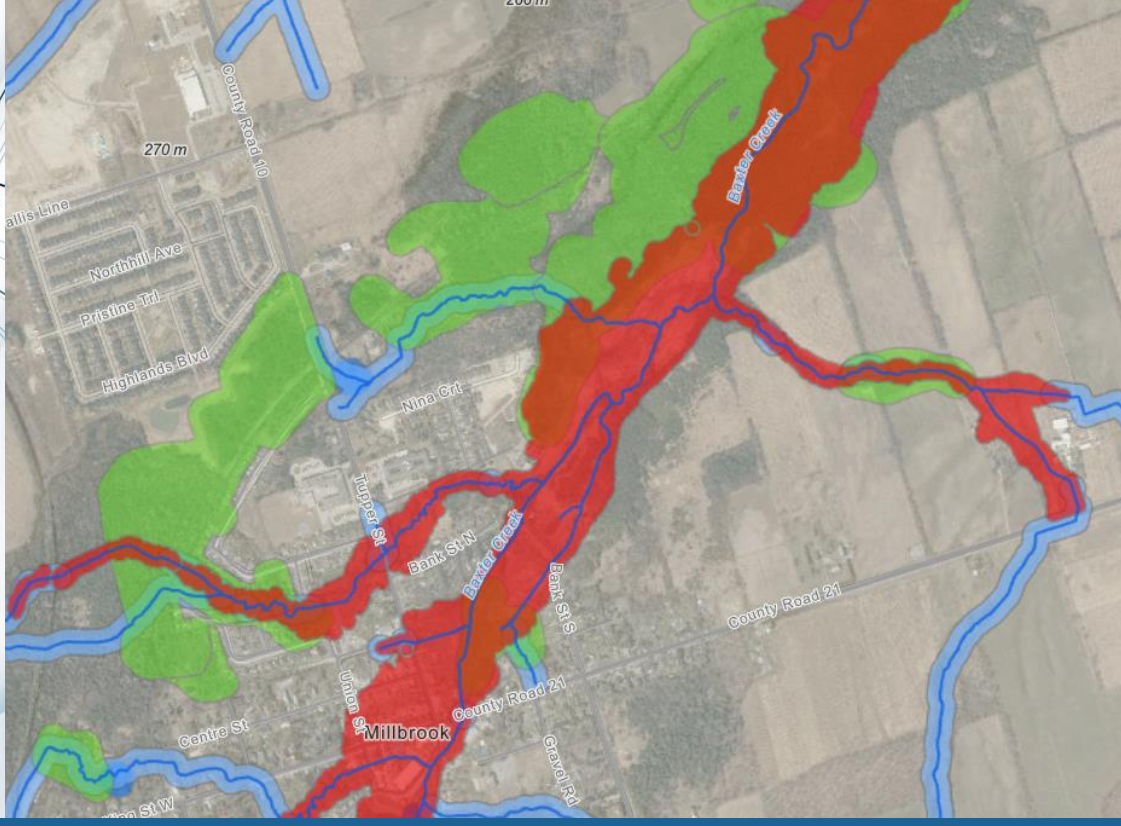


# DRAFT Watershed Planning & Regulations Policy & Procedures Manual

February 20, 2025

Otonabee CONSERVATION

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## Conservation Authority Approval

| | |
|---|---|
| **Board Meeting Date**<br>Click to enter a date. | Click or tap to enter the resolution as stated in Board Meeting Minutes |
| **Resolution Number**<br>Click to add Resolution # | |

# How to Read This Document

This document consists of:

**Chapter 1:** **Introduction** provides an overview of the updated authorizing legislation and regulation that the Otonabee Region Conservation Authority (Otonabee Conservation) is governed by. It also provides a summary of the role of Conservation Authorities generally and describes the other legislation and policies that Otonabee Conservation staff rely on to make regulatory and planning decisions and recommendations.

**PART A – The Policies**

**Chapter 2:** **Land Use Planning Policies** outlines those policies that Otonabee Conservation will utilize when providing plan input and review comments to municipal watershed partners and Provincial agencies.

**Chapter 3 - 8:** **Policies for the Administration of Ontario Regulation 41/24** outlines the general and specific policies that Otonabee Conservation staff utilize when processing applications made pursuant to Ontario Regulation 41/24 and Section VI of the *Conservation Authorities Act*.

**PART B – The Procedures**

**Chapter 9:** **Regulations Procedures** outlines procedures related to complete permit applications, approval, refusal, hearings and other process as presented and/or required by the *Conservation Authorities Act* and Ontario Regulation 41/24.

Throughout the document, the text has been presented to provide the reader with easy-to-read messages. The following offers a guide to the messages:

1. **Important information has been placed in bold.**
2. Otonabee Conservation policies are shown in a blue shaded text box.
3. *Otonabee Conservation principles are shown in italics.*
4. Information that appears in navy blue (**bolded** or otherwise) is intended to provide a summary of important information. In some cases, key questions have been included in the text to provide answers for the reader on specific matters that may be of interest.

5. The terms development (development activity) and wetland are defined differently in the Provincial Planning Statement (PPS) and the *Conservation Authorities Act*. Plan Review policies will reflect that of the PPS definition, where regulatory policies will reflect that of the *Conservation Authorities Act* definition.

# Table of Contents

# Purpose of This Manual

The Otonabee Region Conservation Authority (Otonabee Conservation) is committed to communicating its program and policy interests and working collaboratively with partners and clients. This document is intended to provide policy and procedural guidance for Otonabee Conservation to interpret and administer Part VI of the *Conservation Authorities Act* and Ontario Regulation 41/24. It also contains policy direction with respect to Otonabee Conservation's role under the *Planning Act* within the watershed.

This document provides information and guidance and has been developed to:

- Consolidate all watershed planning and regulatory policies of Otonabee Conservation in one place;
- Provide direction, clarity, and transparency on how Otonabee Conservation administers and implements Part VI of the *Conservation Authorities Act* and Ontario Regulation 41/24.
- Provide watershed municipalities with a clear understanding of Otonabee Conservation's role, mandate, responsibilities and requirements regarding permit and planning applications and at the same time, offer a comprehensive, and complete set of watershed planning and regulatory policies that can be incorporated into Official Plans and Zoning By-laws;
- Provide applicants and their agents, private landowners, and special interest groups with a clear understanding of Otonabee Conservation's role, mandate, responsibilities, and requirements regarding permit applications and planning applications;
- Provide Otonabee Conservation staff with a single document against which to review permit applications and provide planning advisory services to its municipal partners.

### Why Is an updated Manual Needed?

An updated Watershed Planning & Regulation Policy & Procedures Manual was needed to be in harmony with more recent legislative and regulatory changes. Conservation Authorities are required to provide specific programs and services that relate to natural hazards and hazard management. In addition, new regulations and changes to the *Conservation Authorities Act* have recently been enacted that dictate how all conservation authorities are to prohibit development within and

Having an updated, comprehensive set of planning and regulation polices in one place is important for Otonabee Conservation staff, partners, and clients because it allows everyone to understand what is expected and what is required when planning or permit applications are being considered

adjacent to natural hazards. The updates have also been completed in consideration of the requirements of Section 12 of Ontario Regulation 41/24.

Further, there have been many changes to the *Planning Act* and provincial planning policies. These have led to major changes to Ontario's land use planning system, including the removal of 'A Place to Grow' – the Growth Plan for the Greater Golden Horseshoe and the replacement of the Provincial Policy Statement (2020) with the Provincial Planning Statement (2024). Other relevant and updated Acts are listed:

- Provincial Planning Statement (2024)
- Species at Risk Act - Federal (2002, updated 2023)
- Greenbelt Act (2005) & Greenbelt Plan (2005) Greenbelt Statute Law Amendment Act (2023)
- Clean Water Act (2006, updated in 2024)
- Endangered Species Act (2007, updated in 2024)
- The Cutting Red Tape to Build More Homes Act (2024)
- More Homes Built Faster Act (2022)
- Better Municipal Governance Act (2022)
- Official Plan Adjustments Act (2023)

The updated Manual outlines Otonabee Conservation's planning and regulation policy platform. It articulates the approach Otonabee Conservation will use to review and evaluate planning and development applications submitted for approval under the *Planning Act*, and it defines the criteria against which Otonabee Conservation administers its regulatory responsibilities under Ontario Regulation 41/24.

## Who Has This Manual Been Prepared For?

This updated Manual will serve many uses and many users, and for this reason, every effort has been made to create a document that is easy to understand and easy to use:

- It will provide guidance and direction to Otonabee Conservation staff that will receive, review, and evaluate applications against the policies contained within the document;
- It will provide direction to municipalities (both local and regional) who will take these policies and incorporate them further in their planning review functions and in Official Planning documents;
- It will provide guidance and direction to the development community (applicants and their agents) who will utilize these policies in preparing their proposals for consultation, review, and approval;
- It will provide guidance and direction to community stakeholders who have an interest in protecting, preserving, and enhancing those natural features and functions of the watershed that are worthy of protection;
- It will instill confidence among Provincial partners that matters of stated Provincial interest have been accurately interpreted and are being applied appropriately; and finally,
- It will help other municipal, provincial, and federal agencies coordinate the administration of their own jurisdiction and policies with those of Otonabee Conservation.

Community Leaders

Municipalities

Environmental Interest Groups

First Nations

Consultants

Developers

Farmers

Tourism Operators

Landowners

Otonabee Conservation Board of Directors

Otonabee Conservation Staff

You!

# Chapter 1: Introduction

## 1.1 The Otonabee Region Watershed

The Otonabee Region watershed covers 1,971 square kilometers and includes portions of the City of Kawartha Lakes, the County of Peterborough (Township of Douro-Dummer, Township of Asphodel-Norwood, Township of Otonabee-South Monaghan, Township of Cavan Monaghan, Township of Selwyn), the Municipality of Trent Hills and the City of Peterborough in its entirety. The watershed is made up of three main river systems that include the Otonabee River, the Indian River and the Ouse River.

The watershed also includes a number of lakes including White/Dummer Lake which drains into the Indian River; Rice Lake, into which the Otonabee River flows and drains into the Trent River; and Katchewanooka, Clear, Stony, Lovesick, Upper and Lower Buckhorn, Chemong and Pigeon Lakes which are part of what is often referred to as the Kawartha Lakes. Those lakes found within the Kawartha Lakes, as well as the Otonabee and Trent rivers, form part of the Trent-Severn Waterway.

The Peterborough Drumlin field is the largest physiographic feature in the watershed and lies between the Dummer Moraine to the north and the Oak Ridges Moraine to the south. The Peterborough Drumlin field consists of thousands of drumlins that are closely spaced; on average, there are six to eight per square kilometre. Due to their high density, some of the drumlins are compound drumlins in that they have double crests, double tails or distinct secondary ridges and fluting along their sides. The drumlins are separated by low-lying, poorly drained, or swampy areas. The City of Peterborough itself was originally built on seven drumlins earning it the moniker the “City of Seven Hills.” As the City has grown it has expanded over numerous surrounding drumlins.

The Dummer Moraine is a landform of low and hummocky relief that extends across northern portions of the watershed. Its surface is rough and littered with angular fragments and large blocks of limestone with Precambrian Shield rocks also present. The moraine’s main characteristics are its low stony knobs, relatively straight lines, and many low, swampy areas. Most of the morainic ridges are relatively low compared to those found in the Peterborough Drumlin Field.

In the southwest corner of the watershed is the better-known Oak Ridges Moraine. The Oak Ridges Moraine is characterized by high relief, hummocky terrain, and beds of stratified fine sands and clays. While it has a virtual absence of watercourses, it is the headwaters area for a number of cold-water streams.

A small portion of the watershed east of the Village of Norwood is occupied by the Iroquois Plain, which is gently rolling to flat and contains deposits of sand, fine sand, and silt.

The City of Peterborough is the primary urban centre within the watershed. Smaller settlement areas include the villages and hamlets of Lakefield, Bridgenorth, Ennismore, Norwood, Millbrook, Keene, Warsaw, and Young's Point. There are additional areas of shoreline settlement on the Kawartha Lakes, particularly along Chemong, Buckhorn and Pigeon Lakes.

The Otonabee Region watershed includes two populated First Nations reserves. The Curve Lake First Nation straddles Buckhorn and Chemong Lakes northwest of the City of Peterborough. The Hiawatha First Nation is located along the Otonabee River and the north shore of Rice Lake near the southern boundary of the watershed. A third Reserve, Islands in the Trent Waters, includes various unpopulated islands throughout the Kawartha Lakes.

The watershed contains an abundance of natural resources. Given the general consensus that the state of human health is directly connected to the health of our ecosystem, undertaking activities to effectively manage the resources that are within the jurisdiction of Otonabee Conservation will produce multiple benefits. Otonabee Conservation works with all levels of government to enhance watershed health by coordinating and implementing a variety of programs and services designed to:

- Facilitate watershed planning;
- Enhance water quality;
- Maintain reliable water supply;
- Reduce flood damages;
- Protect natural areas and biodiversity;
- Provide environmental education; and,
- Provide environmentally responsible outdoor recreational opportunities.

## 1.2 What Is the Origin & History of Conservation Authorities?

As local, watershed-based organizations, Conservation Authorities (CAs) have a history in Ontario that dates back to the period of 'reconstruction' after World War II. Recognizing the need for sound planning for post-war growth and prosperity, environmental restoration, protection from flooding, erosion, and job creation for returning troops, the Government of Ontario passed two pieces of historic legislation in 1946: The *Conservation Authorities Act* (*CA Act*), which recognized that implementing land use management at a watershed scale, transcending political boundaries to support the needs of local leadership while focusing on the environmental system as a whole, was an appropriate model to base the formation of CAs. At

the same time, the *Planning Act* was established to give municipalities tools to undertake comprehensive land use planning that were integrated and coordinated with local CAs.

Conservation Authorities are…

Organizations with a long and important history.

Closely tied to protecting life and property from natural hazards.

The only watershed-based organizations concerned with upstream and downstream impacts.

Creatures of the province, created at the request of watershed municipalities.

Governed by a Board of Directors, with representation from the watershed municipalities.

In 1956, in response to severe economic and human losses associated with Hurricane Hazel (1954), changes were made to the *CA Act* to empower conservation authorities to make Regulations to prohibit filling in floodplains. These regulatory powers were refined in the 1960's, 1970's, and again in the 1990's to ultimately ensure that all development and site alteration activities in relation to river-based and Great Lake-based flooding and erosion natural hazards were effectively addressed.

The current conservation authority regulations were enacted in 2024. They identify and regulate certain development activities in and adjacent to watercourses (including valleylands), wetlands, shorelines of the Great Lakes and hazardous lands. Permits are issued if a development or site alteration proposal meets six "tests," as set out in the *CA Act*. These include '(1) the control of flooding, (2) erosion, (3) dynamic beaches, (4) unstable soils (5) or unstable bedrock and (6) 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'. These "tests" are explored further in this document.

## 1.3 Who is Otonabee Conservation?

Governed by an eleven-member Board of Directors, Otonabee Conservation is accountable to its member municipalities and has responsibility to provide the delivery of programs and services that further the conservation, restoration, development, and management of the natural resources in the watershed, as outlined by the Province. The work of Otonabee Conservation is guided by a Strategic Plan. Further direction with respect to our programs and services is taken from our Watershed Based Resource Management Strategy.

Otonabee Conservation undertakes a number of programs and services with respect to natural hazard management including the following integrated components:

1. Administering Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits;

2. Development and updating of mapping, such as floodplain mapping and regulated area mapping;
3. Municipal Plan Input and Review;
4. Flood Forecasting and Warning; and,
5. Information and Education Programs.

### 1.3.1 Strategic Plan

Otonabee Conservation's work is guided by a Strategic Plan that contains a Vision, Mission, Core Values and four Strategic Priorities. *Environmental and administrative legislation changes will drive the continual need for our programs and services to evolve, develop new policies, and make changes to administrative processes.*

One of the main tenets of the mission, as outlined in the 2024-2027 Strategic Plan is to **Protect people and property** through informed decisions and actions, information sharing, and facilitating solutions-based outcomes. The Strategic Plan provides the fundamental context for the formulation of the policies set out in this document. To view the current Strategic Plan, please visit www.otonabeeconservation.com.

*"We believe the critical role and function of water in any ecosystem requires more understanding, protection, and sustainable planning if we as a community are to thrive."*

### 1.3.2 Watershed Based Resource Management Strategy

The Strategy identifies opportunities to improve efficiencies and effectiveness related to mandatory programs as identified under Section 21.1 of the *CA Act.* The Strategy recognizes the unique natural characteristics of our watershed, and introduces a number of objectives and actionable items. One of the underpinning goals of implementing the Strategy is to manage relevant scientific and engineering data and information that we collect and use as part of our programs and services in a format that is useful to the Authority, municipalities and the County of Peterborough.

### 1.3.3 Otonabee Conservation as a Landowner

Otonabee Conservation owns a number of properties (Conservation Areas, forests, wetlands, and heritage properties) within its jurisdiction for which Otonabee Conservation undertakes a number of programs. These programs are guided by the Otonabee Conservations Lands Strategy document. To view this document, please visit www.otonabeeconservation.com.

### 1.3.4 What Relationship Does Otonabee Conservation Have to Other Agencies and Governments?

The development approval process in Ontario is complex. There are many agencies at the federal, provincial, and municipal level who have an interest in, and a responsibility for, the review and approval of planning and development applications. In addition to the local municipal planning authority, depending on the scope and location of the application, it can involve a number of provincial and federal agencies. However, the authority prescribed to each Ministry/Agency is founded in legislation. The inter-relationships between various Ministries and Agencies are frequently prescribed in formal Memorandums of Agreement (MOA) or Memoranda of Understanding (MOUs). There are MOUs in place at the federal level and also at the provincial level that articulate the relative role and responsibilities of various agencies.

Otonabee Conservation also enjoys a unique relationship with Parks Canada (PC), which operates the Trent-Severn Waterway (TSW). Parks Canada manages water levels along the Trent-Severn Waterway to provide adequate water depth for boating and related recreational activities as well as minimize flooding. Water levels are regulated on the 14 locks and water control structures within the Otonabee Region watershed. Parks Canada exercises its permitting authority on Federal lands below the "Upper Controlled Navigation Limit" while Otonabee Conservation applies its regulatory jurisdiction on private or Crown lands (typically, above the "Upper Controlled Navigation Limit").

Furthermore, Otonabee Conservation is aware of the special business relationship with First Nations that has been promoted by the Province of Ontario and the fact that First Nations lands are not subject to the *Planning Act* or the *CA Act*. In recognition of the important relationship First Nations have with the land, Otonabee Conservation will work to support and to honour this special relationship through its dealings with First Nations.

## 1.4 What Is the Legislative Mandate of Otonabee Conservation?

The following outlines the legislative mandate for Otonabee Conservation's land use planning and regulatory roles:

### 1.4.1 *Conservation Authorities Act*

The purpose of the *Conservation Authorities Act* (*CA Act*) is to organize and deliver programs and services that promote the conservation, restoration, development, and management of natural resources in Ontario's watersheds. Otonabee Conservation, established under this Act, operates as a public organization governed by a Board of Directors. This Board is appointed by

the municipalities within the Authority's jurisdiction, as stipulated by the *CA Act*. Part V of the *CA Act* outlines the objectives, powers, and responsibilities of conservation authorities, including a range of mandatory, municipal, and other programs and services.

Part VI of the *CA Act* defines the regulatory powers of conservation authorities. It specifically prohibits activities that would alter or interfere with the natural flow of rivers, creeks, streams, or watercourses without a permit. Additionally, development is restricted in hazardous lands, wetlands, river or stream valleys, and shorelines unless permitted by Otonabee Conservation.

To support the enforcement of Part VI, Ontario Regulation 41/24 has been established by the Ministry of Natural Resources (MNR) and applies to all conservation authorities in the province, including Otonabee Conservation. A key mandate of Otonabee Conservation is to prevent loss of life and property due to flooding and erosion while conserving and enhancing natural resources. Ontario Regulation 41/24 serves as an essential tool in achieving this goal, as it restricts development in areas where flooding, erosion, dynamic beaches, or unstable soils and bedrock could be adversely impacted. Furthermore, development activities are prohibited if they could create unsafe conditions during natural hazards, potentially endangering public safety or damaging property.

### 1.4.2 *Planning Act* and Provincial Planning Statement

The *Planning Act* establishes the framework for land use planning in Ontario, outlining how land uses can be regulated and by whom. It also sets forth the procedures for reviewing and approving development proposals, ensuring that citizens and public organizations, like Otonabee Conservation, are notified about these proposals. This allows the opportunity to share comments and views to municipal councils and, when applicable, to appeal decisions to the Ontario Land Tribunal.

Key components of the *Planning Act* include the identification of significant planning issues, referred to as “Provincial Interests,” and provisions that allow the Provincial Planning Statement (PPS) to offer specific policy guidance to address these interests. This encompasses critical policies relevant to Otonabee Conservation’s mission, such as “Protecting Public Health and Safety” through regulations concerning flooding and erosion-related Natural Hazards. Otonabee Conservation is tasked with overseeing Provincial Interests related to Natural Hazards through a Memorandum of Understanding with the province, and via regulations pursuant to the *Conservation Authorities Act*.

Additionally, the *Planning Act* mandates that Otonabee Conservation’s reviews of planning applications and comments must align with or conform to the Provincial Statements and Plans.

Regular assessments of municipal Official Plans and Comprehensive Zoning By-Laws are also required to ensure that municipal policies remain current. Otonabee Conservation actively participates in these reviews, advocating for the Provincial Interest regarding natural hazards.

### 1.4.3 Clean Water Act

One of Otonabee Conservation's "mandatory programs" includes "programs and services related to the authority's duties, functions and responsibilities as a source protection authority under the Clean Water Act, 2006 (CWA). Otonabee Conservation serves as the Source Protection Authority for the Otonabee-Peterborough Source Protection Area, as established by Ontario Regulation 284/07 under the CWA. Through individual Agreements, Otonabee Conservation also provides Risk Management Office services on behalf of local municipalities, including services provided by the Risk Management Official and Risk Management Official that ensure municipal legislative compliance through the implementation and enforcement of Trent Source Protection Plan policies that rely on Part IV of the CWA to protect municipal residential drinking water sources.

### 1.4.4 *Environmental Assessment Act* (*EA Act*)

Under the provisions of the *EA Act*, Otonabee Conservation reviews and comments on class and individual environmental assessments that occur in the watershed. Otonabee Conservation brings local natural hazard and watershed knowledge into the review and assessment process.

It is a requirement for proponents to identify and consult with government agencies and may include CAs if the proposed project may have an impact on an issue related to the CAs areas of interest.

CAs as landowners may also be a project proponent under the *EA Act* for proposed projects that may occur on CA lands. The Class EA for remedial flood and erosion control projects (Class EA) establishes a planning and approval process for a variety of remedial flood and erosion control projects that may be carried out by CAs.

### 1.4.5 Building Code Act

Otonabee Conservation works closely with local building officials to ensure that legislative requirements for development/construction within regulated areas are adhered to. The Building Code Act, 1992 specifies a need to conform to other existing legislation, which is referred to as "applicable law". Ontario Regulation 41/24 is applicable law, meaning that where Ontario Regulation 41/24 applies, a permit must be obtained from Otonabee Conservation before a municipal building permit may be issued.

### 1.4.6 Watershed Planning

Watershed Plans are science-based documents designed to achieve specific health goals for watersheds. Otonabee Conservation collaborates with municipalities to develop and implement these plans for effective resource management, addressing urban, rural, and natural areas while considering future growth and planning policies. The plans set goals, targets, and recommendations aimed at sustaining healthy watersheds. The PPS encourages all municipalities undertaking watershed planning (including sub-watershed plans) to collaborate with CAs.

## 1.5 What guides Otonabee Conservation's Decision Making?

### 1.5.1 How Do Otonabee Conservation's Responsibilities Under the *Planning Act* and the *CA Act*, Section 28 Regulation Differ? Why are there Differences?

It is important to understand the difference between regulatory approvals issued by Otonabee Conservation under Section 28 of the *Conservation Authorities Act* (*CA Act*) and approvals that are issued by municipalities and other planning authorities under the *Planning Act*.

***The principle of*** development ***is established through the Planning Act approval process; this principle details where and what types of*** development ***should occur in a municipality.***

Concerns regarding the principle of development are conveyed to the municipality during the preparation of municipal land use policies and planning documents (Official Plans, Secondary Plans, and comprehensive Zoning By-laws) or during the *Planning Act* approval process. In contrast, the CA permitting process pursuant to Section 28 of the *CA Act* is site specific, by individual application for a technical decision on a proposed development or activity that is based in considerations related to public safety, natural hazard prevention and management. Concerns regarding the principle of development are not normally addressed through the CA permitting process. If, however, Otonabee Conservation has concerns that a Section 28 permit cannot be issued, the Authority identifies the concern when commenting on the *Planning Act* application.

Note: Applicants who are contemplating development in the watershed are advised to check with the local and/or regional municipality to determine the requirements contained in Official Plans, Secondary Plans and Zoning By-laws as well as the latest requirements prescribed under the PPS and related planning initiatives prior to any consultation with Otonabee Conservation. In addition, applicants are also advised to contact the Municipal Building Official or By-law Enforcement Officer. For lands abutting the Trent-Severn Waterway, Parks Canada should be contacted regarding permit requirements under their applicable legislation.

### 1.5.2 What Is Otonabee Conservation's Responsibility Under the Clean Water Act? How Do These Responsibilities Affect the Authority's Responsibilities Under the *Planning Act* and the *Conservation Authorities Act*?

The Risk Management Official (RMO) and Inspector ensures compliance with Source Protection Plan (SPP) policies through the enforcement of Part IV of the CWA, the Regulation of Drinking Water Threats. The RMO reviews development applications in vulnerable areas where Part IV applies, and issues a notice to proceed, which forms part of the complete application under the *Planning Act* and part of the applicable law provisions under the Building Code. In a two-tier governance structure this may mean that the application is reviewed by the RMO, and the Upper Tier, Lower Tier, and Single Tiers will need to work together to transfer this information.

A development permit under Section 28 of the *CA Act* is not a prescribed instrument under Regulation 287/07 of the Clean Water Act which means that Otonabee Conservation is not required to ensure permits issued under Section 28 of the *CA Act* conform with the SPP. While SPP policy applicability determinations are NOT required for a *CA Act* Section 28 permit, Otonabee Conservation staff screen applications/inquiries to identify properties that may be subject to SPP policy(ies) and recommend to proponents that they consult with the RMO.

### 1.5.3 How Will Otonabee Conservation Make Decisions on Permits and How Will Otonabee Conservation Make Comments to Municipalities on Planning Applications?

In carrying out its mandated responsibilities, Otonabee Conservation will be guided by the following:

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| **Delegated Authority** | Otonabee Conservation will operate in accordance with the provisions of the CO/ MNRF/MMAH MOU when carrying out its plan review responsibilities. |
| ***Planning Act* Priority** | Otonabee Conservation recognizes that the *Planning Act* provides the framework for the development of municipal policy documents which establish the 'principle of development.' Any concerns regarding the establishment of the principle of development will be conveyed to the municipality/planning approval authority during the *Planning Act* approvals process and not addressed through the CA permitting process (*Planning Act* approvals are to be secured first; permit approvals follow). |

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| **Partnership** | Otonabee Conservation will promote a collaborative and 'whole team approach' with member municipalities and will participate in pre-consultation meetings arranged by member municipalities. |
| **Process Fairness** | Otonabee Conservation will ensure that applicants are treated respectfully through decision making processes that are both fair and easy to understand. Otonabee Conservation will address requirements that are in effect at the time of submission. In the event that historical planning approvals were granted in the absence of current technical information which could preclude development under the *CA Act*, Otonabee Conservation will work diligently with the applicant and municipality to arrive at an agreed-upon solution, taking into account the impact on the control of flooding, erosion, pollution and/or the conservation of land as well as the interference with the watercourses or wetlands. |
| **Service Excellence** | Otonabee Conservation is committed to service excellence and to providing timely, transparent, and professional services to all. |

Note: Please note that the *Planning Act* and the *Conservation Authorities Act* have differing definitions for the terms 'development' and 'wetland.' In this Manual, when the terms 'development' and 'wetland' are based on the *Planning Act* definitions they will be followed by a (1) suffix, while respectively, when the terms are based on the *Conservation Authorities Act* definitions, they will be followed by a (2) suffix. Please refer to Appendix A for further detail on these definitions.

# Part A:

# The Policies

# Chapter 2: Land Use Planning Policies

## 2.0 Plan Input and Review

**The policies contained in this Chapter provide further guidance for the Otonabee Region Conservation Authority's (Otonabee Conservation) land use planning function. Applicants should consult with their local municipality as there will be specific planning policies and requirements that will be articulated through Official Plans, Secondary Plans and Zoning By-laws. The intent of this section is not to replicate current municipal policies, but to clearly identify Otonabee Conservation's specific planning directions and recommendations.**

Considering the natural environment is an important part of land use planning and Otonabee Conservation provides planning and technical comments, information and advice to assist municipalities in fulfilling their responsibilities associated with, water resources and natural hazard management. These responsibilities emphasize the importance of coordinating planning decisions and regulatory requirements that include, but are not limited to, Otonabee Conservation's role in administering Ontario Regulation 41/24 as well as requirements under the *Environmental Assessment Act* (EAA), and Clean Water Act (CWA).

Otonabee Conservation will therefore strive to provide planning and technical direction, advice and/or information to municipalities from the following perspectives:

1. Through provincially delegated responsibility to ensure conformity with those applicable policies (Chapter 5) of the Provincial Planning Statement (PPS)**- What and where are the natural hazards impacting the development?**
2. From a hazard and resource management perspective – **How will the development impact the natural hazard? Will the development create a new or aggravate an existing hazard?**
3. Through its regulatory responsibility (discussed in more detail in the Chapters that follow) – **Will the development or activity require a permit from the Authority and what is required to obtain it?**
4. From the lens of other applicable legislation **– Will the development require approvals under the CWA?**
5. As a land manager and landowner in very site-specific circumstances.

The PPS provides the key context and important policy framework that shapes the way Otonabee Conservation carries out its planning responsibilities. It is against the backdrop of the PPS that Otonabee Conservation carries forward its planning mandate.

**"Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards." – 5.1.1 of the PPS 2024**

Otonabee Conservation provides input to the municipal land use planning process to ensure that municipal policy and planning documents are consistent with the direction established in the PPS in regard to natural hazards. Otonabee Conservation staff undertake a comprehensive review of applications submitted pursuant to the *Planning Act* to ensure that natural hazards are not adversely affected by proposed development. At the same time, Otonabee Conservation staff work to ensure that a completed development project will not itself be adversely impacted by environmental factors such as flooding or erosion hazards. In carrying out these responsibilities, Otonabee Conservation considers environmental protection, social impacts including human health and public safety, as well as economic implications.

Natural hazard features include lands susceptible to flooding or erosion (hazardous lands) and unstable soils or bedrock (hazardous sites, including wetlands). Otonabee Conservation also advises on the need to protect significant or vulnerable surface and ground water features and their hydrologic functions, significant aquifer discharge and recharge areas.

In keeping with the provisions of the *Planning Act*, Otonabee Conservation has the ability to appeal all or part of a decision of the approval authority to the Ontario Land Tribunal (OLT). At the same time however, it is recognized that planning approval decisions may have been made in the past without the benefit of current technical information which could now prevent development under the *CA Act* (discussed in more detail in Chapter 3). Wherever possible, Otonabee Conservation will work with the proponent and the municipality to find a mutually satisfactory resolution.

## 2.1 General Approach

Otonabee Conservation is committed to delivering quality service to its clients and working in partnership with its member municipalities to ensure that decisions are based on the best available science. As new information and knowledge becomes available, it is expected that these policies will be revised accordingly.

**With respect to its land use planning function, Otonabee Conservation will adhere to and attempt to fulfill the following:**

- Conduct its planning responsibilities on a watershed basis, recognizing the value of a holistic and ecological approach to planning and the important connectivity that exists between the natural environment and water resources;

- Work with its municipal partners to include natural hazard areas, and sensitive or vulnerable surface and ground water features within Official Plan(s) and Zoning By-laws to ensure no new development occurs that would be contrary to provincial or Otonabee Conservation policy;
- Be consistent with the PPS, Provincial Plans and have regard for all upper and lower tier Official Plans, Secondary Plans, Zoning By-laws, and other applicable policies;
- Make recommendations to planning authorities and agencies that are in alignment with existing legislation, policy and guidelines approved by all three levels of government and in keeping with approved studies;
- Where upper and lower tier Official Plans, Secondary Plans and Zoning By-laws contain policies that are more stringent than Otonabee Conservation policy, recommendations will reflect these more stringent policies;
- Provide up-to-date technical advice, data and/or information on updated hazard mapping, including floodplain and erosion hazards, and on conservation matters where applicable;
- Provide up-to-date technical advice, data and/or information to assist Planning authorities in preparing for the impacts of a changing climate that may increase the risk associated with natural hazards;
- Consider both the site specific and cumulative impacts of development proposals in the context of broader issues and concerns;
- Make recommendations that are consistent with all applicable provincial and federal legislation including but not limited to the Clean Water Act, Oak Ridges Moraine Conservation Plan, the Green Energy Act, and the Historic Canals Regulations when reviewing proposals under the *Planning Act*; and,
- Collaborate with other approval agencies in the review of development applications. Work to harmonize the approval process and promote a streamlined review and approvals process.

## Prescribed Acts – Ontario Regulation 596/22

In 2022, the *CA Act* was amended, and the Province included an exception to the services a Otonabee Conservation may provide to its member municipalities.

**Municipal programs and services**

Subsection 21.1.1 (1); Subject to subsection (1.1), an authority may provide, within its area of jurisdiction, municipal programs and services that it agrees to provide on behalf of a municipality situated in whole or in part within its area of jurisdiction under a memorandum of

understanding, or such other agreement as may be entered into with the municipality, in respect of the programs and services. 2020, c. 36, Sched. 6, s. 8 (1). 2022, c. 21, Sched. 2, s. 3 (1).

**Exception, prescribed Acts**

Subsection 21.1.1(1.1); An authority shall not provide under subsection (1), within its area of jurisdiction, a municipal program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act. 2022, c. 21, Sched. 2, s. 3 (2).

Ontario Regulation 596/22: Prescribed Acts enabled under the *CA Act* s. 21.1.1 (1.1) and s. 21.1.2 (1.1)) came into effect on January 1, 2023. This regulation stipulates that CAs shall not provide a Municipal (Category 2) or Other (Category 3) program or service related to reviewing and commenting on proposals, applications, or other matters under a prescribed Act.

The prescribed Acts include:

- ***Planning Act***
- Aggregate Resources Act
- Condominium Act
- Drainage Act
- Endangered Species Act
- *Environmental Assessment Act*
- Environmental Protection Act
- Niagara Escarpment Planning and Development Act
- Ontario Heritage Act
- Ontario Water Resources Act

## Pre-consultation:

Proponents are encouraged to take advantage of opportunities provided by municipalities for pre-consultation – that is, the review and preliminary discussion of a development application as provided for under the *Planning Act*. Pre-consultation meetings offer an opportunity for applicants and their agents to meet with municipal staff and relevant Agency staff (including Otonabee Conservation) to review a proposal and to identify studies, information requirements and additional approvals that may be required. Otonabee Conservation will always provide pre-consultation services upon request by the applicant or municipality.

Pre-consultation provides an opportunity for Otonabee Conservation to identify concerns related to:

- The delegated plan review responsibilities with respect to natural hazards (Section 5.1 of the PPS);
- identify concerns related to a development's impact to nearby natural hazards;
- identify concerns related to regulatory responsibilities under the *CA Act*;
- comment and/or provide advice and information with respect to natural hazards, where considered advisable,
- create a common understanding of other agencies' jurisdictional responsibilities and concerns related to specific development proposals.

### *Planning Act* – Application Types

**What different types of *Planning Act* applications are sent to Otonabee Conservation for review?**

The municipal plan input and review program of Otonabee Conservation involves the review of municipal policy and planning documents as well as site-specific planning applications submitted for approval under the *Planning Act*.

Planning related documents and applications circulated to Otonabee Conservation for review and comment typically include:

- Official Plans and Official Plan Amendments;
- Secondary Plans;
- Zoning By-laws and Zoning By-law Amendments;
- Plans of Subdivision;
- Plans of Condominium;
- Consents (severances and lot line adjustments);
- Minor Variances; and
- Site Plans.
- Watershed and Sub-watershed Plans

## 2.2 Land Use Planning – General Policies

For the purposes of this Chapter, it is important to recognize that Otonabee Conservation's comments regarding Protecting Public Health and Safety reflect Otonabee Conservation's delegated responsibility to represent the 'provincial interest' in ensuring conformity with the natural hazards policies of the PPS (S. 5.2). **As such, policies contained in this Chapter relating to flooding hazards, erosion hazards, and unstable soils or unstable bedrock are directive as opposed to recommendations.**

In carrying out its planning related responsibilities, Otonabee Conservation will consider the following in making recommendations to planning authorities within its watershed:

- Policy conformity (e.g., conformity with PPS, provincial plans, Otonabee Conservation policy, etc.);
- Potential impacts on floodways, hazardous lands, and hazardous sites;
- Potential impacts to water resources, including surface and ground water features and their hydrologic functions;
- Infrastructure, site servicing, and grading;
- Stormwater management;
- Impacts of a changing climate;
- Erosion and sediment control (where adjacent to natural hazards); and,

When reviewing applications submitted under the *Planning Act*, Otonabee Conservation may recommend to the municipality that the following be submitted by the proponent or the proponent's agent:

- Watershed or Sub-watershed Plan/Study;
- Planting or Vegetation Plan and/or Vegetation Preservation Plan;
- Watercourse and/or Valley Wall Stabilization Plan;
- Erosion Threshold Analysis;
- Environmental Impact Study (typically scoped to wetland delineation and impacts);
- Stormwater Management Plans;
- Erosion/Sediment Control Plan;
- Floodplain Study/ Analysis;
- Meanderbelt Width Delineation Analysis (unconfined systems);
- Geotechnical Report (confined systems, slope stability, soils, Low Impact Development measures, seasonally high groundwater measurements, etc.);
- Feature Based Water Balance Report;
- Water Budget, Hydrological and Hydro-Geological Studies;
- Hydrogeological Report (in-situ infiltration testing, seasonally high groundwater measurements);
- Compliance Monitoring Plan; and/or,
- Any additional report or study required by Otonabee Conservation to provide additional information relating to a specific concern.

Note: Otonabee Conservation may require that studies, reports, or plans be peer-reviewed by a third party in cases where Otonabee Conservation does not have appropriate in-house expertise to complete the review.

**CONSTRAINTS MAPPING**

2.2(1) When development proposals involving site alteration are submitted, Otonabee Conservation may require a site-specific evaluation that recognizes the existence of any hazardous lands, hazardous sites and/or water resource features. Typically, this evaluation will consist of an on-site constraint assessment (e.g., constraints mapping) and is to be completed before any site alteration takes place.

Otonabee Conservation supports and encourages an ecosystem approach to land use planning. In general, development shall be directed away from natural hazards and water resource features where there is an unacceptable risk to public health or safety or of property damage, and where the activity may create new or aggravate existing natural hazards:

- Flooding hazards;
- Erosion hazards;
- Areas of unstable soils or bedrock (hazardous sites);
- Wetlands;
- Watercourses/shorelines;
- River and Stream Valleys

## The following general policies apply with respect to Otonabee Conservations role in Land Use Planning:

**The policies in this section should be read in conjunction with the specific policies in Section 2.3 to 2.5. As it relates to Otonabee Conservations regulatory mandate – reference to those General Policies in Sections 3.3 to 3.6 of this manual will also be made when providing plan review commenting. These include:**

- **Health & Safety;**
- **Floodproofing;**
- **Safe Access; and,**
- **Cumulative Impacts**

**2.2(2) GENERAL POLICIES**

- Effective natural hazard management requires that hazards be recognized and addressed on a watershed basis. This is achieved by ensuring that provincial and municipal land use policy directions are effectively integrated and implemented to direct development away from areas of natural hazards, and to not create new or aggravate existing hazards. This ensures a responsible and informed land-use plan review process.

**2.2(2) GENERAL POLICIES Continued**

- Where a development or activity pertains to more than one water-related hazard (e.g. lands subject to flooding that are part of a wetland), policies will be applied jointly, and where applicable, the more restrictive policies will apply;
- Development must not hinder access for emergency works and maintenance to erosion hazards;
- All development proposals that involve the increase of habitable floor space over pre-existing, and/or additional dwelling units are prohibited unless safe access (ingress/egress) has been demonstrated to the satisfaction of Otonabee Conservation;
- Wherever possible, groundwater recharge functions which support natural features or hydrologic function on-site and adjacent to the site will be maintained or enhanced; and,
- Otonabee Conservation distinguishes between New Development versus Expansion/Reconstruction/Relocation when dealing with development applications submitted pursuant to the *Planning Act*. The more stringent policies are generally applied to new development as Otonabee Conservation recognizes that applications for expansions, reconstructions, or relocations are often related to an established use.

**2.2(3) CLIMATE CHANGE**

- More frequent severe weather and extreme rainfall is being experienced leading to increased flood and erosion problems. Resiliency in being able to cope with these impacts is exacerbated by wetland loss. Wetlands assist in mitigating the impacts of climate change on people and property by attenuating and absorbing flood waters. Limiting development in or near hazards such as flooding or erosion and limiting the reduction in the quantity and quality of wetlands on the landscape are paramount to the watershed community's prosperity, health and social well-being and will assist in providing the resiliency required to combat the impacts of a changing climate.

**2.2(4) INFRASTRUCTURE**

- Otonabee Conservation's review of infrastructure, ponds and drains, parks, trails, and recreational open spaces will be in accordance with Otonabee Conservation's Section 28 permitting responsibilities and subject to the policies contained within Chapter 3 through 8 as they are normally dealt with at a more detailed level. Otonabee Conservation recommends that planning applications associated with these types of infrastructure are consistent with all other policies contained in this document. Information may be required at the planning stage to ensure that a permit can be issued under Section 28 of the *CA Act*; however, this should not be interpreted that the *Planning Act* is bound by the *Conservation Authorities Act*.

- Green infrastructure that provides ecological and hydrological benefits is encouraged. Green infrastructure can include components such as natural heritage features and systems, parklands, stormwater management systems, urban forests, permeable surfaces and green roofs.

- New infrastructure shall respect natural drainage patterns, and approval will require confirmation of appropriate minor/major systems, management of external drainage, and discharge to appropriate outlets. Generally, linear infrastructure should cross perpendicular to the valley or stream corridor and at its most narrow point. Where natural hazards exist, infrastructure should consider options for remediation, and monitoring of remedial efforts will be required.

**2.2(5) WATER RESOURCES**

- Otonabee Conservation supports the protection, improvement and restoration of vulnerable/sensitive surface and groundwater features and their hydrologic functions. This is done by continuing to limit development and its impacts on regulated features (e.g. wetlands), through its role under the Clean Water Act, and, by encouraging and supporting the development of watershed plans that contain objectives, targets, and policies related to protecting and ensuring sustainable use of water resources within the watershed.

**2.2(6) STORMWATER MANAGEMENT**

- Otonabee Conservation's review of stormwater management proposals will generally revolve around detailed technical review of water quantity controls and the assessment of impacts of development on up or downstream natural hazards. Information may be required at the planning stage to ensure that a permit can be issued under Section 28 of the *CA Act*; however, this should not be interpreted that the *Planning Act* is bound by the *Conservation Authorities Act*.
- Stormwater management practices should minimize stormwater volumes and maintain or increase the extent of vegetative and pervious surfaces. Given this, Otonabee Conservation strongly encourages the incorporation of a best management treatment train approach. This approach should include lot level/source controls, low impact development (LID) technologies and conveyance methods in addition to traditional end-of-pipe methods.
- Discharge of stormwater to a receiving watercourse must occur in a manner that does not adversely impact channel morphology, stream bank erosion or negatively impact existing flood or erosion hazards. A geomorphological investigation may be required. Discharge into cold-water streams is strongly discouraged.
- All stormwater outlet channels into regulated features will require natural channel design elements to be incorporated. Redevelopment and infill development should provide measures to improve water quality and shall provide measures to improve quantity control.
- Diversion of water from an existing drainage catchment to another catchment is discouraged and every effort shall be made to maintain drainage patterns and watershed boundaries.

## 2.3 Land Use Planning – Specific Policies

### 2.3.1 Official Plan and Zoning By-laws

**What is Otonabee Conservation's policy position with respect to supporting the adoption of Official Plan policies and Zoning By-law provisions?**

**OFFICIAL PLANS AND ZONING BY-LAWS**

| | |
|---|---|
| 2.3.1(1) | Otonabee Conservation will only support the adoption of an Official Plan/passing of a Zoning By-law when it reflects and references all identified hazards in accordance with the Provincial Policy Statement. |
| 2.3.1(2) | Otonabee Conservation will only support the adoption of an Official Plan/passing of a Zoning By-law when issues of safe access (ingress/egress) have been appropriately addressed. |
| 2.3.1(3) | Otonabee Conservation will strive to protect existing wetlands (1) by recommending to planning authorities that all wetlands (1) be identified and placed in a protective designation in Official Plans and a protective zone in Zoning By-laws. |
| 2.3.1(4) | Otonabee Conservation will strive to protect existing valleylands by recommending to planning authorities that valleylands and their associated hazards be identified and placed in a protective designation in Official Plans and a protective zone in Zoning By-laws. |
| 2.3.1(5) | Otonabee Conservation will recommend that water resource systems consisting of ground water features, hydrologic functions, *hazardous lands* and *hazardous sites* , and surface water features including shorelines be identified and included in Official Plans and Zoning By-laws. |
| 2.3.1(6) | Otonabee Conservation will recommend that Official Plans and Zoning By-laws implement the necessary restrictions on development and site alteration to: protect all municipal drinking water supplies and designated vulnerable areas; and protect, improve, or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions. |

| | |
|---|---|
| 2.3.1(7) | Otonabee Conservation will recommend that sensitive ground water features, where they have been identified, be included in Official Plans and Zoning By-laws and that necessary restrictions on development and site alteration be incorporated to protect, improve, or restore sensitive groundwater features. |
| 2.3.1(8) | Otonabee Conservation will only support the adoption of an Official Plan/passing of a Zoning By-law when lands susceptible to a flooding hazard are placed in a protective designation or zone to recognize the environmental hazard and that the policies/provisions within these documents be in accordance with the Provincial Policy Statement. |
| 2.3.1(9) | Otonabee Conservation will only support the adoption of an Official Plan/passing of a Zoning By-law when policies/provisions pertaining to hazardous lands associated with erosion are addressed in accordance with the requirements of the Provincial Policy Statement. |
| 2.3.1(10) | Otonabee Conservation will only support the adoption of an Official Plan/passing of a Zoning By-law when policies/provisions pertaining to hazardous sites associated with unstable soil or unstable bedrock are addressed in accordance with the requirements of the Provincial Policy Statement. |

### 2.3.2 Lot Creation Policies

**What is Otonabee Conservation's policy approach with respect to the creation of new lots?**

Under normal circumstances, and in keeping with the policies in section 2.2, Otonabee Conservation will not recommend the creation of a lot or lots through a plan of subdivision, plan of condominium or consent should the new lot(s) extend into defined areas of interest (e.g., natural hazard and/or water features). Otonabee Conservation has taken this position in consideration of its legislative and regulatory responsibilities associated with the long-term management concerns related to risks to life and property associated with natural hazards. Otonabee Conservation may, in select circumstances, recommend the creation of a new larger, rural lot by consent where the subject property is traversed by a natural hazard feature.

## What is Otonabee Conservation's policy position on the creation of new lots?

**SUBDIVISIONS, CONDOMINIUMS & CONSENTS**

**2.3.2(1)** Otonabee Conservation will *recommend* that a lot or lots created through a plan of subdivision or consent, or units created through a plan of condominium, be set back a minimum of whichever is the greatest of the following:

| Feature | Lot Line Setback |
|---|---|
| Confined/Apparent Valley Systems | 6 metres from the limit of the stable top of slope or predicted long term stable slope (taking into account toe erosion allowance, where applicable) |
| Unconfined/Not Apparent Valley Systems | The greater of the flooding hazard limit, or the predicted meander belt width plus 6 metres |
| Floodplains | The limit of the flooding hazard based on the Regional storm (Timmins storm) |
| Wetlands | 30 metres from the limit of the wetland |
| Other Areas<br>• sensitive groundwater recharge/discharge areas<br>• wellhead protection areas<br>• surface water intakes<br>• vulnerable aquifers | A distance to be determined through the completion of a Technical Report to be submitted for approval to the satisfaction of Otonabee Conservation |

## Are there exceptions to this policy position?

**EXCEPTIONS TO THE SETBACK PROVISIONS**

2.3.2(2) Notwithstanding Policy 2.3.2(1), Otonabee Conservation will, on a site-by-site basis, support the creation of a lot(s) or unit set back a distance other than those identified based on the results of a comprehensive environmental study, site-specific technical report completed by, or to the satisfaction of, Otonabee Conservation, and consistent with provincial and municipal policy provided that lot lines(s) do not extend into the feature.

2.3.2(3) Notwithstanding Policy 2.3.2(1), Otonabee Conservation will support the creation of a lot(s) set back a distance other than those identified in some circumstances where the creation of a new lot is for the purpose of flood and/or erosion control works or for passive non-structural uses which do not affect flood flows.

2.3.2(4) Notwithstanding Policy 2.3.2(1), Otonabee Conservation will support the creation of a lot(s) set back a distance other than those identified where a single severance or lot line adjustment is being considered and where a suitable building envelope exists. The suitable building envelope must include sufficient space to incorporate necessary infrastructure (i.e., private septic systems, wells, driveway, parking areas). Necessary infrastructure is to be located either:

- outside of the applicable setback; OR
- at a distance prescribed by a comprehensive environmental study or site-specific technical report completed by or to the satisfaction of Otonabee Conservation.

2.3.2(5) Notwithstanding Policy 2.3.2(1), Otonabee Conservation will support the creation of large rural/agricultural based lots where lot lines by their necessity are required to traverse a hazard or water feature and the following, where applicable, applies:

- the proposed lot is outside of any settlement area;
- Zoning/Official plan designations are appropriate for the use;
- In the case of rural single residential, sufficient space is available outside of the hazard for the building envelope including all floodproofing, grading/filling and servicing.

### What is Otonabee Conservation's policy position on site access?

**SITE ACCESS (INGRESS/EGRESS)**

| | |
|---|---|
| 2.3.2(5) | Otonabee Conservation will only support the creation of a lot or lots when safe access (ingress/egress) can be achieved. Safe access is to be determined in accordance with current floodproofing standards. |
| 2.3.2(6) | Otonabee Conservation will support the creation of a lot or lots where new access (ingress/egress) is required through a wetland where site specific studies have been submitted to demonstrate that there are no net negative impacts to the hydrologic function of the wetland, flood storage dynamics are not impacted or can be mitigated for, and it is demonstrated that the provincial tests under the *CA Act* can be satisfied (a permit can be issued). |

## 2.4 Natural Hazards and Water Resources Features – Specific Policies

Across the Otonabee Region watershed, there are a number of important physiographic, biological, ecological, geological, and/or hydrologic features. The following sections outline policies that Otonabee Conservation follows when providing recommendations to municipalities for the protection of these natural hazard and water resource features and their processes associated with Hazardous Lands and sites.

### 2.4.1 Wetlands

#### Why are wetlands important?

Wetlands are important natural features on the landscape, whether they are permanently or seasonally wet. Wetlands perform many important ecological functions. Wetlands moderate water flow by absorbing much of the surface water runoff from the land and then slowly releasing it. This helps to reduce flooding and to sustain stream flows during dry spells. Many wetland areas recharge groundwater by moving surface water into the groundwater system. As a result, they play an important role in protecting and improving water quality, provide for fish and wildlife habitat and offer a number of associated recreational opportunities. The lands that surround wetland areas are important in sustaining their vital hydrologic and ecological functions.

### How are wetlands defined?

Wetlands are defined in the PPS as lands that are seasonally or permanently covered by shallow water as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water-tolerant plants. The four types of wetlands include swamps, marshes, bogs, and fens. The PPS indicates that lands that are periodically soaked or wetlands being used for agricultural purposes which no longer exhibit wetland characteristics, are not considered to be wetlands for the purposes of this definition.

In addition to PPS provisions with respect to wetlands, Otonabee Conservation will consider the *CA Act* permitting requirements for interference in any way with a wetland when providing planning advice to municipalities. This is to ensure that regulatory requirements can be satisfied once a planning decision is made.

The definition of 'wetland' differs under the *Planning Act* and the *Conservation Authorities Act*. Policy direction that is based on the definition of wetland in the PPS will be used by Otonabee Conservation for Plan Review purposes while policy direction based on the definition of wetland in the *Conservation Authorities Act* will be used for regulatory decision making.

**Wetlands along the Trent-Severn Waterway are also subject to the Federal Policy on** Wetland **Conservation and Parks Canada's 'Policies for In-water and Shoreline Works and Related Activities.' For further information please see Parks Canada's 'Policies for In-water and Shoreline Works and Related Activities' available on the Parks Canada website.**

### What are 'adjacent lands' & why are adjacent lands important?

The areas surrounding wetlands where development could interfere with the hydrological function of the wetland are referred to as "adjacent lands" (PPS) or "areas of interference" (*CA Act*).

Under the *CA Act* Section 28 Regulation administered by Otonabee Conservation (O. Reg. 41/24), areas of interference include lands that are 30 metres from the boundaries of all wetlands. In addition to PPS provisions with respect to adjacent lands, Otonabee Conservation will consider *CA Act* permitting requirements for development within areas of interference when providing planning advice to municipalities. This is to ensure that regulatory requirements can be satisfied once a planning decision is made.

**All** wetland**s and their associated adjacent lands or area of interference are regulated under Otonabee Conservation's Regulation: Prohibited Activities, Exemptions and Permits – O. Reg. 41/24 (See Chapter 3).**

**What is Otonabee Conservation's policy position with respect to new development and/or site alteration in** wetland**s?** In this section, the definitions of wetland and development are in reference to that of the Provincial Planning Statement.

**WETLANDS - NEW DEVELOPMENT AND/OR SITE ALTERATION**

| | |
|---|---|
| 2.4.1(1) | Otonabee Conservation will recommend that development and/or site alteration not be permitted within wetlands (1). |
| 2.4.1(2) | Notwithstanding the provisions contained in 2.4.1(1), and subject to the policies contained in Chapter 3, Otonabee Conservation will recommend approval of development and/or site alteration within a wetland where such development and/or site alteration is associated with: conservation activities; passive low-intensity recreational uses; public infrastructure (including but not limited to, flood and/or erosion control works); and drainage works approved pursuant to the Drainage Act. |
| 2.4.1(3) | Further to Policy 2.4.1(1), for all development proposals involving site alterations where a wetland is present on or adjacent to lands subject to the development proposal, Otonabee Conservation may recommend an on-site wetland boundary delineation/staking conducted by a Qualified Professional. This boundary delineation shall be illustrated on a Reference Plan or Site Plan. |
| 2.4.1(4) | Otonabee Conservation will recommend that a subdivision or condominium plan adjacent to a wetland include conditions that provide for the protection of the wetland and applicable setback as determined in accordance with Policy 2.3.2(1). At a minimum, Otonabee Conservation will recommend that these lands be placed in an appropriate zoning category in the municipal Zoning By-law (e.g., Environmental Protection, Hazard Land, Open Space). |

**Within 30 metres of a wetland:**

2.4.1(5) Otonabee Conservation will recommend that new development and/or site alteration not be permitted within 30 metres of the boundary of a wetland except where it can be demonstrated through an appropriate study, or site review, as applicable, that there will be no negative impact on the natural hazards and hydrologic functions of the wetland.

**What is Otonabee Conservation's policy position with respect to expansions, reconstruction, or relocation in** wetlands**?**

**WETLANDS – EXPANSIONS, RECONSTRUCTION & RELOCATION**

2.4.1(6) Otonabee Conservation will recommend that new development and/or site alteration not be permitted within 30 metres of the boundary of a wetland except where it can be demonstrated through an appropriate study, or site review, as applicable, that there will be no negative impact on the natural hazards and hydrologic functions of the wetland.

Note: The evaluation and establishment of boundaries of a wetland will be determined through site specific field investigations and technical reports where required, to the satisfaction of Otonabee Conservation and affected planning authorities.

### 2.4.2 Watercourses & Shorelines

**What are watercourses & shorelines?**

Watercourses are dynamic systems that include complex processes constantly undergoing change. A watercourse is any river, creek, stream, lake and/or drain.

**Why are watercourses & shorelines important?**

The health of watercourses is integral to the health of a watershed as they provide key ecological functions and hydrologic functions such as fish habitat and habitat for wildlife,

sediment and nutrient transport and deposition, transfer media for energy and organisms, source of water supply and important contributions to the hydrologic cycle.

The structure and function of watercourses are influenced by channel morphology, sediment characteristics, and the nature of the riparian vegetation. Each of these aspects is interrelated and as a result, impacts on one are likely to bring about impacts to others. Changes to channel morphology can reduce the ability of the watercourse to process sediment causing erosion and changing the amount or size of bed load being moved. Loss of riparian vegetation can result in more pollutants and run-off being transferred from the land to the water, impacting water quality and **flooding** downstream reaches. In addition, loss of riparian vegetation or changes to upstream or source of water supply can have impacts to the thermal regime of the watercourse. These changes affect near shore and aquatic habitat and can impair the watercourse for use by fish, wildlife, humans, and other organisms.

**Otonabee Conservation will generally recommend that all watercourses and adjacent areas remain in their natural state and that base flow and velocity be maintained.**

## What is Otonabee Conservation's policy position with respect to new development and/or site alteration within a watercourse?

**WATERCOURSES & SHORELINES - NEW DEVELOPMENT AND/OR SITE ALTERATION**

| | |
|---|---|
| 2.4.2(1) | Otonabee Conservation will recommend that development and/or site alteration not be permitted within the existing channel of a watercourse, except in accordance with the policies in Chapter 3. |
| 2.4.2(2) | Otonabee Conservation will recommend that proposals to realign or channelize significant portions of a natural watercourse to accommodate development not be permitted. Proposals to realign natural watercourses or previously realigned watercourses may be supported if the alterations are proven to establish flood relief, erosion control, or fisheries and/or environmental enhancement to Otonabee Conservation's satisfaction. The design is required to be completed by a qualified professional (geomorphologist). An erosion and sediment control plan must also accompany such a proposal and be found satisfactory to Otonabee Conservation. A landscape restoration plan that ensures replacement or enhancement of the natural character/function of the watercourse being channelized may also be required. The alteration must not adversely impact municipally owned properties (including road allowances) or privately owned properties. |
| 2.4.2(3) | With the exception of watercourse crossings discussed in Chapter 4, Otonabee Conservation will recommend that spanning buildings or structures across watercourses not be permitted. |
| 2.4.2(4) | Where there are additional requirements outlined in any Watershed Plan, Subwatershed Plan or Master Drainage Plan, Otonabee Conservation will recommend that development adjacent to watercourses conform to the provisions of that plan. |

Note: The determination and limits of a watercourse will be determined through site specific field investigations and technical reports where required, to the satisfaction of Otonabee Conservation and affected planning authorities, as appropriate.

### What is Otonabee Conservation's policy position with respect to new development and/or site alteration in buffers?

**WATERCOURSES & SHORELINES - NEW DEVELOPMENT AND SITE ALTERATION**

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|---|---|
| 2.4.2(5) | For all development and/or site alteration proposals adjacent to a watercourse, Otonabee Conservation will recommend the maintenance, establishment, and/or enhancement of a buffer of an appropriate width based on intended land use and site conditions as determined by Otonabee Conservation staff in consultation with the application and guided by the 'Best Management Practices 15: Buffer Strips' (OMAFRA, 2004) and/or in accordance with the results of a technical report by a qualified professional. |
| 2.4.2(6) | Notwithstanding Policy 2.4.2(5), greater buffer widths may be recommended for areas subject to the recommendation of a Watershed Plan, Subwatershed Plan or Lake Management Plan, or the provisions of a particular provincial plan (i.e., Oak Ridges Moraine Conservation Plan). |
| 2.4.2(7) | Otonabee Conservation will recommend approval for the interruption of a buffer to allow for watercourse crossings, boathouses, recreational trails and paths, and infrastructure provided they can satisfy the policies contained in Chapter 4. |
| 2.4.2(8) | Otonabee Conservation will recommend that watercourse buffers, at a minimum, be zoned appropriately (e.g., Environmental Protection, Hazard Land, Open Space) to protect the feature. |

### What is Otonabee Conservation's position with respect to expansions, reconstruction, & relocation within a buffer?

**WATERCOURSES & SHORELINES - EXPANSION/RECONSTRUCTION/RELOCATION**

2.4.2(9) For expansion, reconstruction, or relocation of an existing building or structure within a watercourse/shoreline buffer Otonabee Conservation will recommend maximum buffers be applied where possible. For building or structure relocations, Otonabee Conservation will recommend the proponent minimize the building envelope and may require the submission of a proposal to enhance the watercourse/shoreline buffer.

## 2.5 Hazardous Lands and sites – Specific Policies

### What are natural hazards?

There are a number of natural physical environmental processes that can produce unexpected events, the outcome of which can be catastrophic and result in damage to property, injury to humans, and occasionally, loss of life. These processes are considered natural hazards. Across the watershed, they include flooding hazards, erosion hazards, and unstable soil or bedrock.

### What is Otonabee Conservation's policy approach with respect to natural hazards?

Otonabee Conservation will recommend that a comprehensive approach to natural hazard management is followed considering risks to life and property, economic feasibility (i.e., cost benefit analysis), upstream and downstream impacts, social impacts, and cumulative impacts, as well as the impact to natural features and areas. Otonabee Conservation will take the position that development shall not take place within natural hazards or areas that would be rendered inaccessible to people and vehicles during events associated with hazardous lands unless it has been demonstrated that the site has safe access (ingress/egress) appropriate for the nature of the development being proposed and the natural hazard. Otonabee Conservation will make recommendations consistent with established provincial policy and articulated provincial standards when determining the limits and extent of hazardous lands and hazardous sites.

Otonabee Conservation adheres to the following in carrying out its natural hazard management responsibilities:

- Proper natural hazard management requires that natural hazards (flooding, erosion, karst bedrock, organic soils) be simultaneously recognized and addressed in a manner

that is integrated with land use planning and maintains environmental and ecosystem integrity;

- Effective floodplain management can only occur on a watershed and littoral reach basis with due consideration given to the effects of development and the associated environmental and ecosystem impacts;
- New development which is susceptible to natural hazards, will cause or aggravate hazards to existing and approved land uses, or will cause adverse environmental impacts will not be supported unless the natural hazard and environmental impacts can be addressed;
- Natural hazard management and land use planning are distinct but related activities that require overall coordination on the part of municipalities, Otonabee Conservation, MNRF and MMAH.

Since hazards have the potential to result in significant human consequences in terms of loss of life and property damage, it is imperative that municipal land use policies and planning documents (Official Plans, Secondary Plans, and comprehensive Zoning By-laws) and development decisions take all necessary precautions to ensure community safety and be consistent with section 3.1 of the PPS. Otonabee Conservation will apprise MMAH of planning matters where there is inconsistency in the application of Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.

### Are there specific uses that Otonabee Conservation generally prohibits on lands susceptible to natural hazards?

**NATURAL HAZARDS - PROHIBITED USES**

2.5(1) In keeping with provisions of the Provincial Policy Statement, Otonabee Conservation will not support development or site alteration associated with the following uses due to potential public safety concerns:

- an institutional use including, but not limited to, those associated with hospitals, long-term care homes, retirement homes, pre-schools, school nurseries, day cares, and schools;
- an essential emergency service such as that provided by fire, police and ambulance stations, and electrical substations; or,
- uses associated with the disposal, manufacture, treatment, or storage of hazardous substances.

## 2.5.1 Flooding Hazards

### What is flooding & why is Otonabee Conservation concerned about flooding?

Flooding of river and stream systems can occur any time, including following a spring freshet or extreme rainfall events. Rivers and streams naturally accommodate flooding in their valleys. Historically, development occurred in floodplain areas because of the availability of water for power, transportation, energy, waste assimilation and domestic as well as industrial use. Floodplain development is susceptible to flooding which can result in property damage and/or loss of life.

### What is Otonabee Conservation's policy approach with respect to flooding?

Within Otonabee Conservation's watershed, the flooding hazard limit (or floodplain) of river and stream systems is the area adjacent to the watercourse that would be inundated under a flood resulting from the rainfall experienced during the Timmins storm (1961). This approach applies to all watercourses under the jurisdiction of Otonabee Conservation except for Rice Lake, Stony Lake, Clear Lake, Lovesick Lake, Deer Bay, Buckhorn Lake, Chemong Lake, Pigeon Lake, and Katchewanooka Lake where the highest recorded water level is recorded by Parks Canada (Appendix K).

The standard for defining the floodplain along all other lakes is the same standard used for river and stream systems (i.e., flood produced by the Timmins storm).

### What is a one-zone approach?

Generally speaking, Otonabee Conservation applies a one-zone concept to floodplain management based on the regulatory flood standard, in accordance with Provincial standards. In a one-zone concept, the entire area within the flooding hazard limit (i.e., the floodplain) is considered to be one management unit; it is referred to as the floodway (see Figure 2A below).

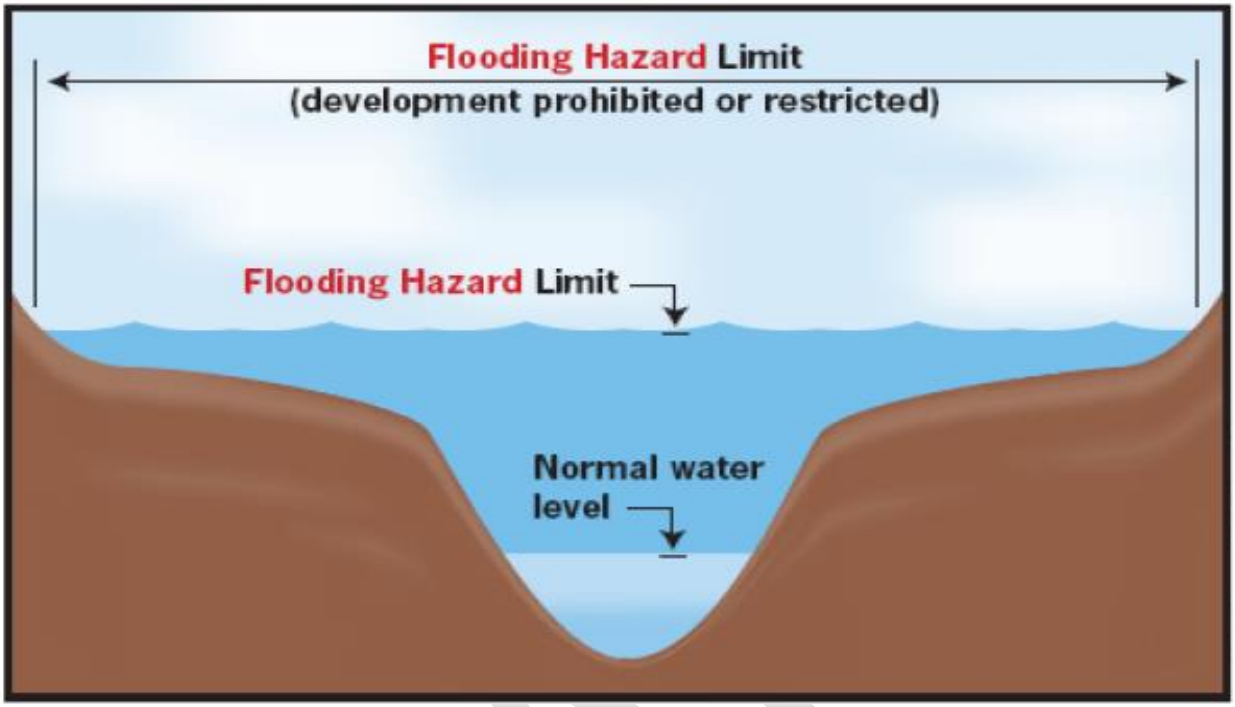


Figure 2A | One-Zone Floodplain Concept (Technical Guide – River & Stream Systems: Flooding Hazard Limit, MNRF, 2002)

**Where the one-zone concept applies, what is Otonabee Conservation's policy position with respect to new development and/or site alteration within a flooding hazard?**

**ONE-ZONE: NEW DEVELOPMENT AND/OR SITE ALTERATION**

2.5.1(1) Otonabee Conservation will not support development and/or site alteration within a floodplain regardless of whether the area of inundation contains high points of land not subject to flooding. However, Otonabee Conservation will support development and/or site alteration within a floodplain subject to the policies contained in Chapter 3, where the development and/or site alteration is limited to uses which by their nature must locate within the floodplain, including: flood and/or erosion control works; passive non-structural uses which do not affect flood flows; and/or, non-habitable accessory structures.

| | |
|---|---|
| 2.5.1(2) | When development is proposed within or adjacent to a river or stream valley and the floodplain limits for the watercourse are not available, Otonabee Conservation may require that the applicant (or agent) provide appropriate technical reports identifying the floodplain limits on the subject lands in accordance with the criteria set out in the Ministry of Natural Resources and Forestry "Technical Guide – River & Stream Systems: Flooding Hazard Limit" (2002) to the satisfaction of Otonabee Conservation. The floodplain limit is to be based on the flood produced by the Timmins storm or the appropriate highest recorded lake level. |
| 2.5.1(3) | Otonabee Conservation will only support a subdivision or condominium plan adjacent to a floodplain if the protection of the floodplain and for unconfined valley systems, the applicable setback as determined in accordance with policy 2.3.2(1), is provided. At a minimum, Otonabee Conservation will recommend that these lands be placed in an appropriate zoning category in the municipal Zoning By-law (e.g., Environmental Protection, Hazard Land, Open Space.) |

**Where the one-zone concept applies, what is Otonabee Conservation's policy position with respect to expansions, reconstruction, or relocation in flooding hazards?**

| **ONE-ZONE – EXPANSION/RECONSTRUCTION /RELOCATION** | |
|---|---|
| 2.5.1(4) | Otonabee Conservation will not support the expansion of an existing building or structure within or adjacent to a floodplain. |
| 2.5.1(5) | Notwithstanding 2.5.1(4), Otonabee Conservation will support the expansion of an existing commercial/industrial/agricultural building or structure within or adjacent to a spill area provided the development can be removed from the flooding hazard and adequately floodproofed and conforms to the permit policies contained in this document (Chapter 3-8). |
| 2.5.1(6) | The reconstruction or relocation of an existing building or structure within or adjacent to a floodplain will be supported by Otonabee Conservation provided that the reconstruction or relocation conforms to the permit policies contained in this document (Chapter 3-8). |

The one zone concept is the most restrictive but also the most effective way to manage flood hazards from a risk management perspective. There are alternative floodplain management concepts, including the two-zone concept and Special Policy Areas (SPA).

Currently, there are three areas in the watershed where an alternative floodplain management concept is applied. These include a two-zone that was approved in Norwood in Asphodel-Norwood and two Special Policy Areas: Jackson Creek SPA in downtown Peterborough and the Millbrook SPA in Cavan Monaghan. The same policies for development are applied to applications made under both the *Planning Act* and Ontario Regulation 41/24 and are contained in Appendix E: Two-zone and Special Policy Areas.

### 2.5.2 Erosion Hazards

#### What are Erosion Hazards?

River and stream systems (including all watercourses, rivers, streams, and small inland lakes) are by their nature dynamic, constantly changing landforms mainly due to erosive forces or flowing water and the relative stability of surrounding slopes. The degree and frequency with which the morphological or physical change will occur in these systems depends on the interaction of a number of interrelated factors including hydraulic flow, channel configuration, sediment load in the system, and the stability of the banks, bed, and adjacent slopes. The constant shaping and re-shaping of river and stream systems by the physical processes associated with flooding, erosion, and slope instability can result in the creation of hazardous conditions that pose a threat to human lives and cause property damage.

#### Why is Otonabee Conservation concerned with erosion?

Erosion and slope stability are two different processes that are often associated together and can pose a threat to life and property through the loss of land due to human or naturally occurring processes. Erosion is the continued loss of earth material (i.e., soil or sediment) over time as a result of the influence of water or wind action. The erosion process affects the soil surface at the particle level, by gradually dislodging and removing (transporting) the soil particles from the parent mass. Slope stability, usually described in terms of the potential for slope failure, refers to a mass movement of earth material, or soil, sliding down a bank or slope face as a result of a single event in time. Slope movement or instability can occur in many ways but is generally the result of:

- Changes in slope configurations, such as steepness or inclination;
- Increases in loading on or near the slope, such as structures or filling;
- Changes in ground water conditions or drainage of the soil (i.e., heavy rainfall or spring melt, drainage blocked by filling, or broken watermains);

- Loss of vegetation cover and root systems; and/or,
- Erosion of the toe slope.

### What is the erosion hazard limit?

The erosion hazard associated with river and stream systems is that area of a river or stream bank and lands adjacent to watercourses where erosion is actively occurring and/or where development could create slope stability issues. The erosion hazard component of the actual river and stream system is intended to address both erosion potential of the actual river and stream bank as well as erosion or potential slope stability issues related to valley walls.

**Slopes steeper than 3:1 (horizontal: vertical) with a height of at least 3 metres are generally considered potentially unstable. Slopes in sandy soil areas may be unstable if the slope is steeper than 5:1 (horizontal: vertical).**

### How is the erosion hazard limit applied?

The application of the erosion hazard limit will depend on whether the watercourse flows through a well defined valley system and is confined within a valley corridor or whether it flows through landscapes that are relatively flat and not confined or bounded by valley walls. In accordance with Provincial guidelines, Otonabee Conservation considers two basic types of river and stream systems when determining the extent of an erosion hazard:

- Confined systems, and,
- Unconfined systems.

The extent of the hazard varies based on the characteristics of the bedrock and soils which comprise the valley slope, degree to which the valley slope is stable or unstable, and whether or not the valley slope is subject to active erosion.

### What are confined river and stream systems?

Confined river and stream systems are ones in which the physical presence of a valley corridor containing a river or stream channel (which may or may not contain flowing water) is visibly evident – that is, the valley walls are clearly definable from the surrounding landscape, either by field investigations, aerial photography, or map interpretation. The location of the river or stream channel may be at the base of the valley slope, in close proximity to the valley slope, or removed from the valley. The river or stream channels can contain either perennial (i.e., year round) or ephemeral (i.e., seasonal or intermittent) flow and may range in channel configuration from seepage and natural springs to detectable channels.

The erosion hazard limit in confined systems is defined by: toe erosion allowance, plus stable slope allowance, plus erosion access allowance. For more detailed information, see the MNRF "Technical Guide – River and Stream Systems: Erosion Hazard Limit" (2002).

### What are unconfined river and stream systems?

Unconfined river and stream systems are ones in which the river or stream is present but there is no identifiable valley slope or bank that can be detected from the surrounding landscape, either by field investigations, aerial photography, or map interpretation. Generally, these features are found in flatter or gently rolling landscapes and may be located within the headwater areas of drainage basins. The river or stream channels can contain either perennial (i.e., year round) or ephemeral (i.e., seasonal or intermittent) flow and may range in channel configuration from seepage and natural springs to detectable channels.

The erosion hazard limit in unconfined systems is defined by: the flooding hazard limit or meander belt allowance, plus erosion access allowance. For more detailed information, see the MNRF "Technical Guide – River and Stream Systems: Erosion Hazard Limit" (2002) as may be amended from time to time.

Note: Geotechnical studies, as required by Otonabee Conservation, must provide an analysis based on the natural state of the slope and be completed in accordance with the criteria set out in the MNRF "Technical Guide – River & Stream Systems: Erosion Hazard Limit (2002) as may be amended from time to time.

## What is Otonabee Conservation's policy position with respect to new development and/or site alteration in an erosion hazard?

**EROSION HAZARDS - NEW DEVELOPMENT AND/OR SITE ALTERATION**

2.5.2(1) Otonabee Conservation will not support development and/or site alteration on lands susceptible to an erosion hazard except as identified in Chapter 3.

2.5.2(2) In cases where development is proposed within or adjacent to a river or stream valley, Otonabee Conservation will require that the applicant (or agent) provide appropriate technical reports (e.g., topographic survey, stream bank erosion analysis, geotechnical investigation) identifying the extent of the erosion hazard limit on the subject lands in accordance with the criteria set out in the Ministry of Natural Resources and Forestry "Technical Guide - River & Stream Systems: Erosion Hazard Limit" (2002) to the satisfaction of Otonabee Conservation.

2.5.2(3) Otonabee Conservation will only support a proposed subdivision or condominium plan adjacent to an erosion hazard if protection of the entire erosion hazard limit determined in accordance with the criteria set out in the Ministry of Natural Resources and Forestry "Technical Guide - River & Stream Systems: Erosion Hazard Limit" (2002) (see Policy 2.4.2(2)) is provided. At a minimum, Otonabee Conservation will recommend that these lands be placed in an appropriate zoning category in the municipal Zoning By-law (e.g., Environmental Protection, Hazard Land, Open Space.)

**What is Otonabee Conservation's policy position with respect to expansion/reconstruction/relocation in an erosion hazard?**

| **EROSION HAZARDS - EXPANSION/RECONSTRUCTION/RELOCATION** | |
|---|---|
| 2.5.2(4) | Otonabee Conservation will not support the expansion of an existing building or structure within or adjacent to an unstable slope and/or erosion hazard. |
| 2.5.2(5) | The reconstruction or relocation of an existing building or structure within or adjacent to an unstable slope and/or erosion hazard will be supported by Otonabee Conservation provided that the reconstruction or relocation conforms to the policies contained within Chapter 3. |

## 2.5.3 Hazardous Lands Associated with Unstable Soil or Unstable Bedrock

**Why is Otonabee Conservation concerned with unstable soils and bedrock?**

As identified previously, hazardous land means land that could be unsafe for development and site alteration because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or unstable bedrock. Where an activity is within unstable soil or unstable bedrock then this section applies, otherwise refer to the appropriate section(s) for other hazardous land such as flooding or erosion hazards.

Hazardous land associated with unstable soil or unstable bedrock includes, but is not limited to, sensitive marine clays, organic soils, and karst topography. Within the Otonabee Region watershed, organic soils and karst topography can be found. Organic soils are normally formed by the decomposition of vegetative and other organic materials. Peat soils are the most common type of organic soil in Ontario. Karst topography may be present in limestone or dolomite bedrock and is extremely variable in nature.

Due to the specific nature of organic soils and karst topography it is difficult to accurately identify the location and extent of the hazard without undertaking site specific technical reports. In this regard, the potential for catastrophic failures in some areas of unstable soil and unstable bedrock require site specific studies to determine their characteristics and therefore the appropriate limits of the hazard.

Note: The determination and limits of hazardous land associated with unstable soil or unstable bedrock will be determined through site specific field investigations and technical reports

where required, to the satisfaction of Otonabee Conservation and the affected planning authority, as appropriate.

**What is Otonabee Conservation's policy position with respect to new development and/or site alteration in areas with unstable soils and bedrock?**

**UNSTABLE SOILS & BEDROCK - NEW DEVELOPMENT AND/OR SITE ALTERATION**

2.5.3(1) Otonabee Conservation will not support development and/or site alteration on hazardous land associated with unstable soil or unstable bedrock except as identified in Chapter 3.

2.5.3(2) Otonabee Conservation will require that a subdivision or condominium plan adjacent to hazardous land associated with unstable soil or unstable bedrock include protection of the hazardous land, as determined through a geotechnical study prepared, signed, and stamped by a qualified Geotechnical Engineer. At a minimum, Otonabee Conservation will require that these lands be zoned appropriately (e.g., Environmental Protection, Hazard Land, Open Space).

**What is Otonabee Conservation's policy position with respect to expansion/reconstruction/relocation in areas with unstable soils and bedrock?**

**UNSTABLE SOILS & BEDROCK - EXPANSION/RECONSTRUCTION/RELOCATION**

2.5.3(3) Otonabee Conservation will not support the expansion of an existing building or structure within or adjacent to hazardous lands associated with unstable soils or bedrock.

2.5.3(4) The reconstruction or relocation of an existing building or structure within or adjacent to hazardous lands associated with unstable soils or bedrock will be supported provided that the reconstruction, or relocation conforms to the policies contained in Chapter 3.

# Chapter 3: Policies for the Administration of O. Reg. 41/24

## 3.0 Background

The general policies contained in this Chapter apply specifically to the Otonabee Region Conservation Authority's (Otonabee Conservation) regulatory role under Part VI of the *Conservation Authorities Act* (*CA Act*). Reference should be made to chapters 4 through 8 for specific policies.

Otonabee Conservation is committed to providing a timely, objective, impartial, consistent, and comprehensive review of all permit applications submitted for approval under the *CA Act* Section 28 regulation (O. Reg. 41/24). Every attempt will be made to apply the regulation in a manner consistent with the Provincial Policy Statement (PPS) made under the authority of Section 3 of the *Planning Act*.

The objectives of this regulation are to:

- Prevent loss of life as a result of flood or erosion hazards;
- Minimize property damage and social disruption resulting from flooding or erosion;
- Minimize public and private expenditure for emergency operations, evacuations, disaster relief and restoration;
- Prevent hazardous development within floodplains, flood and erosion areas and unstable slopes, soil and bedrock which may in future require substantive mitigation measures;
- Ensure that development does not increase risks to upstream and downstream landowners;
- Prevent filling and/or draining of natural storage areas, and development that may limit floodplain storage capacity, increase flood elevations and/or decrease slope stability;
- Prevent interference with the hydrologic function of wetlands;

On April 1, 2024, the Province released Ontario Regulation 41/24 and proclaimed associated sections of the *Conservation Authorities Act*, the text of which is continuously referenced throughout the following sections of this document.

## 3.1 Authority of the Regulation

### 3.1.1 Prohibited Activities

Section 28 of the *Conservation Authorities Act*, includes the following section:

**28** (1) Subject to subsections (2), (3) and (4) and section 28.1, no person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

1. Activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.
2. Development activities in areas that are within the authority's area of jurisdiction and are,
    i. hazardous lands,
    ii. wetlands,
    iii. river or stream valleys the limits of which shall be determined in accordance with the regulations,
    iv. areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to an inland lake and that may be affected by flooding, erosion or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations; or,
    v. other areas in which development should be prohibited or regulated, as may be determined by the regulations. 2017, c. 23, Sched. 4, s. 25.

**"development activity"** means,

(a) the construction, reconstruction, erection or placing of a building or structure of any kind,

(b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,

(c) site grading, or

(d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere; ("activité d'aménagement")

### 3.1.2 Permits

Section 28 of the *Conservation Authorities Act*, includes the following section:

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

a. the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
b. the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; and
c. any other requirements that may be prescribed by the regulations are met. 2017, c. 23, Sched. 4, s. 25; 2022, c. 21, Sched. 2, s. 9 (1).

### 3.1.2 Areas Subject to the Regulation

**What areas of the watershed does Otonabee Conservation regulate?**

For a complete description including rationale and technical details please see **Appendix D** of this document.

In summary and In accordance with Ontario Regulation 41/24, Otonabee Conservation has regulated areas within its jurisdiction as follows:

**Hazardous Lands**

This component of the Regulation applies to development within hazardous lands which is defined under O.Reg. 41/24 pursuant to Section 28 of the *CA Act* as land that could be unsafe for development due to naturally occurring processes associated with flooding (including spills), erosion, dynamic beaches, or unstable soil or bedrock.

Unstable soil and bedrock include, but are not limited to: sensitive marine clays, organic soils, and karst topography. Sensitive marine clays are not identified within the watershed. Organic soils are normally formed by the decomposition of vegetative and other organic materials. Peat soils are the most common type of organic soil in Ontario. Karst topography may be present in limestone or dolomite bedrock and is extremely variable in nature, but does exist within the Otonabee Conservation watershed.

Wetland**s (including swamps, marshes, fens, and bogs)**

This component of the Regulation applies to development within a wetland, or change or interference in any way with a wetland.

**Other areas** where activities could interfere with the wetland (areas of interference) are defined as the regulated 30 metre area adjacent to any wetland (S. 28 (1) 2. v. of the CAAct).

**River or Stream Valleys**

This component of the Regulation applies to development within river and stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:

- Where the river or stream valley is apparent and has stable slopes, the valley extends to the stable top of bank plus 15 metres to a similar point on the opposite side.
- Where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope or if the toe of slope is unstable, from the predicted location of the toe of slope as a result of stream erosion over a projected 100 year period plus 15 metres to a similar point on the opposite side.
- Where the river or stream valley is not apparent, the valley extends:
    - To the greater of:
        - the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard to a similar point on the opposite side, and
        - the distance from the predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood event standard to a similar point on the opposite side, and
    - an additional 15-metre allowance on each side, except in areas within the jurisdiction of the Niagara Peninsula Conservation Authority.

***Kawartha Lakes*** *- Otonabee Conservations watershed includes shorelines located along the Kawartha Lakes. The regulation limit associated with these lakes is determined using technical guides associated with* ***River or Stream Valley systems*** *from the MNR, as amended from time to time.*

**River or Stream Valleys contain hazardous lands associated with both flooding and erosion. Further to the General Policies outlined in this Chapter, Chapters 4 and 5 of this document discuss those specific policies associated with these hazards.**

Although the regulation is focused on natural hazards, river and stream systems also provide physical, biological and chemical support functions for sustaining ecosystems. These functions are directly associated with the physical processes of discharge, erosion, deposition and transport which are inherent in any river and stream system. The interplay between surface and ground water and the linkages, interactions and inter-dependence of aquatic environments with terrestrial environments supply hydrologic and ecological functions critical to sustaining watershed ecosystems.

**Rivers, Creeks, Streams, or Watercourses**

This component of the Regulation applies to the straightening, changing, diversion, or interference in any way with the existing channel of a watercourse, including lakes and their shorelines that are within the Otonabee Conservation watershed.

This component of the Regulation does not apply to dug-out or isolated ponds located outside of any wetland or other areas of a wetland, river or stream valley, hazardous land associated with unstable soil or bedrock, and/or the applicable regulated allowance. A watercourse must have a defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs.

**The Regulation Limit**

The approximate extent of regulated areas associated with river or stream valleys, wetlands, hazardous lands, areas of interference with wetlands, and watercourses is identified by a Regulation Limit.

**How has the Regulation Limit been established?**

Throughout the watershed, the Regulation Limit has been mapped by Otonabee Conservation in accordance with guidelines from the Ministry of Natural Resources (MNR) and Conservation Ontario (CO).

**It is important to recognize that this limit is an approximation and that in case of a conflict, the written description of those areas in Section 2(1) of Ontario Regulation 41/24 shall prevail over the Regulation limit illustrated on the maps.**

Mapping is available to the public online at www.otonabeeconservation.com and at the head office of Otonabee Conservation. To accurately assess and determine the regulation limit, Otonabee Conservation staff may be required to attend the site to verify and delineate any regulated features present on the property as noted above. Please see Section 3.2.2 below for more information on this process.

### 3.1.3 Not considered Development

**What is not considered development?**

There are a number of activities that fall outside of the definition of development and do not require a permit from Otonabee Conservation. These include:

- Non-structural activities associated with existing agricultural use (cropping, pasturing, tilling, fence row clearing, stone pile removal, etc.);
- Maintenance and upkeep of existing building or structures (window repair, siding, etc.);

- Landscaping that does not result in alterations to existing grade (e.g., gardens, nurseries, timber harvesting without stump removal, etc.);
- The patching or resurfacing of existing access routes (public roads, driveways, private access roads, and entrance ways) that does not result in alterations to existing grade;
- Well installation; and,
- Fence installation, not including stone or concrete walls.

As long as these activities would not result in the straightening, changing, diversion or interference in any way with a watercourse, or interference in any way with a wetland, they are not subject to Ontario Regulation 41/24 and do not require written permission from Otonabee Conservation.

### Are municipal drains regulated?

The Drainage Act defines a process whereby property owners can petition their local municipality to develop communal solutions to solve drainage problems. The Drainage Act is primarily used in rural Ontario but is occasionally used to resolve drainage issues in urban areas. Once a municipal drain is constructed and adopted through by-law, municipalities are required to maintain and repair these drains. Under the *Conservation Authorities Act*, CAs regulate development in wetlands and watercourses, amongst other things. Municipal drains are often regulated due to the definition of a watercourse under Ontario Regulation 41/24.

When reviewing these types of drainage proposals, Otonabee Conservation will look to the requirements set out in the Drainage Act and the *Conservation Authorities Act* Protocol, approved by the Minister and available on a government of Ontario website, as it may be amended from time to time.

Once established, the maintenance and repair of municipal drains is exempt from requiring a permission under Ontario Regulation 41/24; (5) e).

**There are no municipal drains within the Otonabee Conservation watershed at this time.**

## 3.1.4 Exceptions under the Regulation

Section 28 of the *Conservation Authorities Act* includes the following sections dealing with exceptions to the prohibition on development activities, alterations or interference in regulated areas.

**Exception, aggregates**

Subsection 28 (2); The prohibitions in subsection (1) do not apply to an activity approved under the *Aggregate Resources Act* after December 18, 1998, the date the *Red Tape Reduction Act, 1998* received Royal Assent. 2017, c. 23, Sched. 4,s. 25.

**Same, prescribed activities**

Subsection 28 (3); The prohibitions in subsection (1) do not apply to an activity or a type of activity that is prescribed by regulation and is carried out in accordance with the regulations. 2017, c. 23, Sched. 4, s. 25.

**Same, prescribed areas**

Subsection 28(4); The prohibitions in subsection (1) do not apply to any activity described in that subsection if it is carried out,

a. in an area that is within an authority's area of jurisdiction and specified in the regulations; and,
b. in accordance with any conditions specified in the regulations. 2017, c. 23, Sched. 4,s. 25.

Ontario Regulation 41/24 includes "Exceptions" for a limited number of activities in areas that are regulated by Otonabee Conservation, e.g., seasonal or floating dock, tile drains, ponds for watering livestock. Otonabee Conservation shall not require a permit for these activities provided the activities meet the requirements outlined in the Regulation.

**Crown Activities**

It is noted that the *Conservation Authorities Act* does not contain a subsection that specifically "binds the Crown". Therefore, activities of Provincial Ministries, Federal Departments and Crown Agencies or "Crown Corporations" are not bound by the Act and these entities are not legally required to obtain a permit under the *Conservation Authorities Act*.

Determining whether a particular body is an agent of the Crown depends on the specific functions of the body and the degree of control exercised over that body by the Crown. In some circumstances, changes to a corporation's ownership may result in the corporation's status changing from a crown corporation to a private entity. For example, Hydro One and its affiliates no longer hold status as crown corporations. CO and Hydro One developed an updated MOU (2021), acknowledging the new requirement for Hydro One and its affiliates (Hydro One Telecom Inc. and Hydro One Sault Ste. Marie LP) to obtain a CA permit under Section 28 of the *CA Act* for their work. This MOU outlines protocols and best practices that streamline the review process. This MOU will be referred to when reviewing and approving applications by Hydro One.

**While the *Conservation Authorities Act* does not bind Crown proponents for activities taking place on Crown land, a third-party proponent, not acting on behalf of the Crown would be subject to the Act and Section 28 regulations.**

Voluntary compliance with the permit review process is encouraged for the Crown and its Agencies. Otonabee Conservation will review proposals upon request for conformity to policies and tests related to Section 28 permits and as outlined in this document. Best Practice suggests that compliance with respect to technical review of any activity be achieved, however it is within their legal rights to refuse to participate in the voluntary review process.

**Renewable Energy Projects**

Renewable energy projects (28.1 (6)) limit the 'tests' that may be applied to Otonabee Conservations consideration of a permit application and the conditions that can be attached to these permits. Otonabee Conservation shall not refuse an application unless it is of the opinion that it is necessary to do so to control flooding, erosion, dynamic beaches or unstable soil or bedrock; and the Otonabee Conservation shall not attach conditions to the permit unless the conditions relate to controlling flooding, erosion, dynamic beaches or unstable soil or bedrock. In other words, the test broadly related to health or safety and found in 28.1 (1) (b) does not apply to these permits. As with similar applications, the applicant has a right to a hearing where an application may be refused, or conditions are being contested. After a hearing the CA shall provide an applicant with written reasons for the decision. Hearing procedures are outlined in **Part B** of the manual.

## What activities are excepted under the Regulation?

**EXCEPTION ACTIVITIES**

3.1.4(1) Pursuant to Ontario Regulation 41/24, the following activities do not require a permit from the Authority:

a. the construction, reconstruction, erection or placement of:

(i) a seasonal or floating dock without a permanent support structure(s) that is 10 square metres or less, and can be removed in the event of flooding,

(ii) a rail, chain-link or panelled fence with a minimum of 75 millimetres of width between panels, that is not within a wetland or watercourse,

(iii) agricultural in-field erosion control structures that are not within and that do not have any outlet of water directed or connected to a watercourse, wetland or river or stream valley,

(iv) a non-habitable accessory building or structure outside a wetland or watercourse that is 15 square metres or less and is incidental or subordinate to the principal building or structure,

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

b. the installation of new tile drains that are not within a wetland or watercourse, within 30 metres of a wetland or within 15 metres of a watercourse, and that have an outlet of water that is not directed or connected to a watercourse, wetland or river or stream valley, or the maintenance or repair of existing tile drains;

c. the installation, maintenance or repair of a pond for watering livestock that is not connected to or within a watercourse or wetland, within 15 metres of a wetland or a watercourse, and where no excavated material is deposited within an area regulated by Otonabee Conservation;

d. the maintenance or repair of a driveway or private lane that is outside of a wetland or the maintenance or repair of a public road, provided that the driveway or road is not extended or widened and the elevation, bedding materials and existing culverts are not altered;

a. the maintenance or repair of municipal drains as described in, and conducted in accordance with the mitigation requirements set out in the Drainage Act and the *Conservation Authorities Act* Protocol, approved by the Minister and available on a government of Ontario website, as it may be amended from time to time; and

b. The reconstruction of a non-habitable garage with no basement, if the reconstruction does not exceed the existing footprint of the garage and does not allow for a change in the potential use of the garage to create a habitable space.

### 3.1.5 Emergency Works

A temporary permission may be granted by letter/email to municipalities and other agencies for emergency works to repair existing infrastructure within a regulated area that is at immediate risk of failure or other public safety concerns provided that Otonabee Conservation is notified prior to conducting remediation works, and where appropriate or possible given the opportunity to review, provide technical guidance related to the control of flooding and erosion, unstable soils and bedrock and supervise where necessary. Municipalities shall provide a description of the emergency works or 'as built' information upon the completion of emergency works.

An example of a common temporary permission to municipalities/agencies is the permission to complete emergency repair works to failed sewage septic systems.

## 3.2 How to Apply – Steps to getting to the application stage

In keeping with its commitment to the direction established by the Board of Directors, the Province of Ontario and Conservation Ontario, Otonabee Conservation will be guided by the following principles:

*Otonabee Conservation is committed to reviewing all permit applications in an efficient and effective manner.*

*Otonabee Conservation is committed to ensuring that the permitting process is aligned with the approval process under the Planning Act.*

*Otonabee Conservation is committed to working with applicants to be certain that the process is easy to understand.*

### 3.2.1 Pre-consultation

Prior to undertaking any development, applicants are encouraged to:

1. Contact Otonabee Conservation by **using the online inquiry form as the first point of contact with Otonabee Conservation staff.** This is available at www.otonabeeconservation.com.
   You will be prompted to fill out some basic required information, including the address of the property in question and details of your development or alteration proposal. There is the ability to upload supporting documentation (i.e. site plan or sketches). This is highly recommended.
   Alternate ways of contacting Otonabee Conservation are in person, by phone, or by email.
2. Determine if the property in question falls within or adjacent to a regulated area. This is done by using our Regulated Areas Mapping, also available at the above link on our website.
3. If desired, the applicant can submit a Proposal Inquiry Application to Otonabee Conservation. Otonabee Conservation staff will review this application and, in most cases will make a site visit to determine whether a permit is required for the proposed works. See section 3.2.2 below.

The pre-consultation process should achieve the following:

- determine if an application is required and if the required *Planning Act* approvals are in place prior to the permit application;
- determine the information required to be submitted with the application (e.g. technical information, studies, drawings, etc.) to ensure that comprehensive submissions are made that can efficiently lead to complete submissions;
- discuss if a formal inquiry process should be engaged (fees required) and to undertake site visit(s) to verify the presence or absence of features such as wetlands and watercourses, where required;
- clarify the general process that is required to obtain a permission;
- identify any concerns that Otonabee Conservation may have with the proposed undertaking and to provide a preliminary determination of compliance with the policies contained within this document; and,
- determination of the required Fee.

**More information regarding pre-consultation and application procedures are found in** Part B – Chapter 9 of this document.

### 3.2.2 Proposal Inquiry & Natural Hazard Assessment Application Process

A more formal inquiry application process has been developed as part of a more in-depth pre-consultation. This process should be engaged when:

- the applicant requests formal correspondence on letterhead with details/information; process requirements, or application submission requirements regarding a possible development on a specific piece of land;
- Otonabee Conservation staff are required or requested to go onsite for the purposes of hazard delineation/assessment, survey topographic information or to identify the regulation limit, amongst others;
- Otonabee Conservation technical staff are required to provide substantial technical review or advice prior to a permit application; and,
- Pre-consultation for highly complex major permit applications, if agreed necessary.

The Proposal Inquiry & Natural Hazard Assessment application form can be obtained from the administrative office, or via email directly from staff. **Requests for this application can also be made by completing an online inquiry.**

**Fees as per the current approved Fee Policy and Schedules will apply for this process**. Staff will identify the approximate assessed cost and provide this to you prior to you submitting the application.

Note: All application fees are established by the Otonabee Conservation Board of Directors and are reviewed annually. The fee policy and schedules are posted on the Otonabee Conservation website and is available in hard copy from the Otonabee Conservation office.

### 3.2.3 How to Apply for a O.Reg. 41/24 Permit

Otonabee Conservation allows applicants to apply for a permit in the following ways:

- Online at otonabeeconservation.com
- In person at the administrative office located at 250 Milroy Drive, Peterborough, ON, K9H 7M9.

O. Reg. 41/24 outlines the minimum submission requirements that you **MUST include in your application.** They are as follows:

- a plan of the area showing the type and location of the proposed development activity or a plan of the area showing plan view and cross-section details of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream watercourse, or change or interfere with a wetland;

- the proposed use of any buildings and structures following completion of the development activity or a statement of the purpose of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland;
- the start and completion dates of the development activity or other activity;
- a description of the methods to be used in carrying out an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;
- the elevations of existing buildings, if any, and grades and the proposed elevations of any buildings and grades after the development activity or other activity;
- drainage details before and after the development activity or other activity;
- a complete description of any type of fill proposed to be placed or dumped;
- a confirmation of authorization for the proposed development activity or other activity given by the owner of the subject property, if the applicant is not the owner; and
- any **other technical information, studies or plans that the authority requests** including information requested during pre-consultation between the authority and the applicant.

***Once an application has been received, you will be contacted regarding how to pay the required fee amount.*** Typically, fees can be paid by Credit Card, Cash or Cheque.

**Please see Part B – Chapter 9 of this document for more information on procedures related to the application and approval process including:**

- Pre-Requisite Approvals;
- Complete Application Requirements;
- Requests for Administrative Review;
- Fee's (and requests for reconsideration);
- Processing of Complete Applications;
- Required Timelines;
- Decisions; and
- Ability for Hearings and Appeals, etc.

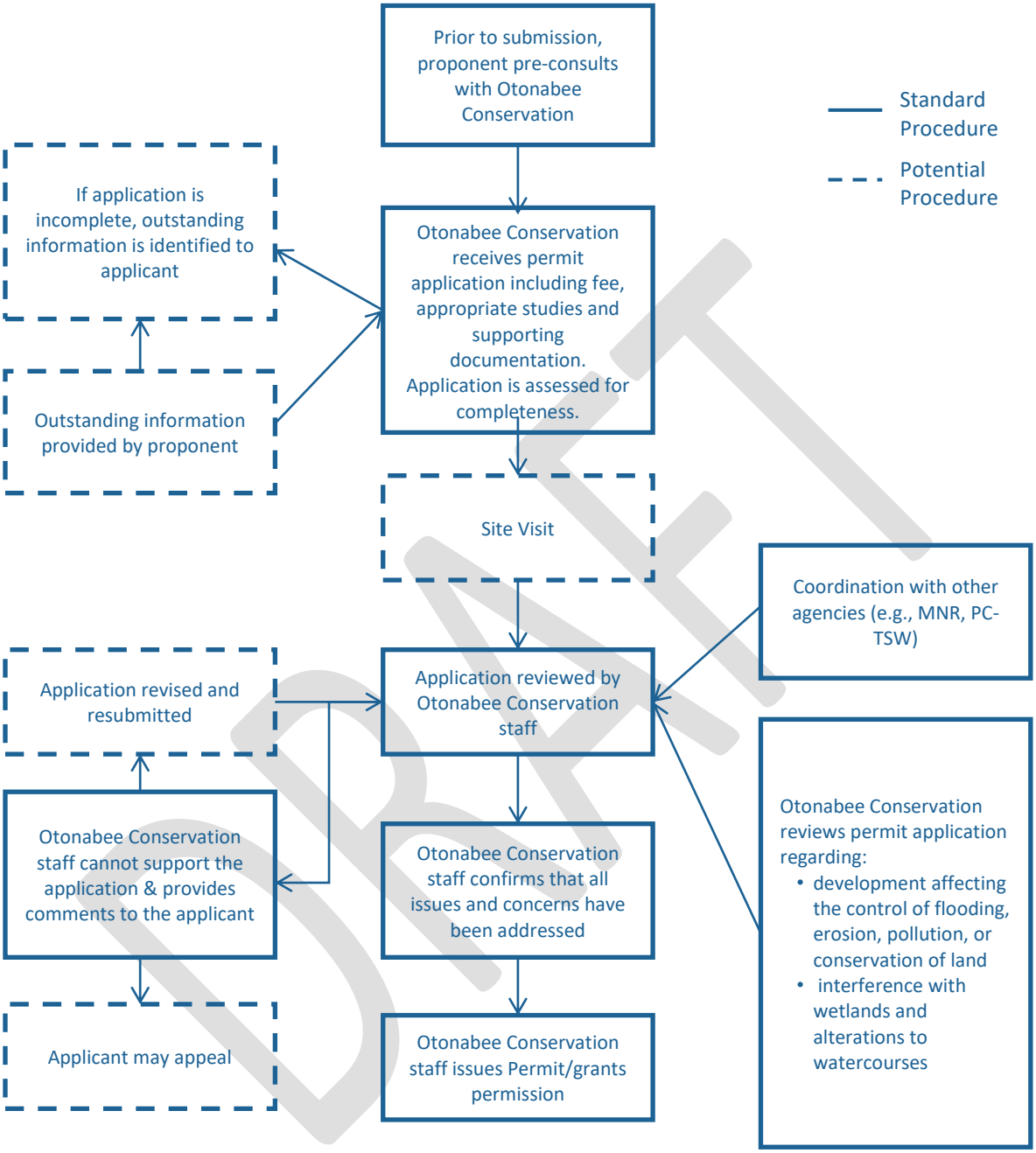


Figure 3.1 | How Otonabee Conservation generally processes permit applications – See Part B of this document for further procedural options and their process.

## 3.3 Interpretations

### 3.3.1 Interference

The *Conservation Authorities Act* and Ontario Regulation 41/24 do not define "Interference" nor has any definition been found in any other technical guide or planning document; hence, the interpretation below was developed by the Ministry of Natural Resources and Conservation Ontario for the 2008 version of this guideline. Under the Regulation, "interference" only applies to projects within watercourses and wetlands.

**Interference in any way is interpreted as:**

"any anthropogenic act or instance which hinders, disrupts, degrades or impedes in any way the natural features or hydrologic functions of a wetland or watercourse" (MNR/CO, 2008).

The common uses of words in this interpretation are:

**Hinder** means: to delay or impede

**Disrupt** means: to interrupt or disturb (an activity or process)

**Degrade** means: lower the character or quality of

**Impede** means: delay or block the progress or action of

The term interference includes all **alterations** mentioned within Ontario Regulation 41/24 (**straighten, change, divert or interfere in any way**).

### 3.3.2 Internal Renovations

The definition of development in Ontario Regulation 41/24 includes ... "1. (1) (b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure".

Repairs and renovations to an existing building within the existing roofline and exterior walls and above the existing foundation within a hazard area would generally not require a permit from Otonabee Conservation, **unless the proposal is associated with a change in use or increases the number of dwelling units** (see definition of 'development'). A change in use or an increase in the number of dwelling units will require a permit.

When reviewing internal renovation proposals, Otonabee Conservation will consider other changes that may be associated with an internal renovation e.g., upgrades or replacement of a septic system, new openings for doors or windows etc. These additional activities may meet the

definition of development and will be considered under the health or safety tests e.g., increase to the risk of injury or fatalities, social disruption, or result in damages from the hazard.

## 3.4 Health or Safety

Conservation Authorities have historically considered the health or safety of people and emergency responders in the evaluation of permits. Typically, this included the evaluation of an application under the 'tests' of flooding, erosion, dynamic beach etc. and may have included other tests that are no longer part of the *CA Act* (e.g., pollution, conservation of land). In addition to the current tests of: "the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;" the province has included an additional test of "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;" (*CA Act* S. 28 (1) (a)-(b)). The latter section reflects the decision of the **Court of Appeal for Ontario** that confirms CAs consider health or safety and damage or destruction of property in their decisions.

Health may include the physical health of people such as injury and/or the potential for loss of life/fatality. Under the test of 'health', Otonabee Conservation may consider detrimental social disruption or short- and long-term mental health effects on people in the event of a natural hazard, and the potential for injury to a landowner, future landowner/occupant, or an emergency responder. The potential loss of life is more commonly considered under the 'safety' test but this may be considered under 'health' as well. Factors that may be considered include direct impacts (e.g., a fatality due to flooding in a basement or elevator, vehicle submerged in flood waters) or indirect factors (e.g., a fatality due to the inability for emergency responders to reach a person in a medical emergency during a natural hazard).

It is important to note that Otonabee Conservation relies on the best available information at the time of reviewing a permit application. This may include technical studies and plans prepared by a qualified professional and Otonabee Conservation staff technical and policy opinions. The final decision is determined when, in the opinion of Otonabee Conservation, there are 'reasonable grounds' to approve, approve with conditions, or recommend refusal of a permit application.

### 3.4.1 Consideration of Safe Access (Ingress & Egress)

The ability for the landowner, future landowners/occupants, public and emergency operations staff (police, firefighters, ambulance, municipal flood response teams etc.) to safely access a site during an emergency, such as a flooding or erosion event, is an important factor when

considering any application for development activities. A permit application must be reviewed to ensure access to the proposed development is safe and appropriate for the proposed use. The applicant shall provide to the satisfaction of Otonabee Conservation, studies and/or plans that demonstrate how pedestrians, vehicles, emergency responders and equipment can gain access to and from the regulated feature in the event of a natural hazard. This includes ingress/egress that meets the access standards in these circumstances: during an event, for maintenance or repair, and/or construction of new remedial works.

In the context of new development activities, the risks should be controlled by prohibiting development in potentially dangerous or inaccessible portions of the regulated feature.

For existing development, safety risks are a function of the occupancy of structures, the susceptibility of the structure and the access routes to the structure. For existing development, the following factors should be considered:

- the degree of risk with the use of the existing access;
- the ability to modify the existing private or public access or construct a new safe access;
- the ability to find and use the access during an emergency;
- the ability and willingness of the municipality to allow staff and emergency vehicles to use the access (confirmation in writing may be considered); and
- the access will be in place prior to the completion of the development activity.

The risk can also be controlled by limiting the size (and therefore limiting the occupancy) of additions or reconstruction projects. If the risk is determined to be too great, no modifications/alterations/reconstructions of existing structures should be considered.

Where applications propose development within areas that have ingress/egress issues, Otonabee Conservation will work with the applicant to ensure that safe access is achieved. Where safe access is not demonstrated or is not possible based on the proposed permit application information, Otonabee Conservation will advise the applicant and try to work with the applicant to identify alternative options (if available).

If safe access cannot be ensured to the satisfaction of Otonabee Conservation, consideration should be given to recommending refusal of the permit application.

The MNR Technical Guide: River & Stream Systems: Flooding Hazard Limit (2002) and Technical Guide: River &Stream Systems: Erosion Hazard Limit (2002) include further guidance regarding access. Otonabee Conservation will use these resources and any new resources brought forward by the Province in their determination of safe access.

### 3.4.2 Floodproofing

The PPS provides a definition of floodproofing standard. “Floodproofing standard: means the combination of measures incorporated into the basic design and/or construction of buildings, structures, or properties to reduce or eliminate flooding hazards, wave uprush and other water related hazards along the shorelines of the Great Lakes-St. Lawrence River System and large inland lakes and flooding hazards along river, stream and small inland lake systems.”

Floodproofing includes alteration to the design of specific buildings, raising of ingress and egress roadways and driveways, the construction of dikes, flood control channels, etc. The variety of floodproofing options and requirements are too detailed and extensive to include in a policy guideline. For more guidance, please consult Appendix 6: “Floodproofing” of the “Technical Guide – River and Stream Systems: Flooding Hazard Limit” (MNRF, 2002 as may be amended or updated from time to time). Advances in floodproofing methodologies are ongoing, therefore, Otonabee Conservation may consider other technical or construction options prepared by a qualified professional. **Passive, dry floodproofing, if feasible, shall be the preferred approach to floodproofing over wet or active floodproofing measures.**

When buildings can be approved, but the services of a licensed professional engineer are required, the designer shall also produce a summary or “owners manual” for the owner (and for subsequent owners) that outlines measures to be taken prior to, during and following a flood event and that ensure the buildings suitability for ongoing human habitation and to outline ongoing maintenance responsibilities and requirements.

Floodproofing requires measures to be completed to specific elevations to meet policy and technical guide requirements. The specific floodplain elevation for those areas along the Kawartha Lakes and Trent River are found in Appendix K. For regulatory floodplain elevations where engineered floodplain mapping exists, Otonabee Conservation will supply the floodplain information. Where no floodplain information exists, proponents may be required to complete a study that determines and recommends an appropriate elevation, to the satisfaction of Otonabee Conservation. Otonabee Conservation uses the Timmins Regional storm as its event standard for the purposes of defining the regulated area, however, the greater of the 100-year storm (1% AEP) or the Timmins Regional storm will be used to inform floodproofing requirements.

## 3.5 Cumulative Impacts

The assessment of impacts from development and alterations of hazardous lands, sites and watercourse and wetland features will include the potential for cumulative impacts. Where necessary, Otonabee Conservation will restrict development that may, singularly or

cumulatively, affect the natural hazards or impact other properties. Examples of cumulative impacts are: development activities that restrict riverine channel capacities to pass flood flows or reduce storage capacity in floodplains and wetlands resulting in increased flood levels and creation of a potential danger to upstream and downstream landowners; the construction of multiple additions to a residential dwelling in the flood hazard over time, resulting in an unacceptable risk to life and property; and, alterations to shorelines and watercourses to address erosion that may disrupt the channel or shoreline natural processes for erosion and deposition of material.

## 3.6 General Policies

Otonabee Conservation will be guided by the following general policies:

**Prohibited activities shall not be undertaken in a regulated area without written permission from Otonabee Conservation.**

Where a regulated area covers more than one water-related hazard (e.g., lands susceptible to flooding that are part of a wetland), all of the policies that pertain will be applied and where applicable, the more restrictive policies will apply.

**Technical studies and/or assessments, site plans and/or other plans submitted as part of an application must be completed by a qualified professional to the satisfaction of Otonabee Conservation, the cost of which is borne by the applicant. Compliance with current standards is required.**

Specific policies are found in Chapters 4 through 8 below. These policies are to be used to assist Otonabee Conservation in the decision-making process. Please note that it is at the discretion of Otonabee Conservation to apply the specific policies and the provisions thereof as it relates to the individual development activity/proposal. Not all provisions will apply in certain scenarios and Otonabee Conservation may issue permits where, to the satisfaction of Otonabee Conservation, the intent of each specific policy is deemed to be met. **The tests, as outlined by the legislation, and satisfaction thereof, supercedes the requirements of any specific policy.**

**Within areas defined by the regulation (i.e., regulated areas) the following general policies will apply:**

**GENERAL POLICIES**

3.6(1) Development, interference and/or alteration will not be permitted within a regulated area, except in accordance with the policies contained in this Chapter.

3.6(2) Notwithstanding Policy 3.6(1), Otonabee Conservation may grant permission for:

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

iii. river or stream valleys the limits of which shall be determined in accordance with the regulations;

iv. other areas in which development should be prohibited or regulated, as may be determined by the regulations; provided that,

where the applicant provides evidence acceptable Otonabee Conservation and that if in the opinion of Otonabee Conservation 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.

3.6(3) Large-scale fill operations associated with infrastructure projects, agricultural, commercial, industrial, or multiple residential development will be permitted in accordance with the policies contained in this chapter and will be subject to the provisions outlined in Appendix L - Large Fill Procedural Guidelines.

3.6(4) Development, interference and/or alteration within a regulated area will be permitted only where:

- There is no feasible alternative location for development outside the hazard;
- The development 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;
- Susceptibility to natural hazards is not increased or new hazards created (e.g., there will be no impacts on adjacent properties with respect to natural hazards);
- Sedimentation and erosion during construction and post construction is minimized using best management practices including site, landscape, infrastructure and/or facility design, construction controls, and appropriate remedial measures;
- Access for emergency works and maintenance of flood or erosion control works is available;
- Proposed development is constructed, repaired and/or maintained in accordance with accepted engineering principles and approved engineering

standards or to the satisfaction of Otonabee Conservation, whichever is applicable based on the structural scale and scope, and the purpose of the project;

- There are no adverse hydraulic or fluvial impacts on rivers, creeks, streams, or watercourses;
- There are no adverse impacts on the hydrologic function of wetlands (2) as determined by Otonabee Conservation or as demonstrated by a qualified professional; and,
- The control of flooding, erosion, unstable soil and bedrock is not adversely affected during construction and post development.

**PROHIBITED USES**

3.6(5) Notwithstanding the General Policies referenced above, development will not be permitted within hazardous lands as defined in the *Conservation Authorities Act*, where the use is:

- An institutional use including hospitals, long term care homes, retirement homes, pre-schools, school nurseries, day care and schools, where there is a threat to the safe evacuation of vulnerable populations such as older persons, persons with disabilities, and those who are sick or young, during an emergency as a result of erosion and/or failure of protection works/measures; or
- an essential emergency service such as that provided by fire, police and ambulance stations and electrical substations which would be impaired during an emergency as a result of erosion, or any other hazard associated with erosion and/or as a result of failure of protection works/measures; or
- Uses associated with the disposal, manufacture, treatment, or storage of hazardous substances.

# Chapter 4: Flooding Hazards

## 4.0 Specific Policies

The Specific Policies in this Chapter are to be applied in conjunction with the General Policies in Chapter 3. As per Policy 3.6(1), development will not be permitted within the regulated area associated with a flooding hazard, except in accordance with the policies contained in this chapter.

Reference in the below policies to Health or Safety (safe access, floodproofing), and Cumulative Impacts shall be done in conjunction with that outlined above in Chapter 3 (3.4 to 3.5). Interpretations of key terms such as “Interference” shall follow that outlined above in Section 3.3.

**This Chapter pertains to Regulatory one-zone floodplain – River or Stream Valley systems which includes the shorelines of the Kawartha Lakes.**

## 4.1 Residential Development

**NEW RESIDENTIAL DEVELOPMENT**

4.1(1) New multiple residential development will not be permitted within a flooding hazard, regardless of previous approvals provided under the *Planning Act* or other regulatory process (e.g., Building Code Act).

4.1(2) Single residential development on an existing lot where the current zoning is appropriate to the nature of the proposed development will be permitted within a flooding hazard provided it can be demonstrated that:

- the development 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;
- the proposed structure will not prevent access for emergency works, maintenance, and evacuation;
- there is no feasible alternative site outside of the flooding hazard;
- in the event that there is no feasible alternative site, that the proposed structure is located in an area of least (and acceptable) risk;
- the proposed works do not create new hazards or aggravate flooding on adjacent or other properties and there are no negative upstream and downstream hydraulic impacts;
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, to and from a public road is provided;
- the dwelling will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation.
- a balanced cut and fill operation can be implemented on the lot in accordance with Policy 4.13(1) to provide a suitable building envelope outside of the flooding hazard to the extent possible;
- no basement is proposed and any crawl space is designed to facilitate service only; and,

- any new and/or replacement sewage treatment system(s) will be located outside of the flooding hazard or where this is not feasible, can satisfy all of the conditions of Policy 4.13.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**MINOR RESIDENTIAL ADDITIONS**

4.1(3) Minor ground floor additions to existing residential dwellings located within a flooding hazard will be permitted provided it can be demonstrated:
a. if the addition itself is within the flooding hazard, that:

- in the event that there is no feasible alternative site, that the proposed minor addition is located in an area of least (and acceptable) risk;
- the ground floor addition is 50% or less of the original *habitable floor space* to a maximum footprint of 46.5 square metres or in the case of multiple additions, all additions combined are equal to or less than 50% of the original habitable floor space to a maximum footprint of 46.5 square metres;
- no cumulative impacts: the original habitable floor area will be determined in consultation with local building officials and the dates of the original comprehensive zoning by-law applicable to the jurisdiction.
- the number of dwelling units is the same or less;
- the addition will not be subject to flows that could cause structural damage as determined by the technical guidelines from the MNR as may be amended from time to time;
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided;
- the dwelling will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation;
- where feasible, an improvement in the existing dwelling will occur with respect to floodproofing of the structure; and,

- no basement is proposed and any crawl space is designed to facilitate service only.

b. if the addition is situated outside of the flooding hazard, that:

- the number of dwelling units is the same or less;
- the structure will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation;
- where a basement already exists within the flooding hazard, no new connecting basement area is proposed; and,
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.1(4) Flood susceptible ground floor additions to existing residential dwellings greater than the size provision identified in 4.1(3) above would be considered single residential development and therefore subject to Policy 4.1(2).

4.1(5) An additional storey (or extension) at or above-grade on existing residential dwellings located within a flooding hazard will be permitted provided it can be demonstrated that:

- the number of dwelling units is the same or less, and
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, to and from a public road is provided for first responders.

**RESIDENTIAL REPLACEMENT**

4.1(6) Replacement of residential dwellings located within a flooding hazard that have been damaged or destroyed by causes other than flooding will be permitted provided it can be demonstrated that:

- the dwelling to be replaced is relocated outside the flooding hazard where feasible;
- there is no increase in the number of dwelling units;
- the new dwelling is the same size or smaller than the previous dwelling;
- the use of the new dwelling is the same as the previous dwelling;
- the structure will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation;
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, is provided;
- no basement is proposed and any crawl space is designed to facilitate service only; and,
- there is no risk of structural failure due to potential hydrostatic/dynamic pressures.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.1(7) Replacement of residential dwellings within a flooding hazard that would result in an increase in dwelling size will be permitted provided it can be demonstrated that the conditions for minor residential additions (Policies 4.1(3), 4.1(4) and 4.1(5)) can be satisfied, and:

- Safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided.

**INTERNAL RESIDENTIAL RENOVATIONS**

4.1(8) Internal renovations to existing residential buildings or structures located within a flooding hazard which change the use or potential use of the building or structure but provide for no additional dwelling units will be permitted provided it can be demonstrated that:

- The internal renovation does not result in a new use prohibited by the General Policies in chapter 3 and,
- The structure will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation.

**RESIDENTIAL RELOCATION**

4.1(9) Relocation of existing residential dwellings located within a flooding hazard will be permitted provided it can be demonstrated that the dwelling is relocated outside of the flooding hazard, or where this is not feasible, the dwelling is relocated to an area within the existing lot where the risk of flooding and property damage is reduced to the greatest extent possible, and that the dwelling is floodproofed to the satisfaction of Otonabee Conservation.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.2 Agricultural Development

**NEW AGRICULTURAL DEVELOPMENT**

4.2(1) New structural agricultural development associated with existing agricultural uses will be permitted within a flooding hazard provided it can be demonstrated that:

- the development 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;
- the proposed structure will not prevent access for emergency works, maintenance, and evacuation;
- there is no feasible alternative site outside of the flooding hazard;
- in the event that there is no feasible alternative site, that the proposed structure is located in an area of least (and acceptable) risk;
- the proposed works do not create new hazards or aggravate flooding on adjacent or other properties and there are no negative upstream and downstream hydraulic impacts;
- a balanced cut and fill operation can be implemented on the lot in accordance with Policy 4.13(1) to provide a suitable building envelope outside of the flooding hazard to the extent possible;
- the risk of property damage is minimized through site and facility design;
- where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards;
- the building or structure is securely anchored to either a concrete pad or footings; and,
- no basement is proposed and any crawl space is designed to facilitate service only.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**MINOR AGRICULTURAL ADDITIONS**

4.2(2) Minor additions to existing agricultural buildings or structures located within a flooding hazard will be permitted provided it can be demonstrated that:

- The addition will not facilitate a use prohibited by the General Policies – Prohibited Uses (Policy 3.6(5));
- The addition is 50% or less of the original ground floor area of the building or structure to a maximum footprint of 100 square metres, or in the case of multiple additions, all additions combined are equal to or less than 50% of the original ground floor area of the building or structure to a maximum footprint of 100 square metres;
- No basement is proposed and any crawl space is designed to facilitate service only;
- Where dry floodproofing cannot be achieved, wet floodproofing of the addition is undertaken in accordance with current floodproofing standards;
- Where feasible, an improvement in the existing building or structure will occur with respect to floodproofing of the building or structure; and,
- The risk of property damage is minimized through site and facility design.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.2(3) Additions to existing agricultural buildings or structures greater than the size provided in Policy 4.2(2) would be considered new agricultural development and therefore subject to the policies of 4.2(1).

**AGRICULTURAL REPLACEMENT**

4.2(4) Replacement of agricultural buildings or structures located within a flooding hazard that have been damaged or destroyed by causes other than flooding will be permitted provided it can be demonstrated that:

- There is no feasible alternative site outside of the flooding hazard;

- Design modifications and lot modifications (e.g., balanced cut and fill operation in accordance with Policy 4.13(1) will reduce the risk of flooding and property damage to the greatest extent, wherever possible;
- The new building or structure is the same size or smaller than the previous building or structure;
- The new building or structure is securely anchored to either a concrete pad or footings;
- The risk of property damage is minimized through site and facility design;
- No basement is proposed and any crawl space is designed to facilitate service only; and,
- Where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.2(5) Replacement of agricultural buildings or structures located within a flooding hazard that would result in an increase in building or structure size will be permitted provided it can be demonstrated that the conditions for Minor Agricultural Additions (Policies 4.2(2) and 4.2(3)) can be satisfied.

**AGRICULTURAL RELOCATION**

4.2(6) Relocation of existing agricultural buildings and structures located within a flooding hazard will be permitted provided it can be demonstrated that the building or structure is relocated outside of the flooding hazard, or where this is not feasible, the building or structure is relocated to an area where the risk of flooding and property damage is reduced to the greatest extent possible, and where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.3 Commercial, Industrial, & Institutional Development

**NEW COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL DEVELOPMENT**

4.3(1) New institutional development will not be permitted within a flooding hazard regardless of previous approvals provided under the *Planning Act* or other regulatory process (e.g., Building Code Act).

4.3(2) New commercial or industrial development may be permitted within a flooding hazard provided it can be demonstrated that:

- the development 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;
- the proposed structure will not prevent access for emergency works, maintenance, and evacuation;
- there is no feasible alternative site outside of the flooding hazard;
- in the event that there is no feasible alternative site, that the proposed structure is located in an area of least (and acceptable) risk;
- the proposed works do not create new hazards or aggravate flooding on adjacent or other properties and there are no negative upstream and downstream hydraulic impacts;
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, to and from a public road is provided;
- the structure will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation;
- the building or structure is securely anchored to either a concrete pad or footings;
- the risk of property damage is minimized through site and facility design;
- no basement is proposed; and,
- a balanced cut and fill operation can be implemented on the lot in accordance with Policy 4.13(1) to provide a suitable building envelope outside of the flooding hazard to the extent possible.

**MINOR COMMERCIAL OR INDUSTRIAL ADDITIONS**

4.3(3) Minor additions to existing commercial/industrial buildings or structures located within a flooding hazard will be permitted provided it can be demonstrated that:

- the addition will not facilitate a use prohibited by the General Policies - Prohibited Uses (Policy 3.6(5));
- the addition is 50% or less of the original ground floor area of the building or structure to a maximum footprint of 100 square metres, or in the case of multiple additions, all additions combined are equal to or less than 50% of the original ground floor area of the building or structure to a maximum footprint of 100 square metres;
- Additions larger than the provision outlined above may be considered provided the proposed structure can be removed from the floodplain and all other provisions of this policy can be met.
- no cumulative impacts: the original floor area will be determined in consultation with local building officials and the dates of the original comprehensive zoning by-law applicable to the jurisdiction;
- safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided;
- the structure will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation;
- where feasible, an improvement in the existing building or structure will occur with respect to floodproofing of the building or structure; and,
- no basement is proposed and any crawl space is designed to facilitate service only.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.3(4) Additions to existing commercial/industrial buildings or structures greater than the size provision identified in Policy 4.3(3) above would be considered new commercial/industrial development activity and are therefore subject to Policy 4.3(1).

**COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL REPLACEMENTS**

4.3(5) Replacement of commercial, industrial, institutional buildings or structures located within a flooding hazard that have been damaged or destroyed by causes other than flooding will be permitted provided it can be demonstrated that:

- There is no feasible alternative site outside of the flooding hazard;
- Design modifications and lot modifications (e.g., balanced cut and fill operation in accordance with Policies 4.13(1)) will reduce the risk of flooding and property damage to the greatest extent, wherever possible;
- The number of dwelling units is the same or less;
- The new building or structure is the same size or smaller than the previous structure;
- The structure will be floodproofed to a sufficient elevation above the identified flood elevation of the watercourse/waterbody to the satisfaction of Otonabee Conservation;
- Safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided; and
- No basement is proposed and any crawl space is designed to facilitate service only.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.3(6) Replacement of commercial and industrial buildings located within a flooding hazard that would result in an increase in building or structure size will only be permitted where it can be demonstrated that the conditions for minor commercial,

industrial or institutional additions can be satisfied and safe access (ingress/egress) can be provided.

**COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL RELOCATION**

4.3(7) Relocation of existing commercial/industrial/institutional buildings or structures located within a flooding hazard will be permitted provided it can be demonstrated that the building or structure is relocated outside of the flooding hazard, or where this is not feasible, the building or structure is relocated to an area where the risk of flooding and property damage is reduced to the greatest extent possible, and that the building or structure is floodproofed to the satisfaction of Otonabee Conservation, can be provided.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.4 Accessory Buildings & Structures

**NEW ACCESSORY BUILDINGS & STRUCTURES**

4.4.(1) Accessory buildings or structures associated with an existing residential, agricultural, commercial, industrial, or institutional use such as detached garages, sheds, silos, gazebos, and other similar structures (but not including on-shore boathouses: see Policy 4.5(1)), will be permitted within a flooding hazard provided it can be demonstrated that:

- The development 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;
- The proposed accessory structure will not prevent access for emergency works, maintenance, and evacuation;
- there is no feasible alternative site outside of the flooding hazard;
- in the event that there is no feasible alternative site, that the proposed structure is located in an area of least (and acceptable) risk;
- the proposed works do not create new hazards or aggravate flooding on adjacent or other properties and there are no negative upstream and downstream hydraulic impacts;
- There is no habitable floor space associated with the building or structure and no opportunity for conversion into habitable floor space in the future;
- For accessory residential development, the building or structure does not exceed 46.5 square metres for settlement areas or shoreline development and for rural areas, the building or structure does not exceed 100 square metres;
- Accessory structures larger than the provision outlined above may be considered provided the proposed structure can be removed from the floodplain and all other provisions of this policy can be met;
- The building or structure is securely anchored to either a concrete pad or footings or other to the satisfaction of Otonabee Conservation;
- No basement is proposed;
- Where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards and to the satisfaction of Otonabee Conservation.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**ADDITIONS TO ACCESSORY BUILDING OR STRUCTURES**

4.4(2) Additions to existing accessory buildings or structures located within a flooding hazard will be permitted provided it can be demonstrated that:

- the total size of the building or structure that would result from the addition does not exceed the maximum size identified in Policy 4.4(1);
- the proposed addition to the accessory structure will not prevent access for emergency works, maintenance, and evacuation;
- the proposed addition will not create new hazards or aggravate flooding on adjacent or other properties and there are no negative upstream and downstream hydraulic impacts;
- there is no habitable floor space associated with the addition and no opportunity for conversion into habitable floor space in the future;
- an improvement in the existing building or structure will occur with respect to floodproofing, to the satisfaction of Otonabee Conservation;
- the building or structure is securely anchored to either a concrete pad or footings;
- no basement is proposed; and
- where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards and to the satisfaction of Otonabee Conservation.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**REPLACEMENT OF ACCESSORY BUILDINGS OR STRUCTURES**

4.4(3) Replacement of existing accessory buildings or structures that have been damaged or destroyed by causes other than flooding will be permitted provided it can be demonstrated that:

- There is no feasible alternative site outside the flooding hazard;
- The building or structure to be replaced is relocated to an area within the existing lot where the risk of flooding and property damage is reduced to the greatest extent, wherever possible;
- The new building or structure is the same size or smaller than the previous building or structure (Note: replacements to accessory buildings or structures located within a flooding hazard that would result in an increase in building or structure size are subject to the provisions of Policy 4.4(2));
- There is no habitable floor space associated with the building or structure and no opportunity for conversion to habitable floor space in the future;
- The building or structure is securely anchored to either a concrete pad or footings;
- No basement is proposed and any crawl space is designed to facilitate service only; and,
- Where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**RELOCATION OF EXISTING ACCESSORY BUILDINGS OR STRUCTURES**

4.4(4) Relocation of an existing accessory building or structure located within a flooding hazard will be permitted provided it can be demonstrated that the building or structure is relocated outside of the flooding hazard, or where this is not feasible, the building or structure is relocated to an area where the risk of flooding and property damage is reduced to the greatest extent possible, and where dry

floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.5 Boathouses

**ON-SHORE BOATHOUSES**

4.5(1) On-shore boathouses will be permitted to be constructed, expanded, replaced and/or relocated within a flooding hazard where it can be demonstrated that:

- the development 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;
- there is no habitable floor space associated with the boathouse and there is no opportunity for conversion into habitable floor space in the future . The boathouse shall contain no services other than electricity;
- the structure will be located within existing impacted or open areas, wherever possible;
- the proposed structure will not prevent access for emergency works, maintenance, and evacuation;
- the structure will be constructed in a manner to minimize impacts to the natural grade of the shoreline and riparian vegetation;
- the structure is securely anchored to either a concrete pad or footings; and,
- where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with current floodproofing standards.

## 4.6 Swimming Pools

**SWIMMING POOLS**

4.6(1) In-ground swimming pools will be permitted within a flooding hazard provided it can be demonstrated that:

- there is no feasible alternative site outside of the flooding hazard;
- floodproofing is undertaken to the extent practical, in accordance with current floodproofing standards; and,
- all excavated fill is removed from the flooding hazard.

4.6(2) Above-ground swimming pools will be permitted within a flooding hazard provided it can be demonstrated that:

- there is no feasible alternative site outside of the flooding hazard;
- the above-ground pool will not obstruct flood flows; and,
- floodproofing is undertaken to the extent practical in accordance with current floodproofing standards.

## 4.7 Infrastructure

**PUBLIC AND PRIVATE INFRASTRUCTURE**

4.7(1) Public infrastructure (e.g., roads, sewers, flood and/or erosion control works, water supply) and private infrastructure (e.g., roads, gas and electrical transmission pipelines/corridors, etc.) will be permitted to be constructed, realigned and/or upgraded within a flooding hazard when the location is supported through site specific studies (e.g. Environmental Assessment if required under the *EA Act*) or other as may be required by Otonabee Conservation. In the case of private infrastructure, it has been demonstrated through a comprehensive plan that there is no feasible alternative site outside the flooding hazard, provided it can be demonstrated that:

- Risk of flood damage to upstream or downstream properties is not increased or is minimized through site design;
- Where applicable, floodproofing measures are incorporated into the design in accordance with current floodproofing standards.
- Where applicable, safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided;
- Site, facility, and/or landscape design and appropriate best management practices will be employed to:
    - maintain stage-storage relationships to the floodplain;
    - control sediment and erosion; and,
    - minimize impervious surfaces and loss of natural vegetation.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

4.7(2) Parking lots and access routes (e.g., driveways, private access roads and entrance ways) associated with existing residential, agricultural, commercial, industrial, or institutional uses will be permitted within a flooding hazard provided it can be demonstrated that:

- The risk of flooding and property damage is minimized through site design;

- Drainage of parking lots will take place within 1 hour following the cessation of the rainfall event, and does not result in depth of flooding that would exceed 30 centimetres; and,
- Safe access (ingress/egress), to the satisfaction of Otonabee Conservation, can be provided.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.8 Stormwater Management

**NEW STORMWATER MANAGEMENT (SWM) FACILITIES**

4.8(1) New stormwater management facilities will not be permitted within a flooding hazard with the exception of municipal stormwater management facilities required to alleviate a non-regulatory flood problem associated with existing development:

- There is no feasible alternative outside of the hazard;
- Natural erosion and sedimentation processes within the receiving watercourse are not impacted;
- Where unavoidable, intrusions on hydrologic functions are minimized;
- Best management practices including site and facility design and appropriate remedial measures will mitigate disturbance to hydrologic functions;
- Facilities are excavated with minimal berming, and all excavated material is removed from the flooding hazard and/or erosion hazard; and,
- Design and maintenance performance requirements as determined by Otonabee Conservation for the receiving watercourse are met and the effect of the floodplain flow regime on the intended function of the facility is incorporated into the siting and design.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**RETROFITTING SWM FACILITIES**

4.8(2) Retrofitting of stormwater management facilities will be permitted within a flooding hazard where there is no feasible alternative site to locate the facility outside the flooding hazard provided it can be demonstrated that:

- Natural erosion and sedimentation processes within the receiving watercourse are not impacted;
- Where unavoidable, intrusions on hydrologic functions are minimized;

- Best management practices including site and facility design and appropriate remedial measures will mitigate disturbance to hydrologic functions;
- Facilities are excavated with minimal berming, and all excavated material is removed from the flooding hazard and/or erosion hazard; and,
- **Design and maintenance performance requirements as determined by Otonabee Conservation for the receiving watercourse are met and the effect of the floodplain flow regime on the intended function of the facility is incorporated into the siting and design.**

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.9 Ponds

**DUG-OUT/ISOLATED PONDS**

4.9(1) *The installation, maintenance or repair of a pond for watering livestock that is not connected to or within a watercourse or* wetland*, within 15 metres of a* wetland *or a watercourse, and where no excavated material is deposited within a regulated area does NOT require a permission under O.Reg. 41/24. See Exceptions in Chapter 9.*

New dug-out or isolated ponds will be permitted in a flooding hazard where there is no feasible alternative site to locate the pond outside the flooding hazard provided it can be demonstrated that:

- All dredged material is removed from the flooding hazard;
- Finished side slopes are stable;
- Where unavoidable, intrusions on hydrologic functions are minimized to the satisfaction of Otonabee Conservation;
- Best management practices including site and pond design and appropriate remedial measures will mitigate disturbance to hydrologic functions; and,
- The risk of pollution and sedimentation during construction is minimized.

4.9(2) Enlargement of an existing dug-out or isolated pond located within a flooding hazard will be permitted provided it can be demonstrated that the enlargement can satisfy Policy 4.9(1) and will not further encroach on the flooding hazard.

## 4.10 Low Intensity Recreational Uses

**PASSIVE RECREATIONAL USES**

4.10(1) Passive low intensity recreational uses, associated with public parks, outdoor recreation and education, trail systems, water access points or conservation activities will be permitted within a flooding hazard provided it can be demonstrated that:

- There is no feasible alternative site outside the flooding hazard;
- Where unavoidable, intrusions on hydrologic functions are minimized;
- Best management practices including site, facility, and/or landscape design and appropriate remedial measures will mitigate disturbance to hydrologic functions; and,
- The risk of property damage is minimized through site, facility, and/or landscape design and flood emergency plans.

## 4.11 Marinas

**MARINAS**

4.11(1) Marina facilities will be permitted within a flooding hazard provided it can be demonstrated that:

- all associated permanent, closed structures (e.g., clubhouses, washrooms with septic systems and maintenance buildings) are located outside of the flooding hazard;
- all boat storage facilities will be constructed on shore and all proposed permanent docks can satisfy policies that pertain to structures (Policy 8.1);
- facilities will be located within existing impacted or open areas, wherever possible;
- facilities will be constructed in a manner to minimize impacts to the natural grade of the shoreline;
- where unavoidable, intrusions on hydrologic functions are minimized;
- best management practices including site, facility, and/or landscape design and appropriate remedial measures will mitigate disturbance to hydrologic functions;
- where dry floodproofing cannot be achieved, wet floodproofing will be undertaken in accordance with current floodproofing standards; and,
- the risk of property damage is minimized through site, facility and/or landscape design.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

## 4.12 Golf Courses

**GOLF COURSES**

4.12(1) Golf courses or golf course expansions will be permitted within a flooding hazard provided it can be demonstrated that:

- all associated permanent, closed structures (e.g., clubhouses, washrooms with septic systems and maintenance buildings) will be located outside of the flooding hazard;
- watercourse crossings are minimized and designed in accordance with the policies that pertain to structures (Policy 8.1); and,
- where unavoidable, intrusions on hydrologic functions are minimized.

## 4.13 Fill Placement, Excavation, and/or Grade Modifications

**FILL PLACEMENT, EXCAVATION AND/OR GRADE MODIFICATIONS**

4.13(1) Fill placement, excavation, and/or grade modifications: associated with existing access roads and driveways; required for the purpose of floodproofing existing and/or proposed structures; required for erosion control; and/or, to facilitate the installation of geothermal, and water and/or sewage treatment systems will be permitted within a flooding hazard provided it can be demonstrated that:

- the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans;
- stage-storage and stage-discharge characteristics of the floodplain will be maintained by means of an incrementally balanced cut and fill operation to ensure that there will be no adverse hydraulic or fluvial impacts on rivers, creeks, streams, or watercourses. This cut and fill operation must be designed in 0.3 metre vertical increments. Engineered hydraulic analyses may be required, at the discretion of Otonabee Conservation, to demonstrate that the latter condition has been met and the proposed placement of fill will not have a detrimental effect on upstream water levels or local stream flow velocities;
- flood flows will not be impeded; and,
- inert fill material will be used;
- the bed of sewage treatment systems will be located outside of the flooding hazard or where this is not feasible, at a minimum, raised above the regulatory flood elevation plus an appropriate* separation distance;

OR where stage-storage and stage-discharge characteristics of the floodplain cannot be maintained by a balanced cut and fill operation:

- fill placement, excavation, and/or grade modifications required for water and/or septic treatment systems will be limited to the required area and depths as specified by the approval agency while ensuring that an appropriate* separation distance will be provided between the bed and the regulatory flood elevation;

- fill placement, excavation, and/or grade modifications required for floodproofing purposes will not exceed the minimum amount required to floodproof the structure in accordance with current floodproofing guidelines;
- fill placement, excavation, and/or grade modifications required for sediment and/or erosion control or shoreline stabilization be in accordance with Erosion Protection, Shoreline/Bank Stabilization and Sediment Control policies (Policy 8.4(5));
- no impacts on the hydraulic or fluvial functions of the river, creek, stream, or watercourse will occur and upstream and downstream flow velocities related to increased flood risk or damage are unaffected. An engineered hydraulic analysis may be required, at the discretion of Otonabee Conservation, to ensure that these matters have been addressed;
- flood flows are not impeded; and,
- inert fill material will be used.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

**Appropriate separation distance is to be determined by Otonabee Conservation staff in consultation with the approval agency.*

*Permitted fill placement, excavation and/or grade modifications may be seasonally restricted and subject to a specified time frame to enable stabilization/revegetation of the disturbed area.*

## 4.14 Development adjacent to Floodplain (Regulated Allowance)

**DEVELOPMENT WITHIN THE ALLOWANCE OF THE FLOODING HAZARD**

4.14(1) Development will be permitted within the allowance of a flooding hazard provided it can be demonstrated that:

- it will not aggravate the flooding hazard or create a new one;
- it does not impede access for emergency works, maintenance, and evacuation;
- floodproofing to a sufficient elevation above the identified flood elevation of the watercourse/waterbody can be completed to the satisfaction of Otonabee Conservation; and,
- the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans.

**A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades must be submitted and include all relevant or requested dimensions, measurements, setbacks or other as required.**

# Chapter 5: Erosion Hazards

## 5.0 Erosion Hazards – Specific Policies

The Specific Policies in this Chapter are to be applied in conjunction with the General Policies in chapter 3. As per Policy 3.6(1), development will not be permitted within the regulated area associated with an erosion hazard, except in accordance with the policies contained in this chapter.

Reference in the below policies to Health or Safety (safe access, floodproofing), and Cumulative Impacts shall be done in conjunction with that outlined above in Chapter 3 (3.4 to 3.5). Interpretations of key terms such as “Interference” shall follow that outlined above in Section 3.3.

## 5.1 Residential, Agricultural, Commercial, Industrial, or Institutional Development

**NEW RESIDENTIAL, AGRICULTURAL, COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL DEVELOPMENT**

5.1(1) New residential, agricultural, commercial, industrial, or institutional development will not be permitted within an erosion hazard, regardless of any approvals previously obtained under the *Planning Act* or other regulatory process (e.g., Building Code Act).

**ADDITIONS**

5.1(2) Additions to existing residential, agricultural, commercial, or industrial buildings or structures located within an erosion hazard will be permitted subject to the following:

- the development 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;
- complete studies and plans prepared by a qualified professional (e.g. geotechnical study, slope stability report, or engineered foundation plans) demonstrates that: there is no feasible alternative to locate the addition outside of the erosion hazard and that the addition will be located in an area of least (and acceptable) risk; there is no impact on existing and future slope stability; and the potential for erosion is addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans;
- The addition will not prevent access into and through the valley in order to undertake erosion prevention works and/or maintenance of existing buildings or structures or during an emergency; and,
- The building or structure will be protected from erosion hazards through the incorporation of appropriate building design parameters.

**REPLACEMENT/RELOCATION**

5.1(3) The replacement or relocation of an existing building or structure within an erosion hazard will be permitted subject to the following:

- the development 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;
- complete studies and plans prepared by a qualified professional (e.g. geotechnical study, slope stability report, or engineered foundation plans) demonstrates that: there is no opportunity to relocate the building or structure outside of the erosion hazard and that the building or structure will be located in an area of least (and acceptable) risk; there is no impact on existing and future slope stability; and the potential for erosion is addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans;
- The replacement/relocation will not prevent access into and through the valley in order to undertake erosion prevention works and/or maintenance of existing buildings or structures or during an emergency; and,
- The building or structure will be protected from the erosion hazard through incorporation of appropriate building design parameters.

5.1(4) Replacement of an existing building or structure located within an erosion hazard that would result in an increase in building or structure size will be permitted provided it can be demonstrated that Policy 5.1(2) can be satisfied.

## 5.2 Accessory Buildings or Structures

**ACCESSORY BUILDINGS OR STRUCTURES**

5.2(1) Accessory buildings or structures associated with an existing residential, agricultural, commercial, industrial, or institutional use such as detached garages, tool sheds, gazebos and other similar structures or additions to existing accessory buildings or structures will be permitted within an erosion hazard where it can be demonstrated that:

- the development 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;
- There is no feasible alternative to locate the building or structure outside of the erosion hazard and that the building or structure will be located in an area of least (and acceptable) risk as determined through appropriate technical reports (e.g., topographic survey, geotechnical study; engineered foundation; slope stability report);
- There is no impact on existing and future slope stability;
- The building or structure will not prevent access into and through the valley in order to undertake preventative actions or maintenance or during an emergency;
- The building or structure will be protected from the erosion hazard through incorporation of appropriate building design parameters; and,
- The potential for erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans.

## 5.3 Passive Low Intensity Recreational Uses and Conservation Activities

PASSIVE LOW INTENSITY RECREATIONAL USES AND CONSERVATION ACTIVITIES

5.3(1) Passive low intensity recreational uses associated with public parks, outdoor recreation and education, trail systems, watercourse access points or conservation activities will be permitted within an erosion hazard provided it can be demonstrated that:

- There is no feasible alternative to locate the development outside of the erosion hazard and that the development will be located in an area of least (and acceptable) risk as determined through appropriate technical reports (e.g., topographic survey, geotechnical study);
- There is no negative impact on existing and future slope stability;
- The potential for erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans; and,
- The use will not prevent access into and through the valley in order to undertake preventative actions or maintenance or during an emergency.

## 5.4 Infrastructure

**INFRASTRUCTURE**

5.4(1) Public infrastructure (e.g., roads, sewers, flood and/or erosion control works, water supply) and various utilities (pipelines) will be permitted within an erosion hazard subject to the following:

- An approved Environmental Assessment, or other comprehensive plan that is supported by Otonabee Conservation, demonstrates that all alternatives to avoid the erosion hazard have been considered or it has been demonstrated that the proposed alignment minimizes encroachment into the erosion hazard to the greatest extent possible;
- A more detailed site-specific study (i.e., a geotechnical study) is conducted to determine a more precise erosion hazard limit(s) in accordance with the MNR "Technical Guide – River & Stream Systems: Erosion Hazard Limit" (as may be amended from time to time) and demonstrates how impacts to the erosion hazard will be mitigated to ensure that there is no impact on existing and future slope stability and that the infrastructure or utility will not prevent access into and through the valley in order to undertake preventative actions or maintenance or during an emergency.

## 5.5 Fill Placement, Excavation, and/or Grade Modifications

**FILL PLACEMENT, EXCAVATION, AND/OR GRADE MODIFICATIONS**

5.5(1) Fill placement, excavation, and/or grade modifications: associated with existing access roads and driveways; required for the purpose of erosion protection; and/or, to facilitate the installation of geothermal, and water and/or sewage treatment systems within an erosion hazard will be permitted provided it can be demonstrated through site review, or through the submission of appropriate technical reports as may be requested by Otonabee Conservation (e.g., topographic survey, geotechnical study) that:

- Slope stability will not be compromised;
- Inert fill material will be used;
- The erosion susceptibility of existing structures or adjacent properties will not be impacted; and,
- A more detailed site-specific study (i.e., a geotechnical study) demonstrates how the risks to public safety and impacts to the hazard will be mitigated, if not included in the above-noted plan(s).

**Permitted fill placement, excavation and/or grade modifications may be seasonally restricted and subject to a specified time frame to enable stabilization/revegetation of the disturbed area.**

## 5.6 Development Adjacent to the Erosion Hazard

**DEVELOPMENT WITHIN THE ALLOWANCE OF AN EROSION HAZARD**

5.6(1) Development will be permitted within the allowance of an erosion hazard provided it can be demonstrated that:

- The development will not create a new erosion hazard or exacerbate an existing hazard;
- The development is set back a sufficient distance from the stable top of bank to avoid increases in loading forces on the top of slope;
- There is no change in drainage or vegetation patterns that would compromise slope stability or exacerbate erosion of the slope face; and,
- The potential for surficial erosion has been addressed thorough proper drainage, erosion and sediment control and site stabilization/restoration plans.

# Chapter 6: Unstable Soil or Bedrock

## 6.0 Unstable Soil or Bedrock – Specific Policies

The Specific Policies in this Chapter are to be applied in conjunction with the General Policies in Chapter 3. As per Policy 3.6(1), development will not be permitted within the regulated area associated with unstable soil or bedrock, except in accordance with the policies contained in this chapter.

Reference in the below policies to Health or Safety (safe access, floodproofing), and Cumulative Impacts shall be done in conjunction with that outlined above in Chapter 3 (3.4 to 3.5). Interpretations of key terms such as "Interference" shall follow that outlined above in Section 3.3.

**IDENTIFICATION OF THE HAZARD LIMIT**

6.0(1) In cases where development is proposed within or adjacent to hazardous lands associated with unstable soil or unstable bedrock, Otonabee Conservation will require that the applicant (or agent) provide appropriate technical reports identifying a more precise boundary associated with the limit of the unstable soil or bedrock to the satisfaction of Otonabee Conservation.

**Unstable soils associated with organics and** wetland**s may require Otonabee Conservation to attend the site to assess the hazard as per application outlined in Chapter 3, section 3.2.2.**

6.0(2) Where development is proposed and the extent of the hazardous lands associated with unstable soils or unstable bedrock is unknown, Otonabee Conservation will require a technical study completed by a qualified professional with recognized expertise in the appropriate discipline to determine the extent of the hazard. These studies are completed at the applicant's expense and must be completed to the satisfaction of Otonabee Conservation.

## 6.1 Residential, Agricultural, Commercial, Industrial, or Institutional Development

**NEW RESIDENTIAL, AGRICULTURAL, COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL DEVELOPMENT**

6.1(1) New residential, commercial, industrial, institutional, or agricultural development will not be permitted within hazardous lands associated with unstable soil or unstable bedrock, regardless of previous approvals provided under the *Planning Act* or other regulatory process (e.g., Building Code Act).

**REPLACEMENT/RELOCATION**

6.1(2) The replacement or relocation of existing buildings or structures within hazardous lands associated with unstable soil or unstable bedrock will be permitted subject to the following:

- the development 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;
- No feasible alternative exists to locate the building or structure outside of the hazardous lands; and,
- A technical site-specific study demonstrates that all hazards/risks associated with unstable soils or unstable bedrock have been adequately addressed.

## 6.2 Accessory Buildings or Structures

**NEW, REPLACEMENT, RELOCATION, RENOVATION & ADDITION**

6.2(1) Accessory buildings or structures associated with an existing residential, agricultural, commercial, industrial, or institutional use such as detached garages, tool sheds, gazebos and other similar structures or additions to existing accessory buildings or structures will be permitted subject to the following:

- the development 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;
- There is no feasible alternative to locate the building or structure outside of the hazardous lands; and,
- A technical site-specific study demonstrates that all hazards/risks associated with unstable soils or unstable bedrock have been adequately addressed.

## 6.3 Infrastructure

**NEW AND REPLACEMENT INFRASTRUCTURE**

6.3(1) Public infrastructure (roads, sewers, flood and/or erosion control works, water supply,) and various utilities (pipelines) will be permitted within hazardous lands associated with unstable soil or bedrock subject to the following:

- An approved Environmental Assessment, or other comprehensive plan that is supported by Otonabee Conservation, demonstrates that all alternatives to avoid the hazard have been considered and that the proposed alignment minimizes encroachment into the hazard to the greatest extent possible; and,
- A more detailed site-specific study (i.e., a geotechnical study) demonstrates how the risks to public safety and impacts to the hazard will be mitigated, if not included in the above-noted plan(s).

## 6.4 Fill Placement, Excavation, and/or Grade Modifications

**FILL PLACEMENT, EXCAVATION, AND/OR GRADE MODIFICATIONS**

6.4(1) Fill placement, excavation, and/or grade modifications: associated with existing access roads and driveways; required for the construction of a new access route to serve an existing residential, agricultural, commercial, industrial or institutional use; required for the purpose of flood and/or erosion protection; and/or, to facilitate the installation of sewage disposal systems and the like within hazardous lands associated with unstable soil or bedrock will be permitted provided it can be demonstrated demonstrated through site review, or through the submission of appropriate technical reports as may be requested by Otonabee Conservation (e.g., geotechnical study) that:

- Inert fill material will be used. The proponent may be required to provide proof of the origin and quality of the fill material to ensure the control of pollution and the conservation of land is not impacted;
- The stability of existing structures or adjacent properties will not be impacted; and,
- A more detailed site-specific study (i.e., a geotechnical study) demonstrates how the risks to public safety and impacts to the hazard will be mitigated, if not included in the above-noted plan(s).

**N.B.: Permitted fill placement, excavation and/or grade modifications may be seasonally restricted and subject to a specified time frame to enable stabilization/revegetation of the disturbed area.**

# Chapter 7: Wetlands and Other Areas

The Specific Policies in this Chapter are to be applied in conjunction with the General Policies in Chapter 3. As per Policy 3.6(1), development will not be permitted within the regulated area associated with wetlands, except in accordance with the policies contained in this chapter.

Reference in the below policies to Health or Safety (safe access, floodproofing), and Cumulative Impacts shall be done in conjunction with that outlined above in Chapter 3 (3.4 to 3.5). Interpretations of key terms such as "Interference" shall follow that outlined above in Section 3.3.

## 7.0 Wetlands & Interference - Specific Policies

### Why are wetlands important?

Wetlands are important natural features on the landscape, whether they are permanently or seasonally wet. Wetlands perform many important hydrologic and ecological functions. In relation to the *CA Act* Section 28 Regulation, wetlands moderate water flow by absorbing much of the surface water runoff from the land and then slowly releasing it or moving surface water into the groundwater system. This helps to reduce flooding and to sustain stream flows during dry spells. This is why hydrologic impacts to these features, as a function of development, are important to understand and mitigate. When these hydrologic characteristics are upheld or even improved upon, the result is a necessary resiliency to the impacts of a changing climate which will benefit the communities in the Otonabee Conservation watershed.

### How are wetlands defined?

Wetlands are defined by the *CA Act* (O.Reg. 41/24) as land that:

a) is seasonally or permanently covered by shallow water or has a water table close to or at its surface,
b) directly contributes to the hydrological function of a watershed through connection with a surface watercourse,
c) has hydric soils, the formation of which have been caused by the presence of abundant water, and
d) has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which have been favoured by the presence of abundant water. ("terre marécageuse")

The definition of "wetland" above does not include periodically soaked or wet land used for agricultural purposes which no longer exhibits a wetland characteristic referred to in clause (c) or (d) of the above.

Please note that **all** wetland**s are deemed to directly contribute to the hydrological function of a watershed unless demonstrated otherwise**. Where a surface connection between a wetland and a watercourse is not apparent, it is assumed a groundwater connection exists between them, unless there is information to the contrary as per the MNR and Conservation Ontario "Guidelines for Creating Scheduled Areas" (2005).

## What are areas of interference?

The **Other Areas** surrounding wetlands where development could interfere with the hydrological function of the wetland are called "Areas of Interference". These areas may be adjusted where detailed hydrologic studies or site review from Otonabee Conservation staff define a more accurate and more precise area of interference.

**All** wetland**s and their associated 30 metre areas of interference are regulated under O. Reg. 41/24 and permission is required prior to undertaking development in these areas.**

Wetland*s along the Trent-Severn Waterway are also subject to the Federal Policy on* Wetland *Conservation and Parks Canada's 'Policies for In-water and Shoreline Works and Related Activities.' For further information please see Parks Canada's 'Policies for In-water and Shoreline Works and Related Activities' available on the Parks Canada website.*

**WETLAND BOUNDARY IDENTIFICATION**

7.0(1) For development proposals where a wetland is present on or adjacent to lands subject to the development proposal Otonabee Conservation may require on-site wetland boundary delineation/staking *be* completed. Proponents are encouraged to use the application process as outlined in S.3.2.2 so that Otonabee Conservation staff can streamline approvals. Alternately, the proponent is required to retain a qualified third-party professional. Peer review fees will apply. The boundary delineation shall be illustrated on a Reference Plan or Site Plan and a report must be submitted that details how the information was collected. Terms of Reference for the study/report are recommended to be determined in consultation with Otonabee Conservation prior to carrying out field work.

WETLAND CHANGE OR INTERFERENCE POLICIES

7.0(2) In general, change or interference shall not be permitted in wetlands. Interference is further interpreted in S. 3.3.1 of this document.

7.0(3) Notwithstanding 7.0(2), change or interference may be permitted within wetlands where site specific technical studies or plans demonstrate to the satisfaction of the Conservation Authority that the activity will:

- not 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;
- should the change or interference result in wetland loss, that this be adequately compensated elsewhere, to the satisfaction of Otonabee Conservation, to offset the loss of wetland hydrologic function, flood storage and attenuation.

## 7.1 Development Within Wetlands – Specific Policies

The policies in this section are to be applied in conjunction with the General Policies as outlined at the beginning of Chapter 3. As per Policy 3.6(1), development or interference will not be permitted within the regulated area associated with a wetland, except in accordance with the policies contained in this section.

**NEW DEVELOPMENT**

7.1(1) New development will not be permitted within a wetland, regardless of previous approvals provided under the *Planning Act* or other regulatory process (e.g., Building Code Act), except as outlined below.

7.1(2) New development on an existing lot(s) within a small portion of a wetland to facilitate the development of the lot OR where a wetland is less than 0.5 hectares may be permitted provided that:

- A technical site-specific study demonstrates to the satisfaction of Otonabee Conservation that all hazards/risks associated with flooding and/or unstable soils have been addressed;
- It can be demonstrated through technical studies or plans as may be requested by Otonabee Conservation that offsetting will be accommodated on the subject lands resulting in a net gain in wetland function and, where applicable, the maintenance of existing hydrologic linkages.
- Inert fill material will be used; and,
- The large-scale placement of fill can satisfy the provisions outlined in Appendix L - Large Fill Policy Procedural Guidelines

**LAND CONVERSION FOR AGRICULTURAL ACTIVITES**

7.1(3) Conversion of land for agricultural purposes may be permitted where the shape or configuration of the wetland limits existing agriculture activity provided that:

- The wetland is not a bog or fen, or part of a Provincially Significant Wetland;
- There would be a benefit for conversion for agriculture purposes; and,
- Will be subject to an offsetting plan acceptable to Otonabee Conservation. This plan will demonstrate at a minimum "no net loss" and will strive to achieve the principle of "net gain."

**AGRICULTURAL FIELD TILE DRAINAGE**

7.1(4) The installation of agricultural field tile drainage in a manner inconsistent with the natural drainage grade surrounding a wetland may be permitted provided that:

- It is not feasible to follow the natural drainage grade; and,
- A scoped Environmental Impact Study demonstrates that the hydrologic function of the wetland will be maintained and appropriate best management practices will be employed to control sediment and erosion.

**The definition of "wetland" in subsection (1) of O.Reg. 41/24 does not include periodically soaked or wet land used for agricultural purposes which no longer exhibits a wetland characteristic referred to in clause (c) or (d) of that definition.**

**Agricultural in-field erosion control structures that are not within and that do not have any outlet of water directed or connected to a watercourse,** wetland **or river or stream valley are excepted from the Regulation.**

**The installation of new tile drains that are not within a** wetland **or watercourse, within 30 metres of a** wetland **or within 15 metres of a watercourse, and that have an outlet of water that is not directed or connected to a watercourse,** wetland **or river or stream valley, or the maintenance or repair of existing tile drains is excepted from the Regulation.**

**CONSERVATION ACTIVITIES**

7.1(5) Conservation activities will be permitted within a wetland where it can be demonstrated that the hydrologic functions of the wetland will be maintained, restored, or enhanced OR where Policy 7.1(2) can be satisfied. Site Review by Otonabee Conservation OR requested technical studies or plans should demonstrate the following:

- Based on documentation of existing wetland characteristics (e.g., wetland type, connectivity, size, and dominant vegetation communities), there will be direct conservation benefits of the project (e.g., enhancement in wetland feature and/or function);
- There will be no impact on the functionality of any watercourse and associated flooding hazard;
- Best management practices including site and project design and appropriate remedial measures will be employed to mitigate disturbance; and,
- Maintenance requirements will be minimized.

**PASSIVE LOW INTENSITY RECREATIONAL USES**

7.1(6) Passive low intensity recreational uses associated with public parks, outdoor recreation and education, trail systems or watercourse access points will be permitted within a wetland where it can be demonstrated through site review or the submission of technical studies or plans as may be requested by Otonabee Conservation that there will be no negative impact on the hydrologic function of the wetland OR where Policy 7.1(2) can be satisfied.

**INFRASTRUCTURE**

7.1(7) Public infrastructure (e.g., roads, sewers, flood and/or erosion control works, water supply,) and various utilities (pipelines) will be permitted to be constructed, realigned and/or upgraded within a wetland subject to the following:

- an approved Environmental Assessment, or other comprehensive plan that is supported by Otonabee Conservation, demonstrates that all alternatives to avoid intrusions on wetland features, hydrologic functions have been considered and that the proposed alignment minimizes wetland loss or interference with hydrologic functions to the greatest extent possible; and/or,
- the submission of technical studies or plans as may be requested by Otonabee Conservation that demonstrates that appropriate remedial measures will mitigate and/or offset for wetland loss or interference with hydrologic function;
- the infrastructure and its construction will not result in the creation of or aggravate other natural hazards; and,
- the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans.

7.1(8) Access routes (e.g., driveways, private access roads, and entrance ways) associated with an existing residential, agricultural, commercial, industrial, or institutional use will be permitted within a wetland where it can be demonstrated that:

- There is no feasible alternative to locate the access route outside of the wetland;
- the submission of technical studies or plans as may be requested by Otonabee Conservation that demonstrates that appropriate remedial measures will mitigate and/or offset for wetland loss or interference with hydrologic function;

OR,

- Policy 7.1(2) can be satisfied.

**PONDS & DRAINS**

7.1(9) New dug-out or isolated ponds*, and drainage works approved pursuant to the Drainage Act, will be permitted within a wetland provided that it has or can be demonstrated to the satisfaction of Otonabee Conservation that there will be no negative impact on the natural features and hydrologic function of the wetland.

7.1(10) Maintenance/repair of the functionality (e.g., bank stabilization, removal of accumulated sediment, etc., but not including realignment (see Policy 8.4.1), of existing ponds and drains within a wetland will be permitted provided that:

- All dredged material is placed at a suitable distance from the wetland or other natural hazard features;
- Best management practices including site and project design and appropriate remedial measures will be employed to mitigate disturbance and minimize impacts to the natural features and hydrologic function of the wetland; and,
- There will be no increase in surface area or volume beyond that resulting from the volume of accumulated sediment removed.

## 7.2 Development within Other Areas – Specific Policies

**NEW DEVELOPMENT**

7.2(1) New residential, structural agricultural, commercial, industrial, or institutional development where the current zoning is appropriate to the nature of the proposed development will be permitted within 30 metres of a wetland on an existing lot(s) provided that:

- It is not feasible to locate the development at least 30 metres away from the wetland boundary; and,
- It can be demonstrated through a site review and/or the submission of technical studies or plans as may be requested by Otonabee Conservation that that there will be no negative impact on the hydrologic function of the wetland.

**EXPANSION/RECONSTRUCTION/RELOCATION**

7.2(2) Expansion, reconstruction or relocation of an existing building or structure within an area of interference will be permitted if there will be no negative impact on the hydrologic function of the wetland. Submitted plans will be required to demonstrate the following:

- Disturbance to natural vegetation communities will be minimized;
- Disturbed area and soil compaction will be minimized;
- Impervious areas will be minimized;
- Development will be located above the high water table;
- Overall existing drainage patterns will be maintained; and,
- Best management practices will be used to:
    - maintain water balance;
    - control sediment and erosion; and,
    - maintain or enhance as much of a wetland buffer as is feasibly possible in order to minimize hydrologic impacts.

**ACCESSORY BUILDINGS OR STRUCTURES**

7.2(3) Accessory buildings or structures associated with an existing residential agricultural, commercial, or industrial use will be permitted within an area of interference provided that there will be no negative impact on the hydrologic function of the wetland. Submitted plans will be required to demonstrate the following:

- Disturbance to natural vegetation communities will be minimized;
- Impervious areas will be minimized;
- Development will be located above the high water table;
- Overall existing drainage patterns will be maintained; and,
- Best management practices will be used to:
    - maintain water balance;
    - control sediment and erosion; and,
    - maintain or enhance as much of a wetland buffer as is feasibly possible.

**Reconstruction of non-habitable garages with no basement, if the reconstruction does not exceed the existing footprint of the garage and does not allow for a change in the potential use of the garage to create a habitable space are excepted from the Regulation**

**SWIMMING POOLS**

7.2(4) Swimming pools associated with an existing residential use will be permitted within an area of interference provided that there will be no negative impact on the hydrologic function of the wetland. Submitted plans will be required to demonstrate the following:

- Disturbance to natural vegetation communities will be minimized;
- Disturbed area and soil compaction will be minimized;
- Impervious areas will be minimized;
- Development will be located above the high water table;
- Overall existing drainage patterns will be maintained; and,
- Best management practices will be used to:
    - maintain water balance;
    - control sediment and erosion; and,
    - maintain or enhance as much of a wetland buffer as is feasibly possible.

**CONSERVATION ACTIVITIES**

7.2(5) Conservation activities will be permitted within an area of interference where it can be determined that the hydrologic function of the wetland will be maintained, restored, or enhanced. Submitted plans will be required to demonstrate the following:

- Disturbed area and soil compaction will be minimized;
- Impervious areas will be minimized; and,
- Best management practices will be used to:
    - ensure hydrologic connectivity;
    - control sediment and erosion; and,
    - maintain or enhance as much of a wetland buffer as is feasibly possible;
    - Replant and/or seeding to stabilize the construction will be completed.

**INFRASTRUCTURE**

7.2(6) Public infrastructure (roads, sewers, flood and/or erosion control works, water supply, municipal stormwater management facilities required to alleviate a flood problem associated with existing development) and various utilities (pipelines) will be permitted within an area of interference subject to the following:

- the submission of technical studies or plans as may be requested by Otonabee Conservation demonstrate that appropriate remedial measures will mitigate for any potential interference with hydrologic function;
- the infrastructure and its construction will not result in the creation of or aggravate other natural hazards; and,
- the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans.

7.2(7) Access routes (e.g., driveways, private access roads, and entrance ways) associated with an existing residential, agricultural, commercial, industrial, or institutional use will be permitted within a wetland where it can be demonstrated that:

- There is no feasible alternative to locate the access route outside of the 30 metre regulated area of interference;
- the access route and its construction will not result in the creation of or aggravate other natural hazards; and,
- the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans.

**PONDS & DRAINS**

7.2(8) New dug-out or isolated ponds*, and new drainage works approved pursuant to the Drainage Act will be permitted within an area of interference provided that there will be no negative impact on the hydrologic function of the wetland. Submitted plans will be required to demonstrate the following:

- Disturbance to natural vegetation communities will be minimized;
- Overall existing drainage patterns will be maintained; and,
- Best management practices will be used to:
    - maintain water balance;

- control sediment and erosion; and,
- maintain or enhance as much of a wetland buffer as is feasibly possible.

7.2(9) Enlargement of an existing dug-out or isolated pond* located within an area of interference will be permitted where it can be demonstrated that the enlargement can satisfy Policy 7.2(8).

**The installation, maintenance or repair of a pond for watering livestock that is not connected to or within a watercourse or** wetland**, within 15 metres of a** wetland **or a watercourse, and where no excavated material is deposited within a regulated associated with flood or erosion hazards is excepted from the Regulation.**

**STORMWATER MANAGEMENT FACILITIES**

7.2(10) Stormwater management facilities for water quantity control and/or water quality purposes will be permitted within an area of interference, provided that:

- detailed technical studies or plans as may be requested by Otonabee Conservation demonstrate that appropriate remedial measures will mitigate the impact on and/or compensate for the loss of the hydrologic function of the wetland;
- erosion and sedimentation during construction and post construction are minimized using best management practices including site and facility design, construction controls, and appropriate remedial measures; and,
- Design and maintenance requirements as determined by Otonabee Conservation are met.

**GOLF COURSES**

7.2(11) Golf courses or golf course expansions will be permitted within an area of interference provided that:

- It can be demonstrated that there will be no negative impact on the hydrologic function of the wetland;
- Natural erosion and sedimentation processes within the wetland are not impacted; and,

- erosion and sedimentation during construction and post construction are minimized using best management practices including site and facility design, construction controls, and appropriate remedial measures.

**FILL PLACEMENT, EXCAVATION AND/OR GRADE MODIFICATIONS**

7.2(12) Fill placement, excavation and/or grade modifications: associated with existing access roads and driveways; required for the construction of a new access route to serve an existing residential, agricultural, commercial, industrial or institutional use; required for the purpose of flood and/or erosion protection; and/or, to facilitate the installation of geothermal, water and/or sewage treatment systems will be permitted within an area of interference provided that there will be no negative impact on the hydrologic function of the wetland and inert fill material will be used. Submitted plans will be required to demonstrate the following:

- Fill placement, excavation and/or grade modifications will be setback from the wetland boundary by the maximum possible distance, where feasible;
- Disturbance to natural vegetation communities will be minimized;
- Disturbed area and soil compaction will be minimized;
- All excavation will be located above the high water table, with the exception of excavation required to install a geothermal system;
- Overall existing drainage patterns will be maintained; and,
- Best management practices will be used to:
    - maintain water balance;
    - control sediment and erosion; and,
    - maintain or enhance as much of a wetland buffer as is feasibly possible.

7.2(13) Fill placement, excavation and/or grade modifications for agricultural land reclamation will be permitted within an area of interference where there is a demonstrated history of agricultural use provided there will be no negative impact on the hydrologic function of the wetland and inert fill material will be used. Submitted plans will be required to demonstrate the following:

- There will be no tile drainage system that would drain water away from the wetland;
- Disturbed area and soil compaction will be minimized;
- All excavation will be located above the high water table;

- Overall existing drainage patterns will be maintained; and,
- Best management practices will be used to:
    - maintain water balance;
    - control sediment and erosion; and,
    - maintain wetland buffers.

# Chapter 8: Alterations or Interference to Shorelines and Watercourses

The Specific Policies in this Chapter are to be applied in conjunction with the General Policies in Chapter 3. As per Policy 3.6(1), development will not be permitted within the regulated area associated with rivers, creeks, streams or watercourses, except in accordance with the policies contained in this chapter.

Reference in the below policies to Health or Safety (safe access, floodproofing), and Cumulative Impacts shall be done in conjunction with that outlined above in Chapter 3 (3.4 to 3.5). Interpretations of key terms such as "Interference" shall follow that outlined above in Section 3.3.

In each policy noted below, the activity **may be permitted subject to the applicant providing complete studies and plans that demonstrate to the satisfaction of Otonabee Conservation** that the activity will not affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; and 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.

## What is Otonabee Conservation's position with respect to the alteration or interference with the channel or shoreline of a river, creek, stream, or watercourse?

Otonabee Conservation discourages altering or interfering with the channel or shoreline of a river, creek, stream, or watercourse. We recognize that some uses by their nature must locate within or adjacent to river, creek, streams, or watercourses. Furthermore, it is recognized that channel or shoreline alterations may facilitate existing agricultural uses (e.g., watercourse crossing for farm equipment or livestock). Any alteration to the channel or shoreline of a river, creek, stream, or watercourse requires permission from Otonabee Conservation. This includes activities such as, but not limited to, culvert placement or replacement, bridge construction, installation of bed level crossings, enclosure of watercourses, installation or maintenance of pipeline crossings, cable crossings, maintenance of by-pass, connected or online ponds, straightening and diversions as well as any work on the bed or the banks of the watercourse such as dredging or bank protection projects.

## The Kawartha Lakes

Otonabee Conservations watershed includes shorelines located along the Kawartha Lakes. The regulation limit associated with these lakes is determined using technical guides associated with River or Stream Valley systems. **The policies in this chapter also apply to the shorelines of the Kawartha Lakes within the Otonabee Conservation jurisdiction**.

# 8.0 Interference to a Watercourse – Specific Policies

**INTERFERENCE IN ANY WAY**

**8.0(1)** Interference with a river, creek, stream or watercourse shall not be permitted. Interference is further interpreted in S. 3.3.1 of this document.

**8.0(2)** Notwithstanding section 8.0(1), interference to a river, creek, stream or watercourse may be permitted provided the activity:

- will not affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- will not 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;
- be subject to the activity being approved through any studies deemed necessary by Otonabee Conservation,
- impacts to natural hazards or hydrologic function are minimized through appropriate best management practices/mitigation measures as deemed necessary by Otonabee Conservation.

## 8.1 Structures

**CROSSINGS**

8.1(1) Crossings include but are not limited to: bridges, culverts, and causeways, and will be permitted to be constructed, replaced, or upgraded as follows:

- In the case of public infrastructure, all feasible alternative sites and alignments have been considered or in the case of replacements and/or upgrades, the crossing design is engineered through site-specific studies/plans;
- In the case of private infrastructure, all feasible alternative sites and alignments have been considered and, crossing design engineered through site-specific studies with the possible exception of temporary crossings based on the structural scale and scope, and the purpose of the temporary crossing;

and, where it can be demonstrated that:

- Crossings avoid any bends in the watercourse to the extent practical;
- Crossings are located to take advantage of existing impacted or open areas on the channel bank or valley slope, wherever possible;
- Crossing structures avoid the erosion hazard in order to accommodate natural watercourse movement;
- The risk of flood damage to upstream or downstream properties is reduced through site and crossing design;
- Interference with hydrologic function (e.g., water quality and quantity control) is minimized and it can be demonstrated that best management practices including site and crossing design and appropriate remedial measures will mitigate disturbance to features and functions;
- Physical realignments or alterations to the river, creek, stream, or watercourse channel associated with a new crossing are avoided or are in accordance with the Otonabee Conservation channelization policies that follow; and,
- Maintenance requirements are minimized.

8.1(2) Bed-level crossings will be permitted to be constructed, replaced, or upgraded where it can be demonstrated that:

- Stable, non-erodible, rounded inorganic material is used;
- Crossings avoid any bends in the watercourse to the extent practical;
- Crossings are located to take advantage of existing impacted or open areas on the channel bank or valley slope, wherever possible;
- The risk of flood damage to upstream or downstream properties is reduced through site and structure design;
- Physical realignments or alterations to the river, creek, stream, or watercourse channel associated with a new crossing are avoided or are in accordance with the Otonabee Conservation channelization policies that follow; and,
- Maintenance requirements are minimized.

**WATER CONTROL STRUCTURES**

8.1(3) Water control structures to: protect existing development from a flooding hazard; OR facilitate approved renewable energy generation projects (for water control structures associated with conservation activities refer to Policy 9.2.1(3)) will be permitted to be constructed, maintained, or repaired subject to the following:

- The water management benefits of the water control structure are demonstrated and all feasible alternatives have been considered, or other comprehensive plan that is supported by Otonabee Conservation, whichever is applicable based on the scale and scope of the project;
- There will be no adverse hydraulic or fluvial impacts; and;
- Impacts on hydrologic function (e.g., water quality and quantity control) are avoided or it can be demonstrated that best management practices including site and structure design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions.

8.1(4) Water control structures for any purpose other than that identified in Policy 8.1(3) will not be permitted within the channel of a river, creek, stream, or watercourse.

ALTERATIONS AND/OR MAINTENANCE OF EXISTING WATER CONTROL STRUCTURES

8.1(5) Alterations and/or maintenance of existing water control structures will be permitted where it can be demonstrated that:

- Impacts on hydrologic functions (e.g., water quality and quantity control) are avoided or that site and structure design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions;
- There will be no adverse hydraulic or fluvial impacts;
- There are no adverse impacts on the capacity of the structure to pass flows; and,
- The integrity of the original structure is maintained or improved.

8.1(6) Notwithstanding the above, where the alteration/maintenance will not affect the footprint or height of the existing water control structure and in the opinion of Otonabee Conservation, would not affect the control of flooding, erosion, pollution, or the conservation of land and would not result in changes to the capacity to pass river flows or impact on the integrity of the structure or in-water works, a permit will not be required.

8.1(7) Decommissioning of dams which are structurally unsound or no longer serve their intended purpose, located within a river, stream, creek or watercourse will be permitted provided a decommissioning plan demonstrates, at a minimum, that:

- Impacts on hydrologic functions (e.g., water quality and quantity control) within or adjacent to the river, creek, stream, or watercourse will be avoided or that site and structure design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions;
- There will be no adverse hydraulic or fluvial impacts; and,
- The risk of erosion and sedimentation during and after retirement or removal is addressed through a draw down plan.

**IN WATER BOATHOUSES AND PERMANENT DOCKS**

8.1(8) In-water boathouses (for upland or on-shore boathouses see Policy 4.5(1)) and permanent docks that are within the channel of a watercourse will be permitted provided that:

- The structure does not impede the flow of water;

- There is no habitable space associated with the structure(s) and there is no opportunity for conversion into habitable space in the future (to ensure no habitable component, the boathouse shall contain no services other than electricity);
- The structure is firmly anchored and attached to the shoreline;
- The structure does not alter the natural contour of the shoreline; and,
- The structure does not extend beyond existing structures or create a navigational hazard.

## 8.2 Conservation Activities

**CONSERVATION ACTIVITIES**

8.2(1) Conservation activities (e.g., stream rehabilitation) will be permitted within a watercourse provided that the hydrologic function of the watercourse (e.g., water quantity control) will be maintained, restored, or enhanced. The submitted plans will be required to demonstrate that:

- There will be no negative impact on watercourse functionality;
- Best management practices including site and project design and appropriate remedial measures will be employed to minimize disturbance;
- Natural channel design practices will be followed; and,
- Maintenance requirements will be minimized.

## 8.3 Ponds

**NEW PONDS**

Ponds exist for many reasons, such as recreation, irrigation, watering, landscaping, and aquaculture. This section applies to these types of ponds but not to stormwater management ponds, reservoirs constructed for the purpose of generating hydroelectricity, ponds associated with conservation activities, or livestock watering ponds that are not connected to a watercourse. Please note that policies related to flooding hazards, erosion hazards and wetlands may also apply.

8.1(10) Otonabee Conservation will not support the construction of ponds that are directly connected to a watercourse (e.g., in-stream ponds, bypass ponds, etc.).

**EXISTING PONDS**

8.3(1) Bank alterations and/or dredging of existing connected ponds will be considered provided that:

- Impacts on hydrologic function of the pond are avoided or it can be demonstrated that best management practices including project design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions;
- There is no negative impact on the hydrologic function of the receiving river, creek, stream, or watercourse;
- There is no negative impact on the downstream thermal regime;
- Maximum berm heights above existing grades do not exceed 0.3 metre within the flooding or erosion hazard;
- Any excavated material is removed from the hazard area; and,
- The works are designed to limit the need for future maintenance.

## 8.4 Channel or Shoreline Alterations

**REALIGNMENT, CHANNELIZATION, OR STRAIGHTENING**

8.4(1) Realignment, channelization or straightening of a river, creek, stream or watercourse is generally discouraged, but will be permitted to improve hydraulic characteristics and fluvial processes, facilitate public infrastructure projects (e.g., highway construction or reconstruction), facilitate works approved pursuant to the Drainage Act and/or on-going operations associated with existing agricultural use, or to improve aquatic habitat or water quality where a site plan and/or other site-specific study demonstrates that:

- All feasible alternative alignments have been considered through site-specific studies or engineered plans supported by Otonabee Conservation.
- Impacts on hydrologic functions are minimized and it can be demonstrated that best management practices including project design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions; and
- Natural channel design practices are followed to the maximum extent possible.

**ENCLOSURES**

8.4(2) Enclosures of rivers, creeks, streams, or watercourses are discouraged, but will be permitted where there is a risk to public safety and/or potential property damage and where a site specific study demonstrates that:

- All feasible options and methods have been explored to address the hazard(s); and,
- Impacts on hydrologic functions are minimized and it can be demonstrated that best management practices including project design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions.

**DREDGING**

8.4(3) Dredging of an existing channel of a river, creek, stream, or watercourse will be permitted to maintain boating or shipping channels (e.g., harbours, marinas, canals), enhance water flow in the case of drains, improve hydraulic characteristics

and fluvial processes or to improve aquatic habitat or water quality where a dredging plan demonstrates that:

- Stream bank stability is not impacted or is improved;
- The size and depth of the area proposed for dredging while meeting the need is minimized;
- Impacts on hydrologic functions are minimized and it can be demonstrated that best management practices including project design and appropriate remedial measures will mitigate and/or compensate for disturbance to features and functions;
- All dredged material is removed from flooding and erosion hazards and safely disposed of in accordance with the policies in provincial guidelines; and,
- Are designed to limit future maintenance requirements.

**SHORELINE EROSION PROTECTION**

8.4(4) Proponents are encouraged to employ bio-engineered solutions rather than shoreline hardening; however, new and/or replacement of erosion protection and shoreline/bank stabilization measures may be permitted subject to the following:

- The shoreline/bank stabilization technique employed does not result in an exclusively vertical structure;
- Impacts on hydrologic functions are minimized;
- The natural contours of the shoreline will be maintained;
- The works will result in a naturally stable slope; and,
- Erosion risk on adjacent, upstream and/or downstream properties is reduced or erosion and sedimentation processes are controlled to reduce existing or potential impacts from adjacent land uses, whichever is appropriate.

8.4(5) Repair/maintenance of existing erosion protection and shoreline/bank stabilization structures will be permitted where the repair/maintenance will not result in an increase in footprint or height of the existing structure. When considering repair/maintenance, proponents are encouraged to replace existing hardened shoreline surfaces with bio-engineered solutions.

- Erosion risk on adjacent, upstream and/or downstream properties is reduced or erosion and sedimentation processes are controlled to reduce existing or potential impacts from adjacent land uses, whichever is appropriate;
- Intrusions on hydrologic functions are minimized, and it can be demonstrated that best management practices including site and structure; and,
- Design and appropriate remedial measures mitigate and/or compensate for disturbance features and functions.

8.4(6) Installation of a single water access point (e.g., set of stairs leading into the water) will be permitted for an existing waterfront lot provided it can be demonstrated that:

- Stable, non-erodible, inorganic material (e.g., armour stone, natural stone) is used;
- The access point is located in such a manner to take advantage of existing impacted or open areas along the shoreline, wherever possible;
- The maximum width of the access point does not exceed 1.8 metres;
- Maintenance requirements are minimized; and,
- Where there is an associated boathouse or dock, the access point shall be situated adjacent to the boathouse or dock, wherever feasible.

# Part B:

# The Procedures

# Chapter 9 – Regulations Procedures

## 9.1 Part VI of the *Conservation Authorities Act*

Part VI of the *Conservation Authorities Act* sets out how various development activities are regulated to protect people, property, and the environment in relation to flooding and erosion hazards.

Reference should be made to the Act and regulations available at ontario.ca/laws for the complete legal text.

In accordance with the requirements of the *CAAct,* this chapter sets out the procedures for many of the provisions within.

## 9.2 Prohibited Activities, Tests for Approval

Section 28 of the *Conservation Authorities Act* sets out the prohibited activities as follows:

**"**No person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

1 Activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.

2 Development activities in areas that are within the jurisdiction of an authority and are:

i. hazardous lands,

ii. wetlands,

iii. river or stream valleys the limits of which shall be determined in accordance with the regulations, or

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

v. other areas in which development should be prohibited or regulated, as may be determined by the regulations.

"**Development Activity**" is defined as:

- The construction, reconstruction, erection or placing of a building or structure of any kind,

- Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- Site grading,
- The temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

**Section 28.1 of the *Conservation Authorities Act* establishes the legal tests for approval of permit applications. A conservation authority may issue a permit:**

"if in the opinion of the authority,

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

b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property…"

## 9.3 Mapping of Regulated Areas

Section 4 of Ontario Regulation 41/24 prescribes requirements for mapping of areas where development activities are prohibited. This includes requirements for annual review and updating, public access and notification.

Mapping of the approximate regulated area has been undertaken by Otonabee Conservation in support of Ontario Regulation 41/24. In some cases, such as more recent floodplain mapping projects undertaken by Otonabee Conservation, the mapping is highly precise and provides an accurate depiction of the regulated area. Dated hazard mapping may require to be updated, and in the case of wetlands, the mapping is sometimes only an approximation based upon the best available information, site visits, or development driven reporting and monitoring. As staff field verify regulated features and their associated regulated areas or carry out projects to further and more accurately delineate natural hazard features and their regulated areas, this data will be included by an annual update procedure, as required by the regulation. The regulated area is not a development setback, land use designation, zone, or a specific development limit. The regulated area includes flooding and erosion hazards associated with riverine systems and the Kawartha Lakes shoreline, hazard lands, along with wetlands and *areas of interference* around the wetlands. Please find the mapping available at www.otonabeeconservation.com.

**The regulation text prevails over regulated area mapping. It is not necessary to map a feature before it can be regulated. The legal basis for defining regulated areas remains with the written text in the legislation.**

In updating the mapping, Otonabee Conservation will use standardized procedures and guidelines as developed by the MNR and Conservation Ontario, as amended or updated from time to time. Otonabee Conservations 'Floodplain Mapping Implementation Plan 2024', available on the Otonabee Conservation website, as approved by the Board of Directors, details how Otonabee Conservation updates it floodplain mapping.

## 9.4 Exceptions

Section 5 of Ontario Regulation 41/24 prescribes exceptions to the regulation of development activities for a list of specific types of development activities under certain conditions. These activities include certain types of docks, fencing, agricultural erosion control structures, non-habitable accessory structures, decks or patios. The specific list may be viewed here:

https://www.ontario.ca/laws/regulation/240041#BK4

Please contact Otonabee Conservation staff via the ***online inquiry form*** available on the website, www.otonabeeconservation.com, to get in touch with a regulations officer to determine if your development activity meets the applicability of certain exceptions to the regulation.

## 9.5 Permit Phases

Before the development activity (filling, grading/site alteration, or construction) may proceed in a regulated area, a permit must be issued.

There are five (5) primary phases in the permit application process:

1. Pre-requisite Approvals
2. Pre-submission Consultation or "Pre-Consultation"
3. Determination of a "Complete Application"
4. Technical Review, Commenting and Application Refinement
5. Decision: Recommendation for Approval (and Permit Issuance) or Refusal (and Hearings(s))

The phases listed above take place sequentially and are discussed in detail below.

## 9.6 Pre-requisite Approvals

Development proposals should be evaluated through up-to-date provincially and municipally approved planning policy and zoning prior to engaging the permit application process with

Otonabee Conservation. This ensures that the 'principle of development' has been determined through the appropriate planning approval and ensures that requirements under the *Conservation Authorities Act* are streamlined and focused on natural hazard concerns. *Planning Act* approvals or other agency approvals should be sought first. Only in some site specific cases, where applicable, would permits be issued prior to the 'principle of development' being established.

## 9.7 Pre-submission Consultation or "Pre-consultation"

The Regulation includes minimum requirements for Otonabee Conservation regarding the pre-submission requirements and process for a permit application.

Prior to the submission of an application for a permit under section 28.1, all applicants are strongly encouraged to consult with Otonabee Conservation staff to assess the proposal and determine application requirements. Section 6 of *Ontario Regulation 41/24* sets out the pre-consultation concepts and directs that if an applicant requests a pre-submission consultation, Otonabee Conservation is required to engage in the pre-consultation.

The pre-consultation process should achieve the following:

- determine if an application is required and if the required *Planning Act* approvals are in place prior to the permit application;
- determine the information required to be submitted with the application (e.g. technical information, studies, drawings, etc.) to ensure that comprehensive submissions are made that can efficiently lead to complete submissions;
- discuss if a formal inquiry process should be engaged (fees required) and to undertake site visit(s) to verify the presence or absence of features such as wetlands and watercourses, where required;
- clarify the general process that is required to obtain a permission; and
- identify any concerns that Otonabee Conservation may have with the proposed undertaking and to provide a preliminary determination of compliance with the policies contained within this document.

The type, scale and location of the proposal will determine the extent and formality of the pre-consultation process. For complex or major applications, applicants should contact Otonabee Conservation staff to arrange a formal meeting which could involve several internal staff as well as external municipal, agency, provincial and federal representatives who may have an interest in the review of the proposed activity. Pre-consultation meetings should also include input on the terms of references for technical requirements (e.g. Feature Based Wetland Water Balance

studies or Slope Stability Studies) to ensure that the matters of interest are sufficiently addressed.

Otonabee Conservation will work within a 21-day timeline (from the date of the pre-consultation meeting) to identify and confirm complete application requirements for specific projects and will provide this information in writing to the proponent. It should be noted, however, that substantial changes to a proposal or a site visit by Otonabee Conservation staff following the pre-consultation meeting may affect the information required, as well as the ability of Otonabee Conservation to respond conclusively within the 21-day period.

## 9.8 Complete Application

Otonabee Conservation is committed to streamlining the review of permit applications. The submission of a complete application is a critical component. Once pre-consultation is over and the supporting documentation is ready for submission, Otonabee Conservation staff will advise the applicant to proceed with an application. An application for a permit must be made by an owner of the lands/property or an authorized agent, **with the landowner having provided the required landowner authorization.**

**The minimum prescribed requirements are as follows** (S.7 (1) of the Regulation):

**7.** (1) An application for a permit under section 28.1 of the Act shall be submitted to the authority and shall include,

- a plan of the area showing the type and location of the proposed development activity or a plan of the area showing plan view and cross-section details of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream watercourse, or change or interfere with a wetland;
- the proposed use of any buildings and structures following completion of the development activity or a statement of the purpose of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland;
- the start and completion dates of the development activity or other activity;
- a description of the methods to be used in carrying out an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;
- the elevations of existing buildings, if any, and grades and the proposed elevations of any buildings and grades after the development activity or other activity;

- drainage details before and after the development activity or other activity;
- a complete description of any type of fill proposed to be placed or dumped;
- a confirmation of authorization for the proposed development activity or other activity given by the owner of the subject property, if the applicant is not the owner; and
- any **other technical information, studies or plans that the authority requests** including information requested during pre-consultation between the authority and the applicant.

(2) Upon receipt of the information required under subsection (1) **and payment by the applicant of the fee charged by the authority under subsection 21.2 (4) of the Act**, the authority shall notify the applicant in writing, within 21 days, whether or not the application complies with subsection 28.1 (3) of the Act and is deemed to be a complete application.

Provided the applicant has submitted the above requirements and any of the other technical requirements as determined in pre-consultation, the application process will likely proceed quickly to the permit issuance phase.

Once the application is received by Otonabee Conservation it will be assigned a file number which can be referred to for further processing and payment. Applications will not be received if there are outstanding violations of *Ontario Regulation 167/06* or *Ontario Regulation 41/24* on the subject lands.

To ensure the application may be appropriately assessed, including the technical aspects of a proposal against the tests set out in subsection 28.1 (1) of the *Conservation Authorities Act*, the submission may be required to contain **other technical information, studies or plans**. The scale, location, and complexity of a proposal and type of feature and or hazard existing typically determines which information items listed below will apply to an application. The level of detail required for studies and reports can vary widely depending on the property and the proposal. In some situations, a single-page letter from a qualified expert will be sufficient, while in other cases a major study will be necessary. In the absence of a full set of complete application information, it is not possible for staff to determine if an application may be recommended for approval or considered at a Hearing Board in the case of a recommendation for refusal.

**Possible Technical Requirements** (i.e. Other Technical Information, studies or plans per above and clause 7(1)(i) of *Ontario Regulation 41/24*)

- legal survey;
- existing and proposed topographic and/or metric geodetic elevations;
- floodplain study;
- structural elevations and construction details;

- architectural plans with floodproofing;
- channel crossings assessment;
- erosion and sediment control plans;
- grading plans;
- geotechnical/slope stability study;
- hydrological, hydrogeological assessment;
- landscaping/site rehabilitation plan/vegetation compensation plans;
- environmental impact study;
- stormwater management study/design drawings;
- water balance analysis;
- cut and fill analysis;
- construction access and staging plans;
- soil quality report; and,
- other reports/studies identified through staff consultation.

Works that involve substantial site development should be prepared using the services of qualified professionals. In all cases, it is necessary that the information provided with the application is clear as to the work proposed and is sufficient to allow Otonabee Conservation staff to complete a technical review and to make recommendations of approval or refusal.

When proposed development is also subject to the *Planning Act*, *Planning Act* approvals will be obtained prior to submission of permit applications and integrated with Otonabee Conservation technical input to ensure that most, if not all, matters are addressed proactively prior to implementing the permit process under the *Conservation Authorities Act*. A permit amendment application will be required to modify the permit to match post permit issuance changes that result from *Planning Act* applications if not completed prior. This will be subject to further fees and potential delays and is strongly discouraged.

## 9.9 Requests for Administrative Review

Pursuant to subsection 8 (1) of *Ontario Regulation 41/24*, an applicant may request a review by the CAO/Secretary Treasurer if:

a) *the applicant has not received notice from the authority within 21 days in accordance with subsection 7(2)* [confirmation of complete application];
b) *the applicant disagrees with the authority's determination that the application for a permit is incomplete*; or
c) *the applicant is of the view that a request by the authority for other information, studies or plans is not reasonable*.

The request for review applies to applications made under s. 28.1 of the CAAct and does not apply to comments provided by Otonabee Conservation through the land use planning process.

The request for review is required to be submitted in writing, to the CAO/Secretary Treasurer and shall identify what element is to be reviewed (a, b or c above) in detail, and the rationale for the request, including the details of the application as submitted. Requesters should use "Section 8 Review Request – Permit File #, Address" in the subject line.

Pursuant to subsection 8(2) of *Ontario Regulation 41/24*, a review request shall be completed by Otonabee Conservation no later than 30 days after it is requested, and Otonabee Conservation shall either:

a) *confirm that the application meets the requirements of the application requirements of subsection 7(1) of the regulation and is complete or provide reasons why the application is incomplete; or*
b) *provide reasons why a request for other information, studies or plans under clause 7(1)(i) of the regulation is reasonable or withdraw the request for all or some of the information, studies or plans.*


**Figure 1: Administrative Review Process (Conservation Ontario)**

## 9.10 Application Fees, Fee Reconsiderations and Fee Appeals

In accordance with subsection 21.2(4) of the *Conservation Authorities Act*, Otonabee Conservation is responsible for setting and collecting fees. Fees are set out in annual fee schedules approved by the Otonabee Conservation Board of Directors, pursuant to subsection 21.2(6) of the *Conservation Authorities Act* (the Act), for the administration and review of applications and must be paid in full at the time of submitting an application.

Pursuant to subsection 21.2(7) of the Act Otonabee Conservation's full *Fee Policy* (and schedules) has been adopted by the Board of Directors and may be found at www.otonabeeconservation.com.

Note that the following provisions relate only to permit-related application fees and not to fees for planning services:

Pursuant to subsection 21.2 (13) of the Act applicants may request to reconsider a permit-related fee in writing to the CAO/Secretary Treasurer. Requesters should use "Section 21.2 Fee Review Request, Permit File #, Address" in the subject line. Otonabee Conservation shall make its decision within 30 days after receiving the request.

Pursuant to subsection 21.2 (14) of the Act, if Otonabee Conservation does not reconsider a fee within 30 days of receiving a request for reconsideration, the person who made the request may appeal the amount of the fee directly to the Ontario Land Tribunal.

Pursuant to subsection 21.2 (15) of the Act, if, after reconsideration of a fee charged for an application for a permit, Otonabee Conservation orders a person to pay the fee, the person shall pay the fee in accordance with the order.

Pursuant to subsection 21.2 (16) of the Act, a person who pays a fee under subsection (15) may: (a) when paying the fee, indicate to Otonabee Conservation in writing that the fee is being paid under protest; and (b) within 30 days after payment of the fee, appeal the amount charged by Otonabee Conservation upon reconsideration to the Ontario Land Tribunal.

Otonabee Conservation will undertake an update of the fee schedule annually to ensure that the cost recovery is appropriate and that fee rates are in-line with the prevailing inflation rate.

## 9.11 Processing of Complete Applications

All applications are reviewed to determine if they have the prerequisite approvals and to ensure that they meet the legislative requirements and tests of both the *Conservation Authorities Act* and *Ontario Regulation* 41/24 and, finally, that they conform to the policies specific to the regulation as approved by the Board.

Site visits are typically conducted to confirm on-site or nearby features and application information. Site visits can also be used to determine and/or stake the limits of natural features, and natural hazards including the boundaries of wetlands as defined under the CAAct. In some cases, a site visit may reveal the need for technical studies that were not identified during pre-consultation.

In the review of certain technical studies there may be a need for Otonabee Conservation to retain external expertise to assist in the review (geomorphology, soil quality/geotechnical). The cost of such a peer review is borne by the applicant.

If an application remains **inactive** for the period of 12 months from the date of application submission or the issuance of Otonabee Conservation comments regarding the submission requirements (see section 9.8 & 9.9 of this document), Otonabee Conservation will consider the application to be abandoned, and the file will be closed. A file reactivation fee will be applied to reopen the application after this 12-month period.

Renewable Energy Projects proposed in areas regulated by Otonabee Conservation pursuant to Section 28.1 of the *Conservation Authorities Act*, requires permission to ensure the tests of the control of flooding, erosion, dynamic beaches or unstable soil or bedrock are addressed only.

## 9.12 Decisions

After an application is deemed complete, Otonabee Conservation staff will either:

- issue a permit, with or without conditions; or
- recommend approval, with or without conditions to the Authority board for a decision; or
- advise the applicant that the application cannot be supported and refer the application to the Otonabee Conservation Board with a recommendation for refusal.

Permits MUST be signed by the applicant/owner and the appropriate signing authority of Otonabee Conservation (typically the Regulations Officer and the Manager, Plan Review & Permitting Services, but can also be the CAO).

Approval granted by Otonabee Conservation under Ontario Regulation 41/24 shall not be interpreted as eliminating the need to fulfill the requirements of other federal, provincial and municipal bylaws, statutes, regulations and requirements.

### Staff Delegated Approvals

Otonabee Conservation regulations officers are appointed by the Board of Directors as per Subsection 30.1 of the *Conservation Authorities Act*.

Appointed regulations officers are delegated the responsibility to:

- Obtain from an applicant, any surveys, studies, engineering models and other information as may be necessary to make a decision on an application and to be able to deem an application complete.

- Approve and forward approved permits to the appropriate signing authority (Manager, Plan Review & Permitting Services, or, the CAO/Secretary Treasurer) in response to applications that:
    - comply with the policies contained within this document;
    - are considered standard or typical, generally not being overly complex; and,
    - are being issued for a maximum period of 24 months.
- Extend a permit that was granted for a period of 24 months.
- Approve and forward approved permits to the appropriate signing authority (Manager, Plan Review & Permitting Services, or, the CAO/Secretary Treasurer); **AND, inform the Board of Directors** at the next regularly scheduled meeting that a permit has been (or will be) approved in response to applications that are:
    - those applications subject to section 28.1.2 of the *Conservation Authorities Act*,
    - issued for a period of time greater than 24 months.

Examples of delegated non-complex applications include:

- minor infrastructure including bridge/road crossings or repairs;
- shoreline erosion control works;
- permitted development activity in accordance with the policies within this document including boathouses, additions, commercial and agricultural development, etc.

## Non-delegated Approvals:

The following applications will be referred to the Authority Board for an approval decision prior to issuance:

- applications considered to be significantly complex;
- applications considered to be greatly controversial;

Complex applications are those which are a significant departure to the applicable regulations policies, as approved by the board.

Applications referred to the Authority Board will be accompanied by a staff report with a rationale including an assessment of impacts to the tests of the regulation. The applicant will be

notified of the Board meeting date and provided a copy of the staff report. If approved by the Authority Board, staff will issue a permit within 5 working days of the decision.

## Conditions of Permits

The regulation includes the following requirements for conditions that are requirements of a permit from the CA:

9. (1) An authority may attach conditions on a permit issued under section 28.1 only if, in the opinion of the authority, the conditions,

a. assist in preventing or mitigating any effects on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
b. assist in preventing or mitigating any effects on human health or safety or any damage or destruction of property in the event of a natural hazard; or
c. support the administration or implementation of the permit, including conditions related to reporting and notification, monitoring and compliance with the permit.

An example of a condition that mitigates the effect of development, alteration or interference would include the installation and maintenance of erosion and sediment control under the test of erosion (e.g., surface erosion during site preparation activities removal of vegetation, pre-grading, and construction, etc.).

## Decision Timelines and Annual Reporting

Decision timelines are legislated pursuant to subsection 28.1(22) of the *Conservation Authorities Act*, which directs that if Otonabee Conservation has not provided notice of a decision within 90 days, an applicant may appeal the application directly to the Ontario Land Tribunal.

Guidance related to service standards for Section 28.1 permit applications are also specified by the Ministry of Natural Resources (MNR) and addresses administrative matters including determining “complete applications,” and decision timelines for “minor” and “major” applications. Following the determination of a “complete application”, this policy indicates that conservation authorities should aim to render a decision within 30 days for a minor application or 90 days for a major application.

Conservation Ontario’s ‘Client Service Standards for Conservation Authority Plan and Permit Review’ establishes a second, more aggressive, set of service standards that conservation authorities would *strive to meet as a best practice* beyond provincial guidance. Under this

framework, for applications with complete information, conservation authorities would complete their review and make a decision within 28 days for “major” applications, 21 days for “minor” applications and within 14 days for “routine” applications.

Ontario Regulation 686/21 (S.8.1(1)) requires that Otonabee Conservation prepare and publish an annual report that outlines statistics on permits, including reporting on its level of compliance with the requirements of Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits), made under the Act, respecting the application for and issuance of permits, including any associated timelines. These reports will be available annually on the website, otonabeeconservation.com, or made available upon written request.

## Refusal Decisions

If, in the opinion of Otonabee Conservation staff, an application cannot be supported, the applicant will be advised of options that may be pursued to either bring the application into conformity, withdraw the application, or, of steps that can be taken to proceed to a formal Hearing before the Authority Board. The hearing process is discussed later in this document and guidelines for a hearing are found in Appendix H.

If a permit application is brought forward to the Board/Executive Committee with staff recommendation, and the Authority Board disagrees with the recommendation report for approval, the application must be referred to a Board Hearing and notification requirements must be adhered to.

## Period of Validity and Extensions

Pursuant to subsection 11(1) of *Ontario Regulation 41/24*, the maximum period of validity of a permit, including any extensions, is 60 months (5 years), however most standard permits will be issued with a 24 month (2 year) period of validity.

Pursuant to subsection 11(2) of *Ontario Regulation 41/24,* if a permit is granted for a period of time less than 60 months, the holder of a permit may, at least 60 days before the expiry of the permit, submit an application to Otonabee Conservation for an extension of the permit.

Pursuant to subsection 11(3) of *Ontario Regulation 41/24,* Otonabee Conservation may grant an extension of the permit to a total maximum validity period of 60 months (5 years).

Pursuant to subsection 11(4) of *Ontario Regulation 41/24*, if Otonabee Conservation refuses a request for a permit extension, Otonabee Conservation shall give “notice of intent to refuse” to the holder of the permit indicating that the extension will be refused unless the holder requests a hearing.

Pursuant to subsections 11(5) to (7) of Ontario Regulation 41/24, within 15 days of receiving a "notice of intent to refuse" a request for an extension, the holder of the permit may submit a written request for a hearing to Otonabee Conservation. Otonabee Conservation will then hold a hearing within a reasonable time and shall give the holder at least five (5) days' notice of the date of the hearing. After holding a hearing, Otonabee Conservation may (a) confirm the refusal of the extension or (b) grant an extension for such period of time that it deems appropriate, as long as the total period of validity of the permit does not exceed 60 months (5 years).

## 9.13 Amending/Revising Permits

If a proposal is revised after the issuance of a permit but prior to completion of works, the permit may be amended/revised. An application to amend the permission along with any required information and the required fee must be submitted. Amendments can include changes to the proposal and/or changes to the conditions of approval. All revisions to a proposal that are not in keeping with the permission shall require approval from Otonabee Conservation. If approved, the permit shall be amended to reflect the revised permission and either a letter of amendment or completely new permit paperwork will be issued.

Typically, such amendments will be addressed by staff without the need for a specific referral to the Authority Board. However, if it is deemed to be a significant revision that results in a new or changed activity that is considered a significant departure from Otonabee Conservation policy, the amending application may be referred to the Authority Board with a staff report or the applicant will be required to file a new permit application

## 9.14 Hearing

The applicant has a right to a hearing before an Otonabee Conservation Hearing Board when:

- staff is recommending refusal of an application or the Otonabee Conservation Board of Directors cannot support a permit application (subsection 28.1(5) of the CAAct);
- The applicant objects to the conditions of approval (subsection 28.1(5) of the CAAct);
- Otonabee Conservation cannot support a request for an extension of a permit (subsection 11(5) of Ontario Regulation 41/24); or,
- Otonabee Conservation intends to cancel a permit (Subsection 28.3(2) of the CAAct).

Hearing Guidelines, as approved by the Otonabee Conservation Board of Directors (Resolution 2021-070) will be made available upon written request.

## 9.15 Ministers Reviews and Ministers Orders

As per 28.1(8) of the *Conservation Authorities Act*, if, after a hearing by the Otonabee Conservation Hearing Board, and a permit is refused or there are conditions on a permit to

which the applicant objects, the applicant may, within 15 days of receiving reasons for the refusal, submit a request to the Minister responsible for the *Conservation Authorities Act* (currently the Minister of Natural Resources) to review the decision. Subsections 28.1(9) to (19) of the *Conservation Authorities Act* set out the further process for a Minister's Review once a request has been made.

Ontario Regulation 474/24 sets out the guidelines on when the Minister can order a conservation authority to not issue a permit, and to take over the permitting process in the place of a conservation authority if the development is a matter of provincial interest. Matters of provincial interest are outlined within the regulation (O.Reg. 474/24, S.7) and the regulation also outlines all the procedures and criteria for which the Minister can complete reviews and orders.

## 9.16 Cancellation of Permits and Cancellation Appeals

Subsection 28.3(1) of the *Conservation Authorities Act* provides that Otonabee Conservation may, at any time, cancel a permit if it is of the opinion that the conditions of the permit have not been met.

Pursuant to Subsections 28.3(2) to (6) of the *Conservation Authorities Act*, before cancelling a permit, Otonabee Conservation staff shall give "notice of intent to cancel a permit" to the permit holder indicating that the permission will be cancelled on a date specified, unless the holder requests a Hearing by submitting a written request to Otonabee Conservation within 15 days of receiving a "notice of intent to cancel a permit." Otonabee Conservation will then set a date and hold a Hearing as per the process outlined the Hearing Guidelines, as approved by the Otonabee Conservation Board of Directors (Resolution 2021-070).

After a Hearing, a decision may be made to confirm, rescind or vary the decision to cancel a permit. If the permit holder objects to the decision/order of the Hearing Board appeal the decision to the Ontario Land Tribunal.

## 9.17 Appeals

An applicant who has been refused a permission or is not in agreement with conditions of an approval may, within 15 days of the receipt of the reasons for the decision, submit a request to the Minister of Natural Resources and Forestry as discussed above at Section 9.15 in this document.

Pursuant to subsection 28.1(20) of the *Conservation Authorities Act*, within 90 days after receiving the reasons of decision to refuse a permit from the Hearing Board the applicant may

appeal the decision to the Ontario Land Tribunal except in instances where a request for Minister's review has been made (see subsection 28.1(21) of the *Conservation Authorities Act)*.

Finally, pursuant to subsection 28.1(22) of the *Conservation Authorities Act*, if an application for a permit is made to the authority and the application has been deemed complete, and if the authority fails to give the applicant notice of a decision with respect to the application within 90 days after the application is made, the applicant may appeal the application directly to the Ontario Land Tribunal.

## 9.18 Violations and Compliance with Approved Permits

All works in a regulated area require permission from Otonabee Conservation. If permits are not obtained or if work is carried out that is not in keeping with the terms and/or conditions of the permit, this work is in violation of Ontario Regulation 41/24.

In some cases, landowners may not be aware that permission is required from Otonabee Conservation. In other cases, work is carried out by those who may be familiar with Otonabee Conservation requirements and their obligations but compliance is avoided.

Part VII of the *Conservation Authorities Act*, sets out enforcement powers and offences including provisions related to appointment of officers, entry without warrant, searches, stop orders, offences, a limitation period and rehabilitation orders.

Enforcement is an important component of Otonabee Conservations mandate to ensure the integrity of the legislation and the protection of the environment, people and property in relation to flooding and erosion natural hazards. Pursuant to section 30.1 of the *Conservation Authorities Act*, Otonabee Conservation has appointed Officers for the purpose of ensuring compliance with the Act and the regulations. These officers have the responsibility of liaising with applicants and inspecting properties. Responsibilities also include investigating and monitoring violation situations as well as undertaking all other enforcement work under the Act and Ontario Regulation 41/24. Regulation officers carry identification for inspection purposes. The provisions of the *Conservation Authorities Act* and the Provincial Offences Act direct Otonabee Conservation appointed Officers and staff when investigating a violation.

Violations of the Act may be subject to a fine or imprisonment. If convicted, contraventions must be addressed and any prohibited activities removed at the expense of the landowner. Depending on the nature of the contravention, landowners may also be required to undertake rehabilitation in a manner prescribed by the Court.

**Otonabee Conservation is committed to working with landowners. Before any work is undertaken, all landowners are encouraged to contact Otonabee Conservation to obtain the**

**necessary approvals and are encouraged to adhere to any conditions identified by Otonabee Conservation.**

## 9.19 Court Action

Penalties available to a Court under the *Conservation Authorities Act* are identified under subsection 30.5(2), which states that a person who commits an offence under the *Conservation Authorities Act* is liable on conviction, (a) in the case of an individual, (i) to a fine of not more than $50,000 or to a term of imprisonment of not more than three months, or to both, and (ii) to an additional fine of not more than $10,000 for each day or part of a day on which the offence occurs or continues; and (b) in the case of a corporation, (i) to a fine of not more than $1,000,000, and (ii) to an additional fine of not more than $200,000 for each day or part of a day on which the offence occurs or continues.

Despite the maximum fines contained in subsection 30.5(2) of the Act, pursuant to subsection 30.5(3) a court that convicts a person of certain offences under the Act may increase the fine it imposes on the person by an amount "equal to the amount of the monetary benefit that was acquired by the person, or that accrued to the person, as a result of the commission of the offence

## 9.20 Revisions and Updates to the Watershed Planning & Regulations Procedures Manual

This document will be reviewed and revised with respect to changes to provincial policy, legislation or regulatory directions (e.g. technical guides) on five-year intervals. Public and stakeholder consultation will be completed using an online platform for the dissemination of information as the authority considers advisable.