



Maitland CONSERVATION

MAITLAND VALLEY CONSERVATION AUTHORITY

**POLICIES FOR THE ADMINISTRATION OF SECTION 28 OF THE CONSERVATION
AUTHORITIES ACT AND ONTARIO REGULATION 41/24 – AS OF APRIL 1, 2024**

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1.0 - INTRODUCTION

This policy document lays out the framework for decision-making and associated processes around Section 28 of the Conservation Authorities Act as prompted by changes to the Conservation Authorities Act and Ontario Regulation 41/24 enacted on April 1, 2024 and revoking Ontario Regulation 164/06.

For the purpose of this document:

The Conservation Authorities Act may be known as “the Act”

Ontario Regulation 41/24 may be known as “the Regulation”

The Maitland Valley Conservation Authority may be known as “the Authority” or “MVCA”

These policies have been put in place to fulfill the Authority’s legislated requirements, including those within the Act and the Regulation, and within associated regulations including Ontario Regulation 686/21 (Mandatory Programs and Services under the Conservation Authorities Act) as of the April 1, 2024 implementation date.

Later sections of this document will deal with those updates and implementations the Authority undertakes of its own accord, and the notification and consultation requirements around such updates are therein detailed.

2.0 - REGULATED AREAS

As set out in the Act and the Regulation, MVCA has jurisdiction over the following areas:

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.

Meaning: watercourses, river valleys, and flood hazards (and the associated buffers)

(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 Nickel 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).

Meaning: lakeshore flood hazards, erosion hazards (to a 100-year period), and dynamic beaches (and the associated buffers)

(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.

Meaning: wetlands (and the associated buffer)

3.0 - PROHIBITED ACTIVITIES

In accordance with the Act:

PART VI

REGULATION OF AREAS OVER WHICH AUTHORITIES HAVE JURISDICTION

Prohibited activities re watercourses, wetlands, etc.

28 (1) Subject to subsections (2), (3) and (4) and section 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.

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.

3.1 Exemptions

Exempt activities as per the Regulation:

Paragraph 2 of subsection 28 (1) [*the above section*] 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.

Outside of the above-described exceptions, permission must be sought from MVCA for prohibited activities within areas subject to Regulation.

4.0 - PRE-SUBMISSION CONSULTATION

The Maitland Valley Conservation Authority (The Authority OR MVCA) will accommodate requests to undertake a pre-submission consultation, commonly referred to as a pre-consultation or “pre-con” and encourages prospective applicants to initiate this process before investing time and money in a formal application.

MVCA will aid in coordinating, and participate in, wherever possible, combined pre-submission consultations including our municipal partners at the Counties of Bruce, Huron, Perth and Wellington, in order to provide the applicant with as much relevant information as possible relating to their overall development goals.

Pre-submission consultations are to be confirmed by name, as a meeting between the applicant and the Authority that is a: “pre-submission consultation”, “pre-consultation”, “pre-con”, or “pre-consult”.

Pre-submission consultations will be mutually agreed to regarding, time, place and format, and, both parties will provide the fullest possible information.

If, in reasonable advance of the meeting, the applicant is able to provide:

- (i) initial information on the proposed activity such as a description of the project and any associated plans, and
- (ii) details about the property upon which the activities are proposed to be carried out, including copies of plans, maps or surveys

The Authority commits to provide the requirements of a complete application including what technical studies are required.

5.0 - APPLICATION REQUIREMENTS

The following application requirements are a general list and are presented as an excerpt of the Regulation (Ontario Regulation 41/24 s.7).

This does not include a list of specific technical studies as would be provided in a pre-submission consultation as described above.

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.

6.0 - GRANTING PERMISSIONS

Ontario Regulation 41/24 (the Regulation) made under the Conservation Authorities Act (the Act), prohibits development with hazardous lands, plus applicable buffers, collectively described as regulated lands for a given conservation authority.

Exceptions to this prohibition may be derived from:

1. Various Ministerial or Tribunal decision-making powers as described within the Act and the Regulation
2. Exceptions as described within the Act and the Regulation (such as the list of exempted activities within the Regulation or an activity approved under the Aggregate Resources Act) (see also section 3.1)
3. In the instance of permission being granted by the Authority.

The below policies deal with the third category of exceptions, where permission is being granted by the Authority.

Issuance of a permit does not relieve the applicant from the responsibility of acquiring approval from other agencies or relieve the applicant from compliance with any conditions that other agencies may impose on the work.

The tests by which permission is granted, as per the Conservation Authorities Act:

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.

For clarity, development activities as defined in the Regulation Definitions 1. (1):

“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”)

and,

alteration activities as described in Part VI Section 28 (1) 1. of the Act,

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.

are collectively referred to herein as “Development and Alteration activities”.

Therefore,

[1]

Within hazardous land, defined as land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock, wetlands, and land described under section 28 of the Act, the following policies shall apply:

1. Development and Alteration activities are generally prohibited within such lands unless expressly exempt from prohibition by the Conservation Authorities Act (the Act) or Ontario Regulations 41/24 (the Regulation)
2. Permission may be granted for Development and Alteration activities associated with restoration activities provided that:
 - a. It is demonstrated to the satisfaction of the Authority that 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

3. Permission may be granted for Development and Alteration activities associated with the establishment of passive recreational uses provided that:
 - a. It is demonstrated to the satisfaction of the Authority that 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
4. Permission may be granted for Development and Alteration activities associated with public infrastructure and utilities (roads, sewers, flood and erosion control works, pipelines, telecommunications infrastructure, bridges, etc.) provided that:
 - a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. There is no practical alternative to the proposed public infrastructure or utility location(s)
 - ii. The lack of implementation creates an unacceptable risk or reduction to the services or municipal responsibilities afforded by said public infrastructure or utility
 - iii. Existing natural hazards are not worsened in degree or probability by the implementation of the public infrastructure or utility
 - 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, including:
 - i. the implementation or upgrade of the public infrastructure or utility is not instrumental in establishing new occupancies or investments within hazardous lands
5. Permission may be granted for Development and Alteration activities associated with the replacement of sewage disposal systems provided that:
 - a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. If the system results in changes to the mass or quantity of water within an area subject to slope stability concerns (such as a Class IV on-site sewage disposal system in riverine or shoreline erosion hazard) the system and its installation are reviewed by a qualified geotechnical professional and it is confirmed by said professional to

- the satisfaction of the Authority that natural hazards are not worsened in degree or probability by the implementation of the system
- 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, including:
 - i. the sewage disposal system replaces an existing system and services a pre-established legal use (i.e. a previously existing building), and is not designed to accommodate an expansion of any use in hazardous land (i.e. allowing for an increased number of dwelling units compared to the previous condition)
6. Permission may be granted for Development and Alteration activities associated with establishing access to non-hazardous land, or through hazardous lands for agricultural or recreational purposes (i.e. driveways, bridges, farm-crossings, etc.) provided that:
- a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. Supportive studies from an engineer or other applicable professional that natural hazards are not worsened in degree or probability by the implementation of the access
 - 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, including:
 - i. The access does not support a new or expanded use unless said use and access permits adequate ingress/egress for vehicles, pedestrians and emergency services fully outside the hazard (i.e. elevated above the level of the applicable flood standard)
7. Permission may be granted for Development and Alteration activities associated with the maintenance or establishment of agricultural drainage or other drainage required for the adequate management of landscapes (i.e. drains, stormwater management infrastructure.) provided that:
- a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. Maintenance activities using appropriate mitigation measures for the activity and maintaining form and function without altering, or

- ii. Supportive studies from an engineer or other applicable professional that natural hazards are not worsened in degree or probability by the implementation of the alteration, and
 - iii. Does not affect the hydrologic capacity for connected wetland features
 - 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, including:
 - i. The activities do not affect the movement of water on the landscape such that existing natural hazards are worsened in degree or probability
- 8. Permission may be granted for Development and Alteration activities associated with the establishment of agricultural structures provided that:
 - a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. There is no practical alternative to the proposed location(s) – this does not mean that other locations are simply not preferred, but that there are physical or logistical considerations that exclude all other possible locations
 - ii. Existing natural hazards are not worsened in degree or probability by the establishment of the structure
 - 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, including:
 - i. access, if impaired by the location of the structure, is not required during natural hazards such as flooding
 - ii. the structure is not within a stable slope hazard and not likely to be damaged by hazards such as flood waters (i.e. damp flood-proofing)
 - iii. the structure cannot reasonably accommodate any kind of prolonged human occupancy or be converted to accommodate any kind of prolonged human occupancy (i.e. something that may include an office, additional dwelling units, temporary worker housing, etc.)
- 9. Permission may be granted for Development and Alteration activities associated with existing residential legal uses that are minor additions or modifications provided that:
 - a. It is demonstrated to the satisfaction of the Authority that 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, including:
 - i. A limit of a one-time addition to the usable square footage of an existing building that is less than 75 square feet or 7 square meters (the minimum area for a bedroom in the Ontario Building Code)

10. Permission may be granted for Development and Alteration activities associated with existing residential legal uses that is reconstruction provided that:

- a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. The footprint of the building, if altered, does not substantially impact local drainage or the proximity to the hazard (i.e. moving it closer to a lake, watercourse, or wetland that is the source of the hazard(s) in question)
- 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, including:
 - i. The building being reconstructed has not been damaged or destroyed by naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock
 - ii. The proposed square footage of the building is not more than the original plus 75 square feet or 7 square meters minus one square foot (reconstructing in this manner precludes eligibility for a future addition under section [1]9.)

11. Permission may be granted for Development and Alteration activities associated with existing commercial or other non-institutional and non-habitable residential legal uses that are reconstruction, modification, or addition provided that:

- a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. The footprint of the building, if altered, does not substantially impact local drainage or the proximity to the hazard (i.e. moving it closer to a lake, watercourse, or wetland that is the source of the hazard(s) in question)
 - ii. Modification or additions to the building do not create conditions where natural hazards are worsened in degree or probability by the changes

- 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, including:
 - i. The building being reconstructed or modified has not been damaged or destroyed by naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock
 - ii. The changes do not facilitate mixed-uses that may facilitate increased habitation (i.e. accessory apartments, dwelling units, etc.)
 - iii. Substantial investments in the structure beyond those required for continuation of the current use are located in an area outside hazardous lands (such as beyond the natural erosion limit or above the relevant flood hazard elevation)

12. Permission may be granted for Development and Alteration activities associated with existing legal uses that are general or other (not buildings) provided that:

- a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. The activities do not create conditions where natural hazards are worsened in degree or probability
- 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

13. Permission for Development and Alteration activities will not be granted where:

- a. It cannot be demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. Those activities which, by their cumulative impacts, are likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, and
 - ii. Constructions, repairs, reconfigurations, and/or replacements of structures and infrastructure that are designed to interfere with naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock (except those as permitted by other sections of this policy [such as restoration works or public infrastructure], the Act, the Regulation, or by other agencies as appropriate [i.e. Provincial agencies having jurisdiction of dams and public lands])

- b. the activity cannot avoid 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, including:
 - i. new construction on existing lots of record within hazardous land or additions/modifications that allow for increased occupancy, increasing the probability that persons are put in jeopardy in the event of a natural hazard
 - ii. major investments beyond those required for continuation of the current use within hazardous land, substantially increasing the value of property at risk of damage or destruction in the event of a natural hazard
14. Barring further clarification from the Province of Ontario after April 1, 2024, it is assumed that the concept of Two-Zone Floodplain management continues to be valid and supported, for the reasons for which it was originally implemented. The following policy is therefore intended to address those areas described as *Flood Fringe*. If an area of *Flood Fringe* is simultaneously affected by other natural hazards, those other more stringent natural hazard policies shall apply.

Permission may be granted for Development and Alteration activities associated with existing legal uses within a *Flood Fringe* that are construction, reconstruction, modification, or addition provided that:

- a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. The footprint of the building does not substantially impact local drainage or pose a likely impediment to the conveyance of floodwaters
 - ii. Modification or additions to the building do not create conditions where natural hazards are not worsened in degree or probability by the changes
- 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, in excess of those accepted risks accommodated by the Two-Zone management scheme, including:
 - i. The use is not an institutional use including hospitals, long-term care homes, retirement homes, pre-schools, school nurseries, daycares and schools; an essential emergency service such as that provided by fire, police and ambulance stations and electrical substations; or uses associated with the disposal, manufacture, treatment or storage of hazardous substances.

- ii. The building being reconstructed or modified has not been damaged or destroyed by naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock
- iii. The construction is floodproofed to the appropriate flood standard
- iv. Access to new habitable or potentially habitable construction can be achieved through 0.3 m of floodwaters or less, meaning vehicular, emergency service, and pedestrian access (ingress/egress) [habitable means the inclusion of sanitary and water supply elements]

15. Formal permission will not be required for general landscaping activities that would be incidental to normal ownership, maintenance, and improvement of a property. This does not extend to Development and Alteration activities likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, such as substantial site grading or the placement of substantial quantities of fill or material.

[2]

Within other areas which may affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock including non-hazardous land but all buffers (“other areas”) associated with the combined total of regulated lands the following policies shall apply:

1. Permission for Development and Alteration activities outside of hazardous land but within the combined total of regulated lands will generally be granted where:
 - a. It is demonstrated to the satisfaction of the Authority that the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, including:
 - i. There is no practical alternative to the proposed location(s) of the activity(ies) – this does not mean that other locations are simply not preferred, but that there are physical or logistical considerations that exclude other possible locations
 - ii. The activity(ies) would not, by their cumulative impacts across similar circumstances, be 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, including:
 - i. new construction on existing lots of record maintains as much setback as possible from hazardous land

7.0 - DETAILS AND CONDITIONS OF PERMISSION

Permission shall be provided in writing, with or without conditions.

Conditions

Where formal permission is granted, it will be typically that general conditions are applied, plus certain specific conditions relating to the precise nature of the project:

(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.

Permit Validity

(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).

Un-completed projects

Projects (i.e. permissions) not carried out within 60 months will require a new application process to be initiated in order for works to progress, including a new application form, new landowner authorization form, and payment of the fee

8.0 - SECTION 8 PERMIT REVIEWS

The Regulation describes the following:

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.*

Further to MVCA Members Report #15a-2024, requests for review shall be undertaken by senior staff, meaning the most appropriate of:

- the Supervisor of Planning & Regulations, or
- the General Manager

For a review to be undertaken, the applicant must make a request in writing and specify their concern as being:

- More than 21 days since an application submission without comment on its completeness, and/or,
- Dispute of the studies or plans requested by the Authority as being reasonable

A Section 8 Permit review will not be undertaken in the absence of the above concern(s).

9.0 - PERMITTING TIMELINES

For permits which may be considered major (extensive, complex, broad-reaching, lengthy, obstructive, etc.) the following timelines form the Authority's process timeline standards:

EVENT	TIMEFRAME
Advisement of complete application requirements	Within 14 days of pre-submission consultation meeting
Notification of permit completeness	Within 21 days of receiving permit application documents
Decision (to approve or provide option for Hearing)	Within 28 days of a completed application being received
Section 8 request for review response	Within 30 days of receiving request

For permits which may be considered minor (routine, standard, minimal, short, non-obstructive, simple, etc.) the following timelines form the Authority's process timeline standards:

EVENT	TIMEFRAME
Advisement of complete application requirements	Within 7 days of pre-submission consultation meeting
Notification of permit completeness	Within 14 days of receiving permit application documents
Decision (to approve or provide option for Hearing)	Within 21 days of a completed application being received
Section 8 request for review response	Within 30 days of receiving request

Depending on the time of year the Authority can and does regularly exceed these minimums, meaning a response, if available before the timeframe standard, will be given.

10.0 - HEARINGS

If an application does not meet MVCA policy, or it does not satisfy technical requirements, or if the applicant does not agree with any condition of permit approval, the decision shall be referred to a hearing with the MVCA Members, who shall review the application / appeal for a decision.

Staff shall provide notice to the applicant of their right to a hearing during the application process; and shall again be notified upon permission (permit), if granted.

Hearings, including Notice of Hearings, Conduct of Hearings, Notice of Decisions, Appeals, and Records shall be carried out in accordance with the MNR/CO Section 28 (3) Conservation Authorities Act Hearing Guideline, October 2005, Amended 2018, 2020, and 2021 in addition to section 10.1 of this document.

MVCA designated staff shall send a 'Notice of Hearing' to:

1. The applicant and their designated agent (if applicable).
2. The MVCA Board Member in the municipality in which the property that is subject to the application is located.
3. Any department or agency of the federal, provincial or municipal government that is affected by the application (i.e. county planning department, chief building official, clerk).

10.1 - Reports

Pre-submission of Reports or Statements by Applicant

Written reports or statements may be submitted by the applicant to MVCA staff no later than 21 days prior to the hearing date, so that staff has time to review the information and provide a report with recommendations to the Board of Directors. MVCA staff must submit Board reports no later than 12 days prior to the Board meeting.

The applicant shall not submit new information at the hearing as MVCA staff will not have had time to review and provide a professional opinion to the Board.

Any modifications to the application will require a re-submission of an amended application.

MVCA Staff Submission of Reports

MVCA staff shall submit a report to the Board of Directors detailing the following:

1. Overview of the application (i.e. location, description of works, technical studies, etc.)
2. Review of MVCA compliance policies and applicable sections of the Act and the Regulation
3. Compliance or non-compliance of the proposed works with respect to MVCA compliance policies under the Act and the Regulation
4. Recommendation for approval with conditions or refusal with reasons.

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

Appeals

Subject to the Conservation Authorities Act and Ontario Regulation 41/42, a person who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons may appeal to the Ontario Land Tribunal or to the Minister named in the Act, as appropriate.

11.0 - PERMIT TRANSFERS AND CANCELLATIONS

Transfer of Permits

MVCA permission is not transferrable without prior written approval by MVCA. Transfers may be granted by MVCA designated staff and will require:

1. A new landowner authorization form
2. Confirmation that the details of the project have not changed.

Cancelling of Permits

MVCA may, at any time, cancel a permission granted under section 28(1) of the Act, if it is of the opinion of MVCA that the conditions of the permission have not been met; or if the representations contained in the application for permission are not carried out; or if false information was submitted by the applicant or their agent.

Before cancelling a permission MVCA shall give notice to the holder of the permission that the permission will be cancelled unless the holder shows cause at a Hearing as to why the

permission should not be cancelled. Following the giving of the notice, the holder shall be given at least five days' notice of the date of the hearing.

12.0 - COMPLIANCE, ENFORCEMENT & VIOLATIONS

Compliance Inspections

MVCA staff may carry out compliance inspections of approved applications to ensure that works and activities are completed in accordance with the specifications and site plans approved in the application and with any conditions that were approved by the Authority.

Prior to inspection, staff will notify the applicant of the intent to inspect the site with reasonable notice, and will not attend to the site outside of reasonable hours (after 6am but before 11pm).

Upon completion of the inspection, staff must advise the applicant, agent, and / or the building inspector in writing of MVCA's findings if there are discrepancies with the approved plans and / or conditions of a permission.

If there are major discrepancies between the project undertaken in the field and the plan approved and / or with the conditions of permission, and if the work should be done, staff must advise the applicant of these discrepancies and request that the works be dealt with.

General Compliance Policy

The Maitland Valley Conservation Authority's approach to regulatory compliance and enforcement is to ensure conformity with the Act and the Regulation. The response by MVCA to any non-compliance incident is proportionate to the risk presented by the incident, the compliance history, response of the violator and staff time available to investigate. Available tools include education and outreach, warnings, issuance of notices of violations or stop orders, and in the worst cases seeking remedy through the provincial courts of justice.

MVCA prefers to resolve non-compliance issues or violations through voluntary compliance by the landowner and / or agent. Staff will make every reasonable effort to work with landowners or agent to achieve this goal. However, in some cases, remedy through the courts of justice is unavoidable.

Time Limitation for Proceeding with Charges

A proceeding with respect to an offence shall not be commenced more than two years from the earliest of the day on which evidence of the offence is discovered or first comes to the attention of officers appointed as Provincial Offences Officers (appointed officers) of the Authority.

Notice

A '*Notice of Potential Violation*', '*Notice of Complaint Received*', or other comparable document is not a legal document. It is a formal letter from MVCA advising the person(s) who may have committed an offence that a violation of Ontario Regulation 41/24 has potentially occurred.

The notice identifies the specific activities or nature of the complaint that has been received, the affected feature being with the overall area of regulated lands, and shall request next steps from the receiver. Next steps will typically be contact with MVCA and a cessation of work until said works can be discussed with the Authority.

The Notice shall include:

1. A map showing the location of the property and the MVCA regulated area.
2. Information explaining the nature of complaint received and/or activities alleged.
3. MVCA's concerns with the activity as it related to the Act and the Regulation
4. Next steps for the person receiving the Notice
5. MVCA staff person who should be contacted

The Notice may also include other information, such as:

1. Legal consequences of non-compliance.
2. Date by which the MVCA must be contacted.

Proceeding with non-compliance

The Authority may, in consultation with its solicitor(s), commence with additional compliance tools (i.e. charges) after an assessment of the given situation. The unique qualities of the situation will be considered before proceeding, including:

- Whether or not prohibited activities within regulated lands are continuing

- Whether the activities to date are likely to substantially affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock
- Whether the activities to date are 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
- Whether or not there is a substantial capacity for restoration or remediation to previous conditions, or a substantial capacity to improve the situation from a natural hazards safety perspective
- Whether or not the cost of legal proceedings can be adequately borne by the Authority as a financial loss against the value of possible restoration or remediation

13.0 - POLICIES TO UPDATE MAPPING AND AUTHORITY POLICIES

From time to time it may be advisable, critical, requested, or otherwise necessary to update MVCA policies and mapping after the April 1st 2024 implementation of changes to the Act and Ontario Regulation 41/24.

The following policies deal with mapping and policy updates as regular updates and/or updates undertaken on the impetus of the Authority.

Updates, changes, commenting and timelines related to legislative changes will be dealt with through whatever tools, guidance, timelines and other details are provided through the course of those legislative changes; such changes (changes to the Act and the Regulation) are not within the scope of the Authority to alter, adjust, conduct public comment over, review or any other such activity.

For clarity, the below policies apply to changes which the Authority may have decision over, and not those changes which result from reforms to Provincial legislation or ministerial decisions.

13.1 - Mapping Updates

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.

Further to the above, before Board approval of comprehensive or large-scale modifications to MVCA's regulated areas schedules and mapping, the following public notification process shall occur:

1. The Authority will hold at least one public information session to provide information and receive comments. Notice of the information session must be given at least 20 days in advance by publication in a newspaper or newspapers of sufficient circulation in the area to provide the public with reasonable notice; and the notice of public information session shall be made available on MVCA's website.

2. Notice of the proposed amendments and a copy of the draft amendments shall be made available on MVCA's website. The notice will invite public and stakeholders to speak to the amendments at the relevant MVCA Board meeting or to submit comments in writing prior to the meeting. Notice of the MVCA Board meeting date and time to consider the proposed policies shall be made available on the website.
3. Notice of the proposed amendments shall be given by publishing a notice in a newspaper (or newspapers) publication of sufficient circulation in the area to provide the public with reasonable notice.
4. Notice of the proposed amendments and Board meeting shall additionally be sent to any agency or group suspected by the Authority of having a particular interest in the subject amendment, these may include:
 - a. First Nations / Indigenous / Metis organizations and/or nations
 - b. County and/or Municipality
 - c. Other Public Landholders (such as Provincial or Federal Parks)
 - d. Ministry of Natural Resources and Forestry, or other ministries
 - e. Power Generation or Public Utility Companies
 - f. Other stakeholders as may be considered advisable
5. All above-mentioned notices must be provided at least 60 days in advance of the Board meeting to consider the amendments, and shall include an overview of the amendment, the location of online information further to the amendment, the date, time, and location of the Board meeting where the amendment will be considered, and an MVCA staff contact from whom more information can be requested.

Timeline Requirements

Notice of the Public Information Session must appear at least **20 days** before the session

Notice of the Amendment and its content must appear **60 days** before the Board meeting to consider it

Comments from the public must be provided **10 days** before the Board meeting so that staff may include said comments in the Board report

13.2 - Policy Updates

The public notification and information program is based upon the following objectives:

1. To educate and inform the public, stakeholders, municipal staff, affected regulatory agencies, and development interests on proposed amendments.
2. To ensure the public and stakeholders are informed of the Authority's regulatory role in administering the Act and the Regulation.
3. To provide the public and stakeholders the opportunity to speak to the proposed policies at the relevant MVCA Board meetings.

The following policies for public notification and information are minimum requirements. Public notification above and beyond the minimum requirements (*i.e.* public information sessions) should be carried out if financial and staff resources are available to do so.

MVCA will undertake public and stakeholder notification and information as follows:

1. Notice of the proposed policies and copies of the draft policies shall be made available on MVCA's website. The website notification must provide detail as to the purpose and effect of the proposed policies with reference to the *Authority's* regulatory role in administering the Act and the Regulation; and the public and stakeholders shall be invited to speak to the policies or guidelines at the relevant MVCA Board meeting, or to submit comments in writing prior to the meeting. Notice of the MVCA Board meeting date and time to consider the proposed policies shall be made available on the website.
2. Notice of the proposed policies shall be given by publishing a notice in a newspaper (or newspapers) publication of sufficient circulation in the area to provide the public with reasonable notice.
3. Notice of the proposed amendments and Board meeting shall additionally be sent to any agency or group suspected by the Authority of having a particular interest in the subject amendment, these may include:
 - a. First Nations / Indigenous / Metis organizations and/or nations
 - b. County and/or Municipality

- c. Other Public Landholders (such as Provincial or Federal Parks)
 - d. Ministry of Natural Resources and Forestry, or other ministries
 - e. Power Generation or Public Utility Companies
 - f. Other stakeholders as may be considered advisable
4. All above-mentioned notices must be provided at least 30 days in advance of the Board meeting to consider the amendments, and shall include an overview of the amendment, the location of online information further to the amendment, the date, time, and location of the Board meeting where the amendment will be considered, and an MVCA staff contact from whom more information can be requested.

14.0 - OTHER POLICIES

14.1 - Freedom of Information Requests and Information Sharing

The MVCA occasionally receives Freedom of Information (FOI) requests from the public or other agencies for information regarding a permit or specific file.

MVCA will generally share information with other agencies commensurate with our partnerships and responsibilities to one another, including our service and responsibility to our Member municipalities, and the partnerships we hold with other government agencies, including those agencies who the Authority is connected to by agreement and/or responsibility, including the Ministry of Natural Resources and Forestry, the Ministry of Municipal Affairs and Housing, and other Ministries and Agencies with whom we hold agreements.

When MVCA receives an FOI request:

MVCA sends the person/corp. named in the documents a consent form in the prescribed form asking if they consent to the release of the personal info.

- i. If the consent is received then the document can be issued without any part being redacted.

- ii. If no consent is received within 30 days the requester is sent a copy of the documents with all personal info, name, address (any info which could reasonably identify the person/corp named in the document) redacted.

14.2 - Delegations & Appointments

The Authority Members made the following delegations March 20, 2024 (MVCA Members Report #15a-2024)

Activity	Recommended Delegation	Rationale
Issuance & Extension of Permits (up to the maximum period of validity)	Senior Staff / Staff (<i>Issuance and Extension</i>) Executive Committee / Members (Board) (<i>Hearings</i>)	<ul style="list-style-type: none"> Delegation of powers to staff for affirmative permitting decisions is currently in place for most CAs and is consistent with provincial direction* Expediency to review and issue permits within legislated and regulated timeframes (new requirement) Hearings further to an Authority's notice of intent to refuse an extension request would be subject to the <i>Statutory Powers and Procedure Act</i>
Cancellation of Permits	CAO / Senior Staff (<i>Notice of Intent to Cancel</i>) Executive Committee / Members (Board) (<i>Hearings</i>)	<ul style="list-style-type: none"> Cancellation of permits involves opportunity for a hearing before the Authority or its delegate Hearings would be subject to the <i>Statutory Powers Procedure Act</i> Decisions from the hearing process are subject to appeal to the Ontario Land Tribunal
Hearings i. 28.1 (Permits) ii. 28.1.2 (Mandatory permits, zoning orders)**	Executive Committee / Members (Board)	<ul style="list-style-type: none"> Hearings prior to April 1, 2024 were held before the Board or Executive Committee (process is understood and practiced) Hearings would be subject to the <i>Statutory Powers Procedure Act</i> Decisions are subject to appeal via a request for Minister's review or to

MVCA Administrative Policies (Regulation)

iii. 30.4 (Stop Order)		the Ontario Land Tribunal
Administrative Reviews (Requests for Review)	CAO / Senior Staff	<ul style="list-style-type: none"> Limited timeframe (30-days) to complete a review Reviewer should have knowledge of CA application process and familiarity with CA development policies/guidelines Decision is related to confirmation of complete application /administrative processes <u>only</u> and not a decision about whether the permit should be issued The review process is not subject to the <i>Statutory Powers Procedure Act</i> No mechanism within the <i>CA Act</i> for appeal Delegation is consistent with provincial direction*
Client Service / Streamlining Recommendation		
Customer Service Concerns	Client Service Facilitator / CAO	<ul style="list-style-type: none"> Addressing concerns, not decision making (lower risk) Existing client service facilitators at high-growth CAs (per the CO Client Service and Streamlining Initiative)

The Authority shall appoint appropriately trained staff for the purposes of enforcing the Act and the Regulations, relating to actions as Provincial Offences Officers:

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

14.3 – Previous & Other Policies

For those administrative policies not impacted by the April 1, 2024 changes to the Act and the Regulation, and not otherwise addressed in this document, the Authority will refer back to the previous administrative document in place prior to April 1, 2024 being: *Maitland Valley Conservation Authority Administration Policies for Implementing Ontario Regulation 164/06 Development, Interference with Wetlands, and Alteration to Shorelines and Watercourses Regulation – December 2021*

In general, the Authority will also confer with guidance for interpretation and implementation from Conservation Ontario to promote provincial consistency in Natural Hazard management.

15.0 - [This section is intentionally left blank]