



## **APPENDIX C**

### **ONTARIO REGULATION 97/04**

**May 12, 2016**

**Conservation Authorities Act**  
**Loi sur les offices de protection de la nature**

**ONTARIO REGULATION 97/04**

**CONTENT OF CONSERVATION AUTHORITY REGULATIONS UNDER SUBSECTION 28 (1)  
OF THE ACT: DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO  
SHORELINES AND WATERCOURSES**

**Consolidation Period:** From March 4, 2011 to the [e-Laws currency date](#).

Last amendment: O. Reg. 46/11.

*This Regulation is made in English only.*

**Purpose**

1. The purpose of this Regulation is to establish, in accordance with subsection 28 (6) of the Act, the requirements for content that a regulation made by an authority under subsection 28 (1) of the Act must meet. O. Reg. 97/04, s. 1.

**Definition**

2. In this Regulation,

“regulation” means a regulation made by an authority under subsection 28 (1) of the Act. O. Reg. 97/04, s. 2.

**Prohibition of development in certain areas**

3. Subject to section 4, a regulation shall prohibit development in or on,

- (a) hazardous lands;
- (b) wetlands;
- (c) areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards, including the area from the furthest offshore extent of the authority’s boundary to the furthest landward extent of the aggregate of the following distances:
  - (i) the 100 year flood level, plus an allowance in metres, determined by the authority, for wave uprush and, if necessary, an allowance in metres, determined by the authority, for other water-related hazards, including ship-generated waves, ice piling and ice jamming,
  - (ii) the predicted long term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period,
  - (iii) where a dynamic beach is associated with the waterfront lands, an allowance in metres inland, determined by the authority, to accommodate dynamic beach movement, and
  - (iv) an allowance in metres inland, determined by the authority, not to exceed 15 metres;
- (d) river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:
  - (i) where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus an allowance in metres, not to exceed 15 metres, determined by the authority, to a similar point on the opposite side,
  - (ii) 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 toe of the slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus an allowance in metres, not to exceed 15 metres, determined by the authority, to a similar point on the opposite side,
  - (iii) where the river or stream valley is not apparent, the valley extends the greater of,
    - A. the distance from a point outside the edge of the maximum extent of the flood plain under the applicable regulatory flood plain event standard, plus an allowance in metres, not to exceed 15 metres, determined by the authority, to a similar point on the opposite side, and

- B. the distance from the predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable regulatory flood plain event standard, plus an allowance not to exceed 15 metres minimum distance, determined by the authority, to a similar point on the opposite side. O. Reg. 97/04, s. 3.

**Permission to develop despite prohibition**

4. (1) A regulation shall provide that the authority may grant permission for development in or on the areas referred to in section 3, or in other areas where the Minister is of the opinion that the authority's permission for development should be required, if, in the authority's opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development. O. Reg. 97/04, s. 4 (1).

(2) A regulation shall require that a permission granted by the authority be with or without conditions and that the permission be in writing. O. Reg. 97/04, s. 4 (2).

(3) A regulation may specify in a Schedule to the regulation areas that the authority considers may be developed without permission being granted under this section because, in the authority's opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development, and the Schedule to that regulation may specify the type and extent of such development. O. Reg. 97/04, s. 4 (3).

(4) A regulation shall describe geographically or by reference to maps filed at the head office of the authority,

(a) areas that constitute hazardous land, wetlands, areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes, river and stream valleys and other areas where, in the Minister's opinion, development should be prohibited, regulated or require the permission of the authority;

(b) areas that are susceptible to flooding in relation to one of the following flood event standards, described in the Schedule, whichever is applicable:

1. The Hurricane Hazel Flood Event Standard.

2. The 100 Year Flood Event Standard.

3. The Timmins Flood Event Standard.

4. The Historic Flood Event Standard of the authority.

5. The 100 year flood level and the flood allowance for wave uprush and other water-related hazards. O. Reg. 97/04, s. 4 (4).

**Prohibition on certain activities without permission**

5. Subject to section 6, a regulation shall prohibit straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland. O. Reg. 97/04, s. 5.

**Permission for certain non-development activities**

6. (1) A regulation shall provide that the authority may grant permission for straightening, changing, diverting or interfering with the existing channel of a river, creek, stream or watercourse, or for changing or interfering with a wetland. O. Reg. 97/04, s. 6 (1).

(2) A regulation shall require that a permission granted by the authority be granted with or without conditions and that it be in writing. O. Reg. 97/04, s. 6 (2).

**Application for permission**

7. A regulation shall specify the information that a person is required to provide to the authority in an application for a permission referred to in subsection 4 (1) or 6 (1). O. Reg. 46/11, s. 1.

**Validity of permission**

7.1 (1) A regulation shall specify that the maximum period of validity of a permission referred to in subsection 4 (1) or 6 (1), including any extensions, is,

(a) 24 months, in the case of a permission granted for projects other than projects referred to in clause (b); and

(b) 60 months, in the case of permissions granted for,

(i) projects that, in the opinion of the authority, cannot reasonably be completed within 24 months from the day the permission is granted, or

(ii) projects that require permits or approvals from other regulatory bodies that, in the opinion of the authority, cannot reasonably be obtained within 24 months from the day the permission is granted. O. Reg. 46/11, s. 1.

(2) A regulation shall specify that the authority may grant a permission for an initial period of validity that is less than the maximum period specified in subsection (1) and shall specify,

- (a) the circumstances in which the authority may grant an extension of a permission granted for such an initial period; and
- (b) the procedures for obtaining the extension. O. Reg. 46/11, s. 1.

**Delegation of powers**

**7.2** If, as permitted under subsection 28 (2) of the Act, a regulation delegates any of the authority’s powers or duties under the regulation, subject to any limitations and requirements that may be set out in the regulation, the regulation shall not delegate the powers and duties to,

- (a) a body other than the authority’s executive committee; or
- (b) a person other than an employee of the authority. O. Reg. 46/11, s. 1.

**Hearing before cancellation**

**8.** (1) If, as referred to in subsection 28 (3) of the Act, a regulation provides for a permission to be granted subject to conditions and for the cancellation of a permission where the conditions have not been met, it shall specify that the authority shall give a notice of intent to the holder of the permission indicating that the permission will be cancelled unless the holder shows cause at a hearing as to why the permission should not be cancelled. O. Reg. 97/04, s. 8 (1).

(2) The regulation shall specify that, following the giving of the notice of intent, the authority shall give at least five days notice to the holder of the permission of the date of the hearing. O. Reg. 97/04, s. 8 (2).

**Application of s. 28 (7) of Act**

**9.** Subsection 28 (7) of the Act does not apply, in respect of the amendments made by Ontario Regulation 46/11, to a regulation that was made by an authority under subsection 28 (1) before the day Ontario Regulation 46/11 was filed, until the second anniversary of that day. O. Reg. 46/11, s. 2.

**SCHEDULE**

- 1. The Hurricane Hazel Flood Event Standard means a storm that produces over a 48-hour period,
  - (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 1; or
  - (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 1 shall be modified by the percentage amount shown in Column 2 of Table 2 opposite the size of the drainage area set out opposite thereto in Column 1 of Table 2.

TABLE 1

73 millimetres of rain in the first 36 hours
6 millimetres of rain in the 37th hour
4 millimetres of rain in the 38th hour
6 millimetres of rain in the 39th hour
13 millimetres of rain in the 40th hour
17 millimetres of rain in the 41st hour
13 millimetres of rain in the 42nd hour
23 millimetres of rain in the 43rd hour
13 millimetres of rain in the 44th hour
13 millimetres of rain in the 45th hour
53 millimetres of rain in the 46th hour
38 millimetres of rain in the 47th hour
13 millimetres of rain in the 48th hour

TABLE 2

Column 1	Column 2
Drainage Area (square kilometres)	Percentage
26 to 45 both inclusive	99.2
46 to 65 both inclusive	98.2
66 to 90 both inclusive	97.1
91 to 115 both inclusive	96.3
116 to 140 both inclusive	95.4
141 to 165 both inclusive	94.8
166 to 195 both inclusive	94.2
196 to 220 both inclusive	93.5
221 to 245 both inclusive	92.7
246 to 270 both inclusive	92.0
271 to 450 both inclusive	89.4
451 to 575 both inclusive	86.7

576 to 700 both inclusive	84.0
701 to 850 both inclusive	82.4
851 to 1000 both inclusive	80.8
1001 to 1200 both inclusive	79.3
1201 to 1500 both inclusive	76.6
1501 to 1700 both inclusive	74.4
1701 to 2000 both inclusive	73.3
2001 to 2200 both inclusive	71.7
2201 to 2500 both inclusive	70.2
2501 to 2700 both inclusive	69.0
2701 to 4500 both inclusive	64.4
4501 to 6000 both inclusive	61.4
6001 to 7000 both inclusive	58.9
7001 to 8000 both inclusive	57.4

2. The 100 Year Flood Event Standard means rainfall or snowmelt, or a combination of rainfall and snowmelt, that has a probability of occurrence of one per cent during any given year.

3. The Timmins Flood Event Standard means a storm that produces over a 12-hour period,

- (a) in a drainage area of 10 square miles or less, rainfall that has the distribution set out in Table 1; or
- (b) in a drainage area of more than 10 square miles, rainfall such that the number of inches of rain referred to in each case in Table 1 shall be modified by the percentage amount shown in Column 2 of Table 2 opposite the size of the drainage area set out opposite thereto in Column 1 of Table 2.

TABLE 1

0.6 inches of rain in the first hour
0.8 inches of rain in the second hour
0.4 inches of rain in the third hour
0.1 inches of rain in the fourth hour
0.2 inches of rain in the fifth hour
0.8 inches of rain in the sixth hour
1.7 inches of rain in the seventh hour
0.8 inches of rain in the eighth hour
0.9 inches of rain in the ninth hour
0.5 inches of rain in the tenth hour
0.5 inches of rain in the eleventh hour
0.3 inches of rain in the twelfth hour

TABLE 2

Column 1	Column 2
Drainage Area (Square Miles)	Percentage
11 to 20 both inclusive	97
21 to 30 both inclusive	94
31 to 40 both inclusive	90
41 to 60 both inclusive	87
61 to 80 both inclusive	84
81 to 100 both inclusive	82
101 to 150 both inclusive	79
151 to 200 both inclusive	76
201 to 300 both inclusive	74
301 to 400 both inclusive	70
401 to 500 both inclusive	68
501 to 600 both inclusive	66
601 to 700 both inclusive	65
701 to 800 both inclusive	64
801 to 900 both inclusive	63
901 to 1000 both inclusive	62
1001 to 1500 both inclusive	58
1501 to 2000 both inclusive	56
2001 to 2500 both inclusive	53
2501 to 3000 both inclusive	50

4. The Historic Flood Event Standard means a description of a flood event that occurred in the area of jurisdiction of the authority set out in the authority's regulation.

5. The 100 year flood level means the peak instantaneous still water level plus an allowance for wave uprush and other water-related hazards that has a probability of occurrence of one per cent during any given year.

O. Reg. 97/04, Sched.

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