



Report to: Conservation Advisory Board

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Meeting Date: June 12, 2025

Subject: HCA's Planning and Regulations Policies Update

Recommendation:

THAT the Conservation Advisory Board recommends to the Board of Directors;

THAT the *Policies for Land Use Planning & Regulation in the Watersheds of the Hamilton Conservation Authority (Draft, June 2025)* be received as information;

THAT staff be directed to make the Draft policy document available for public and stakeholder review and comment; and further

THAT the final version of the policy document based on the public input received then be returned to the Board for adoption.

Executive Summary:

A review and update of HCA's *Planning & Regulation Policies and Guidelines* (October 2011) is being completed to address legislative and regulatory changes to the *Conservation Authorities Act* that came into effect on April 1, 2024. Updates to HCA's policies are also required to support the implementation of HCA's new Shoreline Management Plan. Ensuring HCA's policies are kept up to date is critical to the successful implementation of HCA's planning and regulations programs.

A draft update of HCA's planning and regulations policies has been prepared. HCA staff are seeking direction to circulate the draft document for public and stakeholder review and comment.

Staff Comment / Discussion:

HCA's Planning & Regulation Policies and Guidelines

The Hamilton Conservation Authority's (HCA) *Planning & Regulation Policies and Guidelines* were developed to support and guide the implementation of HCA's planning and regulation programs. The policy document provides HCA staff with direction when reviewing and commenting on land use planning and regulatory matters, including the following:

- Permit applications under the *Conservation Authorities Act*;
- Applications for land use change and development under the *Planning Act*;
- Development permit applications under the *Niagara Escarpment Planning and Development Act*; and
- Studies carried out under the *Environmental Assessment Act*.

The *Planning & Regulation Policies and Guidelines* document provides direction to staff on a variety of matters, including:

- The determination of natural hazard limits (i.e. flooding hazard, erosion hazard, etc.);
- Types of developments that may be permitted or prohibited in and adjacent to areas affected by natural hazards; and
- The protection of natural heritage features.

The HCA first developed planning policies in 1978. These policies have been revised and updated periodically to promote consistency with current legislation, regulations, plans, policies and guidelines. The most recent comprehensive update of the *Planning & Regulation Policies and Guidelines* was completed in 2011 (approved by the Board of Directors October 6, 2011).

Staff experience in reviewing development proposals and implementing the policies since 2011 has periodically identified areas where policy revisions or clarifications were needed. As a result, there have been updates to the policy manual since 2011 to address specific issues. This has included:

- Minor updates to the wetland policies in 2014 to address permissions for swimming pools;
- Review and update of policies for the placement and movement of soil and other fill materials in 2016; and

- Minor amendments to the natural heritage policies in 2021 to address the use of offsetting and compensation in the case of a Minister's Zoning Order or environmental assessment study that would result in the loss of natural heritage features.

Legislative and Regulatory Changes

Aside from periodic specific policy updates, as described above, the need for a more comprehensive review and update of the policy document was identified in 2014. Around this same time, the provincial government initiated a review of the legislative and regulatory framework within which land use planning occurs. This review has included numerous amendments to the *Planning Act* and updates to the Provincial Policy Statement and provincial plans, as well as changes to the *Conservation Authorities Act* and regulations. As a result, work on a comprehensive update to the HCA policy document has been delayed in anticipation of completion of legislative and regulatory updates.

On April 1, 2024, a number of significant changes and amendments to the *Conservation Authorities Act* took effect governing how conservation authorities regulate and permit development activities. Some of the changes included:

- Revoking all individual conservation authority development regulations, including *Ontario Regulation 161/06, HCA's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*;
- A new regulation, *Ontario Regulation 41/24, Prohibited Activities, Exemptions and Permits*, to govern development regulation and permitting for all conservation authorities;
- Changes to regulation limits for certain features, including a reduction in the regulated area associated with wetlands from 120 m to 30 m; and
- Removal of natural heritage considerations from permitting decisions.

A report regarding these changes was presented to the Board of Directors at their March 7, 2024 meeting, where the Board supported a recommendation that staff be directed to produce or update existing HCA documents, policies and procedures as may be required to ensure compliance with the new regulations and legislative changes, and to report to the Board periodically on these matters. An update of HCA's *Planning & Regulation Policies and Guidelines* is required to comply with and implement the legislative and regulatory framework.

Shoreline Management Plan

Staff also note that a new Shoreline Management Plan (SMP) for the HCA was completed over the 2021 – 2025 period. The new SMP was approved by the Board of Directors at their February 6, 2025 meeting. The SMP provides the HCA with updated coastal hazard mapping of its shoreline based on the latest technical information and data, and makes management recommendations on a reach specific

basis to assist the HCA in administering its regulation of development on the shoreline.

Some of the key findings and recommendations from the SMP included:

- The Lake Ontario shoreline within the HCA watershed is highly erosive, especially on the lake bottom at the toe of existing shoreline protection structures. Maintenance or upgrading of existing shoreline protection structures will be a long-term commitment to protect existing residential development. Over time, the erosion and flooding hazards may become too severe to support ongoing residential development.
- A long-term average annual erosion rate of 0.5 m/yr has been recommended for the Lake Ontario shoreline in the delineation of the erosion hazard. The new 100-year flood level has been identified as 76.2 metres International Great Lakes Datum (IGLD'85).
- The implementation of nature-based solutions to increase the resilience of the Hamilton Beach are encouraged, such as dune restoration and beach nourishment, and hard armouring of the shoreline should be avoided where possible.
- The shoreline in the harbour port lands and recreational amenities in the harbour are all heavily armoured. These shoreline protection structures should be monitored regularly with maintenance completed in a timely manner. Where possible, habitat enhancement projects, such as rock shoals and islands, should be incorporated into future shoreline protection and maintenance projects.

The findings and recommendations from the SMP were to be further reviewed by HCA staff to determine what regulatory mapping and policy updates may be required to support the implementation of the SMP.

Summary of Key Proposed Policy Changes

Given the above, staff have been working to update HCA's planning and regulations policies document. A draft of the updated policies is included as Attachment A.

Notwithstanding recent legislative and regulatory changes to the *Conservation Authorities Act*, conservation authorities continue to regulate development activities in watercourses, wetlands and hazard prone areas such as river valleys and shorelines, and permits continue to be required for development activities in such areas in most cases. As a result, many of the HCA's existing policies regarding development in regulated areas remain unchanged, or have received only minor or administrative updates.

Key policy updates and changes to the document that are being proposed include:

General Updates and Changes

- New document title and general restructuring
- Updated summary of the legislative and policy framework that guides land use planning and regulation of development
- Addition of a summary description of the major HCA watersheds
- Separation of land use planning policies (Section 4) and regulatory policies (Section 5)
- Removal of all references to *Ontario Regulation 161/06, HCA's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*
- Removal of numerous appendices that are no longer relevant or necessary

Land Use Planning Policies

- Expanded policy direction for land use planning to support HCA's involvement in municipal plan input and municipal plan review matters
- Policy direction reflects current Provincial Planning Statement (2024)
- Provide for consideration of water resource systems and natural heritage systems and features where they support the control, management or mitigation of natural hazards
- Allow consideration of stormwater management facilities to control Regional storm event flows

Regulatory Policies

- Updated description of regulated areas, regulated activities and permit considerations ('tests') based on the new regulations
- General policy updates to address new permit tests which require that:
 - (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; or
 - (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.
- Removal of policies that provide for the consideration of natural heritage features, except where they may support the control, management or mitigation of natural hazards
- Update shoreline policies to reflect a new 100-year flood level and erosion rate based on the Shoreline Management Plan
- Greater flexibility for minor additions, replacement structures and accessory structures where existing development is affected by hazards
- Additional policy direction regarding criteria to be met to achieve safe access
- Additional policy direction regarding floodplain spill areas
- Revised policy direction for wetlands based on loss of natural heritage considerations

Public Consultation

HCA staff are seeking direction to make the draft policy document available for public and stakeholder review and comment. This would include making the document available on HCA's web-based public engagement platform and direct circulation to key stakeholders such as the City of Hamilton, County of Wellington, Conservation Ontario and neighbouring conservation authorities. HCA staff note that *Ontario Regulation 41/24, Prohibited Activities, Exemptions and Permits*, requires a conservation authority to develop policy and procedure documents with respect to permit applications and reviews, including policies for the purpose of administering the issuance of permits and procedures for consulting with stakeholders and the public during policy review and update processes, as a conservation authority considers advisable.

HCA will update the draft policy document based on public input received, and return to the Board of Directors for final approval for the end of 2025.

Strategic Plan Linkage:

The initiative refers directly to the HCA Strategic Plan 2025 – 2029:

- **Strategic Priority Area – Water Resources Management**
 - Initiative – Update planning and regulatory policy based on the recommendations of the 2024 Shoreline Management Plan, and amendments to the Conservation Authorities Act and associated regulatory changes.

Agency Comments:

Not Applicable

Legal / Financial Implications:

Updates to HCA's *Planning & Regulation Policies and Guidelines* are required to comply with and implement the legislative and regulatory changes to the *Conservation Authorities Act* that came into effect on April 1, 2024.

Related Reports and Appendices:

Attachment A – *Policies for Land Use Planning & Regulation in the Watersheds of the Hamilton Conservation Authority (Draft, June 2025)*