

# **HAMILTON REGION CONSERVATION AUTHORITY**

## **Administrative By-Law**

**In force as of April 3, 2025**



## Summary of Revisions

Revision Number	Revision Date	Approval Authority	Details
1	April 3, 2025	HCA Board of Directors	<p><b>Re. Conservation Authorities Act update</b> [Introduction: Section 2: Statutory objects replaced with Statutory purpose];</p> <p><b>Re: O.Reg. 402/22 Budget and Apportionment</b> [Section A: Definitions 'Apportionment' replacing Levy; Section B: Governance subsections 1c) Powers of the Board of Directors, &amp; Section 10];</p> <p><b>Re: agricultural representatives appointed by the Minister</b> [Section B: Governance subsections 1b) Term, 1c) Powers of the Board of Directors];</p> <p><b>Editorial</b> [Section B: Governance section 4];</p> <p><b>Re: Delegated Authority</b> [Section B: 1c) Powers of the Board of Directors];</p> <p><b>Re: Ministerial Exceptions</b> [Section B: 4 Term Limits and Section B:6 Election of Officers];</p> <p><b>Re: Optional Remuneration</b> [Section B:14 Remuneration of Directors];</p> <p><b>Re: Violation of reasonable decorum</b> [Section C: 10 Delegations];</p> <p><b>Re: Updated Hearing Guidelines for CA Act April 1, 2024</b> [Appendix 5]</p>

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## Introduction

### 1. The Hamilton Region Conservation Authority

The Hamilton Region Conservation Authority (the “HCA” or the “Authority”) is a non-share corporation, established under Section 3 of the *Conservation Authorities Act (the Act)*, *the objects to provide, in the area over which it has jurisdiction, programs and services designed for the purpose of furthering the conservation, restoration, development and management of natural resources in watersheds, other than gas, oil, coal and minerals.*

Under the Act, municipalities within a common watershed are enabled to petition the province to establish a conservation authority.

Members of the Authority are appointed as representatives by the Participating Municipalities and are effectively directors also of the Authority. The HCA is comprised of its members (who form the Board of Directors), appointed as representatives by the Participating Municipalities, namely the City of Hamilton and the Township of Puslinch. An additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.

### 2. Statutory purpose

The statutory purpose of the HCA, as set out in section 0.1 of the Act, is: to provide for the organization and delivery of programs and services that further conservation, restoration, development and management of natural resources in watersheds in Ontario.

The HCA pursues these programs for the benefit of the people of the Hamilton region and the people of the Province of Ontario.

### 3. The HCA's mission and vision

The mission of the HCA is to lead in the conservation of our watershed and connect people to nature.

The HCA's vision is a healthy watershed for everyone.

### 4. The HCA's powers

The HCA must always act within the scope of its powers. As a non-share capital corporation, the HCA has the capacity and, subject to the Act and other applicable legislation, the rights, powers and privileges of a natural person.

The powers of a conservation authority to accomplish its objects are set out in the Act, including those identified under subsection 21(1) of the Act, which states:

#### **Powers of authorities**

21 (1) For the purposes of accomplishing its objects, an authority has power,

- (a) to research, study and investigate the watershed and to support the development and implementation of programs and services intended to further the purposes of this Act
- (b) for any purpose necessary to any project under consideration or undertaken by the authority, to enter into and upon any land and survey and take levels of it and make such borings or sink such trial pits as the authority considers necessary;
- (c) to acquire by purchase, lease or otherwise any land that it may require, and, subject to subsections (2) and (4), to sell, lease or otherwise dispose of land so acquired;
- (d) despite subsection (2), to lease for a term of five years or less land acquired by the authority;

- (e) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;
- (f) to enter into agreements for the purchase of materials, employment of labour and other purposes as may be necessary for the due carrying out of any project or to further the authority's objects;
- (g) to enter into agreements with owners of private lands to facilitate the due carrying out of any project;
- (h) to determine the proportion of the total benefit afforded to all the Participating Municipalities that is afforded to each of them;
- (i) to erect works and structures and create reservoirs by the construction of dams or otherwise;
- (j) to control the flow of surface waters in order to prevent floods or pollution or to reduce the adverse effects thereof;
- (k) to alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority, and to divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole;
- (l) to use lands that are owned or controlled by the authority for purposes, not inconsistent with its objects, as it considers proper;
- (m) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;
- (n) to collaborate and enter into agreements with ministries and agencies of government, municipal councils and local boards and other organizations and individuals;
- (o) to plant and produce trees on Crown lands with the consent of the Minister, and on other lands with the consent of the owner, for any purpose;
- (p) Repealed;
- (q) generally to do all such acts as are necessary for the due carrying out of any project or as may be desirable to further the objects of the authority.

## 5. Area of jurisdiction

The HCA has jurisdiction in all matters provided for in the Act, over the area under the HCA's jurisdiction.

The HCA's area of jurisdiction consists of the watersheds of Spencer Creek and all other streams entering Lake Ontario, including any bays or inlets thereof, from the point where the northeast boundary of the Spencer Creek watershed meets the shore of Lake Ontario to the point where the northwest boundary of the Niagara Peninsula Conservation Authority meets the shore of Lake Ontario.<sup>1</sup>

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<sup>1</sup> This includes the drainage areas of Spencer Creek and its tributaries (Fletcher, Flamborough, Westover, West Spencer, Logie's, Spring, Tiffany, Sydenham, Sulphur and Ancaster creeks), Borer's, Chedoke, Red Hill, Battlefield, Stoney and Fifty creeks, and the small drainage areas between the Niagara Escarpment and Lake Ontario in the former City of Stoney Creek.

## A. Definitions

**“Apportionment”** means the amount of net costs apportioned to Participating Municipalities in accordance with the Act and Regulations under the Act.

**“Authority”** means the Hamilton Region Conservation Authority.<sup>2</sup>

**“Act”** means the *Conservation Authorities Act*, R.S.O. 1990, chapter C.27

**“Board of Directors”** means all of the members of the Authority, collectively.<sup>3</sup>

**“Chair”** means the Chairperson as referenced in the Act as elected by the Directors of the Authority.

**“Chief Administrative Officer”** means the Chief Administrative Officer of the Authority, and which may, by resolution of the Authority, include the responsibilities of the Secretary-Treasurer if so designated by resolution of the Authority.

**“Directors”** shall mean the members appointed to the Authority by the Participating Municipalities in the Authority’s area of jurisdiction and effectively act as directors as specified in the Ontario Not-For-Profit Corporations Act (ONCA).

**“HCA”** means the Hamilton Region Conservation Authority.

**“Majority”** means half of the votes plus one.

**“Minister”** means the Minister responsible for administration of the Act.

**“Officer”** means an officer of the Authority as empowered to sign contracts, agreements and other documents on behalf of the Authority in accordance with section 19.1 of the Act, which shall include the Chair, Vice-Chair, Chief Administrative Officer, Deputy Chief Administrative Officer and the Secretary-Treasurer.

**“Participating Municipality”** means a municipality that is designated by or under the Act as a participating municipality in a conservation authority. The Participating Municipalities of the HCA are the City of Hamilton and the Township of Puslinch.

**“Pecuniary Interest”** includes the financial or material interest of a Director and the financial or material interest of a Director or the Director’s immediate family.

**“Secretary-Treasurer”** means Secretary-Treasurer of the Authority with the roles specified in the Act.

**“Staff”** means employees of the Authority as provided for under Section 18(1) of the Act.

**“Vice-Chair”** means the Vice-Chairperson as elected by the Directors of the Authority.

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<sup>2</sup> The formal name of the Hamilton Region Conservation Authority, as set out in subsection 6(1) of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, is Hamilton Region Conservation Authority, in English, and Office de protection de la nature de la région de Hamilton, in French.

<sup>3</sup> The Board of Directors passed a resolution changing its name from “Full Authority” to “Board of Directors” on March 8, 2007.

## **B. Governance**

### **1. Directors**

#### ***a) Appointments***

Participating Municipalities within the jurisdiction of the Hamilton Conservation Authority may appoint Directors in accordance with Section 14 of the Act. An additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.

Directors must reside in a Participating Municipality within the Authority's area of jurisdiction and may include citizens as well as elected members of municipal councils.

Collectively, the appointed Directors for the purposes of this by-law are referred to as the Board of Directors.<sup>4</sup>

At least 70% of a municipality's appointees must be selected from among the members of the municipal council, unless the municipality obtain permission from the Minister to select less than 70% of its appointees from among the members of the municipal council.<sup>5</sup>

#### ***b) Term of Director Appointments***

In accordance with Section 14 of the Act, a Director shall be appointed for a term of up to four years at the discretion of the appointing municipal council; such term beginning at the first meeting of the Authority following his or her appointment and ending immediately before the first meeting of the Authority following the appointment of his or her replacement. The Secretary-Treasurer shall notify the appropriate municipality in advance of the expiration date of any Director's term, unless notified by the municipality of the Director's reappointment or the appointment of his or her replacement. A Director is eligible for reappointment. A Director can be replaced by a Participating Municipality at the municipality's discretion prior to the end of their term. The Minister will define the term for the Member they appoint as a representative of the agricultural sector and they may be replaced at the Minister's discretion.

#### ***c) Powers of the Board of Directors***

Subject to the Act and other applicable legislation, the Board of Directors is empowered without restriction to exercise all of the powers prescribed to the Authority under the Act. In addition to the powers of an Authority under s.21 of the Act for the purposes of accomplishing its objects, as referenced in the introduction of this By-law, the powers of the Board of Directors include but are not limited to:

- a) Approving by resolution, the creation of Committees and/or Advisory Boards, the members thereof and the terms of reference for these Committees and/or Advisory Boards;
- b) Appointing a Chief Administrative Officer and/or Secretary-Treasurer;
- c) Terminating the services of the Chief Administrative Officer and/or Secretary-Treasurer.
- d) Approving establishing and implementing regulations, policies and programs;
- e) Awarding contracts or agreements where the approval of the Authority is required under the Authority's purchasing policy.

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<sup>4</sup> In January 2001, in accordance with the Act, the City of Hamilton and the Township of Puslinch adopted resolutions in accordance with motion FA11,736 dated December 7, 2000 adopted by the Board of Directors. This motion set the membership of the Board of Directors at 11 members: City of Hamilton 10; Township of Puslinch 1.

<sup>5</sup> In 2021, both the City of Hamilton and the Township of Puslinch adopted resolutions in accordance with motion BD12,2857 dated March 4, 2021, adopted by the Board of Directors, to reaffirm the current composition of the Board of Directors. Per s.14 (1.2) of the Act, the Township of Puslinch was granted an exception to this requirement for the 2023 – 2026 term.



- f) Appointing an Executive Committee and delegate to the Committee any of its powers except:
  - i. The termination of the services of the Chief Administrative Officer and/or Secretary-Treasurer,
  - ii. The power to raise money, and
  - iii. The power to enter into contracts or agreements other than those contracts or agreements as are necessarily incidental to the works approved by the Authority.
- g) Approving by resolution, any new capital project of the Authority;
- h) Approving by resolution, the method of financing any new capital projects;
- i) Approving details on budget allocations on any new or existing capital projects;
- j) Approving the total budget for the ensuing year, and approving the apportionment to be paid by the Participating Municipalities;
- k) Receiving and approving the Financial Statements and Report of the Auditor for the preceding year;
- l) Authorizing the borrowing of funds on the promissory note of the Authority in accordance with subsection 3(5) of the Act;
- m) Approving by resolution, any acquisition or disposition of land, subject to the requirements under the Act;
- n) Approving, extending or cancelling permits, or refusing permission, as may be required under any regulations made under Section 28 of the Act, including the delegation of this responsibility to Chief Administrative Officer or other Authority staff consistent with such regulations;<sup>6</sup>

Holding hearings required for the purpose of reviewing permit applications, and advising every applicant of their right to appeal the decision to the Ontario Land Tribunal.<sup>7</sup> If a Member has been appointed representing the agricultural sector, they do not have a vote on items i, j, and k as per s.14 of the Act and s.2 of Ontario Regulation 402/22 Budget and Apportionment.

#### ***d) Responsibilities and Functions of the Board of Directors***

The Board of Directors is responsible for the overall management of the Authority, with a focus on five main functions: (a) strategic planning, (b) financial oversight, (c) the development of corporate policy, (d) executive management oversight; and (e) governance and legal compliance.

- a) Strategic Planning: The Board will adopt a strategic planning process, approve short-term and long-term strategic plans, and monitor the performance of the HCA against those plans.

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<sup>6</sup> On April 4, 2024, the Board of Directors delegated approval of HCA 5-year permits and permit extensions under *Ontario Regulation 41/24 Prohibited Activities, Exemptions and Permits* to the CAO; Deputy CAO / Director, Watershed Management Services; Manager, Planning, Stewardship and Ecological Services; and Manager, Water Resources Engineering. The Board of Directors also delegated cancellation of permits, administrative reviews of permits, and permit fee reconsiderations under the *Conservation Authorities Act* to the above-mentioned staff positions. Monthly summary reports of the permits issued are submitted to the Board for information purposes as part of each monthly meeting package. HCA permit applications that do not comply with HCA policy are presented to the Board through a Staff report for consideration.

<sup>7</sup> Hearing procedures for hearings under s. 28(3) of the Act are set out in Appendix 5. Any hearing or appeal dealt with in this By-law may, at the discretion of the Chair, be conducted electronically with provisions for applicants and their agents to participate if the Authority decides to hold any such hearing or appeal.

- b) Financial Oversight: The Board will monitor the HCA's finances, including its future financial viability. The Board will ensure that the HCA is operated in a sound and prudent fiscal manner, and shall undertake short- and long-term financial planning consistent with the HCA's mission, objectives and strategic plan. The Board will do so with the assistance of Staff and the Budget and Administration Committee. Specifically, the Board will:
- i. review and approval annual budgets, including municipal levies;
  - ii. review and approve budget adjustments during the current budget year;
  - iii. review and approve the annual audit and the auditor's report; and
  - iv. regularly scrutinize and investigate all aspects of HCA's finances and, when necessary, determine appropriate actions.
- c) Corporate Policymaking: The Board will ensure the existence of corporate policies to govern the HCA in key areas, including, and in addition to those separately identified in this Section:
- i. the mission, vision and objectives of the HCA;
  - ii. good corporate governance;
  - iii. ethical conduct by HCA employees and Directors;
  - iv. equity, diversity, non-discrimination, harassment and abuse;
  - v. privacy; and
  - vi. health and safety.

In ensuring the existence of these policies, the Board will strive, to the extent reasonably possible, to promote a culture of honesty, integrity, equitable treatment, legal compliance and good governance, in which the purposes of the HCA are realized, employees are protected from occupational injury and disease, and visitors are provided safe and healthy facilities in which to enjoy the natural environment.

The work of the Board in connection with policy development is generally confined to establishing rather than implementing policies. Further development of these policies and implementation is delegated to the CAO, subject to Board oversight.

- d) Executive Management Oversight: The Board will appoint, evaluate and, if necessary, terminate the CAO. The Board will define the duties and limits of authority of senior management. The Board will satisfy itself as to the integrity of the CAO and other senior managers. The Board is responsible for succession planning for the CAO.

The Board's primary connection to the operational organization will be through the CAO or his/her delegate, or through such other person(s) as the Board may designate.

- e) Governance and Legal Compliance: The Board will assess the effectiveness of the Board and its Committees on an ongoing basis. The Board is responsible for assuring that the HCA governs itself in accordance with principles of effective corporate governance, and that the HCA complies with all applicable laws and regulations.

#### ***e) Director Accountability***

Participating Municipalities appoint Directors to the Authority as their representatives. Directors have the responsibilities of Directors of the corporation that is the Authority. While the Chief Administrative Officer and other staff of the authority are responsible for the day-to-day operations, the Board of Directors is responsible for matters of governance, ensuring compliance

with applicable legislation, and ensuring appropriate policies are in place and for financial soundness of the Authority.

Every member and officer in exercising his/her/their powers and discharging his/her/their duties to the Authority shall act honestly and in good faith with a view to the best interests of the Authority and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

All Directors have the responsibility to be guided by and adhere to the Code of Conduct (Appendix 1) and Conflict of Interest Policy (Appendix 2), as adopted by the Authority. Additionally, the agricultural representative appointed by the Minister will be required to follow the provincial ethical framework set out for government public appointees in the Management Board of Cabinet's Agencies and Appointments Directive.

Directors are responsible for:

- a) Attending all meetings of the Authority;
- b) Understanding the purpose, function and responsibilities of the Authority;
- c) Being familiar with the Authority's statutory and other legal obligations;
- d) With the administration, setting strategic direction for the Authority.

#### **f) Applicable Legislation**

In addition to the Act, the Directors are subject to other legislation including, but not limited to:

- *Municipal Conflict of Interest Act;*
- *Municipal Freedom of Information and Protection of Privacy Act; and*
- *Not-for-Profit Corporations Act, 2010*

If any part of this by-law conflicts with any provision of the Municipal Conflict of Interest Act or the Municipal Freedom of Information and Protection of Privacy Act or a provision of a regulation made under one of those acts, the provision of that act or regulation prevails. The same applies to conflicts between these by-laws and the Not-for-Profit Corporations Act except where dictated by the *Conservation Authorities Act* in which case the Act prevails.

#### **g) Relationship Between Directors and Staff**

The Chief Administrative Officer shall manage the operations of the organization, including all employees of the Authority. The Chief Administrative Officer is accountable to the Authority, working cooperatively to achieve the goals established by the Directors.

The Board of Directors will ensure that a process exists for regular performance evaluations of the Chief Administrative Officer.

The CAO has the full charge and direction of all employees of the Authority, and is responsible for directing and coordinating the execution of programs, policies and decisions which the Board of Directors approves or adopts. The CAO provides information and serves as liaison to the member municipalities as required by the Chair and the Board of Directors, and conducts the official correspondence of the Authority.

The CAO is accountable to the Board of Directors. The CAO reports to the Chair and brings issues to the Board on a timely basis.

All Board authority delegated to Staff is delegated through, or with notice to, the CAO. The Board will never give instructions to persons who report directly or indirectly to the CAO, without notice to the CAO. Staff are accountable to the CAO. Board decisions and policies, including this

Administrative By-Law, as well as long- and short-term planning documents, communicate the intent of the Board, direct the CAO to achieve certain results, and constrain the CAO to act within acceptable boundaries of prudence and ethics. The CAO is authorized to establish all further policies, make all decisions, take all actions and develop all activities as long as they are consistent with or reasonable interpretations of the Board's decisions and policies. The Board will respect and support the choices of the CAO while working the CAO's area of discretion. No individual Director, Officer or committee has authority over the CAO unless authorized by the Board.

#### *h) Governing Style*

**Friendly Atmosphere:** The Board will continue to foster a friendly and constructive atmosphere, with good rapport among members and between Directors and Staff.

**Focus:** The Board will govern lawfully, with an emphasis on:

- a) outward vision rather than an internal preoccupation;
- b) encouragement of diversity of viewpoints;
- c) strategic leadership more than administrative detail;
- d) clear distinction of Board and CAO;
- e) collective rather than individual decisions;
- f) future rather than past or present, and;
- g) proactivity rather than reactivity.

**Group Responsibility:** The Board will cultivate a sense of group responsibility. The Board will be responsible for excellence in governing. The Board will use the expertise of individual members to enhance the ability of the Board as a body rather than to substitute individual judgments for the HCA's values. The Board will allow no Officer, individual or committee of the Board to hinder or be an excuse for not fulfilling group obligations.

**Long-range Planning:** The Board's major policy focus will be on the intended long-term effects outside the organization, not on the administrative or programming means of attaining those effects.

**Self-Discipline:** The Board will enforce upon itself and its members whatever discipline is needed to govern with excellence. Discipline will apply to matters such as attendance, preparation, policy-making principles, respect of roles, and ensuring continuance of governance capability. Although the Board can change its governance policies at any time, it will observe those currently in force scrupulously.

## **2. Officers**

The Officers of the Authority, and their respective responsibilities, shall be:

Chair

- a) Is a Director of the Authority;
- b) Presides at all meetings of the Board of Directors (and Executive Committee if applicable);
- c) Calls special meetings if necessary;
- d) Acts as a public spokesperson on behalf of the Board of Directors;
- e) Serves as signing officer for the Authority;

- f) Ensures relevant information and policies are brought to the Authority's attention;
- g) Keeps the Board of Directors apprised of significant issues in a timely fashion;
- h) Performs other duties when directed to do so by resolution of the Authority.

#### Vice-Chair

- a) Is a Director(s) of the Authority;
- b) Attends all meetings of the Authority (and Executive Committee if applicable);
- c) Carries out assignments as requested by the Chair;
- d) Understands the responsibilities of the Chair and acts as Chair immediately upon the death, incapacity to act, absence or resignation of the Chair until such time as a new Chair is appointed or until the Chair resumes his/her duties;
- e) Serves as a signing officer for the Authority.

#### Chief Administrative Officer (CAO)

Responsibilities of the CAO as assigned by the Authority include, but are not limited to the following:

- a) Is an employee of the Authority;
- b) Attends all meetings of the Board of Directors (and Executive Committee if applicable) or designates an acting CAO if not available;
- c) Works in close collaboration with the Chair and Vice-Chair and keeps them apprised of relevant information and significant issues in a timely fashion;
- d) Develops a strategic plan for approval by the Board of Directors and Implements short and long-range goals and objectives;
- e) Is responsible for the management of the operations of the Authority, including all Staff and programs of the Authority;
- f) Ensures resolutions of the Authority are implemented in a timely fashion;
- g) Develops and maintains effective relationships and ensures good communications with Participating Municipalities, federal and provincial government ministries/agencies, Indigenous communities, other conservation authorities, Conservation Ontario, stakeholders, community groups and associations;
- h) Serves as a signing officer for the Authority.

#### Deputy CAO

- a) Is an employee of the Authority
- b) Attends all meetings of the Board of Directors (and Executive Committee if applicable)
- c) Understands the responsibilities of the CAO and acts as CAO immediately upon the death, incapacity to act, absence or resignation of the CAO until such time as a new CAO is appointed or until the CAO resumes his/her duties
- d) Serves as a signing officer for the Authority
- e) Performs any duty delegated to him or her by the CAO

#### Secretary-Treasurer

- a) Is an employee of the Authority;

- b) Fulfills the requirements of the Secretary-Treasurer as defined in the Act;
- c) Attends all meetings of the Board of Directors (and Executive Committee, if applicable);
- d) Is the custodian of the Corporate Seal;
- e) Serves as a signing officer for the Authority.

### **3. Absence of Chair and Vice-Chair**

In the event of the absence of the Chair and Vice-Chair from any meeting, the Directors shall appoint an Acting Chair who, for the purposes of that meeting has all the powers and shall perform all the duties of the Chair.

### **4. Maximum Time as Chair and Vice-Chair**

The term of office for the Chair and Vice-Chair shall be limited to two (2) consecutive years unless otherwise decided by a resolution of the Board of Directors and approved by the Minister per Section 17 of the Act.<sup>8</sup>

The same maximum time period applies to an individual's role of Chair and/or Vice Chair of a Committee and to an individual's role as Chair and/or Vice Chair of an Advisory Board, unless otherwise decided by a resolution of the Board of Directors.

### **5. Representatives to Conservation Ontario Council**

The Authority may appoint up to three Representatives to Conservation Ontario Council ("Council"), designated as Voting Delegate and Alternate(s). Council will consist of the Voting Delegates appointed by each Member Conservation Authority. The Voting Delegate and Alternates shall be registered with Conservation Ontario annually.

### **6. Election of Chair, Vice-Chair, Committee Members and Advisory Board Chairs**

The election of the Chair and Vice-Chair, and the election or appointment by acclamation of Committee and Advisory Board members and Advisory Board chairs shall be held yearly at the Annual General Meeting and/or at the first Board meeting after the AGM, in accordance with the Authority's Procedures for Election and Appointment of Officers (Appendix 3).

Successors to the position of Chair and Vice-Chair shall be a director appointed by a different municipality to the incumbent, unless otherwise decided by a resolution of the Board of Directors and approved by the Minister per Section 17 of the Act.<sup>9</sup>

### **7. Appointment of Auditor**

The Board of Directors shall appoint an auditor for the coming year yearly at the annual meeting, in accordance with Section 38 of the Act.

### **8. Financial Statements and Report of the Auditor**

As required by Section 38 of the Act, the Authority shall cause its accounts and transactions to be audited annually by a person licensed under the *Public Accounting Act, 2004*. The Board of

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<sup>8</sup> In accordance with the Act, motion BD12,3383 dated September 5, 2024, was adopted by the Board of Directors. HCA was granted an exception to this provision by the Minister of Natural Resources & Forestry on January 28, 2025. The exception is valid for the 2025 and 2026 terms.

<sup>9</sup> In accordance with the Act, motion BD12,3383 dated September 5, 2024, was adopted by the Board of Directors. HCA was granted an exception to this provision by the Minister of Natural Resources & Forestry on January 28, 2025. The exception is valid for the 2025 and 2026 terms.

Directors shall receive and approve the Audited Financial Statements and Report of the Auditor annually for the previous year yearly at the annual meeting.

No person shall be appointed an auditor of the HCA if the person is or during the preceding year was a member of the Board of Directors, or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the HCA other than for services within his or her professional capacity.

The Authority shall forward copies of the Audited Financial Statements and Report of the Auditor to Participating Municipalities and the Minister in accordance with Section 38 of the Act and will make the Audited Financial Statements available to the public.

## **9. Borrowing Resolution**

If required, the Authority shall establish a borrowing resolution.

## **10. Apportionment Notice**

The municipal apportionment due to the Authority from participating municipalities shall be communicated to those municipalities in accordance with the Act and any applicable Regulations.

## **11. Signing Officers**

Any two of the following Officers are designated and empowered to sign contracts, agreements and other documents on behalf of the HCA (with the exception of cheques or other documents effecting payment): Chair, Vice-Chair, Secretary-Treasurer, CAO, Deputy CAO, Director of Watershed Management Services, Director of Conservation Area Services. Approval of purchases shall be in accordance with the HCA Purchasing Policy. Cheques or other documents effecting payment must be signed by two of the following Officers: Chair, Vice-Chair, CAO and Secretary-Treasurer.

Signing authority that was authorized by any previous Administration Regulation or By-law is superseded by this by-law.

## **12. Executive Committee**

The Authority may appoint an Executive Committee at the first meeting of the Board of Directors each year in accordance with the Section 19 of the Act and Section B.1(c)(f) of this by-law.

## **13. Advisory Boards and Other Committees**

In accordance with Section 18(2) of the Act, the Authority shall establish such Advisory Boards as required by regulation and may establish such other Advisory Boards or committees as it considers appropriate to study and report on specific matters.

The Board of Directors shall approve the terms of reference for all such Advisory Boards and committees, which shall include the role, the frequency of meetings and the number of members required.

Resolutions and policies governing the operation of the Authority shall be observed in all Advisory Board and committee meetings.

Each Advisory Board or committee shall report to the Board of Directors, presenting any recommendations made by the Advisory Board or committee.

The dates of all Advisory Board and committee meetings shall be made available to all Directors of the Authority.

A list of standing Advisory Boards and committees that must be appointed, along with information about their mandates and proceedings, is contained in Appendix 4.



## 14. Remuneration of Directors

The Authority shall establish a per-diem rate from time to time to be paid to Directors for attendance at General Meetings and Advisory Board or Committee meetings, and at such other business functions as may be from time to time requested by the Chair, through the Secretary-Treasurer. In addition, an honorarium may be approved by the Authority for the Chair and Vice-Chair as compensation for their additional responsibilities. A single per-diem will be paid for attendance at more than one meeting if they occur consecutively on the same day.

The Authority shall reimburse Directors' reasonable travel expenses incurred for the purpose of attending meetings and/or functions on behalf of the Authority. A per-kilometre rate to be paid for use of a personal vehicle shall be approved by Resolution of the Board of Directors from time-to-time. Requests for such reimbursements shall be submitted within a timely fashion and shall not exceed Canada Revenue Agency guidelines.

Members may opt out of receiving honorariums, per diems, and/or travel expense reimbursements. Such requests will be documented and retained in accordance with procedures for the management of records related to remuneration of Directors.

Remuneration of the Director appointed by the Minister as a representative of the agricultural sector is at the expense and discretion of the Province.

## 15. Records Retention

The Authority shall keep full and accurate records including, but not limited to:

- a) Minutes of all meetings of the Authority, including registries of statements of interests in accordance with the *Municipal Conflict of Interest Act*;
- b) Assets, liabilities, receipts and disbursements of the Authority and Financial Statements and Reports of the Auditors;
- c) Human Resources Files for all employees and Directors as applicable;
- d) Workplace Health and Safety documents including workplace inspections, workplace accidents, investigations, etc.;
- e) Electronic Communications including material emails;
- f) Contracts and Agreements entered into by the Authority;
- g) Strategic Plans and other documents providing organizational direction;
- h) Projects of the Authority;
- i) Technical Studies and data gathered in support of Programs of the Authority;
- j) Legal Proceedings involving the Authority;
- k) Incidents of personal injury or property damage involving the Authority and members of the public.

Such records shall be retained and protected in accordance with all applicable laws and any Records Retention Policy of the Authority as approved by the Board of Directors from time-to-time.

## 16. Records Available to Public

Records of the Authority shall be available to the public as required pursuant to the *Municipal Freedom of Information and Protection of Personal Privacy Act* (MFIPPA) and further to O. Regulation 400/22 Information Requirements.



The Chair and Vice Chair are designated as head of the Authority for the purposes of MFIPPA.

### **17. By-law Review**

In accordance with the Act, these by-laws shall be reviewed by the Authority at least every three years to ensure the by-laws are in compliance with the Act and any other relevant law. The Board of Directors shall review the by-laws on a regular basis to ensure best management practices in governance are being followed.

### **18. By-law Available to Public**

In accordance with the Act, the Authority shall make its by-laws available to the public on the Authority's website. By-laws shall also be available for review by any member of the public at the Authority's administration centre or provided in alternative formats, in accordance with the *Accessibility for Ontarians with Disabilities Act*, if requested by interested parties.

### **19. Enforcement of By-laws and Policies**

The Directors shall respect and adhere to all applicable by-laws and policies (for example, the Code of Conduct and Conflict of Interest Policy). The Authority may take reasonable measures to enforce its by-laws and policies, including the enforcement mechanisms under the *Municipal Conflict of Interest Act*.

The Board of Directors may enforce its regulations and policies in the following manner:

- a) If a Director is alleged not to have adhered to a by-law or policy, an investigation will be conducted into the alleged breach, unless the breach occurred at a Board of Directors meeting.
- b) The Director will be given a reasonable opportunity to respond to the allegation of breach.
- c) The findings of the investigation and the affected Director's response will be communicated to the Board of Directors in a closed meeting.
- d) The Board may debate the matter with the member present and participating unless, after reasonable notice, the member refuses to attend.
- e) The Board may choose to enforce the regulation or policy following debate by, among other things:
  - i. requesting adherence to the regulation or policy in future;
  - ii. imposing procedures to monitor adherence to the regulation or policy in future;
  - iii. if the member is Chair, Vice-Chair or chair of an Advisory Board or committee, removing the member from that position; or
  - iv. recommending to the municipality that appointed the member that the appointment be revoked and a replacement be appointed.
- f) The appointing municipality or the appointing Minister shall be notified of the outcome of the investigation.

### **20. Indemnification of Directors, Officers and Employees**

The Authority undertakes and agrees to indemnify and save harmless its Directors, Officers and Employees and their heirs and legal representatives, respectively, from and against all costs, charges and expenses, including all amounts paid to settle an action or satisfy any judgement, reasonably incurred by any such Director, Officer or Employee in respect of any civil, criminal or administrative action or proceeding to which any such Director, Officer or Employee is made a

party by reason of being a Director, Officer or Employee of the Authority (except in respect of an action by or on behalf of the Authority to procure a judgment in its favour) if;

- a) such Director, Officer or Employee acted honestly, in good faith with a view to the best interests of the Authority and within the scope of such Director's, Officer's or Employee's duties and responsibilities, and,
- b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty that such Director, Officer or Employee had reasonable grounds for believing that the conduct was lawful.

## **21. Role of Hamilton Conservation Foundation**

The Hamilton Conservation Foundation is a charitable corporation that raises awareness, funds and resources for the HCA. The Chair of the Hamilton Conservation Foundation shall occupy a non-voting seat on the Board of Directors of the HCA. The attendance of the Foundation Chair shall not be included in the determination of a quorum. The Foundation Chair shall receive a complete meeting package and shall be eligible to participate in all discussions at the Board of Directors meeting.

## **C. Meeting Procedures**

The Meeting Procedures below governing the procedure of the Authority shall be observed in Executive Committee and Advisory Board meetings, as far as they are applicable, and the words Executive Committee or Advisory Board may be substituted for the word Authority as applicable.

### **1. Rules of Procedure**

In all matters of procedure not specifically dealt with under the Act and this By-law, the current edition of Robert's Rules of Order will be followed.

The Authority may choose to conduct its business as a committee of the whole.

### **2. Notice of Meeting**

The Board of Directors shall approve a schedule for regular meetings. The Secretary-Treasurer (or designate) shall send Notice of regular meetings to all Directors at least seven calendar days in advance of a meeting. Notice of all regular or special meetings of the Board of Directors or its committees shall be made available to the public as soon as possible after its delivery to Board of Directors.

Notice of any meeting shall indicate the time and place of that meeting and the agenda for the meeting.

All material and correspondence to be dealt with by the Authority at a meeting will be submitted to the Secretary-Treasurer (or designate) at least eight (8) days in advance of the meeting where it is to be dealt with if the material and correspondence is to be included in the published agenda. Items of correspondence not received in the timeframe specified above may be introduced at the meeting subject to approval by a majority of Directors present. To allow for circulation to Board members, correspondence should be received by 12pm EST the day before the board meeting or alternatively can be listed on the published agenda for the following meeting.

The Chair may, at his/her pleasure, call a special meeting of the Authority as necessary on seven calendar days' notice in writing or email. That notice shall state the business of the special meeting and only that business shall be considered at that special meeting. Any Director, with 50% support of the other Directors, may also request the Chair to call a meeting of the Authority and the Chair will not refuse.

The Chair of the Board, Chair of any respective committee or advisory board, or the Secretary-Treasurer (or designate) may, by notice in writing or email delivered to the Directors so as to be received by them at least 12 hours before the hour appointed for the meeting, postpone or cancel any scheduled meeting until the next scheduled date for the specific Board, Advisory Board or committee affected.

The Chair or the Secretary-Treasurer (or designate) may, if it appears that a storm or like occurrence will prevent the Directors from attending a meeting, postpone that meeting by advising as many Directors as can be reached. Postponement shall not be for any longer than the next regularly scheduled meeting date.

### **3. Meetings Open to Public**

Every meeting of the Board of Directors, Executive Committee and Advisory Boards, if applicable, shall be open to the public as per Section 15(3) of the Act, subject to the exceptions set out below.

HCA will live stream and/or make video recordings of all or part of its Board of Directors, Advisory Board or Committee meetings available to the public but it is not obliged to do so<sup>10</sup>.

Where in the discretion of the HCA, a meeting is live-streamed or recorded by video, at the start of the meeting the Secretary-Treasurer or designate shall advise all in attendance that the meeting is being recorded and/or livestreamed.

For open fully electronic or hybrid meetings that are live streamed, the public must be able to observe all that Members can hear and see at the meeting.

If a fully or hybrid telephone meeting of the Board of Directors is held, the Authority will provide means for the public to listen to the meeting. A meeting or part of a meeting may be closed to the public if the subject matter being considered is identified in the closed meeting section of the agenda or arises during a meeting requiring that it be closed to the public at the time that the matter is raised at a meeting, and if the subject matter being considered relates to:

- a) The security of the property of the Authority;
- b) Personal matters about an identifiable individual, including employees of the Authority;
- c) A proposed or pending acquisition or disposition of land by the Authority;
- d) Labour relations or employee negotiations;
- e) Litigation or potential litigation, including matters before administrative tribunals (e.g. Ontario Land Tribunal), affecting the Authority;
- f) Advice that is subject to solicitor-client privilege;
- g) A matter in respect of which the Board of Directors, Executive Committee, Advisory Board or committee or other body may hold a closed meeting under another act;
- h) information explicitly supplied in confidence to the Authority by Canada, a province or territory or a Crown agency of any of them;
- i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Authority, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- j) a trade secret or scientific, technical, commercial or financial information that belongs to the Authority and has monetary value or potential monetary value; or
- k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Authority.

The Authority shall close a meeting if the subject matter relates to the consideration of a request under MFIPPA, and the designated head of the Authority for the purposes of MFIPPA is present.

Before holding a meeting or part of a meeting that is to be closed to the public, the Directors shall state by resolution during the open session of the meeting that there will be a meeting closed to the public and the general nature of the matter to be considered at the closed meeting. Once matters have been dealt with in a closed meeting, the Board of Directors shall reconvene in an open session.

When starting a closed session where Board members are attending by telephone or electronically, the Chair should take the following additional steps:

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<sup>10</sup> On April 7, 2022, the Board of Directors approved, by resolution BD12, 3030, ongoing livestreaming of Board of Directors, Advisory Board and Committee meetings as an additional method of public participation.

- a) Retake attendance and confirm that each Board member's connection is working;
- b) Confirm that all Board members are in a private setting where no other person can listen to the proceedings in the closed session; and
- c) Remind Board members that all confidentiality rules apply, and they must treat any documents and information with the same level of care that they would in a regular closed meeting.

The Board of Directors shall not vote during a meeting that is closed to the public, unless:

- a) the meeting meets the criteria outlined in this by-law to be closed to the public; and
- b) the vote is for a procedural matter or for giving directions or instructions to Officers, employees or agents of Authority.

Any materials presented to the Board of Directors during a closed meeting shall be returned to the Secretary-Treasurer or designate prior to departing from the meeting and shall be treated in accordance with the Authority's procedures for handling confidential material. If a closed meeting is held or attended by telephone or electronically, the Chair or Secretary-Treasurer may direct members to delete documents at the conclusion of the meeting rather than returning them to the Secretary-Treasurer or designate.

A meeting of the Authority, Executive Committee, Advisory Board or other committee may also be closed to the public if:

- a) the meeting is held for the purpose of educating or training the Directors, and
- b) at the meeting, no Director discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Authority, the Executive Committee, Advisory Board or other committee.

#### **4. Agenda for Meetings**

Authority Staff, under the supervision of the Secretary-Treasurer, shall prepare an agenda for all regular meetings of the Authority that shall include, but not necessarily be limited to, the following headings:

- a) Call to Order
- b) Declaration re Local Government Disclosure of Interest
- c) Approval of Agenda
- d) Delegations
- e) Consent Agenda
  - i. Applications
  - ii. Approval of Minutes of Previous Meeting
  - iii. Correspondence
- f) Foundation Chair Update
- g) Member Briefings
- h) Business Arising from the Minutes
- i) Reports from Budget & Administration Committee and Conservation Advisory Board
- j) Other Staff Reports/Memorandums
- k) New Business

- l) In-Camera Items
- m) Next Meeting
- n) Adjournment

The agenda for special meetings of the Authority shall be prepared as directed by the Chair.

The business of the Authority shall be taken up in the order in which it stands on the agenda unless otherwise decided by a Majority of those Directors present.

No Director shall present any matter to the Authority for its consideration unless the matter appears on the agenda for the meeting of the Authority or leave is granted to present the matter by the affirmative vote of a Majority of the Directors present.

Agendas for meetings shall be forwarded to all Directors at least seven calendar days in advance of the meeting. Such agendas shall be made available to the public on the Authority's website at the same time, unless the meeting is closed to the public in accordance with this by-law. Such agendas shall also be available in alternative formats, in accordance with the *Accessibility for Ontarians with Disabilities Act*, if requested by interested parties.

## 5. Quorum

At any meeting of the Board of Directors, a quorum consists of one-half of the Directors appointed by the Participating Municipalities, except where there are fewer than six such Directors, in which case three such Directors constitute a quorum (per s.16(2) of the CAA). At any Executive Committee (if applicable), Advisory Board or committee meeting, a quorum consists of one-half of the Members of the Executive Committee (if applicable), Advisory Board or committee. NOTE: the Member appointed by the Minister to represent agricultural interests is not part of quorum.

If there is no quorum within one half hour after the time appointed for the meeting, the Chair for the meeting shall declare the meeting adjourned due to a lack of a quorum, or shall recess until quorum arrives, and the recording secretary shall record the names of the Directors present and absent.

If during an Authority or Advisory Board or Committee meeting a quorum is lost, then the Chair shall declare that the meeting shall stand recessed or adjourned, until the date of the next regular meeting or other meeting called in accordance with the provisions of this by- law.

Where the number of Directors who are disabled from participating in a meeting due to the declaration of a conflict of interest is such that at that meeting the remaining Directors are not of sufficient number to constitute a quorum, the remaining number of Directors shall be deemed to constitute a quorum, provided such number is not less than two.

## 6. Debate

The Authority shall observe the following procedures for discussion/debate on any matter coming before it:

- a) A Director shall be recognized by the Chair prior to speaking;
- b) Where two or more Directors rise to speak, the Chair shall designate the Director who has the floor, who shall be the Director who in the opinion of the Chair was first recognized;
- c) All questions and points of discussion shall be directed through the Chair;
- d) Where a motion is presented, it shall be moved and seconded before debate;
- e) No Director shall speak more than once to the same question without leave from the Chair, except in explanation of a material part of the speech;

- f) No Director shall speak more than five minutes without leave of the Chair;
- g) Any Director may ask a question of the previous speaker through the Chair;
- h) The Director who has presented a motion, other than a motion to amend or dispose of a motion, may speak again to the motion immediately before the Chair puts the motion to a vote;
- i) When a motion is under debate, no motion shall be received other than a motion to amend, to defer action, to refer the question, to take a vote, to adjourn, or to extend the hour of closing the proceedings;
- j) When a motion is under consideration, only one amendment is permitted at a time.

## **7. Matters of Precedence**

The following matters shall have precedence over the usual order of business:

- a) a point of order;
- b) matter of privilege;
- c) a matter of clarification;
- d) a motion to suspend a rule of procedure or to request compliance with the rules of procedure;
- e) a motion that the question be put to a vote;
- f) a motion to adjourn.

## **8. Directors' Attendance**

The Authority shall provide a listing of Directors' attendance at scheduled meetings of the Authority to the Participating Municipalities at least annually.

Upon a Director's vacancy due to death, incapacity or resignation occurring in any office of the Authority, the Authority shall request the municipality that was represented by that Director appoint a Director replacement.

If a Director is unable to attend any meeting and wishes to bring any additional information or opinion pertaining to an agenda item to the Board of Directors, the Director shall address in writing or email to the Chair or Secretary-Treasurer such correspondence prior to the start of the meeting. The correspondence shall be read aloud by the Secretary-Treasurer without comment or explanations.

## **9. Electronic Meetings and Participation**

Electronic meetings are permitted and the Meeting Procedures identified in this by-law apply.

A Director may participate in a meeting of the Board of Directors by telephonic or electronic means that permits all participants to communicate adequately with each other during the meeting. A Director so participating in a meeting is deemed to be present at the meeting, and shall have the ability to chair a meeting, register a vote, be counted towards determining quorum, and participate in any portion of the meeting, including portions closed to the public.

Upon being apprised that an in-person, hybrid, or fully electronic meeting is interrupted and cannot proceed with its live stream, due to loss of connection, sound or video, the meeting will be recessed. If the live stream of a fully electronic meeting cannot be resumed, the meeting will be considered adjourned, with complete minutes for the meeting, including a record of the

interruption, to that point in time. The Board meeting will be rescheduled to another day or the next regularly scheduled meeting.

The Chair or the Chair's designate may administer a vote on a motion by electronic means if the motion is required on an urgent basis, or for any other reason as deemed necessary by the Chair or the Chair's designate. A deadline will be prescribed within which the votes must be cast, and the motion will pass by a majority vote. All votes by telephonic or electronic means shall be minuted in the same way as votes at in-person Board meetings.

## **10. Delegations**

Any person or organization who wishes to address the Authority may make a request in writing or email to the Secretary-Treasurer, or designate, using the prescribed "Request for Delegation" form. The request should include a brief statement of the issue or matter involved and indicate the name of the proposed speaker(s). If such request is received eight (8) business days in advance of a scheduled meeting, the delegation shall be listed on the published agenda.

Any person or organization requesting an opportunity to address the Authority but not having made a written request to do so in the timelines specified above, may appear before the meeting if approved by a Majority of Directors present. To allow for processing requirements, the request should be received by 12pm EST the day of the board meeting or alternatively can be listed on the published agenda for the following meeting. Except by leave of the Chair or appeal by the leave of the meeting, delegations shall be limited to one (1) speaker for not more than 10 minutes.

Speakers will be requested not to repeat what has been said by previous speakers at the meeting. A returning delegation will only be allowed to speak again if new, relevant information has become available since their previous presentation. The Chair may choose to end a returning delegation's presentation if, in the opinion of the Chair, the new information being presented is not relevant to a decision facing the Board of Directors.

Where appropriate, the Chair may advise those in attendance at a Board of Directors meeting: (a) to respect reasonable rules of decorum in their remarks; and (b) that no endorsement by the HCA of a delegate's statements may be implied or inferred from the communication of the statements during the course of the Board of Directors meeting, or on account of the HCA having granted permission to the delegate to make a presentation at the Board of Directors meeting. The Chair may expel any delegate or member of the public from the meeting who does not respect reasonable rules of decorum.

A delegation may appear at a meeting of the Board of Directors by telephonic or electronic means. The Secretary-Treasurer, or designate, will liaise with the leader of the delegation to plan for their attendance by telephone or electronically.

Where in the discretion of the HCA a Board of Directors meeting is live-streamed and/or recorded, notice to this effect, and regarding the purpose of the live streaming or recording, shall be given to those attending the meeting, either at the time of the meeting or in advance of the meeting.

## **11. Meeting Schedule and Annual General Meeting**

Subject to the right of the Board to set a different meeting schedule or to change the date of a meeting, and the right of the Chair to call a special meeting, the Board will meet 10 times per year beginning at 6:00 p.m. on the first Thursday of the months of February, March, April, May, June, July, September, October, November and December.

The Annual General Meeting shall be the February meeting each year. The date of the meeting may be adjusted to allow for consideration for timing of municipal elections and corresponding



municipal and citizen appointments, or for other considerations as may be required. The Annual General Meeting shall include the following items on the agenda, in addition to the normal course of business:

- a) Appointment of the auditor for the upcoming year
- b) Election of Officers
- c) Board meeting schedule
- d) Voting delegates to Conservation Ontario
- e) Director participation on any Committees

## **12. Voting**

In accordance with Section 16 of the Act:

- a) each Director is entitled to one vote, and
- b) a Majority vote of the Directors present at any meeting is required upon all matters coming before the meeting.

Where a member has been appointed by the Minister as a representative of the agricultural sector, the member shall not vote on a resolution to enlarge an authority's area of jurisdiction, a resolution to amalgamate the Authority with another conservation authority, a resolution to dissolve the Authority or a resolution related to any budgetary matter.

If any Director who is qualified to vote abstains from voting, they shall be deemed to have voted neither in favour nor opposed to the question, which will not alter the number of votes required for a Majority.

On a tie vote, the motion is lost.

Interrelated motions shall be voted on in the order specified in Robert's Rules of Order.

Unless a Director requests a recorded vote, a vote shall be by a show of hands or such other means as the Chair may call. No question shall be voted upon more than once at any meeting, unless a recorded vote is requested.

If a Director present at a meeting at the time of the vote requests immediately before or after the taking of the vote that the vote be recorded, each Director present taken by alphabetical surname with the Chair voting last, except a Director who is disqualified from voting by any Act, shall announce his or her vote openly answering "yes" or "no" to the question, and the Secretary-Treasurer shall record each vote.

Where a question under consideration contains more than one item, upon the request of any Director, a vote upon each item shall be taken separately.

Except as provided in Section B, Paragraph 6 of this By-law (Election of Chair and Vice-Chair), no vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect.

## **13. Notice of Motion**

Written notice of motion to be made at an Authority, Executive Committee, Advisory Board or committee meeting may be given to the Secretary-Treasurer by any Director of the Authority not less than 10 calendar days prior to the date and time of the meeting and shall be forthwith placed on the agenda of the next meeting. The Secretary-Treasurer shall include such notice of motion in full in the agenda for the meeting concerned.

Recommendations included in reports of Advisory Boards or committees that have been included in an agenda for a meeting of the Board of Directors or Executive Committee (if applicable), shall constitute notice of motion for that meeting.

Recommendations included in Staff reports that have been included in an agenda for a meeting of the Board of Directors or Executive Committee (if applicable), shall constitute notice of motion for that meeting.

Notwithstanding the foregoing, any motion or other business may be introduced for consideration of the Authority provided that it is made clear that to delay such motion or other business for the consideration of an appropriate Advisory Board or committee would not be in the best interest of the Authority and that the introduction of the motion or other business shall be upon an affirmative vote of a Majority of the Directors of the Authority present.

#### **14. Motion to Reconsider**

If a motion is made to reconsider a previous motion, a two-thirds majority vote shall be required in order for reconsideration to take place. If a motion to reconsider is passed, the original motion shall then be placed on the agenda at a future meeting to be debated and voted upon, and the result of that vote, based on a simple Majority, shall supersede.

#### **15. Duties of the Meeting Chair**

It shall be the duty of the Chair, with respect to any meetings over which he/she presides, to:

- a) Preserve order and decide all questions of order, subject to appeal; and without argument or comment, state the rule applicable to any point of order if called upon to do so;
- b) Ensure that the public in attendance does not in any way interfere or disrupt the proceedings of the Directors;
- c) Receive and submit to a vote all motions presented by the Directors, which do not contravene the rules of order or regulations of the Authority;
- d) Announce the results of the vote on any motions so presented;
- e) Adjourn the meeting when business is concluded.

#### **16. Conduct of Directors**

Directors shall maintain a high standard for conduct and at all times comply with applicable laws and the Authority's Code of Conduct (Appendix 1).

No Director at any meeting of the Authority shall:

- a) Speak in a manner that is discriminatory in nature based on an individual's race, ancestry, place of origin, citizenship, creed, gender, sexual orientation, age, colour, marital status, family status or disability;
- b) Leave their seat or make any noise or disturbance while a vote is being taken or until the result is declared;
- c) Interrupt a Director while speaking, except to raise a point of order or a question of privilege;
- d) Speak disrespectfully or use offensive words against the Authority, the Directors, Staff, or any member of the public;
- e) Speak beyond the question(s) under debate;
- f) Resist the rules of order or disobey the decision of the Chair on the questions or order or practices or upon the interpretation of the By-laws.

## 17. Minutes of Meetings

The Secretary-Treasurer shall undertake to have a recording secretary in attendance at meetings of the Authority, the Executive Committee and each Advisory Board or committee. The recording secretary shall make a record in the form of minutes of the meeting proceedings and in particular shall record all motions considered at the meeting.

If a recording secretary is not present in a closed session, the Secretary-Treasurer shall take notes of any direction provided, for endorsement by the Chair and Vice-Chair. Original copies of confidential minutes are approved and signed by the Chair and filed separately from non-confidential minutes.

Minutes of all meetings shall include the time and place of the meeting and a list of those present and shall state all motions presented together with the mover and seconder and voting results.

A recording of a Board of Directors meeting, if one exists, is not an official record of that meeting. The official record of the meeting shall consist solely of the Minutes approved by the Board of Directors. As the purpose of the recording is administrative, the recordings will be disposed of once they have served that purpose, per HCA's Records Retention Schedule.

The Secretary-Treasurer or designate shall make draft minutes of the previous meeting available to each Director of the Authority at the same time as agendas for the next meeting are distributed.

After the minutes have been approved by resolution, original copies shall be signed by the Secretary-Treasurer and copies of all non-confidential minutes shall be posted on the Authority's website. Such minutes shall also be available for review by any member of the public at the Authority's administration centre or provided in alternative formats, in accordance with the *Accessibility for Ontarians with Disabilities Act*, if requested by interested parties.

## **D. Approval of Administrative By-law and Revocation of Previous By-laws**

Board Resolution 12,3253 from October 5, 2023 approving the current HCA Administrative By-Law is hereby repealed;

Board Resolution 12,3479 approving the new Administrative By-law shall come into force on the 3<sup>rd</sup> day of April, 2025.

READ A FIRST TIME, March 25, 2025 by the Budget and Administration Committee.

READ A SECOND TIME AND PASSED

April 3, 2025

Date

Signed:



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Chair



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Secretary-Treasurer

## **E. Appendices to the Administrative By-law**

### **Appendix 1 - Code of Conduct**

#### **1. Background**

The Hamilton Conservation Authority demands a high level of integrity and ethical conduct from its Board of Directors. The Authority's reputation has relied upon the good judgement of individual Directors. A written Code of Conduct helps to ensure that all Directors share a common basis for acceptable conduct. Formalized standards help to provide a reference guide and a supplement to legislative parameters within which Directors must operate. Further, they enhance public confidence that Directors operate from a base of integrity, justice and courtesy.

The Code of Conduct is a general standard. It augments the laws which govern the behaviour of Directors, and it is not intended to replace personal ethics.

This Code of Conduct will also assist Directors in dealing with confronting situations not adequately addressed or that may be ambiguous in Authority resolutions, regulations, or policies and procedures. Additionally, the agricultural representative appointed by the Minister will be required to follow the provincial ethical framework set out for government public appointees in the Management Board of Cabinet's Agencies and Appointments Directive.

#### **2. General**

All Directors, whether municipal councillors or appointed representatives of a municipality, or whether appointed by the Minister as a representative of the agricultural sector, are expected to conduct themselves in a manner that reflects positively on the Authority.

All Directors shall serve in a conscientious and diligent manner. No Director shall use the influence of office for any purpose other than for the exercise of his/her official duties.

It is expected that Directors adhere to a code of conduct that:

- a) upholds the mandate, vision and mission of the Authority;
- b) considers the Authority's jurisdiction in its entirety, including their appointing municipality;
- c) respects confidentiality;
- d) approaches all Authority issues with an open mind, with consideration for the organization as a whole;
- e) exercises the powers of a Director when acting in a meeting of the Authority;
- f) respects the democratic process and respects decisions of the Board of Directors, Executive Committee, Advisory Boards and other committees;
- g) declares any direct or indirect Pecuniary Interest or conflict of interest when one exists or may exist; and
- h) conducts oneself in a manner which reflects respect and professional courtesy and does not use offensive language in or against the Authority or against any Director or any Authority Staff.

#### **3. Gifts and Benefits**

Directors shall not accept fees, gifts, hospitality or personal benefits that are connected directly or indirectly with the performance of duties.

#### **4. Confidentiality**

The Directors shall be governed at all times by the provisions of the *Municipal Freedom and Information and Protection of Privacy Act*.

All information, documentation or deliberations received, reviewed, or taken in a closed meeting are confidential.

Directors shall not disclose or release by any means to any member of the public, either in verbal or written form, any confidential information acquired by virtue of their office, except when required by law to do so.

Directors shall not permit any persons, other than those who are entitled thereto, to have access to information which is confidential.

In the instance where a Director vacates their position on the Board of Directors they will continue to be bound by MFIPPA requirements.

Particular care should be exercised in protecting information such as the following:

- a) Human Resources matters;
- b) Information about suppliers provided for evaluation that might be useful to other suppliers;
- c) Matters relating to the legal affairs of the Authority;
- d) Information provided in confidence from an Aboriginal community, or a record that if released could reasonably be expected to prejudice the conduct of relations between an Aboriginal community and the Authority;
- e) Sources of complaints where the identity of the complainant is given in confidence;
- f) Items under negotiation;
- g) Schedules of prices in tenders or requests for proposals;
- h) Appraised or estimated values with respect to the Authority's proposed property acquisitions or dispositions;
- i) Information deemed to be "personal information" under MFIPPA.

The list above is provided for example and is not exhaustive.

#### **5. Use of Authority Property**

No Director shall use for personal purposes any Authority property, equipment, supplies, or services of consequence other than for purposes connected with the discharge of Authority duties or associated community activities of which the Authority has been advised.

#### **6. Work of a Political Nature**

No Director shall use Authority facilities, services or property for his/her election or re-election campaign to any position or office within the Authority or otherwise.

#### **7. Conduct at Authority Meetings**

During meetings of the Authority, Directors shall conduct themselves with decorum. Respect for delegations and for fellow Directors requires that all Directors show courtesy and not distract from the business of the Authority during presentations and when others have the floor.

## **8. Influence on Staff**

Directors shall be respectful of the fact that Staff work for the Authority as a whole and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence.

## **9. Business Relations**

No Director shall borrow money from any person who regularly does business with the Authority unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

No Director shall act as a paid agent before the Authority, the Executive Committee or an Advisory Board or committee of the Authority, except in compliance with the terms of the *Municipal Conflict of Interest Act*.

## **10. Encouragement of Respect for the Authority and its Regulations**

Directors shall represent the Authority in a respectful way and encourage public respect for the Authority and its Regulations.

## **11. Harassment**

It is the policy of the Authority that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Harassment of another Director, Staff or any member of the public is misconduct. Directors shall follow the Authority's Harassment Policy as approved from time-to-time.

Examples of harassment that will not be tolerated include: verbal or physical abuse, threats, derogatory remarks, jokes, innuendo or taunts related to an individual's race, religious beliefs, colour, gender, physical or mental disabilities, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation. The Authority will also not tolerate the display of pornographic, racist or offensive signs or images; practical jokes that result in awkwardness or embarrassment; unwelcome invitations or requests, whether indirect or explicit and any other prohibited grounds under the provisions of the *Ontario Human Rights Code*.

## **12. Breach of Code of Conduct**

Should a Director breach the Code of Conduct, they shall advise the Chair and Vice-Chair, with a copy to the Secretary Treasurer, as soon as possible after the breach.

Should a Director allege that another Director has breached the Code of Conduct, the said breach shall be communicated to the Chair, with a copy to the Secretary-Treasurer, in writing. In the absence of the Chair, or if a Director alleges that the Chair has breached the Code of Conduct, the said breach shall be communicated to the Vice-Chair, with a copy to the Secretary-Treasurer, in writing.

Should a member of the public or a municipality allege that a Director has breached the Code of Conduct, the party making the allegation will be directed to follow the notification procedure outlined above.

Any breach, or alleged breach, of the Code of Conduct shall be investigated in accordance with the Enforcement of By-laws and Policies procedure outlined or referred to in the Authority's Administrative By-law.

## **Appendix 2 - Conflict of Interest**

### **1. *Municipal Conflict of Interest Act***

The Authority Directors commit themselves and the Authority to ethical, businesslike, and lawful conduct when acting as the Board of Directors. The Authority and the Directors are bound by the *Municipal Conflict of Interest Act*. This appendix to the by-law is intended to assist Directors in understanding their obligations. Directors are required to review the *Municipal Conflict of Interest Act* on a regular basis.

Additionally, the agricultural representative appointed by the Minister will be required to follow the provincial ethical framework set out for government public appointees in the Management Board of Cabinet's Agencies and Appointments Directive.

### **2. *Disclosure of Pecuniary Interest***

Where a Director, either on his or her own behalf or while acting for, by, with or through another, has any Pecuniary Interest, direct or indirect, in any matter and is present at a meeting of the Authority, Executive Committee, Advisory Board or committee at which the matter is the subject of consideration, the Director:

- a) shall, prior to any consideration of the matter at the meeting, disclose the Pecuniary Interest and the general nature thereof;
- b) shall not take part in the discussion of, or vote on any question in respect of the matter;
- c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question; and
- d) shall file a written statement of the Conflict of Interest and its general nature with the Secretary-Treasurer or designate.

### **3. *Chair's Conflict of Interest or Pecuniary Interest***

Where the Chair of a meeting discloses a conflict of interest with respect to a matter under consideration at a meeting, another Director shall be appointed to chair that portion of the meeting by Resolution.

### **4. *Closed Meetings***

Where a meeting is not open to the public, a Director who has declared a conflict of interest shall leave the meeting for the part of the meeting during which the matter is under consideration. The Chair of the meeting or CAO will at that point direct the member to recuse themselves and leave the room. The member will be recalled when the subject matter of the conflict is concluded.

### **5. *Director Absent***

Where the interest of a Director has not been disclosed by reason of their absence from the particular meeting, the Director shall disclose their interest and otherwise comply at the first meeting of the Authority, Executive Committee, Advisory Board or Committee, as the case may be, attended by them after the particular meeting.

### **6. *Disclosure Recorded in Minutes***

The recording secretary shall record in reasonable detail the particulars of any disclosure of conflict of interest or Pecuniary Interest made by Directors and whether the Director withdrew from the discussion of the matter. Such record shall appear in the minutes/notes of that particular meeting of the Board of Directors, Executive Committee, Advisory Board or committee, as the case may be.



### ***6B. Registry Maintained for Public Inspection***

The Authority shall maintain a registry in which shall be kept:

- a) A copy of each statement filed under Section 2d) of this policy; and,
- b) A copy of each declaration recorded in the Minutes.

The registry shall be available for public inspection.

### ***7. Breach of Conflict of Interest Policy***

Should a Director breach the Conflict of Interest Policy, they shall advise the Chair and Vice-Chair, with a copy to the Secretary Treasurer, as soon as possible after the breach.

Should a Director allege that another Director has breached the Conflict of Interest Policy, the said breach shall be communicated to the Chair, with a copy to the Secretary Treasurer, in writing. In the absence of the Chair, or if a Director alleges that the Chair has breached the Conflict of Interest Policy, the said breach shall be communicated the Vice-Chair, with a copy to the Secretary-Treasurer, in writing.

Should a member of the public or a municipality allege that a Director has breached the Conflict of Interest Policy, the party making the allegation will be directed to follow the notification procedure outlined above.

Any breach, or alleged breach, of the Conflict of Interest Policy shall be investigated in accordance with the Enforcement of By-laws and Policies procedure outlined or referred to in the Authority's Administrative By-law.

## **Appendix 3 - Procedure for Election and Appointment of Officers**

### **1. Voting**

Except in the case of appointments by acclamation of Directors to sit as members of the Budget and Administration Committee or the Conservation Advisory Board, voting shall be by secret ballot. No Directors may vote by proxy.

### **2. Acting Chair**

The Board of Directors shall appoint a person, who is not a voting Director, as Acting Chair or Returning Officer, for the purpose of Election of Officers.

### **3. Scrutineer(s)**

The appointment of one or more scrutineers is required for the purpose of counting ballots, should an election be required. All ballots shall be destroyed by the scrutineers afterwards. The Acting Chair shall call a motion for the appointment of one or more persons, who are not Directors of the Authority, to act as scrutineers. A Director, who will not stand for election, may be appointed as an additional scrutineer if requested.

### **4. Appointment by acclamation of Directors to sit as members of Committees and Advisory Boards**

At the Annual General Meeting each year, Directors may nominate themselves to be one of the three Director members of the Budget and Administration Committee or the Conservation Advisory Board. A sign-up sheet for Directors wishing to self-nominate shall be available at the Annual General Meeting for this purpose. If more Directors sign up for the Budget and Administration Committee or Conservation Advisory Board than the number of vacancies, there shall be an election for those positions at the next Board meeting following the Annual General Meeting. If the number of Directors who sign up is less than or equal to the number of vacancies, the Acting Chair shall declare those positions filled by acclamation. Any remaining vacancies may be filled by acclamation or election at any subsequent Board meeting.

### **5. Election Procedures**

The Acting Chair shall advise the Directors that the election will be conducted in accordance with the Act and the HCA Administrative By-law Section B: Governance, subsection 4 'Maximum Term for Chair and Vice Chair(s)', as follows:

- a) The elections at the Annual General Meeting shall be conducted in the following order:
  - i. Election of the Chair, who shall be a Director appointed by a participating Municipality to the Authority and serve as a member of the Budget and Administration Committee.
  - ii. Election of the Vice-Chair, who shall be a Director appointed by a participating Municipality to the Authority and serve as Chair of the Budget and Administration Committee
  - iii. If applicable, appointment by acclamation of three Budget and Administration Committee members, who shall be Directors of the Authority.
  - iv. If applicable, appointment by acclamation of three Conservation Advisory Board members, who shall be Directors of the Authority.
  - v. Election of Chair of the Conservation Advisory Board, who shall be a Director of the Authority.

- b) The elections at the Board meeting immediately following the Annual General Meeting (if made necessary as a result of more Directors having self-nominated for the positions than the number of vacancies available on the Budget and Administration Committee and the Conservation Advisory Board), shall be conducted in the following order:
  - i. Election of up to three Budget and Administration Committee members, who shall be Directors of the Authority.
  - ii. Election of up to three Conservation Advisory Board members, who shall be Directors of the Authority.
- c) The Acting Chair shall ask for nominations to each position that is to be the subject of an election at the Annual General Meeting or at the Board meeting immediately following;
- d) Only current Directors of the Authority who are present may vote;
- e) Nominations shall be called three (3) times and will only require a mover;
- f) The closing of nominations shall require both a mover and a seconder;
- g) Each Director nominated shall be asked to accept the nomination. The Director must be present to accept the nomination unless the Director has advised the Secretary-Treasurer in writing or by email in advance of the election of their willingness to accept the nomination.

If one Nominee:

- h) If only one nominee the individual shall be declared into the position by acclamation.

If More than One Nominee:

- i) In the event of an election, each nominee shall be permitted not more than five minutes to speak for the office, in the order of the alphabetical listing by surnames.
- j) Upon the acceptance by nominees to stand for election to the position of office, ballots shall be distributed to the Directors by the scrutineers for the purpose of election and the Acting Chair shall ask the Directors to write the name of one individual only on the ballot.
- k) The scrutineers shall collect the ballots, leave the meeting to count the ballots, return and advise the Acting Chair who was elected with more than 50% of the vote.

A Majority vote shall be required for election. If there are more than two nominees, and upon the first vote no nominee receives the Majority required for election, the name of the person with the least number of votes shall be removed from further consideration for the office and new ballots shall be distributed. In the case of a vote where no nominee receives the Majority required for election and where two or more nominees are tied with the least number of votes, a special vote shall be taken to decide which one of such tied nominees' names shall be dropped from the list of names to be voted on in the next vote.

Should there be a tie vote between two remaining candidates, new ballots shall be distributed and a second vote held. Should there still be a tie after the second ballot a third vote shall be held. Should there be a tie after the third vote, the election of the office shall be decided by lot drawn by the Acting Chair or designate.

## Appendix 4 – Committees and Advisory Boards

### 1. *Creation, Role and Powers*

Establishment by the Board of Directors: Committees and Advisory Boards may be established by the Board of Directors from time to time. They may be permanent or ad hoc.

Role: Committees and Advisory Boards are established by the Board of Directors to help the Board do its job. They assist the Board by:

- (a) investigating, reviewing and making recommendations to the Boards;
- (b) preparing policy alternatives and identifying implications for Board deliberation; and
- (c) considering and recommending details and actions on programs, projects, etc., within their terms of reference.

Powers: Committees and Advisory Boards have advisory powers only unless other powers are specifically delegated to them by the Board of Directors in writing. Committees and Advisory Boards may not speak or act for the Board except when formally given such authority for specific and time-limited purposes. They do not spend funds or approve policy. Powers will be carefully stated in order not to conflict with authority delegated to the CAO. In keeping with the Board's broader focus, Committees and Advisory Boards will normally not have direct dealings with current Staff operations, and will not delegate directly to Staff.

Composition: Committees are composed of sitting members of the Board of Directors. Advisory Boards are composed of sitting members of the Board of Directors and citizens selected by the Advisory Board Chair for their knowledge or expertise in an area of concern to the specific Advisory Board.

### 2. *Current Committee and Advisory Board Structure*

The HCA currently has one standing Committee and one Advisory Board:

- (a) the Budget and Administration Committee; and
- (b) the Conservation Advisory Board.

### 3. *Terms of Reference*

Board to Set Terms of Reference: The Board of Directors shall set terms of reference for each Committee and Advisory Board. The terms of reference should describe:

- (a) the name of the Committee or Advisory Board;
- (b) the specific functions, roles and objectives of the Committee or Advisory Board;
- (c) the number of members including, if applicable, the minimum and maximum number of members, and the number of members who must be Directors;
- (d) the term of membership;
- (e) the total maximum time period that a person who is not a Director may remain a member, if applicable;
- (f) the manner of appointment of members;
- (g) qualifications for membership, if applicable; and
- (h) any details regarding meeting procedure that may differ from the procedures applicable to Board meetings.

#### **4. Meeting Procedure**

Board Procedure Applies: The regulations governing the procedure of the Board of Directors shall be observed in Committee and Advisory Board meetings, as far as they are applicable, unless varied by the terms of reference of the Committee or Advisory Board in question.

Calling Meetings: Each Committee and Advisory Board shall meet at such time and place as its Chair shall decide under the general direction of the Board of Directors.

Notice of Meetings: Notice of Committee and Advisory Board meetings shall be conveyed to all members at least 5 days prior to the date of the meeting.

Quorum: A quorum of a Committee or Advisory Board shall not be less than one half of its voting members.

Meetings Public: All Committee and Advisory Board meetings are open to the public.

In Camera Business: When a Committee or Advisory Board deals with "in camera" items, the chair of that Committee Advisory Board must report back to the next Board of Directors meeting providing background information, a summary of any discussion and any recommendations. The Board of Directors may receive such reports "in camera" as needed.

#### **5. Minutes of Meetings**

Minutes to be Recorded: The minutes of all meetings of the Budget and Administration Committee shall be recorded by the Secretary-Treasurer or his/her designate, and the minutes of all other Committee and Advisory Board meetings shall be recorded by HCA Staff members as designated by the CAO.

Circulation of Minutes: The minutes of Committee and Advisory Board meetings shall be circulated by the secretary of the meeting at least five (5) days prior to the next meeting of the Committee or Advisory Board. The minutes, subject to any amendments approved at the meeting, shall be adopted by motion.

#### **6. Budget and Administration Committee**

Members: The Budget and Administration Committee consists of five members of the Board of Directors. The Chair and Vice-Chair of the Board are designated members of the B&AC. Three other members of the Board shall be members of the B&AC. Directors may nominate themselves to be a member of the B&AC, by signing up for the role at the Annual General Meeting each year. If more than three members of the Board (in addition to the Chair and Vice-Chair of the Board) sign up, there shall be an election at the Board meeting following the Annual General Meeting.

Functions: The Budget and Administration Committee is responsible for the following functions:

- (a) Including a "Declaration re Local Government Disclosure of Interest" in its agenda, immediately following the "Chair's Remarks";
- (b) Receiving delegations;
- (c) Reviewing and receiving information memorandums and reports related to topics including but not limited to the following:
  - Expenditure report (Vendor Listing)
  - WSIB Incidents
  - Operating budgets
  - Capital budgets
  - Mileage rates
  - Per diems and honorariums
  - Fee schedules;

- (d) Recommending the acquisition and/or sale of land;
- (e) Considering matters "in camera", as per section C.3 in this by-law;
- (f) Investigating, reviewing and making recommendations to the Board of Directors on budget matters, including in particular:
  - (i) Reviewing recommendations of Staff on upcoming capital and operating budgets and making recommendations on same;
  - (ii) Reviewing and making recommendations on procedures for obtaining municipal, provincial, federal and private funding;
  - (iii) Reviewing and making recommendations on alternate financing methods, i.e. the issuance of debentures, mortgages, etc.;
  - (iv) Reviewing and making recommendations on the Auditor's annual report;
  - (v) Where appropriate, receiving delegations on behalf of the Board of Directors, and making recommendations thereon.
- (g) Investigating, reviewing and making recommendations to the Board of Directors on insurance matters, including in particular:
  - (i) Reviewing and making recommendations on current HCA insurance contracts;
  - (ii) Reviewing and making recommendations on insurance claims pertaining to the overall HCA operation and jurisdiction.
- (h) Investigating, reviewing and making recommendations to the Board of Directors on personnel related matters, including in particular:
  - (i) Reviewing Staff requirements and making recommendations on new permanent positions;
  - (ii) Advertising for new permanent positions, interviewing applicants and recommending a final selection for Salary Classification S11 and greater;
  - (iii) Reviewing and making recommendations on step progression or merit increases, and cost of living increases;
  - (iv) Reviewing and making recommendations on overall salary adjustments and reclassifications;
  - (v) Reviewing the HCA Personnel Policy and fringe benefit programs, and making recommendations on any required changes with a budget impact;
  - (vi) Reviewing and making recommendations on members' per diems, honorariums, etc.
- (i) Investigating, reviewing and making recommendations to the Board of Directors on matters pertaining to the negotiation of the various conservation area concession operation contracts and rental agreements.
- (j) Investigating and making recommendations on such other matters as assigned by the Board of Directors, and such matters as may arise from time to time which require some pre-consideration before being brought to the Board of Directors for a final decision.

Governance: The B&AC will oversee and make recommendations to the Board of Directors regarding the good corporate governance of the HCA. For this purpose, the mandate of the B&AC is to: (a) consider and report annually to the Board of Directors on governance issues that have arisen in the past year, including making recommendations, if appropriate, for amendments

to this Administrative By-Law, and (b) conduct a comprehensive review of corporate governance every three years and report to the Board of Directors on the results, including making recommendations, if appropriate, for amendments to this Administrative By-Law. The Board shall decide, following receipt of the B&AC's report, whether action is appropriate or required to ensure the continued good corporate governance of the HCA.

## **7. Executive Committee**

Discretion to Create Executive Committee: The Board of Directors may delegate all or any of its power to an Executive Committee (if applicable), except:

- (a) the termination of the services of the Secretary-Treasurer
- (b) the power to raise money, and
- (c) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the works approved by the Board of Directors.

No Executive Committee: In 1983, the HCA decided to abandon its Executive Committee. All powers therefore rest with the Board of Directors.

## **8. Conservation Advisory Board**

Functions: The Conservation Advisory Board (CAB) will consider, review and make recommendations on:

- (a) Specific projects as requested annually or as identified by the Board of Directors
- (b) Specific projects and programs identified by HCA staff including but not limited to the following:
  - (i) Conservation area master development plans
  - (ii) Development of new volunteer engagement programs and friends organizations that assist HCA in conservation area programs and projects
  - (iii) Policies, protocols and memorandums of agreement/understanding that do not have a budget impact
  - (iv) Long range strategies and plans, watershed and sub-watershed plans and provincial or federal environmental assessments, among other matters.
  - (v) Large-scale natural heritage enhancement projects, both on Authority owned and managed lands as well as private lands.
  - (vi) Cultural heritage projects for HCA conservation areas and for any buildings or structures owned by the Authority for designation under the terms of the Ontario Heritage Act, R.S.O, 1990.
  - (vii) The continued development and enhancement of the Hamilton Watershed Stewardship Program which includes programs on private and conservation area lands designed to improve the conservation, management and restoration of watershed resources and improvement of water quality.
  - (ix) Large-scale, major private and public sector projects which have the potential for major environmental impacts on watershed resources.
  - (x) HCA reports and studies for engineering and water management projects and for comprehensive watershed and subwatershed management projects and plans, among other matters.

- (xi) The establishment of subcommittees to the CAB, to deal with specific policy or program matters as appropriate, or to sit as members of HCA-established project Steering Committees and to bring recommendations to the CAB for consideration and final recommendation.
- (c) Receive information and updates on conservation area operations including annual attendance figures, events and annual membership pass program

Membership: The CAB shall be composed of voting members as follows:

- Citizens: up to 8 appointed members of the community at large, with a minimum of 6
- Board of Directors: up to 3 members of the Board

Chair & Vice Chair of CAB: One of the Directors shall serve as Chair of the CAB and a Vice-Chair shall be selected by the CAB members which can be a citizen or Director.

Ex Officio Members: The Chair and Vice Chair of the Board of Directors are ex-officio non-voting members of CAB. They are invited but not required to attend meetings of CAB. If in attendance they are not counted when determining quorum.

Terms of Appointment:

- Citizen members: citizen appointments to CAB will be for a maximum period of 8 consecutive years, with these positions being noted as 4 year appointments with an option for an additional one 4-year term at renewal. Citizen appointments will be staggered to ensure there is not a significant amount of membership turnover in any given year to ensure continuity and knowledge over time.
- After serving for the two terms noted above, a citizen member with continued interest may apply for future vacancies provided the member has taken a minimum of a one year break.
- Directors: appointments of Board of Director members to the CAB are for one year terms and renewed at the Annual General Meeting. Directors may nominate themselves to be a member of CAB, by signing up for the role at the Annual General Meeting. If more than three members of the Board sign up, there shall be an election at the Board meeting following the Annual General Meeting.

Citizen Recruitment & Selection:

#### *Recruitment & Vacancies for Citizen Members*

When new citizen members are required a "Notice of Vacancy" will be prepared by the HCA staff and distributed through HCA communication channels which includes, but is not limited to, posting on the HCA website and social media. This document will include general information regarding committee functions and a link to the terms of reference.

A vacancy occurs when a citizen member resigns, vacates a position at their maximum term length or when their resignation is requested by the Chair.

All applicants must submit an expression of interest which includes a cover page and resume.

Selected applicants must attend an interview. The Chair and Vice chair of CAB (or designate) will form the interview committee along with one HCA staff person as designated by the CAO.

The citizen member(s) selected by the interview committee will be endorsed and approved by a report to the next Board of Directors meeting.

#### *Eligibility for Citizen Members*

Appointment to CAB will be made providing adherence with the following eligibility requirements:



- Citizen members must live within the HCA watershed
- Citizen members must possess experience and/or expertise with environmental/natural resource issues and/or outdoor recreation/operations, which may include volunteer experience
- While applicants who meet the above eligibility criteria are encouraged to apply, applicants with demonstrated participation in groups or initiatives with goals relevant to the Conservation Advisory Board will be preferred.

Active participation in the CAB meetings is expected of all citizen members. Active participation may refer to both meeting attendance and/or engagement. Members who miss three consecutive meetings without justified absence may be retired from the committee at the discretion of the CAB Chair.

Meetings: Regular meetings of the CAB will be scheduled on a bi-monthly basis, up to 6 meetings per year (currently meetings are proposed as February, April, June, August, October, and December) or at the discretion of the Chair if additional meetings are required.

Meetings will be held on the second Thursday of each month and will commence as early as 4:00 p.m., or as approved by the Chair. HCA staff will work with the CAB Chair to determine agendas for the meetings, location of meetings for site visits and will also work collaboratively to determine when scheduled meetings are to be canceled due to lack of agenda items, inclement weather, lack of quorum or other circumstances.

HCA Support & Advisory Staff: As designated by the CAO, appropriate HCA staff shall provide administrative support, including the taking of minutes, the distribution of minutes and agendas and the general administrative coordination of meetings including posting of vacancies for citizen members.

Staff from various HCA divisions shall provide support to the CAB, including background information, briefings, site visits and formal memos and/or reports.

# **CONSERVATION AUTHORITIES ACT**

## **HEARING GUIDELINES**

October 2005  
Amended 2018, 2020, 2021, 2024



**Ministry of Natural Resources**  
**Ministère des Richesses Naturelles**

# CONSERVATION AUTHORITIES ACT

## HEARING GUIDELINES

**October 2005, Amended 2018, 2020, 2021, 2024**

### Summary of Revisions

Revision No.	Date	Comments	Approval Authority
<b>0</b>	October, 2005	Guidelines prepared as an update to the October 1992 hearing guidelines.	Ministry of Natural Resources and Forestry Conservation Ontario Council
<b>1</b>	May, 2018	Housekeeping amendments made reflecting changes to appeal process as a result of the <i>Building Better Communities and Conserving Watersheds Act</i> , 2017 and subsequent Order in Council.  Note: changes to appeal process are no longer valid	Conservation Ontario Staff
<b>2</b>	September, 2020	Amendments made to incorporate the use of electronic or hybrid hearings.	Conservation Ontario Council
<b>3</b>	September, 2021	Amendments made to incorporate hearings under 28.0.1 and update references to the Ontario Land Tribunal (OLT)	Conservation Ontario Council
<b>4</b>	November, 2024	Amendments to update references for hearings and appeals further to the amended <i>Conservation Authorities Act</i> and O. Reg. 41/24. Amendments to distinguish Model Hearing Guidelines from additional details / guidance for CA consideration.	Conservation Ontario Council

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## 1.0 DEFINITIONS

“Act” means the *Conservation Authorities Act*, R.S.O. 1990, c. C.27;

“Applicant” means a person who applies for a Permit to engage in an activity prohibited under the Act within the Authority’s jurisdiction;

“Application” means a formal request for a Permit to engage in an activity prohibited under the Act within the Authority’s jurisdiction;

“Authority” means the Board of Directors of the Hamilton Conservation Authority;

“Executive Committee” means the Executive Committee appointed by the Authority;

“Hearing Board” means the Authority or Executive Committee while it is conducting hearings in accordance with the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. Further to section 28.4 of the *Conservation Authorities Act*, an Authority may also delegate any of its powers relating to the holding of hearings in relation to permits to any other person or body, subject to any limitations or requirements prescribed by regulation;

“Minister” means the Minister of Natural Resources;

“Party” means an Applicant, Permit Holder, or individual subject to a Stop Order;

“Permit” means a permit to engage in otherwise prohibited activities under the Act, issued by the Authority (s. 28.1 and s. 28.1.2 permits) or by the Minister (s. 28.1.1 permits).

“Permit Holder” means a person who holds an active Permit issued by the Authority or a Minister’s Permit issued by the Minister;

“Staff” means the employees of the Hamilton Conservation Authority;

“Stop Order” means a stop order issued under section 30.4 of the Act;

“Witness” means a person who is called to speak to evidence presented at a hearing.

## 2.0 PURPOSE OF HEARING GUIDELINES

The Hearing Guidelines provide a step-by-step process for conducting hearings required under ss. 28.1 (5), ss. 28.1.2 (7), ss. 28.3 (2), (3) and (4), ss. 30.4 (6) of the *Conservation Authorities Act* (CAA) and ss.11(4), (5) and (6) of O. Reg. 41/24. Hearings provide due process and ensure the rights of the Party are upheld.

These guidelines ensure hearings meet the legal requirements of the *Statutory Powers Procedures Act* (SPPA) without being unduly legalistic or intimidating to the participants.

The Hearing Board is empowered by law to make a decision, governed by the SPPA. The Board's decision powers are governed by the CAA and O. Reg. 41/24.

Section 25.1 of the SPPA provides that "a tribunal may make rules governing the practice and procedure before it". The Hearing Rules are adopted under the authority of s. 25.1 of the SPPA. The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority for establishing rules to govern such proceedings.

Table 1 below summarizes the legislative and regulatory requirements where a Party is to be provided with an opportunity for a hearing before the Authority, or [where delegated further to s. 28.4 of the CAA] the Executive Committee, or any other person or body [sitting as the Hearing Board].



**Table 1: Summary of Hearing Requirements under the Conservation Authorities Act and O. Reg. 41/24<sup>11</sup>**

<b>Hearing Scenario</b>	<b>Legislative or Regulatory Reference</b>	<b>Party</b>	<b>Hearing Intent</b>	<b>Appeal</b>
<b>Refusal</b> Section 28.1 Permit	CAA, ss. 28.1 (5)	Applicant	Intent to refuse	OLT – Within 90 days of receiving the reasons for the Authority's decision  Minister's Review – Within 15 days of receiving reasons for the Authority's decision
<b>Attaching Conditions</b> Section 28.1 Permit	CAA, ss. 28.1 (5)	Applicant	Intent to attach conditions	
<b>Attaching Conditions</b> Section 28.1.2 Permit	CAA, ss. 28.1.2 (7)	Applicant	Intent to attach conditions	
<b>Cancellation</b> Section 28.1 Permit	CAA, ss. 28.3 (2)	Permit Holder	Intent to cancel	OLT – Within 90 days of receiving notice of decision from Authority
<b>Cancellation</b> Section 28.1.1 Permit	CAA, ss. 28.3 (2)	Permit Holder	Intent to cancel	
<b>Refuse Extension</b> Section 28.1 Permit	O. Reg. 41/24, ss. 11(4), (5), and (6)	Permit Holder	Intent to refuse extensions	No appeal
<b>Refuse Extension</b> Section 28.1.2 Permit	O. Reg. 41/24, ss. 11(4), (5), and (6)	Permit Holder	Intent to refuse extensions	
<b>Stop Order</b>	CAA, ss. 30.4	Individual subject to Stop Order	Issuance of Stop Order	Minister or body prescribed by the regulations – Within 30 days of receiving reasons for the Authority's decision

<sup>11</sup> Note: The information presented in this table is a summary. For full details, please review the relevant sections of the *Conservation Authorities Act* and O. Reg. 41/24.

## **3.0 ROLE OF THE HEARING BOARD**

### **3.1 Apprehension of Bias**

In any of the hearing scenarios listed in Table 1 above, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- (a) No member of the Authority (or delegate) taking part in the hearing should have prior involvement with the Application or other hearing matter indicated in Table 1 that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councilor, the *Municipal Conflict of Interest Act* applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e., is the member capable of persuasion in participating in the decision making.
- (b) Any material distributed to the Hearing Board relating to the merits of an Application or other matter indicated in Table 1 that is the subject of a hearing shall also be distributed to the Party at the same time. The Party will be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.
- (c) The Party will be given an opportunity to attend the hearing before a decision is made; however, the Party does not have to be present for a decision to be made.

### **3.2 Notice of Hearing**

The Party is entitled to reasonable notice of the hearing pursuant to the *SPPA*. The Notice of Hearing shall be sent to the Party within sufficient time to allow the Party to prepare for the hearing. To ensure that reasonable notice is given, the Party will be consulted to determine an agreeable date and time based on the Authority's regular meeting schedule.

In cases where the Authority (or designated Staff) intends to refuse a request for a Permit extension, the Permit Holder must be given at least 5 days' notice of the hearing date, per ss. 11(6) of O. Reg. 41/24. This represents the minimum notice, and other timelines provided in these guidelines may influence the total notice period (e.g., timelines associated with pre-submission of reports).

**The Notice of Hearing must contain or append the following:**

- (a) Reference to the applicable legislation under which the hearing is to be held (i.e., the *Conservation Authorities Act*).
- (b) The time, place and the purpose of the hearing (i.e., intent to refuse Application or request for extension, intent to attach conditions, intent to cancel a Permit, and Stop Order).

**OR for Electronic / Hybrid Hearings:** The time, purpose of the hearing, and details about the manner in which the hearing will be held. For Electronic or Hybrid Hearings, the Notice must also contain a statement that the Party should notify the Authority if they believe holding the hearing electronically or by hybrid means is likely to cause them significant prejudice. The Authority will assume the Party has no objection to the electronic or hybrid hearing if no such notification is received.

- (c) Particulars to identify the Party, property, and the nature of the matter that forms the subject of the hearing.
- (d) Reasons for the decision / Staff recommendation / action.

Reasons shall be specifically stated, and will contain sufficient detail to enable the Party to understand the issues so he or she can be adequately prepared for the hearing. It is sufficient to reference in the Notice of Hearing that the decision / Staff recommendation is based on the reasons outlined in previous correspondence or a hearing report that will follow.

- (e) A statement notifying the Party that the hearing may proceed in the Party's absence and that the Party will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the Party.

- (f) Reminder that the Party is entitled to be represented at the hearing by a representative such as legal counsel, if desired. The Authority may also be represented at the hearing by counsel or Staff.
- (g) Reminder of protections afforded to the Party under the *Evidence Act*, R.S.O 1990, c. E.23 and the *Canada Evidence Act*, R.S.C., 1985, c. C-5 regarding information provided during hearings (see s. 3.6(a)).
- (h) A copy of the Authority's Hearing Guidelines.

The Notice of Hearing shall be directed to the Party and/or landowner, by registered mail,

and other methods as determined advisable (e.g., e-mail). Please refer to Appendices A to E for Notice of Hearing examples.

### **3.3 Meeting Schedule**

Hearings will be held on a bi-monthly basis, up to 6 meetings per year, or at the discretion of the Chair if additional meetings are required. Meetings will be held on the second Thursday of each month and will commence at 6:00 p.m., or as approved by the Board of Directors. Meetings will be held on alternate months from the meeting schedule for the Conservation Advisory Board. Therefore, meetings will be held in January, March, May, July, September, and November. Meetings will be cancelled in months when no hearings are requested.

### **3.4 Pre-submission of Reports**

Staff may prepare and submit a written report to the Hearing Board in advance of the hearing. A copy of the Staff report will be shared with the Party. The Party shall be provided with the same opportunity to submit a written report to the Hearing Board. The Party shall be given at least two weeks to prepare a report once the reasons for the Staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the Staff hearing reports.

## **4.0 HEARING**

### **4.1 Public Hearing**

Pursuant to the SPPA, hearings, including electronic or hybrid hearings, are required to be held in public ("open to the public"). For electronic or hybrid hearings, public attendance should be synchronous with the hearing.

A hearing or part of a hearing may be closed to the public in accordance with the SPPA or the Authority's Administrative By-Laws (e.g., where the Hearing Board is of the opinion that public security matters, intimate financial matters, personal matters, or other matters would be disclosed at the hearing).

### **4.2 Hearing Participants**

The Act does not provide for third party status at the hearing. It is only the information presented by the applicant and Authority staff, or their representatives, that will be considered by the hearing-board members. Any information related to the matter that forms the subject of the hearing provided by third parties must be incorporated within the presentation of information by, or on behalf of, the Party or Staff as appropriate.

### **4.3 Attendance of Hearing Board Members**

In accordance with case law relating to the conduct of hearings, members of the Hearing Board who will make a Hearing decision must be present during the full course of the hearing. If it is necessary for a member to leave, the remaining members can continue with the hearing and render a decision, provided quorum is maintained.

### **4.4 Adjournments**

The Hearing Board may adjourn a hearing on its own motion or that of the Party or Staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held. While adjourned, members of the Hearing Board shall not discuss the matter that is the subject of the hearing.

Any adjournments form part of the hearing record.

### **4.5 Orders and Directions**

In accordance with ss. 9 (2) of the SPPA, a Hearing Board is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A Hearing Procedures example has been included as Appendix F.

### **4.6 Information Presented at Hearings**

- (a) The SPPA requires that a Witness be informed of their right to object pursuant to the *Evidence Act*, R.S.O. 1990, c. E.23 ("*Evidence Act*") and the *Canada Evidence Act*, R.S.C., 1985, c. C-5 ("*CEA*"). The *Evidence Act* and *CEA* indicate that any answers provided by a Witness during the hearing are not admissible against the Witness in any criminal trial or proceeding.
- (b) It is the decision of the Hearing Board as to whether information is presented under oath or affirmation. It is not a legal requirement. The Party must be informed of the above, prior to or at the start of the hearing.
- (c) The Hearing Board may authorize receiving a copy rather than the original document. However, the Hearing Board can request certified copies of the document if required.
- (d) Privileged information, such as solicitor/client correspondence, cannot be heard.
- (e) Information that is not directly within the knowledge of the speaker (hearsay) can be heard if relevant to the issues of the hearing.
- (f) The Hearing Board may take into account matters of common knowledge (e.g.

geographic or historic facts, times, measures, weights, etc.) or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to inform their decision.

- (g) Staff and the Party shall not present new information at the hearing that has not been submitted to the Hearing Board and the other Party.

## **4.7 Conduct of Hearing**

### **4.7.1 Record of Attending Hearing Board Members**

Attendance of Hearing Board members shall be recorded at the opening of the hearing.

### **4.7.2 Opening Remarks**

The Chairperson shall convene the hearing with opening remarks which generally; identify the Party, the nature of the matter that forms the subject of the hearing (e.g., Application, Permit, Stop Order), and the property location; outline the hearing procedures; and advise on requirements of the *Evidence Act* and the *CEA*. Model Opening Remarks are provided in Appendices G-K.

In an electronic or hybrid hearing, all the parties and the members of the Hearing Board must be able to clearly hear one another and any Witnesses throughout the hearing.

### **4.7.3 Presentation of Staff Information**

Staff present reasons for their recommendations associated with refusal or conditions of approval of the Permit Application, refusal of Permit extensions, cancellations or Stop Orders; in addition to providing legislative/regulatory background and case background. Any reports, documents or plans that form part of the presentation shall be properly indexed and received.

Consideration may be given to the designation of one Staff member or legal counsel who coordinates the presentation of information and asks questions on behalf of all Staff. Additional Staff may participate as required (e.g., technical Staff).

### **4.7.4 Presentation of Party Information**

The Party has the opportunity to present information at the conclusion of the Staff presentation. Any reports, documents, or plans which form part of the submission should be properly indexed and received.

The Party shall present information as it applies to the purpose of the hearing (e.g., related to activities covered by the permit application, permit conditions, activities subject to a Stop Order, etc.).

- The Party may be represented by legal counsel or agent, if desired.
- The Party may present information to the Hearing Board and/or have invited advisors to present information to the Board.
- The Party's presentation may include technical Witnesses, such as an engineer, ecologist, hydrogeologist, etc.

#### **4.7.5 Questions**

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The Party and/or agent can make any comments or questions on the Staff report.

Pursuant to the SPPA, the Hearing Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented.

#### **4.7.6 Deliberation**

After all the information is presented, the Hearing Board may debate and vote in open session or may adjourn the hearing and retire in private to confer. Legal counsel may be secured to advise the Hearing Board when conferring in private. The Board may reconvene on the same date or at some later date to advise of their decision. The Hearing Board members shall not discuss the hearing with others prior to the decision of the Board being finalized.

### **5.0 DECISION**

Hearing participants must receive written notice of the Hearing Board's decision. The Hearing Board shall itemize and record information of particular significance which led to their decision.

It is important that the person who requested the hearing has a clear understanding of the decision, as well as the Party's right to appeal the decision to the Ontario Land Tribunal, the Minister, or other prescribed body (as appropriate and in accordance with the CAA and O. Reg. 41/24). See Appendices L-P for sample Notice of Decision letters.

Table 2 below summarizes the Hearing Board decision powers in accordance with the Act and O. Reg. 41/24, as well as associated appeal rights for the Party.

**Table 2: Hearing Board Decision Powers and Associated Appeal Mechanisms<sup>12</sup>**

Hearing Scenario	Hearing Board Decision Powers	Appeal Rights
<b>Considering Refusal or Attaching Conditions</b> (Section 28.1 Permit)	(a) Issue the Permit; (b) Issue the Permit subject to conditions; or, (c) Refuse the Permit.	Request Minister's Review within 15 days after receiving Authority's decision ( <i>CAA</i> , ss. 28.1 (8)); or,  Appeal to the OLT within 90 days of receiving the Authority's decision (in accordance with <i>CAA</i> requirements) ( <i>CAA</i> , ss. 28.1 (20) (21)).
<b>Considering Attaching Conditions</b> (Section 28.1.2 Permit)	(a) Issue the Permit; or, (b) Issue the Permit subject to conditions.	Request Minister's Review within 15 days after receiving Authority's reasons for conditions ( <i>CAA</i> , ss. 28.1.2 (9)); or,  Appeal to the OLT within 90 days of receiving the Authority's reasons for conditions (in accordance with <i>CAA</i> requirements) ( <i>CAA</i> , ss. 28.1.2(14) (15)).
<b>Considering Cancellation</b> (Section 28.1 or 28.1.1 Permit)	(a) Confirm decision to cancel Permit; (b) Rescind decision to cancel Permit; or, (c) Vary decision to cancel Permit.	Appeal to the OLT within 90 days after receiving the Authority's decision ( <i>CAA</i> , ss.28.3(6))
<b>Considering Extension</b> (Section 28.1 or 28.1.2 Permit)	(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	No appeal mechanism.

<sup>12</sup> Note: The information presented in this table is a summary. For full details, please review the relevant sections of the *Conservation Authorities Act* and O. Reg. 41/24



	applicable maximum period specified in O. Reg. 41/24.	
<b>Considering Stop Order</b> (Section 30.4)	(a) Confirm the order; (b) Amend the order; or, (c) Remove the order, with or without conditions.	Appeal to the Minister or a body prescribed by the regulations within 30 days after receiving the Authority's decision (CAA, ss. 30.4(9))

## 5.1 Notice of Decision

The Notice of Decision should include the following information:

- (a) The identification of the person who requested the hearing, property, and the purpose of the hearing (i.e., Application for a Permit, attaching Permit conditions, request for Permit extension, Stop Order, or cancellation of Permit).
- (b) The decision (as indicated in Table 2 above).
- (c) Written reasons for the decision.
- (d) A copy of the Hearing Board resolution.
- (e) Notice of the Party's right to appeal (as indicated in Table 2 above).

The written Notice of Decision shall be forwarded to the Party by registered mail, and other methods as determined advisable (e.g., e-mail). See Appendices L-P for sample Notice of Decision letters.

## 5.2 Adoption

The Hearing Board shall adopt a resolution containing the decision and any particulars of the decision.

## 6.0 RECORD

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the OLT or Minister (as appropriate).

The record must include the following:

- (a) As applicable, copies of the Application for the Permit, the Permit issued, notice of cancellation, or Stop Order that was the subject of the hearing;

- (b) The Notice of Hearing;
- (c) Any orders made by the Hearing Board (e.g., adjournments);
- (d) All information received by the Hearing Board;
- (e) Attendance of Hearing Board members;
- (f) The decision and written reasons for decisions of the Hearing Board; and,
- (g) The Notice of Decision sent to the Party.

## Appendix A

### NOTICE OF HEARING

#### IN THE MATTER OF

The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** a permit application by

#### MADE TO THE

#### **XX CONSERVATION AUTHORITY**

Pursuant to section 28.1, subsection 5 of the said Act

**TAKE NOTICE THAT** a Hearing before the [Executive Committee / Board of Directors] of the [Conservation Authority] will be held under section 28.1, subsection 5 of the *Conservation Authorities Act* at the offices of the said Authority **[ADDRESS]**, at the hour of **[TIME]**, **on the day of [DATE], 202X**, *[for electronic or hybrid hearings, include details about the manner in which the hearing will be held]* with respect to the application by **[NAME]** to permit development within an area regulated by the Authority in order to ensure **the activity is not likely to [affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; 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]** on Lot , Plan/Lot , Concession , **[STREET]** in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the [Executive Committee / Board of Directors] for the meeting of **[meeting number]**. If you intend to appear *[For electronic or hybrid hearings: or if you believe that holding the hearing electronically or by hybrid means is likely to cause significant prejudice]*, please contact **[NAME]**. Written material will be required by **[DATE]**, to enable the [Committee / Board] members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the *Ontario Evidence Act*. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the *Canada Evidence*

Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the [Executive Committee / Board of Directors] of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the \_\_\_\_ day of , \_\_\_\_\_ 202X

The [Executive Committee / Board of Directors] of the

*Conservation Authority*

Per:

[Chair of Hearing Board / Chief  
Administrative Officer / Secretary-  
Treasurer]

## Appendix B

### NOTICE OF HEARING

#### IN THE MATTER OF

The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** a permit application by

#### MADE TO THE

#### XX CONSERVATION AUTHORITY

Pursuant to section 28.1.2, subsection 7 of the said Act

**TAKE NOTICE THAT** a Hearing before the [Executive Committee / Board of Directors] of the [Conservation Authority] will be held under section 28.1.2, subsection 7 of the *Conservation Authorities Act* at the offices of the said Authority [ADDRESS], at the hour of [TIME], **on the day of [DATE], 202X**, *[for electronic or hybrid hearings, include details about the manner in which the hearing will be held]* with respect to the application by [NAME] to permit development within an area regulated by the Authority in association with a Minister's Zoning Order [REGULATION NUMBER] on Lot , Plan/Lot , Concession , [STREET] in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the [Executive Committee / Board of Directors] for the meeting of (**meeting number**). If you intend to appear *[For electronic or hybrid hearings: or if you believe that holding the hearing electronically or by electronic means is likely to cause significant prejudice]*, please contact [NAME]. Written material will be required by [DATE], to enable the [Committee / Board] members to review the material prior to the meeting.

**TAKE NOTICE THAT** pursuant to section 28.1.2, subsection 3 of the *Conservation Authorities Act*, a Conservation Authority is required to grant the permit applied for and may only impose conditions to the permit, provided all legislative requirements are met. The Hearing will therefore focus on the conditions to be imposed to the granting of the permit.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the *Ontario Evidence Act*. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this

oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the *Canada Evidence Act* that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the [Executive Committee / Board of Directors] of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the\_\_\_\_day of ,\_\_\_\_\_202X

The Executive Committee of the Conservation Authority

Per:

[Chair of Hearing Board / Chief Administrative  
Officer / Secretary-Treasurer]

## Appendix C

### NOTICE OF HEARING

#### IN THE MATTER OF

The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

#### AND IN THE MATTER OF a Stop Order

Issued by the

#### XX CONSERVATION AUTHORITY

Pursuant to Section 30.4, Subsection 6 of the said Act

**TAKE NOTICE THAT** a Hearing before the [Executive Committee / Board of Directors] of the [Conservation Authority] will be held under section 30.4, subsection 6 of the *Conservation Authorities Act* at the offices of the said Authority [ADDRESS], at the hour of [TIME], **on the day of [DATE], 202X**, [*for electronic or hybrid hearings, include details about the manner in which the hearing will be held*] with respect to **a Stop Order** issued to [NAME] on [date Stop Order was issued]. The Stop Order requires [NAME] to **[stop engaging in or to not to engage]** in the following activity(ies) on Lot, Plan/Lot, Concession, [STREET] in the City of , Regional Municipality of , River Watershed:

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the [Executive Committee / Board of Directors] for the meeting of **[meeting number]**. If you intend to appear [*For electronic or hybrid hearings: or if you believe that holding the hearing electronically or by electronic means is likely to cause significant prejudice*], please contact [NAME]. Written material will be required by [DATE], to enable the [Committee / Board] members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the *Ontario Evidence Act*. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the *Canada Evidence Act* that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend this Hearing, the [Executive Committee / Board of Directors] of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the\_\_\_\_\_day of ,\_\_\_\_\_202X

The Executive Committee of the  
Conservation Authority

Per:

[Chair of Hearing Board / Chief  
Administrative Officer / Secretary-  
Treasurer]



## Appendix D

### NOTICE OF HEARING

#### IN THE MATTER OF

The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** cancellation of Permit Number ##

Issued by the

#### **XX CONSERVATION AUTHORITY**

Pursuant to Section 28.3, Subsections 2, 3, AND 4 of the said Act

**TAKE NOTICE THAT** a Hearing before the [Executive Committee / Board of Directors] of the [Conservation Authority] will be held under Section 28.3, subsection 4 of the *Conservation Authorities Act* at the offices of the said Authority [ADDRESS], at the hour of [TIME], **on the day of [DATE], 202X**, *[for electronic or hybrid hearings, include details about the manner in which the hearing will be held]* with respect to the '**Notice of Intent to Cancel Permit Number XX**' issued to [NAME] on **[DATE the Intent to Cancel Notice was issued]** that permits development within an area regulated by the Authority on Lot , Plan/Lot , Concession , [STREET] in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the [Executive Committee / Board of Directors] for the meeting of [**meeting number**]. If you intend to appear *[For electronic or hybrid hearings: or if you believe that holding the hearing electronically or by hybrid means is likely to cause significant prejudice]*, please contact [NAME]. Written material will be required by [DATE], to enable the [Committee / Board] members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the *Ontario Evidence Act*. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the *Canada Evidence Act* that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend this Hearing, the [Executive Committee / Board of Directors] of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the\_\_\_\_day of ,\_\_\_\_202X

The Executive Committee of the  
Conservation Authority

Per:

[Chair of Hearing Board / Chief  
Administrative Officer / Secretary-  
Treasurer]

## Appendix E

### NOTICE OF HEARING

#### IN THE MATTER OF

The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** refusal of a request for an extension to the period of  
validity for Permit Number ##

Issued by the

#### **XX CONSERVATION AUTHORITY**

Pursuant to Section 11, Subsections. 4, 5, AND 6 of Ontario Regulation 41/24,  
made pursuant to Section 40, Subsection 4  
of the said Act

**TAKE NOTICE THAT** a Hearing before the [Executive Committee / Board of Directors] of the Conservation Authority will be held under section 11, subsection 6 of O. Reg. 41/24 at the offices of the said Authority [ADDRESS], at the hour of [TIME], **on the day of [DATE], 202X**, *[for electronic or hybrid hearings, include details about the manner in which the hearing will be held]* with **respect to a 'Request for Permit Extension' for Permit Number ##** issued to [NAME] on [DATE] that permits development within an area regulated by the Authority on Lot , Plan/Lot , Concession , [STREET] in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the [Executive Committee / Board of Directors] for the meeting of [**meeting number**]. If you intend to appear *[For electronic or hybrid hearings: or if you believe that holding the hearing electronically or by hybrid means is likely to cause significant prejudice]*, please contact [NAME]. Written material will be required by [DATE], to enable the [Committee / Board] members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the *Ontario Evidence Act*. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection.

The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the *Canada Evidence Act* that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the [Executive Committee / Board of Directors] of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the \_\_\_\_\_ day of \_\_\_\_\_, 202X

The Executive Committee of the Conservation Authority

Per:

[Chair of Hearing Board / Chief Administrative  
Officer / Secretary-Treasurer]

## **Appendix F**

### **HEARING PROCEDURES**

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chairperson's opening remarks. For electronic or hybrid hearings, the Chairperson shall ensure that all parties and the Hearing Board are able to clearly hear one another and any Witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the Party and their agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject matter [Application / issued Permit / Stop Order] and the conclusions.
5. Staff will present the Staff report included in the Authority/Executive Committee agenda.
6. The Party and/or their agent will present their material
7. Staff and/or the Conservation Authority's agent may question the Party and/or their agent (through the Chair) if reasonably required for a full and fair disclosure of matters presented at the Hearing.<sup>13</sup>
8. The Party and/or their agent may question the Conservation Authority Staff and/or their agent (through the Chair) if reasonably required for full and fair disclosure of matters presented at the Hearing.<sup>14</sup>
9. The Hearing Board will question, if necessary, both the Staff and the Party/agent.
10. The Hearing Board will move into deliberation. The Hearing Board may also adjourn the hearing and retire in private to confer. For electronic or hybrid meetings, the Hearing Board will deliberate in a manner consistent with practices for in-person hearings

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<sup>13</sup> As per the SPPA a tribunal may reasonably limit further examination or cross-examination of a Witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

<sup>14</sup> As per the SPPA a tribunal may reasonably limit further examination or cross-examination of a Witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

(e.g., open vs closed session).

11. Members of the Hearing Board will move and second a motion.
12. A motion will be carried which will culminate in the decision.
13. The Hearing Board will move out of deliberation. For electronic or hybrid meetings, the Hearing Board will reconvene with other participants.
14. The Chairperson or Acting Chairperson will advise the Party of the Hearing Board decision.
15. The Chairperson or Acting Chairperson shall notify the Party of their right to appeal the decision to the Ontario Land Tribunal, Minister, or other prescribed body (as applicable) upon receipt of the reasons for decision, in accordance with the provisions and timelines outlined in the *Conservation Authorities Act* and Ontario Regulation 41/24 (*see sample Notices of Decision for more detail*).
16. Motion to move out of Hearing Board and sit as the Board of Directors.

## Appendix G

### **CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS (Section 28.1, Subsection 5 of the Conservation Authorities Act) Permit Application, with or without conditions**

We are now going to conduct a hearing under section 28.1, subsection 5 of the Conservation Authorities Act in respect of an application for a permit by [*applicant name*] to [*details of proposed works*].

Section 28.1, subsection 1 of the Conservation Authorities Act provides that an Authority may issue a permit to a person to engage in an activity that would otherwise be prohibited by section 28, subsection 1 of the Act, in an area regulated by the Authority, if in the opinion of the Authority, the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; 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 any other requirements that may be prescribed by the regulations are met.

Staff have reviewed this proposed work and prepared a staff report, a copy of which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under section 28.1, subsection (5) of the Conservation Authorities Act, the person applying for a permit has the right to a hearing before the Authority [or as delegated to the Authority's Executive Committee or any other person or body, subject to limitations or requirements that may be prescribed by the regulation].

In holding this hearing, the Authority/Executive Committee is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the Hearing Board.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix H

### **CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS (Section 28.1.2, Subsection 7 of the Conservation Authorities Act) Mandatory Permits, Zoning Orders**

We are now going to conduct a hearing under section 28.1.2, subsection 7 of the Conservation Authorities Act in respect of an application for a permit by [*applicant name*] to [*details of proposed works*].

Under section 28.1.2, subsection 3 of the Conservation Authorities Act, an Authority that receives an application for a permit to carry out a development project in the Authority's area of jurisdiction shall issue the permit if an order has been made by the Minister of Municipal Affairs and Housing under section 47 of the Planning Act authorizing the development project under that Act; and the lands in the Authority's area of jurisdiction on which the development project is to be carried out are not located in the Greenbelt Area designated under section 2 of the Greenbelt Act, 2005; and such other requirements as may be prescribed are satisfied.

Furthermore, section 28.1.2, subsection 6 allows an Authority to attach conditions to such permits, including conditions to mitigate: any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; or any other matters that may be prescribed by regulation.

Staff have reviewed this proposed work and prepared a staff report, including the proposed conditions of approval for the proposed work, which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under section 28.1.2, subsection 7 of the Conservation Authorities Act, the person applying for a permit has the right to a hearing before the Authority [or as delegated to the Authority's Executive Committee or any other person or body, subject to limitations or requirements that may be prescribed by the regulation].

In holding this hearing, the Authority Board/Executive Committee is to determine the prescribed conditions, if any, to be attached to the approved permit. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing.



The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix I

### **CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS (Section 30.4, Subsection 6 of the Conservation Authorities Act) To Consider a Stop Order**

We are now going to conduct a hearing under section 30.4, subsection 6 of the Conservation Authorities Act in respect to a Stop Order issued to [Party] on [Date], 20XX.

In accordance with section 30.4, subsection 1 of the Act, [NAME] was served with a Stop Order by an officer of the Authority because the officer believed [NAME] **[had engaged / was about to engage]** in an activity that **[has contravened/will contravene]** the Act or a regulation made under the Act; **and/or** the conditions of **Permit Number XXX**.

Furthermore, the officer believes that the activity **[has caused / is likely to cause]** significant damage and the damage **[affects / is likely to affect]** the control of flooding, erosion, dynamic beaches or unstable soil or bedrock **and/or** in the event of a natural hazard, the damage **has created / is likely** to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and that, the order will prevent or reduce said damage.

Section 30.4, subsection 6 of the Act requires that a person who is served with a Stop Order be provided with an opportunity to request and attend a hearing before the Authority.

The Staff have prepared a report, a copy of which has been given to the [APPELLANT NAME] and the Board. The [APPELLANT NAME] was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

In accordance with section 30.4, subsection 7 of the Act, after holding the hearing, the Authority shall confirm the order, amend the order, or remove the order with or without conditions. In doing so, we can only consider the information in the form that is before us, the staff report, such evidence as may be given, and the submissions to be made on behalf of [APPELLANT NAME]. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If [APPELLANT NAME] has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix J

### **CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS (Section 28.3, Subsections 4 of the Conservation Authorities Act) To Consider the Cancellation of a Permit**

We are now going to conduct a hearing under section 28.3, subsection 4 of the Conservation Authorities Act to consider the cancellation of permit number ## issued to [Permit Holder], on [Date], 20XX.

In accordance with section 28.3, subsection 1 of the Act, the Authority notified the permit holder of the intent to cancel permit number ### by [Date], 20## because, it is the opinion of the Authority, the conditions of the permit have not been met; **or** that the circumstances prescribed by regulation exist (**include detail here if applicable**).

Section 28.3, subsection 3 of the Act provides that a permit holder may request a hearing within 15 days of receiving the Authority's intent to cancel a permit.

The Staff have prepared a report, a copy of which has been given to the permit holder and the Board. The permit holder was invited to file material in response to the Staff report, a copy of which has also been provided to the Board.

In accordance with section 28.3, subsection 5 of the Act, after holding the hearing, the Authority may confirm, rescind or vary the decision to cancel the permit. In doing so, we can only consider the information in the form that is before us, the Staff report, such evidence as may be given, and the submissions to be made on behalf of the permit holder. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the permit holder has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## **Appendix K**

### **CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS**

#### **(Section 11, Subsection 6 of Ontario Regulation 41/24, made pursuant to Section 40, Subsection 4 of the Conservation Authorities Act)**

#### **To Consider an Extension to the Period of Validity of a Permit**

We are now going to conduct a hearing under section 11, subsection 6 of Ontario Regulation 41/24, made under section 40, subsection 4 of the Conservation Authorities Act regarding a request for extension of permit number ## issued to [*Permit Holder*].

Section 11, subsections 4 and 5 of Ontario Regulation 41/24 provides that a permit holder may request a hearing to consider their request to extend the period of validity of a permit issued under section 28.1 or 28.1.2 of the Act within 15 days of receiving notice that the Authority intends to refuse a request for extension.

The Staff have prepared a report, a copy of which has been given to the permit holder and the Board. The permit holder was invited to file material in response to the Staff report, a copy of which has also been provided to the Board.

In accordance with section 11, subsection 7 of the Regulation, after holding the hearing, the Authority may confirm the refusal of the extension or grant an extension for a time deemed appropriate, provided the total period of validity of the permit does not exceed the applicable maximum period of 60 months prescribed by Regulation. In doing so, we can only consider the information in the form that is before us, the Staff report, such evidence as may be given, and the submissions to be made on behalf of the permit holder. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the permit holder has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix L

### Sample Notice of Decision (Refusal / Attaching Conditions)

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION**

**Hearing Pursuant to Section 28.1, Subsection 5 of the Conservation Authorities Act**

**Proposed Residential Development**

**Lot, Plan; [Address], [City/Town]**

**[Application #]**

In accordance with the requirements of the Conservation Authorities Act, the [**Conservation Authority**] provides the following Notice of Decision:

On [meeting date and number], the [Authority/Executive Committee] [refused application/approved application/approved application with conditions]. A copy of the [Authority/Executive Committee] resolution has been attached for your records. Please note that this decision is based on the following reasons:

**[Provide specific and clear reasons for refusal or attaching conditions relevant to the application in accordance with ss. 28.1 (7) of the Act]**

In accordance with s. 28.1 of the Conservation Authorities Act, an applicant who has been refused a permit or a permit holder who objects to conditions imposed on a permit by the Authority may submit a request for a Minister's Review of this decision to the Minister of Natural Resources, or may appeal this decision to the Ontario Land Tribunal. These options are further described below:

1. Within 15 days of receiving the reasons for the Authority's decision, submit a request to the Minister to review the Authority's decision. If a request for a Minister's review is submitted, the Minister will indicate in writing whether or not they intend to conduct a review of the Authority's decision. This notice will be provided within 30 days of receiving the request. If the Minister does not reply within 30 days, this is deemed to be an indication that the Minister does not intend to review the

Authority's decision.

The Minister may, in accordance with section 28.1 (15) of the Act, confirm or vary the Authority's decision, or make any decision the Minister considers appropriate, including issuing a permit subject to conditions. Per subsection 28.1(19) of the *Conservation Authorities Act*, a decision made by the Minister is final; or,

2. Appeal to the OLT within 90 days of receiving the reasons for the Authority's decision, provided that:
  - a. the applicant/permit holder has not submitted a request for Minister's review; or,
  - b. the applicant/permit holder has submitted a request for Minister's review, and;
    - i. the Minister refused to conduct a review further to a request made under ss. 28.1 (8) of the Act; or,
    - ii. 30 days have lapsed since the applicant/permit holder submitted a request for Minister's review and the Minister has not replied; or,
    - iii. If, further to a request for review made under ss. 28.1 (8) of the Act, the Minister indicates their intent to review a decision and the Minister fails to make a decision within 90 days of giving the reply, the applicant/permit holder may, within the next 30 days, appeal the Authority's decision directly to the OLT.

For your information, should you wish to exercise your right for a Minister's review or appeal to the OLT, your requests can be forwarded to:

**For Minister's Review:**

Hon. Graydon Smith  
Witney Block  
99 Wellesley Street West  
Toronto ON M7A 1W3  
Phone: 416-314-2301  
Email: [minister.mnrf@ontario.ca](mailto:minister.mnrf@ontario.ca)

**For Appeal to Ontario Land Tribunal:**

Ontario Land Tribunal  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Phone: 416-212-6349 or 866-448-2248  
Email: [OLT.General.Inquiry@ontario.ca](mailto:OLT.General.Inquiry@ontario.ca)  
[Information on Filing an Appeal Link](#)

A copy of this request should also be sent to this Conservation Authority. Should you require any further information, please do not hesitate to contact [**staff contact**] or the undersigned.

Yours truly,

[Chair of Hearing Board / Chief Administrative Officer / Secretary-Treasurer]  
Enclosure

## Appendix M

### Sample Notice of Decision (Attaching Conditions, Minister's Zoning Order Permits)

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION**

**Hearing Pursuant to Section 28.1.2, Subsection 7 of the Conservation Authorities Act**

**Proposed Residential Development**

**Lot, Plan; [Address] [City/Town]**

**[Application #]**

In accordance with the requirements of the Conservation Authorities Act, the [**Conservation Authority**] provides the following Notice of Decision:

On [*meeting date and number*], the [Authority/Executive Committee] approved permit number ### [with conditions / without conditions]. A copy of the [Authority/Executive Committee] resolution has been attached for your records. Please note that this decision is based on the following reasons:

**[Provide specific and clear reasons for attaching conditions relevant to the application in accordance with ss. 28.1.2 (8) of the Act]**

In accordance with the Conservation Authorities Act, a permit holder who objects to conditions imposed on a permit by the Authority may submit a request for a Minister's Review of this decision to the Minister of Natural Resources, or may appeal this decision to the Ontario Land Tribunal. These options are further described below:

1. Within 15 days of receiving the reasons for the Authority's decision, submit a request to the Minister to review the conditions. If a request for a Minister's review is submitted, the Minister will indicate in writing whether or not they intend to conduct a review of the conditions. This notice will be provided within 30 days of receiving the request. If the Minister does not reply within 30 days, this is deemed to be an indication that the Minister does not intend to review the Authority's decision.

The Minister may, in accordance with section 28.1.2 (11) of the Act, confirm or vary the conditions attached by the Authority to a permit, including removing conditions or requiring that such additional conditions be attached to the permit as the Minister considers appropriate. Per subsection 28.1.2 (13) of the *Conservation Authorities Act*, a decision made by the Minister is final; or,

2. Appeal to the OLT within 90 days of receiving the reasons for the Authority's decision, provided that:
  - a) the permit holder has not submitted a request for Minister's review; or,
  - b) the permit holder has submitted a request for Minister's review, and;
    - i. the Minister refused to conduct a review further to a request made under ss. 28.1.2 (9) of the Act; or,
    - ii. 30 days have lapsed since the permit holder submitted a request for Minister's review and the Minister has not replied; or,
    - iii. If, further to a request for review made under ss. 28.1.2 (9) of the Act, the Minister indicates their intent to review a decision and the Minister fails to make a decision within 90 days of giving the reply, the permit holder may, within the next 30 days, appeal the conditions attached by the Authority directly to the OLT.

For your information, should you wish to exercise your right for a Minister's review, or appeal to the OLT, your requests can be forwarded to:

**For Minister's Review:**

Hon. Graydon Smith  
Witney Block  
99 Wellesley Street West  
Toronto ON M7A 1W3  
Phone: 416-314-2301  
Email: [minister.mnrf@ontario.ca](mailto:minister.mnrf@ontario.ca)

**For Appeal to Ontario Land Tribunal:**

Ontario Land Tribunal  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Phone: 416-212-6349 or 866-448-2248  
Email: [OLT.General.Inquiry@ontario.ca](mailto:OLT.General.Inquiry@ontario.ca)  
[Information on Filing an Appeal Link](#)

A copy of this request should also be sent to this Conservation Authority. Should you require any further information, please do not hesitate to contact [**staff contact**] or the undersigned.

Yours truly,

[Chair of Hearing Board / Chief Administrative Officer / Secretary-Treasurer]  
Enclosure



## Appendix N

### Sample Notice of Decision (Stop Order)

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION**

**Hearing Pursuant to Section 30.4, Subsection 6 of the Conservation Authorities Act**

**Stop Order**

**Lot, Plan; [Address], [City/Town]**

**[Application # or Permit #]**

**[Stop Order #]**

In accordance with the requirements of the Conservation Authorities Act, the [**Conservation Authority**] provides the following Notice of Decision:

On [meeting date and number], the [Authority/Executive Committee] [**confirmed the Stop Order, amended the Stop Order, or removed the Stop Order, with or without conditions**]. A copy of the [Authority / Executive Committee] resolution has been attached for your records. Please note that this decision is based on the following reasons:

***[Provide specific and clear reasons for confirming, amending, or removing the order, with or without conditions in accordance with ss. 30.4 (8)***

In accordance with the Conservation Authorities Act, the person who requested the hearing may appeal to the Minister for a review within 30 days after receiving the reasons for the Authority's decision. The Minister (or other prescribed body) may confirm, amend or remove the Stop Order, with or without conditions.

For your information, should you wish to exercise your right for a Minister's review, your request can be forwarded to:

Hon. Graydon Smith  
Witney Block  
99 Wellesley Street West  
Toronto ON M7A 1W3  
Phone: 416-314-2301  
Email: [minister.mnrf@ontario.ca](mailto:minister.mnrf@ontario.ca)

A copy of this request should also be sent to this Conservation Authority. Should you require any further information, please do not hesitate to contact [**staff contact**] or the undersigned.

Yours truly,

[Chair of Hearing Board / Chief Administrative Officer / Secretary-Treasurer]  
Enclosure

## Appendix O

### Sample Notice of Decision (Cancellation of Permit)

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION**

**Hearing Pursuant to Section 28.3, Subsections (2), (3), and (4) of the  
Conservation Authorities Act  
Cancellation of Permit  
Lot, Plan; [Address], [City/Town]  
[Permit Number]**

In accordance with the requirements of the Conservation Authorities Act, the **[Conservation Authority]** provides the following Notice of Decision:

On **[meeting date and number]** the [Authority/Executive Committee] **[confirmed / rescinded / varied] the decision to cancel permit number ##**. A copy of the [Authority / Executive Committee] resolution has been attached for your records. Please note that this decision is based on the following reasons:

***[Provide specific and clear reasons for confirming, rescinding or varying the decision to cancel the permit, in accordance with ss. 28.3 (5) of the Conservation Authorities Act]***

In accordance with the Conservation Authorities Act, the permit holder may, within 90 days after receiving the reasons for the Authority's decision, appeal the decision to the Ontario Land Tribunal (OLT). The OLT has the authority to take evidence, to confirm, rescind or vary the decision to cancel the permit, with or without conditions.

For your information, should you wish to exercise your right to appeal, section 28.3, subsection 7 of the Act requires that the notice shall be sent to the OLT and to the Authority by registered mail.

**Ontario Land Tribunal**

655 Bay Street, Suite 1500

Toronto ON M5G 1E5

Phone: 416-212-6349 or 866-448-2248

Email: [OLT.General.Inquiry@ontario.ca](mailto:OLT.General.Inquiry@ontario.ca)

[Information on Filing an Appeal Link](#)

Should you require any further information, please do not hesitate to contact [**staff contact**] or the undersigned.

Yours truly,

[Chair of Hearing Board / Chief Administrative Officer / Secretary-Treasurer]

Enclosure

## Appendix P

### Sample Notice of Decision (Permit Extension)

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION**

**Hearing Pursuant to Section 11, Subsections 4, 5, and 6 of O. Reg. 41/24,  
pursuant to Section 40, Subsection 4 of the Conservation Authorities Act  
Request for Permit Extension  
Lot, Plan; [Address], [City/Town]  
[Permit Number]**

In accordance with the requirements of the Conservation Authorities Act, the [Conservation Authority] provides the following Notice of Decision:

On [meeting date and number], the [Authority/Executive Committee] [confirmed the refusal of the permit extension / granted the permit extension]. Permit number ## shall be valid until [Date], 20##. A copy of the [Authority/Executive Committee] resolution has been attached for your records. Please note that this decision is based on the following reasons:

***[Provide specific and clear reasons relating to the application for refusing or granting the extension, if applicable. In either case, it is best practice to relate the decision to the Conservation Authorities Act tests in ss. 28.1 (1), and ss. 11 (7) of O. Reg. 41/24]***

For your information, the Authority's decision is final; there is no legislated appeal process under the *Conservation Authorities Act*.

Should you require any further information, please do not hesitate to contact [staff contact] or the undersigned.

Yours truly,

[Chair of Hearing Board / Chief Administrative Officer / Secretary-Treasurer]

Enclosure