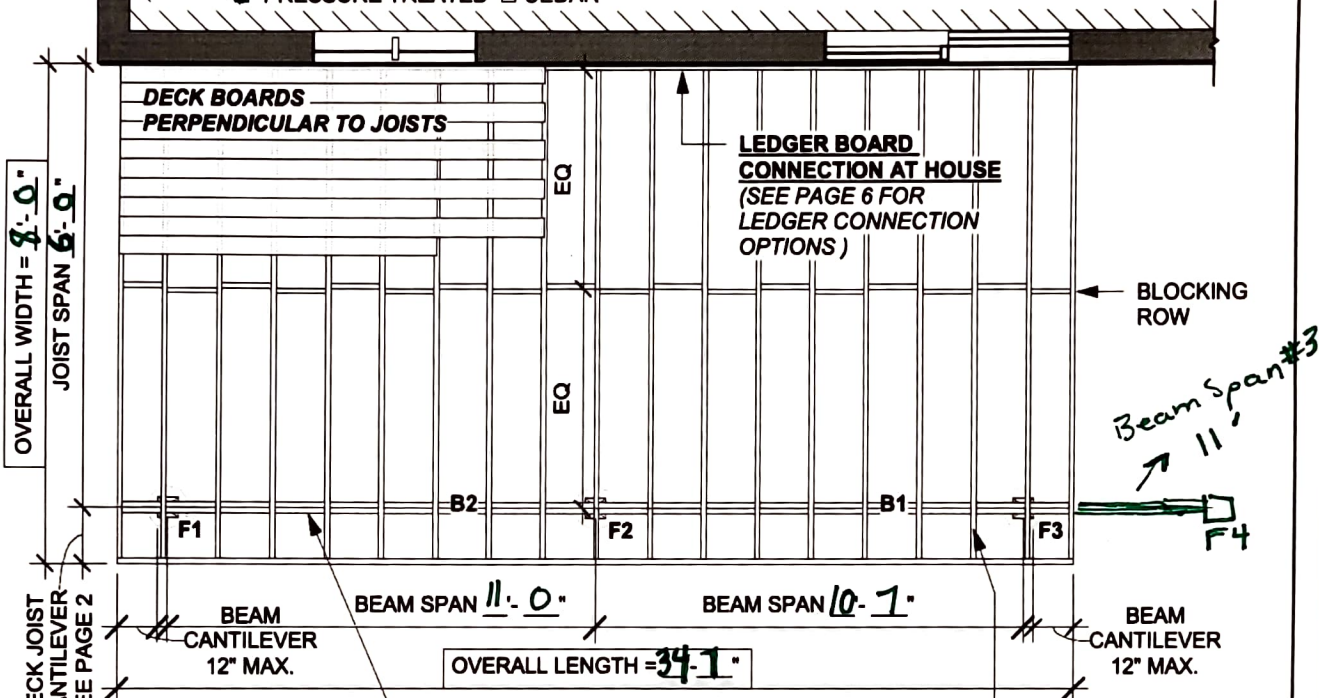
(Check one)

- 5/4" DECK BOARDS (deck joists must be at 16" o/c max)
- 2"x6" DECK BOARDS
- OTHER _____

DECK BEAM/JOIST MATERIAL

(Check one)

- PRESSURE TREATED
- CEDAR



FOOTING SIZE(S)
(Select from Table C on Page 2)

- F1: ___" DIAMETER
- F2: ___" DIAMETER
- F3: ___" DIAMETER

F4: ___

DECK BEAM SIZE
(Select from Table B on Page 2)

- B1: 2 PLY 2x10
- B2: 2 PLY 2x10
- B3: 2 PLY 2x10

DECK JOIST SIZE AND SPACING
(Select from Table A on Page 2)

2 x 8 @ 16" O.C.

DWELLING CONNECTION DETAILS
SEE PAGE 6 FOR FRAMING CONNECTION DETAIL OPTIONS TO DWELLING.

BEAM CONNECTION DETAILS
SEE PAGE 5 FOR FRAMING CONNECTION DETAIL OPTIONS TO BEAMS.

GUARD REQUIRED
WHEN DECK HEIGHT EXCEEDS 24" ABOVE GRADE
BLOCKING ROW
FULL WIDTH OF DECK @ MID SPAN OF DECK JOISTS WHEN CLEAR SPAN EXCEEDS 6'-11".

FOOTING PIER DETAILS
SEE PAGE 4 FOR FOOTING PIER DETAIL OPTIONS TO UNDISTURBED SOIL. EACH FOOTING MAY HAVE A DIFFERENT DIAMETER. PLEASE SPECIFY THE DIAMETER OF EACH FOOTING.
(*PLEASE NOTE, ALL INFORMATION MUST BE FILLED OUT IN ORDER FOR YOUR DECK PLANS TO BE CONSIDERED COMPLETE TO ACCOMPANY YOUR PERMIT APPLICATION TO YOUR LOCAL MUNICIPALITY.)

LOCAL MUNICIPALITY APPROVAL / REVIEW

PRINT NAME
(FIRST & LAST)

HAS COMPLETED THIS FORM AND TAKES RESPONSIBILITY FOR THE DESIGN OF THE PROPOSED DECK TO BE LOCATED AT:

ADDRESS _____

SIGNATURE: _____



TABLE A: DECK JOISTS - PER CWC THE SPAN BOOK 2020, TABLE 10.1a.

LUMBER	JOIST SIZE	12" SPACING (O.C.)	16" SPACING (O.C.)	24" SPACING (O.C.)	MAX. JOIST CANTILEVER
SPRUCE - PINE - FIR, NO. 1 & 2	2" x 6"	10' - 0"	9' - 1"	7' - 11"	NOT PERMITTED
	2" x 8"	13' - 2"	11' - 11"	10' - 1"	LESSER OF 16" OR 1/6 OF TOTAL JOIST LENGTH
	2" x 10"	16' - 10"	15' - 2"	12' - 4"	LESSER OF 24" OR 1/6 OF TOTAL JOIST LENGTH
	2" x 12"	20' - 3"	17' - 7"	14' - 4"	

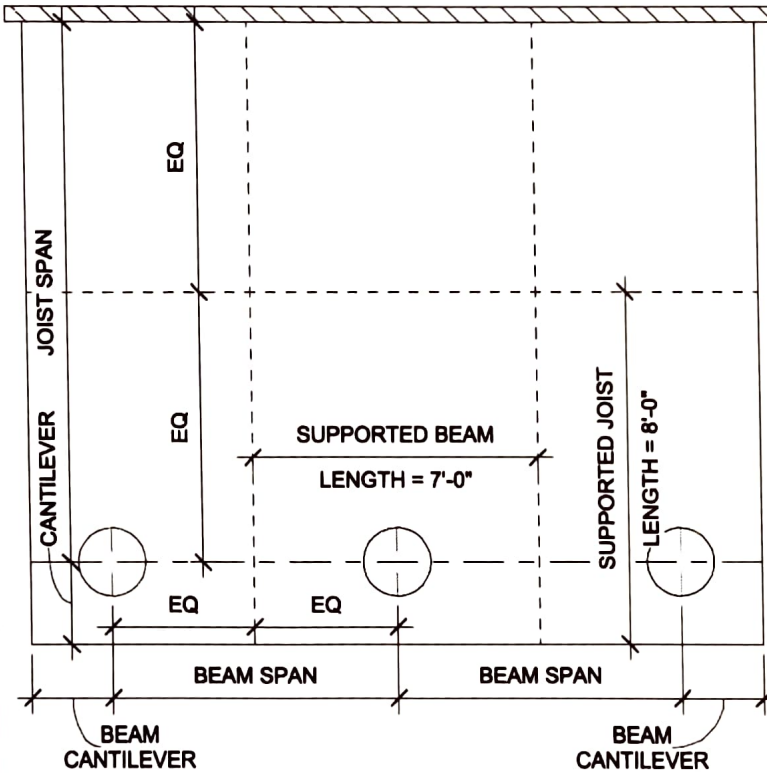
TABLE 'A' NOTES: 2" x 6" JOIST MAY ONLY BE USED WHERE THE DECK IS LESS THAN 23 1/2" FROM GRADE WHERE NO GUARD IS TO BE PROVIDED. GUARDS REQUIRE MIN. 2" x 8" JOISTS.

TABLE B: DECK BEAMS - PER CWC THE SPAN BOOK 2020, TABLE 10.3a

LUMBER	SUPPORT LENGTH	2" x 8"		2" x 10"		2" x 12"	
		2 - PLY	3 - PLY	2 - PLY	3 - PLY	2 - PLY	3 - PLY
SPRUCE - PINE - FIR, NO. 1 & 2	8'	7' - 2"	8' - 10"	8' - 9"	10' - 9"	10' - 2"	12' - 6"
	10'	6' - 5"	7' - 10"	7' - 10"	9' - 8"	9' - 1"	11' - 2"
	12'	5' - 10"	7' - 2"	7' - 2"	8' - 9"	8' - 4"	10' - 2"
	14'	5' - 5"	6' - 8"	6' - 8"	8' - 2"	7' - 8"	9' - 5"
	16'	5' - 1"	6' - 3"	6' - 2"	7' - 7"	7' - 2"	8' - 10"
	18'	4' - 9"	5' - 10"	5' - 10"	7' - 2"	6' - 9"	8' - 4"
	20'	4' - 6"	5' - 7"	5' - 7"	6' - 10"	6' - 5"	7' - 11"

TABLE 'B' NOTE:
MAX. BEAM CANTILEVER IS 12" FOR ALL SIZES.

TABLES VALID FOR 1.9 kPa (40 psf) OCCUPANCY LIVE LOAD, 0.5 kPa (10 psf) DEAD LOAD AND GROUND SNOW LOADS UP TO 2.7 kPa (56.4 psf).



REQUIRED DECK FOOTING CAPACITY

FOOTING LOAD = SUPPORTED BEAM LENGTH x SUPPORTED JOIST LENGTH x 50 LBS/SQFT (DECK LOADS, SEE O.B.C. 9.4.2.3.)

USE FOOTING/PIER SIZING TABLE BELOW TO DETERMINE MINIMUM FOOTING SIZE BASED ON FOOTING LOAD.

EXAMPLE (MIDDLE FOOTING):

- SUPPORT BEAM LENGTH = 7'-0"
 - SUPPORT JOIST LENGTH = 8'-0"
 - FOOTING LOAD = 7 x 8 x 50 = 2240 LBS
- THEREFORE, MIDDLE FOOTING WOULD REQUIRE 16" DIA. OR 14" SQUARE FOOTING.

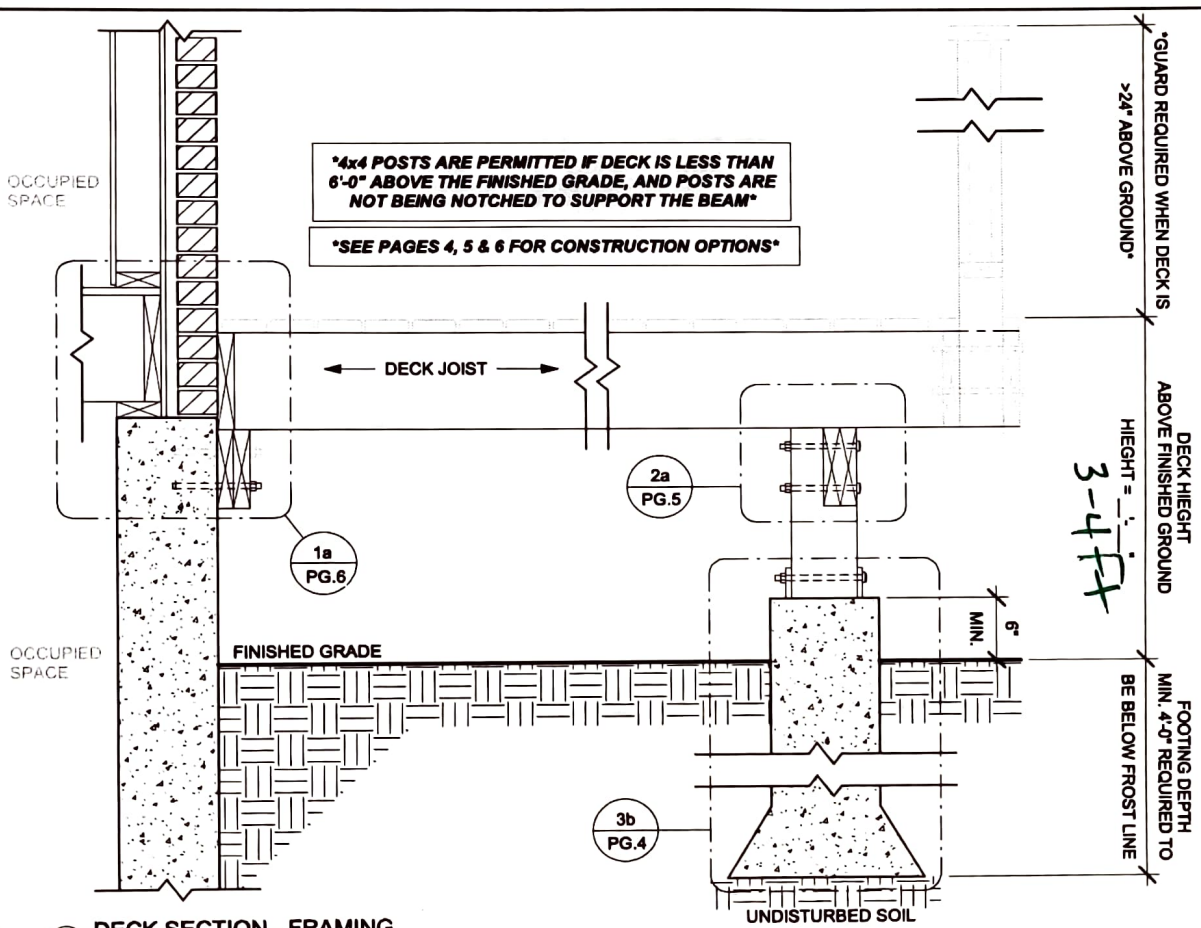
TABLE C: FOOTING / PIER SIZING TABLE

MINIMUM FOOTING SIZE	MAX. FOOTING CAPACITY	
	ROUND (DIA.)	SQUARE
10"	1139 LBS	1450 LBS
12"	1640 LBS	2089 LBS
14"	2233 LBS	2843 LBS
16"	2916 LBS	3713 LBS
18"	3691 LBS	4699 LBS
24"	6560 LBS	8352 LBS

NOTE: MAX. FOOTING CAPACITY BASED ON A SOIL BEARING CAPACITY OF 100 kPa (2088 psf)

2 TABLES AND CALCULATIONS
1/4" = 1'-0"

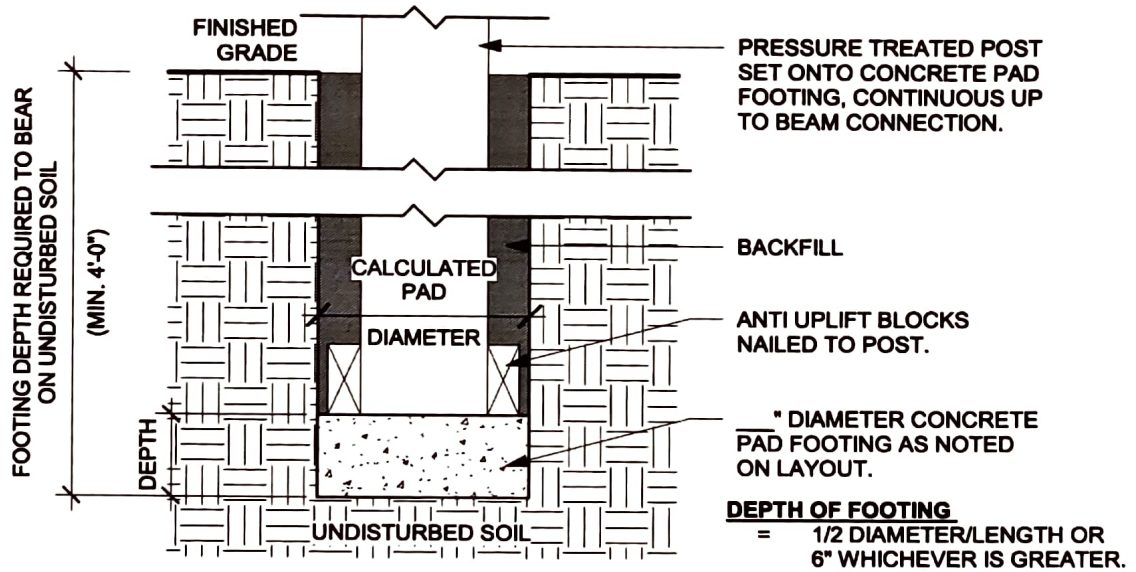




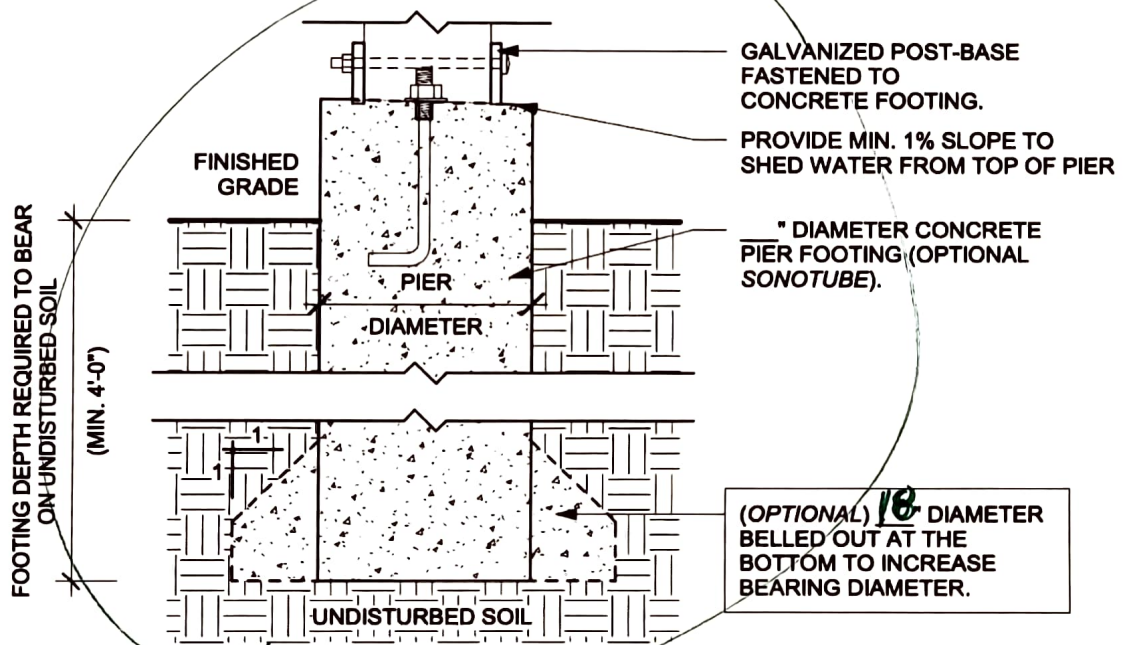
3 DECK SECTION - FRAMING
1" = 1'-0"



PLEASE CHECK ONE OF THESE APPROVED DETAILS FOR DESIGN OF CONNECTION FOR POST TO FOOTING



DETAIL 3a - POST TO CONCRETE PAD FOOTING

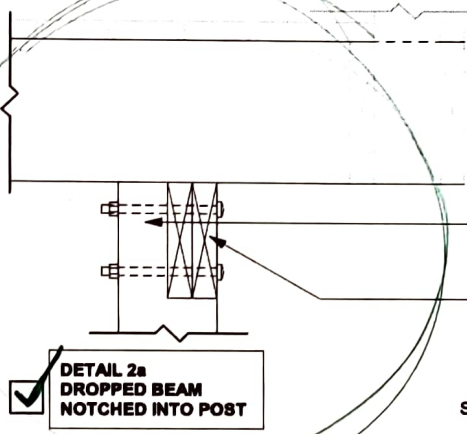


DETAIL 3b - POST BASE SET INTO CONCRETE PIER

4 FOUNDATION CONNECTIONS
1 1/2" = 1'-0"



PLEASE CHECK ONE OF THESE APPROVED DETAILS FOR DESIGN OF CONNECTION FOR POST TO BEAM



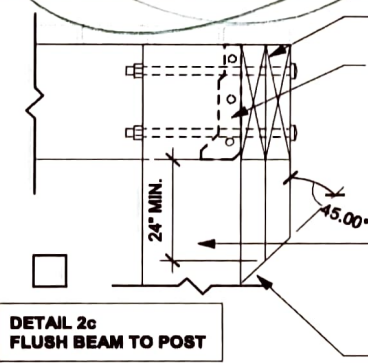
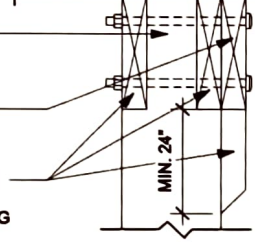
DECK POST MATERIAL
(Check one)
 PRESSURE TREATED
 CEDAR
 OTHER _____

DECK POST SIZE
(Check one)
 6"x6"

2 OR 3 PLY DROPPED BEAM,
ANCHORED TO POST WITH TWO -
1/2" DIAMETER GALVANIZED BOLTS

POST TO BE NOTCHED TO ACCEPT ONE
PLY ON EACH SIDE, THIRD PLY TO BE
SUPPORTED BY A SCAB. REFER TO NAILING
REQUIREMENTS TABLE ON PG. 5A

BLOCKING TO BE PROVIDED
AT 48" O/C FULL HEIGHT OF
BOX BEAM, ATTACHED TO
EACH SIDE WITH MINIMUM
4 - 3" ARDOX NAILS



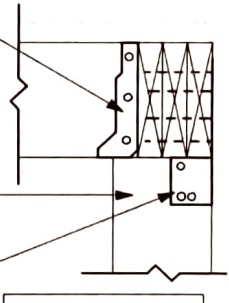
2 OR 3 PLY FLUSH BEAM, ANCHORED TO POST
WITH TWO - 1/2" DIAMETER GALVANIZED BOLTS

GALVANIZED JOIST HANGERS, ATTACHING EACH DECK JOIST TO RIM
BOARD. FILL ALL NAIL HOLES WITH GALVANIZED JOIST HANGER
NAILS. DECK SCREWS NOT PERMITTED (DETAIL 2C - DESIGN CAN
ALSO HAVE JOISTS SIT ON TOP OF DROPPED BEAM. NOT LIMITED)

DECK POST MATERIAL
(Check one)
 PRESSURE TREATED CEDAR OTHER _____

DECK POST SIZE
(Check one)
 4"x4" 6"x6"

GALVANIZED POST TO BEAM CAP ANCHORED WITH GALVANIZED
NAILS. SEE MANUFACTURER INSTRUCTIONS. (OPTIONS VARY)
SCAB BLOCK. REFER TO NAILING REQUIREMENTS TABLE ON PG. 5A



5 BEAM CONNECTIONS
1 1/2" = 1'-0"



GUARD POST SIZE

(Check one)

- 4"x4"
- OTHER _____

GUARD POST MATERIAL

(Check one)

- PRESSURE TREATED
- CEDAR
- OTHER _____

GUARD PICKET SIZE

(Check one)

- 2"x2"
- OTHER 3/4" diameter

GUARD PICKET MATERIAL

(Check one)

- PRESSURE TREATED
- CEDAR
- OTHER Aluminum

***GUARDS AND CONNECTION DETAILS MUST CONFORM TO SB-7 OF THE O.B.C.**

FOR PREFABRICATED GUARD SYSTEMS, PROVIDE ENGINEERING FOR GUARD SYSTEM AND GLASS (IF APPLICABLE) FROM THE MANUFACTURER.*

SEE PAGE 9 & 10 FOR GUARD CONSTRUCTION OPTIONS

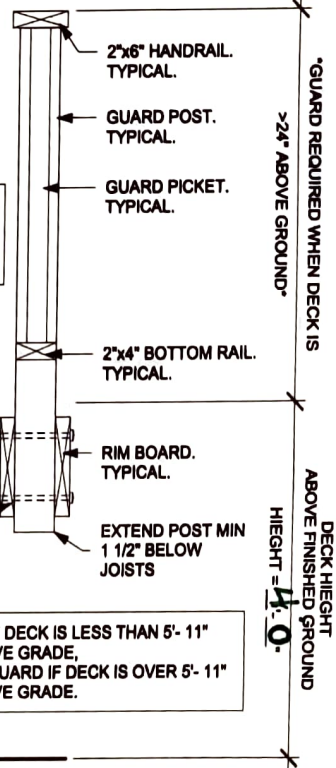
OCCUPIED SPACE

OCCUPIED SPACE

FINISHED GRADE

← DECK JOIST →

GUARD POST BLOCKING. TYPICAL.

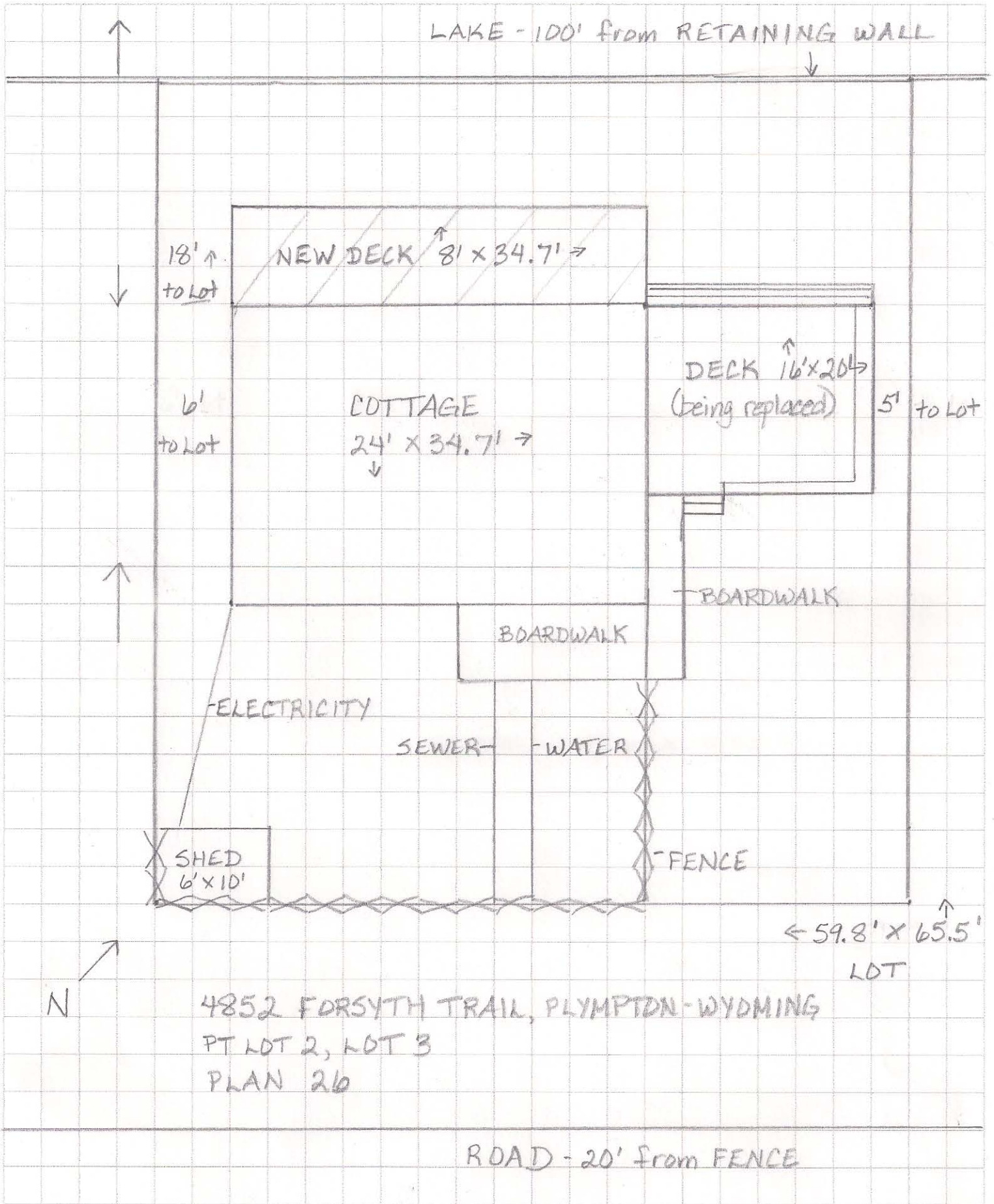


36" IF DECK IS LESS THAN 5'- 11" ABOVE GRADE,
42" GUARD IF DECK IS OVER 5'- 11" ABOVE GRADE.



8 DECK SECTION - GUARDRAIL
1" = 1'-0"

Sketch of Property



4852 FORSYTH TRAIL, PLYMPTON-WYDMING
PT LOT 2, LOT 3
PLAN 216

ISSUE DATE:
DEC. 10, 2002

DECISION/ORDER NO:
1685



PL020254

Ontario
Ontario Municipal Board

Commission des affaires municipales de l'Ontario

Robert MacDougall and Candis MacDougall have appealed to the Ontario Municipal Board under subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Committee of Adjustment of the Town of Plympton-Wyoming which granted in part their application numbered A-08/02 for a variance from the provisions of By-law No. 29/79, as amended, respecting 4852 Forsyth Trail
OMB File No. V020119

APPEARANCES :

Parties

Counsel

Robert and Candis MacDougall

Alan Patton

Township of Plympton-Wyoming

Lyle Curran

DECISION DELIVERED BY R.E. DRURY AND ORDER OF THE BOARD

Robert and Candis MacDougall are the owners of the property known municipally as 4852 Forsyth Trail located on the shore of Lake Huron in the Hillsboro Beach area (the "Property"). Mr. and Mrs. MacDougall applied for two minor variances from the provisions of By-law No. 29/79 for permission to construct a small deck on the easterly side of the cottage and a covered deck at the rear of the cottage overlooking the lake. The Committee of Adjustment for the Township of Plympton-Wyoming approved the variance for the easterly deck on the condition that it be limited to 15 feet in width, thereby yielding a side yard set back of 10 feet from the property line, and refused the variance for the covered deck at the rear of the cottage. Mr. and Mrs. MacDougall appealed.

The hearing lasted one day. The Board heard evidence in support of the appeal from the appellant's professional land use planner and Mr. MacDougall. In opposition to the appeal, the Township called a professional land use planner and a representative from the St. Clair Region Conservation Authority.

Mr. and Mrs. MacDougall purchased the Property in the spring of 1992 after having rented it during the summer of 1991. The Property is one and one half lots measuring 67 feet wide by 60 feet deep. The cottage is a one-storey dwelling used for the summer season only as it is not suitable for winter use. Along the lake frontage of the Property is a break wall or sea wall that was constructed in the 1970's.

Access to the Property is by a private road that is operated and maintained by the area cottagers association. The Property is fully serviced with water, gas and sanitary sewers. It is noted that the Township just recently completed some of this servicing work.

The original cottage measured 24 feet by 24 feet. After they purchased the property, the MacDougalls completed a renovation to the cottage enlarging it to a size of 24 feet by 30 feet. In order to complete these works, the MacDougalls applied for and were successful in obtaining three minor variances to permit the expansion of the cottage as well as a variance for the height of the walls.

Mr. and Mrs. MacDougall require these variances so as to construct two wooden decks on their property. The first deck is a small deck measuring 20 feet by 16 feet to be constructed at the east side of the cottage (the "small deck") and set back 5 feet from the property line. The second deck is a larger deck measuring 8 feet in width and 32 feet in length (the "large covered deck"). It is to be constructed at the rear of the cottage overlooking Lake Huron. The design for this deck includes a roof or canopy.

One of the main issues for this hearing is whether the requested variances should be dealt with under Section 45(1) or 45(2) of the *Planning Act*. The application submitted to the Committee of Adjustment appears to have been made under section 45(1). It would also appear that the application was considered by the Committee under section 45(1). The letter of appeal filed by the appellants cites the four tests under 45(1). However, after further examination of the matter, the appellants submit that the minor variances applied for are extensions of a legal non-conforming use and therefore should be dealt with under Section 45(2). The Township submits that as a result of the renovations, a new building has been created and the cottage has been replaced. Therefore, Section 45(2) does not apply.

Having carefully considered all of the evidence presented, the Board accepts the evidence of Mr. MacDougall and finds that the works completed on the cottage constitute a renovation of the existing structure and not the construction of a new building. Further, the Board accepts the evidence of the appellant's professional land use planner and finds that the cottage is a legal non-conforming use, the requested variances are for extensions of such legal non-conforming use and therefore are properly dealt with under Section 45(2) of the Act.

The County of Lambton Official Plan contains policies pertaining to Environmental Constraints, which apply to this Property. The County Plan provides that local municipalities will develop policies that address existing development on Environmental Constraint lands to address issues including minor building additions.

The Township of Plympton-Wyoming Official Plan contains policies for the consideration of applications to permit an extension or enlargement of a non-conforming use. These policies include matters that the Council will have regard to in considering such applications. The Board accepts the evidence of the appellant's professional land use planner and finds that the requested variances conform to the policies of the Township Official Plan and that the matters that must be regarded when considering

applications to permit an extension or enlargement of a non-conforming use have been properly addressed.

There was no dispute as to the requested variance for the small deck. The Township's professional land use planner and the representative from the Conservation Authority both testified that they had no objection to the construction of the small deck with a side yard setback of 5 feet. The Township's professional land use planner had issued a report to the Committee of Adjustment indicating that there was no objection to a side yard setback of 5 feet. The appellant's professional land use planner testified that the adjoining neighbour had requested a set back of only 3 feet. Further, he testified there were no objections from any neighbours and that a set back of 5 feet was consistent with development in the area. The Board accepts the evidence of the appellant's professional land use planner and finds that the requested variance for the construction of the small deck with a side yard setback of 5 feet will have no adverse impacts and represents good land use planning.

With respect to the variance for the large covered deck, the representative from the Conservation Authority testified that the Property is situate in the High Hazard Designation under the Authority's Shoreline Management Plan. Accordingly there are concerns with damage resulting from high water levels, wave action, and erosion. The representative from the Conservation Authority testified that a detached deck is not a concern in the High Hazard Area provided that the roof over the deck is not attached to the cottage.

The Township's professional land use planner noted two concerns with the large covered deck, that it could be damaged by wave action and erosion in a storm event and that it could easily be converted to living space. With respect to the first point, the Township's professional land use planner acknowledged that the Township had recently installed servicing along the shoreline with no additional protection. With respect to the conversion of the large covered deck, it was acknowledged that if such works were

completed without a building permit, the Township would have enforcement remedies available to it.

Upon considering all of the evidence presented, the Board accepts the evidence of the appellant's professional land use planner and finds that the large covered deck, subject to conditions, will have no adverse impacts and represents good land use planning. Given the evidence as presented by the representative of the Conservation Authority, the Board finds that a condition that the large covered deck not be attached structurally to the cottage is appropriate.

The appeal is allowed in part and the variances applied for are authorized subject to the following conditions:

1. The large covered deck shall be constructed substantially in accordance with the plans as shown in Attachment "1".
2. The large covered deck shall not be attached, including the roof or cover, structurally to the cottage.

The Board so orders.

"R.E. Drury"

R.E. DRURY
MEMBER

"J.A. SMOUT"

J. A. SMOUT
MEMBER