

Provide your input to the proposed REGULATIONS UPDATE

Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 155/06)

In 2007, as part of the provincial government's *Open for Business* initiative, the Province established the **Conservation Authority Liaison Committee (CALC)**. The CALC included representation from the building industry, agricultural organizations, municipalities, and environmental organizations.

Due to feedback through CALC, it became evident to the provincial government, that amendments to both the Conservation Authorities Act and the Section 28 Regulations were required so Conservation Authorities would be better able to serve their clients more efficiently.

The next step in this reform process is for each Authority to draft conforming amendments. In the Niagara Peninsula Conservation Authority's case this means an update to its own Section 28 Regulation, being Ontario Regulation 155/06.

It is important to note that these amendments are intended to be of an administrative and housekeeping nature and do not expand any regulatory authority or jurisdictional area of the Niagara Peninsula Conservation Authority (NPCA).

The proposed Regulations Update is available for public review Monday to Friday from 9:00 am to 4:00 pm until October 28th, 2011 at Niagara Peninsula Conservation Authority Administration Office located at 250 Thorold Road West, 3rd Floor, Welland, ON L3C 3W2. The document may also be accessed on the NPCA website at: www.npca.ca

Invitation to Comment on the Proposed Regulations Update

If you or your organization have any comments you would like to make on the proposed Regulations Update, please submit them in writing no later than 4:30 pm, October 28, 2011 to:

Mr. John Kukalis, Director, Water Management
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NIAGARA PENINSULA
CONSERVATION
AUTHORITY

www.npca.ca

ONTARIO REGULATION 155/06

made under the

CONSERVATION AUTHORITIES ACT

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NIAGARA PENINSULA CONSERVATION AUTHORITY: REGULATION OF DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES

Definition

1. In this Regulation,

“Authority” means the Niagara Peninsula Conservation Authority.

Development prohibited

2. (1) Subject to section 3, no person shall undertake development, or permit another person to undertake development in or on the areas within the jurisdiction of the Authority that are,

- (a) 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 beaches, 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 ~~the appropriate~~ an allowance of 15 m for wave uprush and other water related hazards ~~shown in the column headed “100 Year Flood Limit” found in Table 3 of the document entitled “Lake Ontario Shoreline Management Plan Update”, January 1994, which is available at or through the Authority’s at its head office located at 250 Thorold Road West, Welland, Ontario, L3C 3W2,~~
 - (ii) the 100 year flood level, plus ~~the appropriate~~ an allowance of 15 m for wave uprush and other water related hazards ~~shown in the column headed “100 Year Flood Limit” found in Section 3.2 of the document entitled “Lake Erie Shoreline Management Plan Update”, June 1992, which is available at or through the Authority’s at its head office located at 250 Thorold Road West, Welland, Ontario, L3C 3W2,~~
 - (iii) 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,
 - (iv) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in ~~Section 4.4 of the document entitled “Lake Ontario Shoreline Management Plan Update”, January 1994, which is available at or through the Authority’s head office at the address given in subclause (i), and~~
 - (v) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in ~~Section 3.8.2 iii) of the document entitled “Lake Erie Shoreline Management Plan Update”, June 1992, which is available at or through the Authority’s head office at the address given in subclause (ii);~~
- (b) 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 15 metres, 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 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 15 metres, 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 flood event standard determined under subsection(4), to a similar point on the opposite side, and
 - (B) the distance of a predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood standard determined under subsection(4), to a similar point on the opposite side;
 - (c) hazardous lands;
 - (d) wetlands; or
 - (e) other areas where development could interfere with the hydrologic function of a wetland, including areas up to 120 metres of all provincially significant wetlands and wetlands greater than 2 hectares in size, and areas within 30 metres of wetlands less than 2 hectares in size, ~~but not including those where development has been approved pursuant to an application made under the *Planning Act* or other public planning or regulatory process.~~
- (2) ~~(formerly section 12) The~~ All areas described in subsection (1) that are within the jurisdiction of the Authority, including the allowances associated with the areas, are delineated as the "Regulation Limit" shown on a series of maps filed at the head office of the Authority under the map title "Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".
- (3) If there is a conflict between the description of areas in subsection (1) and the areas as shown on the series of maps referred to in subsection (2), the description in subsection (1) shall prevail .
- (4) ~~(formerly section 11) The~~ applicable flood event standards used to determine the maxium susceptibility to flooding of lands or areas with the watersheds in the areas of the jurisdiction of the Authority are the Hurricane Hazel Flood Event Standard, the 100 Year Flood Event Standard and the 100 year flood level plus wave uprush, described in Schedule 1. The 100 Year Flood Event Standard applies to all watersheds within the area of jurisdiction of the Authority except for,
- (a) the watersheds associated with Shriner's Creek, Ten Mile Creek and Beaverdams Creek (including Tributary W-6-5) in the City of Niagara Falls where the Hurricane Hazel Flood Event Standard applies; and
 - (b) Lake Ontario and Lake Erie in the Great Lakes-St. Lawrence River System, as described in Schedule 1, where the 100 Year Flood Event Standard, plus wave uprush, applies.

Permission to develop

3. (1) The Authority may grant permission for development in or on the areas described in subsection 2 (1) if, in its opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development.

(2) The permission of the Authority shall be given in writing, with or without conditions.

(3) The Authority may designate the Authority's executive committee or one or more of its employees as a Regulation Approval Officer and that executive committee or employee or employees may exercise the powers and duties of the Authority under subsection (1) and (2) with respect to the granting of permissions for development in or on the areas described in subsection 2(1).

Application for permission

4. An application for permission to undertake a development in or on an area described in subsection 2(1) shall be signed by the owner of the land on which the development is proposed or his or her agent and ~~A signed application for permission to undertake development shall be~~ filed with the Authority and shall contain the following information:

1. Four copies of a plan of the area showing the type and location of the development.
2. The proposed use of the buildings and structures following completion of the development.
3. The start and completion dates of the development.
4. The elevations of existing buildings, if any, and grades and the proposed elevations of buildings and grades after development.
5. Drainage details before and after development.
6. A complete description of the type of fill proposed to be placed or dumped.

Alterations prohibited

5. Subject to section 6, no person shall straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or change or interfere in any way with a wetland.

Permission to alter

6. (1) The Authority may grant a person permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse in or on the area described in Section 2 or to change or interfere with a wetland in or on the area described in Section 2.

(2) The permission of the Authority shall be given in writing, with or without conditions.

(3) The Authority may designate the Authority's executive committee or one or more of its employees as a Regulation Approval Officer and that the executive committee or employee or employees may exercise the powers and duties of the Authority under subsection (1) and (2) with respect to the granting of permissions for alterations in or on the areas described in subsection 6(1).

Application for permission

7. An application for permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or change or interfere with a wetland shall be signed by the owner of the land on which the affected river, creek, stream or watercourse or wetland is situated, or his or her agent, and ~~A signed application for permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or change or interfere with a wetland shall be~~ filed with the Authority and shall contain the following information:

1. Four copies of a plan of the area showing plan view and cross-section details of the proposed alteration.
2. A description of the methods to be used in carrying out the alteration.
3. The start and completion dates of the alteration.
4. A statement of the purpose of the alteration.

Cancellation of permission

8. (1) The Authority may cancel a permission if it is of the opinion that the conditions of the permission have not been met.

(2) Before cancelling a permission, the Authority shall give a notice of intent to cancel to the holder of the permission indicating that the permission will be cancelled unless the holder shows cause at a hearing why the permission should not be cancelled.

(3) Following the giving of the notice, the Authority shall give the holder at least five days notice of the date of the hearing.

Validity of permissions and extensions

9. (1) ~~A permission of the Authority is valid for a maximum period of 24 months after it is issued, unless it is specified to expire at an earlier date.~~ The maximum period, including any extensions, for which a permission granted under section 3 or 6 may be valid is,

- (a) 24 months, in the case of a permission granted for projects other than projects described in clause (b);
- (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.

(2) ~~A permission shall not be extended.~~ A permission may be granted for an initial period that is less than the maximum period specified in subsection (1) where, in the opinion of the authority, the project can be completed in less than 24 months.

(3) A permission granted for less than the maximum period of validity may be extended to the maximum period if,

- (a) the person who was granted the permission submits a written application for the extension to the Authority at least 60 days before the expiry of the permission;
- (b) the application sets out the reason why the extension is required and demonstrates that circumstances beyond the control of the person granted the permission prevented completion of the project within the initial period.

Appointment of officers

10. The Authority may appoint officers to enforce this Regulation.

Flood event standards

~~11. (1) The applicable flood event standards used to determine the maximum susceptibility to flooding of lands or areas within the watersheds in the area of jurisdiction of the Authority are the Hurricane Hazel Flood Event Standard, the 100 Year Flood Event Standard and the 100 year flood level plus wave uprush, described in Schedule 1. O. Reg. 155/06, s. 11 (1).~~

~~(2) The 100 Year Flood Event Standard applies to all watersheds within the area of jurisdiction of the Authority except for,~~

~~(a) the watersheds associated with Shriner's Creek, Ten Mile Creek and Beaverdams Creek (including Tributary W-6-5) in the City of Niagara Falls where the Hurricane Hazel Flood Event Standard applies; and~~

~~(b) Lake Ontario and Lake Erie in the Great Lakes St. Lawrence River System, as described in the Schedule, where the 100 Year Flood Event Standard, plus wave uprush, applies. O. Reg. 155/06, s. 11 (2).~~

Areas included in the Regulation Limit

~~12. Hazardous lands, wetlands, shorelines and areas susceptible to flooding, and associated allowances, within the watersheds in the area of jurisdiction of the Authority are delineated by the Regulation Limit shown on maps 1 to 125 dated February 2006 and filed at the head office of the Authority at 250 Thorold Road West, Welland, Ontario under the map title "Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses". O. Reg. 155/06, s. 12.~~

13. OMITTED (REVOKES OTHER REGULATIONS). O. Reg. 155/06, s. 13.

SCHEDULE 1

1. The Hurricane Hazel Storm 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, producing at any location in a river, creek, stream or watercourse a peak flow that has a probability of occurrence of one per cent during any given year.

3. The 100 year flood level means the peak instantaneous still water level plus an allowance for wave uprush and other water-related hazards for Lake Ontario and Lake Erie in the Great Lakes-St. Lawrence River System that has a probability of occurrence of one per cent during any given year.

Made by:

NIAGARA PENINSULA CONSERVATION AUTHORITY:

BART MAVES
Chairman

TONY D'AMARIO, P. ENG.
Chief Administrative Officer/Secretary-Treasurer

Date made: September 22, 2011

I certify that I have approved this Regulation.

XXXXXXXXXX
Minister of Natural Resources

Date approved: XXXXXXX.

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