

3 Natural Heritage

In addition to regulating *hazardous lands*, the *Authority* also manages *natural heritage features and areas* within its jurisdiction. These areas include *Environmentally Significant Areas (ESAs)*, habitat of *endangered and threatened species*, *fish habitat*, *woodlands* and forested areas, *significant wildlife habitat*, *Areas of Natural and Scientific Interest (ANSIs)*, and *wetlands*. These areas may be classed as locally, regionally, or Provincially *Significant*. These areas provide economic, social, and environmental benefits to our communities, by drawing tourists to natural areas, supporting human health and recreation, protecting water sources, and providing habitat for wildlife. The Conservation Authority plays an important role in protecting and maintaining such areas within the *watershed*, for both present and future generations.

When reviewing *development* proposals that may affect *natural heritage features or areas* and/or *ESAs*, *Authority* staff will refer to the Natural Heritage Reference Manual (*MNR*, 1999), and any amendments, updates, or revisions thereto. Where a discrepancy exists between this policy document and the *MNR* Reference Manual, the latter document will prevail. Each *development* proposal should utilize *Best Management Practices (BMPs)* and should provide all opportunities for protection and rehabilitation of natural features and their *ecological functions*. All reference to *wetlands* within Section 3.1.7 also includes *coastal wetlands*.

The policies and guidelines contained within this document should not be read in isolation of one another. Rather, they should be read concurrently and in their entirety and the appropriate range of policies and guidelines should be applied to each situation. In the case where more than one policy applies to a situation, the more restrictive policy will apply.

3.1 General Policies

Any *development* and/or *site alteration* within the jurisdiction of the *Authority* and in, on or adjacent to *natural heritage features and areas* and/or *Environmentally Significant Areas (ESAs)* must be in accordance with the following policies and guidelines and must be to the satisfaction of the *Authority*.

- a. The *Authority* will encourage that natural features and areas be protected for the long term.
- b. The *Authority* will encourage that the diversity and connectivity of natural features in an area, and the long-term *ecological function* and biodiversity of *natural heritage systems*, be maintained, restored or, where possible, improved, recognizing linkages between and among *natural heritage features and areas*, *surface water features* and *ground water features*.
- c. The *Authority* will encourage the protection of the ecological landscape surrounding unprotected groundwater recharge or discharge zones. Wherever possible, the *Authority* will work with the applicant to encourage conservation in *adjacent lands*. Appropriate techniques for such efforts will be determined on a case by case basis, and as appropriate to the feature in question.
- d. With the exception of those policies in Section 3.1.3, the *Authority* will require a minimum 10 metre *vegetation protective zone* for *natural heritage features*, where viable.

- e. Reduced setbacks from *natural heritage features* may be considered for brownfield *development* on a site by site basis.
- f. The *Authority* does not intend to limit the ability of existing agricultural uses from continuing.
- g. Interior renovations to any *building* or structure that do not alter the use or potential use, do not increase the size, and do not increase the number of *dwelling units* of that *building* or structure will only require a letter of permission from the *Authority* pursuant to HCA Regulation 161/06 under Ontario Regulation 97/04.
- h. *Development* and/or *site alteration* that is within the Regulation limit but outside of hazard limits generally will only require a letter of permission from the *Authority* pursuant to HCA Regulation 161/06 under Ontario Regulation 97/04.

3. 1. 1 Environmentally Significant Areas

- a. The limit of any *ESA* will be established in the field by *Authority* staff and municipal staff prior to the review of any *EIS*.
- b. *Development* and/or *site alteration* shall be directed away from all *ESAs* as defined in the Regional Municipality of Hamilton-Wentworth Official Plan (*OP*), dated April 1998, and/or the City of Hamilton *OP*, and any amendments, updates, or revisions thereto.
- c. When reviewing planning applications involving the creation of new lots (i.e. draft plan of subdivision, severance), *Authority* staff will work to ensure that no new lot lines extend into the *natural heritage feature* and its *vegetation protection zone* in order to maintain the natural area as one whole unit.
- d. *Authority* staff will bring updated information on *ESAs* to the City of Hamilton and/or the Township of Puslinch as it is developed, and encourage the incorporation of new designations into their Official Plan.
- e. Any *development* proposed for lands within, overlapping or adjacent to an *ESA* may require the completion of an *EIS* by the proponent, and each *EIS*:
 - i. Will be conducted using the guidelines set forth by the City of Hamilton or the Township of Puslinch (dependant on where the *development* is proposed); and
 - ii. Shall be required to examine the study area for the presence of an *Element Occurrence (EO)*. Should an *EO* be present the *MNR* Guelph District Office is to be notified.
- f. Wherever appropriate, the *Authority* will offer its assistance to the municipality and individual applicants in reviewing *EISs*.
- g. In instances where lands of an *ESA* are being used for agricultural purposes, the *Authority* will encourage the use of *Best Management Practices (BMPs)*.
- h. In instances of land acquisition the *Authority* will place a high priority on acquiring *ESAs*.

3. 1. 2 Endangered and Threatened Species

- a. *Development* and/or *site alteration* will not be permitted in the *significant* habitat of *threatened* and *endangered* species.
- b. *Development* and/or *site alteration* will not be permitted on lands adjacent to *significant* habitat of *threatened* or *endangered* species (within 50 m of the boundary of the habitat) unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or on their *ecological functions*.
- c. When reviewing planning applications, *Authority* staff will check proposals against the Species at Risk Act, Endangered Species Act, associated regulations, and internal database, as well as, the *Natural Areas Inventory* (Hamilton Naturalist Club, 2003) and any amendments, updates, or revisions thereto, in order to determine if any *endangered* or *threatened* species could be impacted by the proposed *development*.
- d. In the absence of *Authority* listings of *endangered* and *threatened* species, *Authority* staff shall consult:
 - i. The *MNR* list of Species at Risk in Ontario (<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/246809.html>); and
 - ii. The Federal list of Species at Risk in Ontario (http://www.sararegistry.gc.ca/species/schedules_e.cfm?id=1).

3. 1. 3 Fish Habitat

- a. *Development* and/or *site alteration* will not be permitted in *fish habitat* except in accordance with *provincial and federal requirements*.
- b. *Development* and/or *site alteration* will not be permitted on lands adjacent to *fish habitat* (within 30 m of the boundary of the habitat) unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or on their *ecological functions*. In the case of *fish habitat*, *adjacent lands* should generally be measured from the bankfull width.

In instances where a valid study indicates the viability of implementing a reduction in the width of *adjacent lands*, these reductions will be required to comply with the appropriate *vegetation protective zone* widths for *Critical*, *Important* and *Marginal Habitats* [Policy 3.1.3 (d)], wherever appropriate.

- c. When reviewing applications that will cause a harmful alteration, destruction or disruption to *fish habitat* (*HADD*) the project shall be referred to the Fisheries and Oceans Canada (*DFO*) in accordance with the *HCA*'s Level 2 agreement with this agency (see Appendix E for the full agreement).

- d. The *Authority* will require an undisturbed *vegetation protective zone* running consistently along both sides of all *watercourses*. A reduction in the *vegetation protective zone* will not be considered for *development* and/or *site alteration* proposals. Exceptions may be considered for *additions, replacement structures* and *accessory structures*, where locating *buildings* and/or structures outside of the *vegetation protective zone* is not viable. The *vegetation protective zone* is to be measured perpendicularly outward from each of the two edges of the bankfull width with the following provisions.

NOTE: *Authority* staff will use thermal regimes documented at the time these policies were approved by the Board of Directors. In all cases, the methods of Stoneman, C.L. and Jones, M.L. (1996) will be utilized to determine the thermal regime of a *watercourse*.

- i. A minimum 15 m *vegetation protective zone* for all *Important* (Type 2) and *Marginal* (Type 3) *Habitats* (30 m total);
- ii. A minimum 30 m *vegetation protective zone* for all *Critical* (Type 1) *Habitats* (60 m total),
 1. In the case of *Critical habitats*, the *Authority* may require that the *vegetation protective zone* be adjusted upwards based on the findings of a fisheries habitat assessment. Such assessments are to be completed at the expense of the proponent and by a qualified professional;
- iii. Greater *vegetation protective zones* may be required in some areas as a result of sensitive soil conditions (e.g. high permeability, shallow soil depths, steep slopes, or extensive organics, etc.) and/or in the habitat of *endangered* or *threatened species*;
- iv. The *vegetation protective zone* may be required to be enhanced as determined by the *Authority*
- v. The *vegetation protective zone* for a meandering stream shall be the greater of either the *meander belt allowance* or the required *vegetation protective zone* for *Critical, Important* or *Marginal Habitats*;
- vi. *Best Management Practices (BMPs)* should be used where the *vegetation protective zone* is interrupted to allow *watercourse* crossings, as permitted in Section. 2.1.3. An interruption should occur only where it is proven to be least intrusive; and
- viii. Trails and paths may be allowed in the *vegetation protective zone* provided that:
 1. The trail or path is located outside of *erosion hazard*, except for crossings;
 2. The trail or path should not come closer than 4 m to the edge of a *watercourse*, except for crossings, unless it has been demonstrated through the completion of an Environmental Impact Statement (*EIS*) that there will be no *negative impacts* on the natural features or on their *ecological functions*;
 3. The trail or path does not impede the natural function of *valleylands*;
 4. Permeable surfacing generally must be used for trail or path construction; and
 5. There is a compensating *vegetation protective zone* allowance added to the width of the *vegetation protective zone*.

3. 1. 4 Significant Woodlands and Forested Areas

- a. *Development* and/or *site alteration* will not be permitted in *significant woodlands* unless it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or their *ecological functions*.
- b. *Development* and/or *site alteration* will not be permitted on lands adjacent to *significant woodlands* (within 50 m of the boundary of the *woodland*) unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or on their *ecological functions*.

- c. In situations where a proposed *development* and/or *site alteration* is located in or adjacent to a potentially *significant woodland*, *Authority* staff will apply the criteria used by the municipality in order to determine if the policies regulating *development* in such areas are applicable.
- d. Where trees have been removed for the purposes of *development* and/or *site alteration*, the *Authority* may require compensatory replanting within a comparable habitat. At a minimum, this should be done at a 2:1 ratio using locally appropriate native species and shall be required to follow the guidelines established in Section 10.1 of this document.
- e. Wherever possible, the *Authority* will work to maintain existing tree cover or other stabilizing vegetation, particularly in sloped areas.
- f. Where *development* and/or *site alteration* proposals affect undesignated and/or unassessed *woodlands*, the *Authority* will work with the applicant to encourage conservation. Appropriate techniques for such efforts will be determined on a case by case basis, and as appropriate to the feature in question.
- g. Where appropriate, the *Authority* will encourage the municipality to include *woodlands* in park and other open space dedications.

3. 1. 5 Significant Wildlife Habitat

- a. *Development* and/or *site alteration* will not be permitted in *significant wildlife habitat* unless it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or their *ecological functions*.
- b. *Development* and/or *site alteration* will not be permitted on lands adjacent to *significant wildlife habitat* (within 50 m of the boundary of the habitat) unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or on their *ecological functions*.
- c. Where *development* and/or *site alteration* proposals affect unprotected *wildlife habitat*, the *Authority* will work with the applicant to encourage conservation and will promote the use of conservation management techniques. Such techniques will be determined on a case by case basis, and as appropriate to the wildlife in question.
- d. Wherever possible, the *Authority* will encourage the municipality to acquire lands through public dedication such that they contribute to the formation of wildlife corridors.

3. 1. 6 Areas of Natural and Scientific Interest

- a. The *Authority* will direct *development* and/or *site alteration* away from Provincially *Significant Areas of Natural and Scientific Interest (ANSIs)* unless it can be demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or the *ecological functions*.

- b. *Development* and/or *site alteration* will not be permitted on lands adjacent to Provincially Significant ANSIs (within 50 m of the boundary of the area) unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated through the submission of an *EIS* that there will be no *negative impacts* on the natural features or on their *ecological functions*.

3. 1. 7 Wetlands

- a. *Development, site alteration, and/or interference with wetlands* will generally not be permitted:
 - i. In or on the areas of Non-*PSWs*;
 - ii. Within the *adjacent lands* of *PSWs* (120 m); or
 - iii. Within the *adjacent lands* of Non-*PSWs* (30 m)

Unless the hydrological, hydrogeological, and *ecological function* of the subject lands and of the *adjacent lands* has been evaluated and it has been demonstrated that there will be no *negative impacts* on natural features or their *ecological functions*, such proposals may require the completion of an *EIS*, and should utilize all opportunities for protection and rehabilitation of the *wetland* feature.

- b. Except as provided for in Policy 3.1.7 (h) (i), no *development, site alteration, and/or interference with wetlands* is permitted within a *PSW*.
- c. Except as provided for in Policy 3.1.7 (i), no *development, site alteration, and/or interference with wetlands* is permitted within 30 m of any *wetland*.
- d. The viability of locating the *development* proposal on a portion of the property outside of the 30 m *area of interference* of a *PSW* must be examined in all cases and applied wherever possible.
- e. The limit of any *wetland* will be established in the field by the *Authority* staff and municipal staff, with reference to provincial mapping.
- f. The *Authority* will encourage the local municipalities to continue to identify local and regional *wetlands* through municipal planning documents (e.g. Official Plans, Zoning By-Laws, neighbourhood plans, and sub-*watershed* plans) and to develop conservation policies for these areas and the lands adjacent to them.
- g. The *Authority* will recommend that municipalities seek the dedication of the *wetland* to a public agency to protect the *wetland* and its features when applications for plan of subdivision are reviewed.

h. Within Any Wetland

- i. *Development, site alteration, and/or interference with wetlands* will not be permitted in or on the areas of Provincially Significant Wetlands (PSWs). This includes *additions, accessory structures, decks, and/or pools*;
 1. An exception may be considered for *replacement structures* where Policy 3.1.7 (d) has been examined and *floodproofing* concerns, as outlined in Section 8.1 (and its sub-policies), have been addressed;
- ii. The *Authority* will not support the *development* of roads, or driveways, through any *wetland* in order to access *building* sites. As a general principle, the *Authority* will refuse applications that would necessitate such an access road, or driveway, being built; and
- iii. *Ponds* will not be permitted within any *wetland*.

i. Within 30 m of Any Wetland – Permit

These policies regulate *development, site alteration, and/or interference with wetlands* on lands located within 30 m of *PSWs* and within 30 m of *Non-PSWs*, and will require a formal permit under *HCA* Regulation 161/06 under Ontario Regulation 97/04, and may require the completion of an *EIS*. Where *buildings* and structures already exist within 30 m of any *wetland*, the following provisions will apply:

- i. No new septic systems permitted;
- ii. No swimming pools (above ground and in-ground) permitted;
- iii. Existing septic systems may be upgraded and/or replaced provided there are no viable locations available outside of the 30 m *area of interference* and it does not encroach any closer to the *wetland* than the existing system;
- iv. A *replacement structure / addition* may be permitted to encroach closer to the *wetland* than the existing *development* at its closest point; and
- v. An *accessory structure* may be permitted to encroach closer to the *wetland* than the existing *development* at its closest point.

j. Between 30 and 120 m of PSW – Letter of Permission

Provided major *fill* placement (>0.3 m in elevation) is not associated with the following *development, site alteration, and/or interference with wetlands*, the following may be permitted and will only require a letter of permission if proposed within 30 to 120 m from the limit of a *PSW*, with the provision that where *Authority* staff require an *EIS* then a permit will be required pursuant to *HCA* Regulation 161/06 under Ontario Regulation 97/04:

- i. A single family residential dwelling equal to or less than 200 m² (2153 ft²) in size;
- ii. Swimming pools, decks, *accessory structures* to a single family residential dwelling that combined with the dwelling are equal to or less than 300 m² (3229 ft²) in size;
- iii. *Replacement structures*;
- iv. Minor *additions* to existing residential *buildings/structures* provided the *addition* does not encroach closer to the *wetland* than the existing structure and the *addition* combined with the dwelling are equal to or less than 300 m² (3229 ft²) in size;

- v. Residential septic systems with the provision that a qualified professional(s) conducts percolation tests and soil description, a site inspection, a licensed septic system installer installs the system, and a mound system or a raised filter bed is utilized. The system must be located as far from the *wetland* as possible;
- vi. Existing septic systems may be replaced provided they do not encroach any closer to the *wetland* than the existing system, and they meet the requirements of (iv) above;
- vii. Agricultural *buildings*/structures provided *BMPs* are implemented and, where applicable, proper manure storage facilities are demonstrated as part of the proposal and the *building* is equal to or less than 500 m² (5382 ft²) in size;
- viii. Minor *additions* to existing agricultural *buildings*/structures provided that combined with the existing *building* are equal to or less than 700 m² (7535 ft²) in size; and
- ix. Landscaping and minor grading.

Best efforts must be made to locate the above uses as far from the *wetland* as possible in order to minimize the potential impacts to the hydrological, hydrogeological, and/or *ecological functions*. Cumulative impacts will be considered.

k. Between 30 and 120 metres – Permit

Any *development*, *site alteration*, and/or *interference with wetlands*, other than those outlined in Policy 3.1.7 (j), proposed within 30 to 120 m of a *PSW*, will require a formal permit under *HCA* Regulation 161/06 under Ontario Regulation 97/04, and may need to be supported by an *EIS*, prepared by a qualified professional, that identifies whether the proposed *development*, *site alteration*, and/or *interference with wetlands* would cause a negative hydrological, hydrogeological, and/or *ecological* impact on the *wetland* features/functions.