

The Regional Municipality of York

Committee of the Whole
Environmental Services
June 16, 2022

Joint Report of the Commissioner of Public Works and the Chief Planner

Conservation Authorities Act Regulations Implementation Update

1. Recommendation

1. The Regional Clerk circulate this report to the Ministry of the Environment, Conservation and Parks, the Clerks of the local municipalities, the Toronto and Region Conservation Authority, and Lake Simcoe Region Conservation Authority for information.

2. Summary

This report is an update to the May 2021 Regional Council report on changes to the [Conservation Authorities Act](#) (CAA) and informs Council of new regulatory requirements under the CAA and the path to implement these regulatory requirements in collaboration with the conservation authorities and local municipalities. Updated agreements with conservation authorities will be brought to Council for consideration in 2023, ahead of the January 1, 2024 provincial deadline.

Key Points:

- York Region is supported by two conservation authorities, the Lake Simcoe Region Conservation Authority (LSRCA) and the Toronto and Region Conservation Authority (TRCA) that deliver critical services through legislation, existing memoranda of understanding and service level agreements
- A [May 2021 Regional Council report](#) outlined changes to the Conservation Authorities Act, along with existing agreements and critical conservation authority services
- Conservation authorities are mandated to provide services to protect residents from flooding and natural hazards, and to effectively and safely enable development in York Region. These services are classified as Category 1 under the new regulation
- Some conservation authority services under the new regulation are classified under Category 2 or 3, with Category 2 referring to municipally requested programs and services, and Category 3 referring to other programs and services that the conservation authority determines are advisable to further the purposes of the CAA
- An internal cross-departmental Task Force has been created to work with conservation authority staff to review service inventories and revise Memoranda of

Understanding and agreements to align with regulatory requirements and growth in York Region

- Conservation authorities help mitigate risks to the Region and its local municipalities

3. Background

Conservation authorities provide essential protection from severe flooding and impacts of climate change

The CAA was introduced in 1946 by the Province in response to erosion and drought, recognizing that these issues are best managed on a watershed basis. The LSRCA was founded in 1951 as the Upper Holland Valley Conservation Authority. It was expanded to a broader watershed in subsequent years to cover the current area surrounding Lake Simcoe. Hurricane Hazel in 1954 destroyed homes, infrastructure, and resulted in loss of life demonstrating the vital importance of a watershed-based approach to flood management. This hurricane was a driver for establishing the TRCA in 1957. Conservation authority roles have now been integrated into multiple statutes, including the *Conservation Authorities Act*, *Planning Act*, *Clean Water Act* and *Lake Simcoe Protection Act*.

Conservation authority programs and services are vital to the Region as they provide a measure of due diligence for assessing environmental impacts associated with development and provide some protection from legal liability. The growing threat of climate change through severe rainstorms and sudden snowmelts, increases our community's reliance on conservation authorities and their services to guide adaptation and resiliency efforts. Conservation authorities' natural area protection and management programs align with Regional strategic priorities by supporting healthy watersheds and sources of the Region's drinking water.

The Province has taken a phased approach to Conservation Authorities Act changes

The Province has been undertaking a process to modernize conservation authority administration and operations over the last several years. [Bill 108 – More Homes, More Choice Act, 2019](#) amended the CAA with a goal of better defining mandatory or core services, along with improving accountability and transparency in conservation authority operations. Further amendments were made to the Act under [Bill 229 – Protect, Support and Recover from COVID-19 \(Budget Measures\), 2020](#) to enable governance changes, additional Ministerial powers, and require agreements between municipalities and conservation authorities for non-mandatory services.

Regulations under the amended Conservation Authorities Act have been introduced in two phases

Conservation authority regulations came into effect in two phases. Phase 1 regulations came into effect in October 2021 that prescribes mandatory services for conservation authorities, requires all non-mandatory services to be under an agreement, and sets out timelines to

transition to the new regulatory requirements by January 1, 2024. Phase 2 requirements focus on financial and administrative matters and came into effect in April 2022. Phase 2 regulations included municipal apportionment methods, conservation authority budget requirements, and requirements for much of this information to be posted on the authority's website.

Regulations require that conservation authority services fall under one of three categories, with Categories 2 and 3 requiring agreements

The new regulation outlines three categories of services:

- **Category 1** are mandatory services defined by the regulation. As a funding municipality, York Region is required to fully fund all Category 1 services, many of which are related to flood protection and hazard management.
- **Category 2** services are delivered at the request of a municipality, which help deliver Regional services on its behalf such as erosion control near critical infrastructure, planning review, and technical support for development applications.
- **Category 3** services are other additional services identified by the conservation authorities as providing an important benefit to the watershed, and that municipalities have agreed to financially support under a cost-apportioning agreement where municipal funding is required.

Table 1 outlines Region staff's initial interpretation of services outlined in regulation and is provided for information purposes only. Services categories will be refined in collaboration with the respective conservation authorities and local municipalities as a part of the inventory process set out by the Province. Recommendations in the [May 2021 Council report](#), directed staff to update existing agreements to reflect new regulatory requirements. This approach mitigates against risks associated with not working directly with the conservation authorities.

Table 1
Examples of Conservation Authority Services in Three Categories

Category 1	Category 2	Category 3
Natural hazard management (including plan review), flooding, and low-water response	Planning service and support, related to plan review (e.g. natural heritage)	Stormwater maintenance
Development/site alteration (Section 28.1) permitting	Capital project support	Sub-watershed monitoring
Management of conservation authority lands	Regional erosion control	Certain natural heritage
Source water protection	Oak Ridges Moraine Groundwater monitoring program	Invasive species
Lake Simcoe Protection Plan		Research
Watershed resource management strategy	Children's Water Festival	Education

Under the new regulation, Category 2 and 3 programs and services must be administered through an agreement between a conservation authority and municipality. Currently, York Region has six existing agreements for services with its partner conservation authorities, outlined in Attachment 1. These agreements will be reviewed and revised in early 2023 to comply with the new regulatory requirements to have agreements in effect by the end of 2023.

The intent of the regulation is to provide greater transparency on services and costs for municipalities by requiring all mutually agreed upon Category 2 and 3 services to be administered under an agreement and reviewed on a periodic basis. Classifying services under Categories 2 or 3 does not indicate that the Region will be treating these services as discretionary as many of these services remain critical to the Region and its local municipalities such as growth-related review services and sub-watershed planning, which are important from a risk management perspective.

A Regional staff Task Force was established to support implementation of new regulations

York Region established a Conservation Authorities Task Force to support implementation of new regulatory requirements by the January 1, 2024 deadline. The Task Force, co-led by Planning and Economic Development and Public Works, also includes representatives from Finance, and Legal Services. The Task Force has met with both TRCA and LSRCA staff to discuss initial inventories and will continue to work directly with the conservation authorities to refine inventories and develop revised service level agreements.

4. Analysis

Conservation Authorities mandated to represent public interest on natural hazards for development under the Planning Act

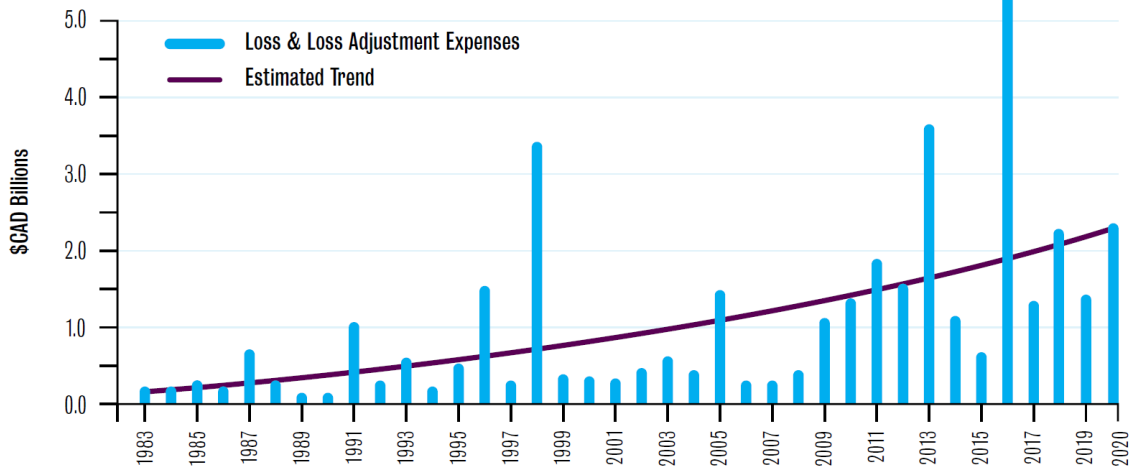
Conservation authorities are regulators for development and site alteration in flood-prone and erosion-prone areas (Regulated Areas identified by the CAA). Conservation authorities play a critical role to help deliver services and programs in partnership with all levels of government for flood and erosion control and prevention.

The protection, restoration and enhancement of the natural environment, and safety of persons and property, is carried out by the LSRCA and TRCA during the review of development applications with a watershed lens. York Region and the local municipalities rely on the conservation authorities for effective management of hazard lands and technical expertise for risks associated with natural hazards. Under the new regulations, the services outlined above are a mixture of Category 1 and 2 services.

Climate change-related lawsuits against municipalities are increasing, expose potential liabilities and demonstrate risks need to be mitigated

Impacts of climate change represent a significant risk for municipalities across Canada, including York Region and its local municipal partners. Ontario is experiencing more frequent and intense storms along with sudden snowmelts. According to the Insurance Bureau of Canada, the Greater Toronto Area had six '100 Year' storms between 2005-2018. The Intact Centre on Climate Adaptation at the University of Waterloo assessed preparedness of Canadian municipalities, finding that municipalities face flooding and other natural hazard risks and need to adapt to impacts of climate change to protect from flooding risks. Figure 1 outlines the scale of insurance payouts for catastrophic losses across Canada with a significant upward trend over the last 15 years, which is expected to continue.

Figure 1
Insured Catastrophic Losses in Canada



Source: Intact Centre on Climate Adaptation at the University of Waterloo report: Climate Change and the Preparedness of 16 Major Canadian Cities to Limit Flood Risk, 2021

Conservation authority services are expected to be increasingly important as the impacts of climate change continue to escalate

As the frequency and intensity of storms and snow melt events increase, so does the importance of conservation authorities’ focus on watershed protection and natural hazard management. Conservation authorities are uniquely suited to advise on and mitigate flooding risks due to their watershed-based focus and risk management approach. Through monitoring systems and data, conservation authorities conduct assessments, consider cumulative impacts and mitigation beyond a particular subject property. A systems approach is important when considering potential downstream impacts and watershed wide impacts that may result from the approval of development applications.

The role that natural heritage system, green infrastructure, and stormwater management planning have in natural hazard risk mitigation are comprehensively considered through conservation authority watershed planning efforts. This integrated approach to watershed management is critical in informing effective and proactive land use and infrastructure planning and risk management. Risk management and watershed health are a shared responsibility amongst all levels of government. Risk management accountability is provided by the conservation authorities to York Region in part through agreement mechanisms currently in place.

Conservation authorities currently provide York Region with support, experience and expertise that is not easily replicated and will need to be continued

York Region has access to a high level of technical expertise, continuity of service, process efficiencies and knowledge at the watershed scale that crosses municipal boundaries and avoids a patchwork approach to watershed management. Benefits include risk management accountability, more efficient and timely processes, consistent input and service/program

continuity, access to specialized experts and comprehensive data to assist with Regional approvals and processes, and overall cost efficiencies. These benefits are outlined in the [May 2021 Council report](#).

While many services have been prescribed under the regulations, they do not reflect the full spectrum of critical services that conservation authorities provide to the Region. Certain services will need to be maintained for the Region to effectively mitigate environmental risks and deliver critical services to residents. Council provided staff authority through a report in [May 2021](#) to negotiate updated agreements that leverage conservation authority's expertise and support Regional projects and service delivery. For example, York Region's existing agreement for Plan Review and Technical Services provides Planning staff with essential professional expertise from conservation authorities to implement Provincial and Regional planning policies in the areas of natural hazards and natural heritage. The Region also relies on conservation authorities' expertise to support Regional capital projects and reforestation initiatives. Given the importance of this work in support of the Region's infrastructure plans, staff anticipate these agreements will need to be maintained into the future.

Educational services provided by conservation authorities enhance environmental awareness and set a strong foundation for future stewardship

In addition to watershed-based technical expertise, conservation authorities also provide valuable educational services. Services such as the Children's Safety Village, Children's Water Festival, Water for Tomorrow and forestry stewardship services help create environmental awareness that supports Regional priorities such as source water protection and urban canopy targets. Educating youth sets a strong foundation for future environmental stewardship, which will help address pressing issues like climate change. While not included in Category 1 services, staff believe education is a vital component of services provided by conservation authorities. As a result of this circumstance environmentally beneficial educational services will be updated in service level agreements with the conservation authorities.

Agreements will be brought to Regional Council for consideration in early 2023

Recommendations in the [May 2021 Council report](#), directed staff to update existing agreements to reflect new regulatory requirements. Region staff will continue working with conservation authority staff to develop draft agreements for all non-mandatory services to be provided through Categories 2 and 3 throughout 2022 and bring revised agreements between York Region and each conservation authority to Council in 2023.

5. Financial

[York Region's total operating and capital budgets for the conservation authorities](#), combined is \$14.6 million for 2022. The 2022 operating budget of \$6.6 million for conservation authorities reflects York Region's share of each conservation authority's general levy budget. These costs are apportioned among municipalities in their watersheds based on their share of assessment. The remaining funding represents special capital and reforestation initiatives

included in the Public Works budget, the 2022 approved budget for these services was \$8 million.

Other funding is provided to the conservation authorities for fee-for-service work including capital project support, funding agreements for staffing support and urban forest studies. Amounts vary each year depending on the number and timing of projects. In recent years the amount has ranged from \$2.7 million to \$4.5 million, depending on Regional project needs. Any changes to conservation authorities funding will be brought forward through the 2023-2026 budget process.

6. Local Impact

Local municipalities are not considered “participating municipalities” under the CAA. As a result, only York Region is required to fund their respective conservation authorities based on current value assessment of the participating municipalities within the watershed. Local municipalities do receive direct benefits from Regional funding, including conservation authorities’ protecting people and property from flood risks, along with natural heritage, planning, and other services. For example, conservation authorities support local municipalities by reducing impact to locally owned infrastructure such as pumping stations, their expertise in low impact development, and localized improvements in flood prone areas that reduce the reliance on stormwater ponds that are costly to maintain.

As part of the inventory review process, Region staff will be engaging with local municipal staff to identify areas of importance from a local perspective for alignment as Regional agreements are developed with the conservation authorities.

Local municipalities also engage conservation authorities for plan review services, with funding largely covered by the conservation authority's application fees. Currently, LSRCA has memorandums of understanding for certain services with the Towns of Aurora, East Gwillimbury, Georgina, King Township, Newmarket and Whitchurch-Stouffville. TRCA has an existing agreement with the City of Markham and is in the process of developing memorandums of understanding with each of their local municipalities. Local municipal plan review agreements are outlined in Attachment 2.

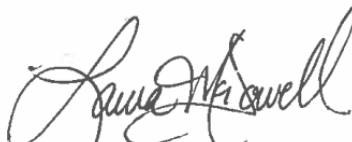
York Region’s current Memorandums of Understanding on development planning matters ensures that consistent expert review and consolidated comments are provided to local municipalities on planning and development applications on behalf of the Region. The current agreements with conservation authorities related to infrastructure reviews assist York Region with getting important Regional projects built and in operation sooner. While it is recognized that local municipalities negotiate their own agreements with conservation authorities based on their own needs, there are benefits and efficiencies with consistent agreements for local municipalities and the Region.

7. Conclusion

Conservation authorities have specialized and unique expertise and experience given their familiarity with watershed issues such as natural hazards, flood protection, green infrastructure and plan review. In addition, there are established relationships between conservation authorities, local and regional municipalities that ensures these activities are completed in a timely and effective manner. Through the implementation of new *Conservation Authority Act* regulations and service inventory evaluations, continuity of critical services for the Region, particularly related to flooding and other climate impacts, will be a priority consideration when updating existing Memorandums of Understanding and Service Level Agreements to reflect new regulatory requirements.

For more information on this report, please contact David Szeptycki, Director of Strategy & Innovation, Public Works Department at 1-877-464-9675 ext. 75723 or Karen Whitney, Director of Community Planning and Development Services, Corporate Services Department at 1-877-464-9675 ext. 71505. Accessible formats or communication supports are available upon request.

Recommended by:



Laura McDowell, P. Eng.
General Manager, Interim Transition, Environmental



Erin Mahoney, M. Eng.
Commissioner of Public Works



Paul Freeman, MCIP, RPP
Chief Planner



Dino Basso
Commissioner of Corporate Services



Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

May 26, 2022
Attachments (2)
#13839963