

SUBJECT: Provincial Consultation on Regulations under the
Conservation Authorities Act

PREPARED BY: Patrick Wong, MCIP, RPP, Senior Planner, Natural Heritage,
ext. 6922

REVIEWED BY: Marg Wouters, MCIP, RPP, Senior Manager, Policy &
Research, ext. 2909

RECOMMENDATION:

1. That the report entitled “Provincial Consultation on Regulations under the *Conservation Authorities Act*” dated June 22, 2021 be received;
2. That the report be forwarded to the Ministry of the Environment, Conservation and Parks and the Toronto and Region Conservation Authority as City of Markham comments on the consultation on the proposed *Conservation Authorities Act* regulations (ERO #019-2986); and,
3. That staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to inform Committee about updates and consultation on the *Conservation Authorities Act*.

BACKGROUND:

In June 2019, the Province passed Bill 108, *More Homes, More Choices Act*, which amended the *Conservation Authorities Act*. The amendments defined the core mandate of the conservation authorities to include mandatory programs and services related to the risk of natural hazards, the conservation and management of conservation authority lands, source water protection, and any other programs prescribed by regulations. Any programs or services that are not identified as a mandatory service/program may only be provided through self-generated income or through funding and agreement with the benefitting municipality. The regulations have not yet been released.

In December 2020, the Province passed Bill 229 *Protect, Support and Recover from COVID-19 Act (Budget Measures)* which contained further amendments aimed at improving transparency and consistency in conservation authority operations, strengthening municipal and provincial oversight and streamlining conservation authority roles in permitting and land use planning. Specifically, the changes include:

- Changes to the appeal process for permits including an ability to request Ministerial review of a decision
- Providing the Minister with the ability to take over the decision making for permits
- Requiring Conservation Authorities to issue a permit on lands with a Ministerial Zoning Order

-
- Allowing the Province to issue orders or take over operations when a Conservation Authority is not operating in compliance with the Act

In December 2020, the Province also announced the formation of a Conservation Authorities working group to help develop the detailed regulations to govern program delivery, municipal agreements and local community engagement.

DISCUSSION:

The Province has now released a discussion paper on future regulations under the *Conservation Authorities Act* for public comment through the Environmental Registry regarding new mandatory programs, municipal agreements with Conservation Authorities including transition and timing, and establishment of community advisory boards. The deadline for providing comments is June 27, 2021. The key proposals outlined in the discussion paper and staff comments on the proposals are provided below.

New Mandatory Programs to be delivered by Conservation Authorities

The *Conservation Authorities Act* identifies the mandatory services to be provided by Conservation Authorities: natural hazard management, conservation lands management and acquisition, and source water protection planning. The discussion paper provides details on the components of these service areas that would qualify as a mandatory program, to be specified in the regulations. This will help Conservation Authorities to begin identifying which programs can be offered as a mandatory program and which programs will require a municipal agreement and funding. Mandatory programs will be funded through a combination of Provincial grants, self-generated revenue, and the municipal levy (which in Markham is provided by York Region).

The Province is proposing that two additional mandatory services be provided by Conservation Authorities: Core Watershed-based Resource Management Strategy and Provincial Water Quality and Quantity Monitoring. The addition of these mandatory services recognizes the need to manage water on a watershed basis including flood control infrastructure, sources of pollutants and stormwater management. These services are already provided by the TRCA and this change is supported by staff.

Non-mandatory programs to be funded and delivered through Municipal Agreement

Any programs and services that are not identified as a mandatory program in the *Act* must be funded and identified in an agreement between the municipality and the Conservation Authority. The TRCA employs a complement of technical staff with skills and knowledge that are not fully available to the City. They frequently act as a consultant or contractor for the City on environmental-related projects which will now be considered non-mandatory including:

- Restoration, invasive species management and tree planting on Markham-owned parks and natural areas
- Erosion management and flood control studies, erosion mitigation, bank stabilization and other in-water works
- Land use planning (natural heritage and stormwater review)
- Stormwater management facility inspections, rehabilitation and retrofits

-
- Education and outreach (e.g., Bayview Glen SNAP and community programs)

Many of these programs are already directly funded by the City through project-specific contracts and agreements. Markham staff are working towards a new municipal agreement with TRCA that will allow for these programs to continue based on terms and budgets that are satisfactory to both parties. The City currently has an agreement with TRCA to provide plan review services which would be incorporated into the new municipal agreement.

Other programs such as land use planning review (natural heritage review) and a portion of the restoration program for Markham which are currently funded by the TRCA will no longer be permitted under the new legislative framework. The City would have to directly fund TRCA to continue providing these programs. City staff are reviewing options for the continued delivery of these programs including the associated financial implications and cost recovery as part of the new municipal agreement with TRCA.

Timing for execution of Municipal Agreements

The Province is proposing January 1, 2023 as the deadline for completing municipal agreements. This transition timeline is reasonable and provides sufficient time to complete this work and to report to Council. The Province will be releasing a follow up consultation in the upcoming months that will provide more details on the municipal levy and standards for non-mandatory program delivery. Staff will continue to monitor these consultations and inform Council of any implications to the City.

New Requirement for Community Advisory Boards

The Province is proposing to require Conservation Authority community liaison boards where the majority of members would be non-elected citizens. The City has been a supporter and beneficiary of decades of advocacy and on-the-ground work from community and watershed boards including the Rouge Park Alliance, Don Watershed Regeneration Council and the current Regional Watershed Alliance. The continued engagement of residents and community groups is a valuable catalyst for local action on environmental stewardship and protection.

FINANCIAL CONSIDERATIONS

The changes to the *Conservation Authorities Act* require that agreements be entered into between municipalities and Conservation Authorities for the delivery of non-mandatory programs and services. Certain programs such as planning review (natural heritage) and portions of the restoration program are currently funded by the TRCA and will now have to be funded by the City. The City is reviewing options for their continued delivery including the associated financial implications and cost recovery as part of the municipal agreement with TRCA.

HUMAN RESOURCES CONSIDERATIONS:

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Conservation authorities directly support the management of healthy watersheds and the protection of the natural environment which is aligned with the “Safe, Sustainable and Complete Community” goal of Markham’s Strategic Plan.

BUSINESS UNITS CONSULTED AND AFFECTED:

Staff from Engineering, Environmental Services, Legal, Operations and Planning & Urban Design departments are involved in discussions on the municipal agreement with the TRCA.

RECOMMENDED BY:

Marg Wouters, MCIP, RPP
Senior Manager, Policy & Research

Biju Karumanchery, MCIP, RPP
Acting Commissioner, Development
Services

ATTACHMENTS:

Appendix ‘A’: Link to Consultation: Regulatory proposals (Phase 1) under the
Conservation Authorities Act - <https://ero.ontario.ca/notice/019-2986>