

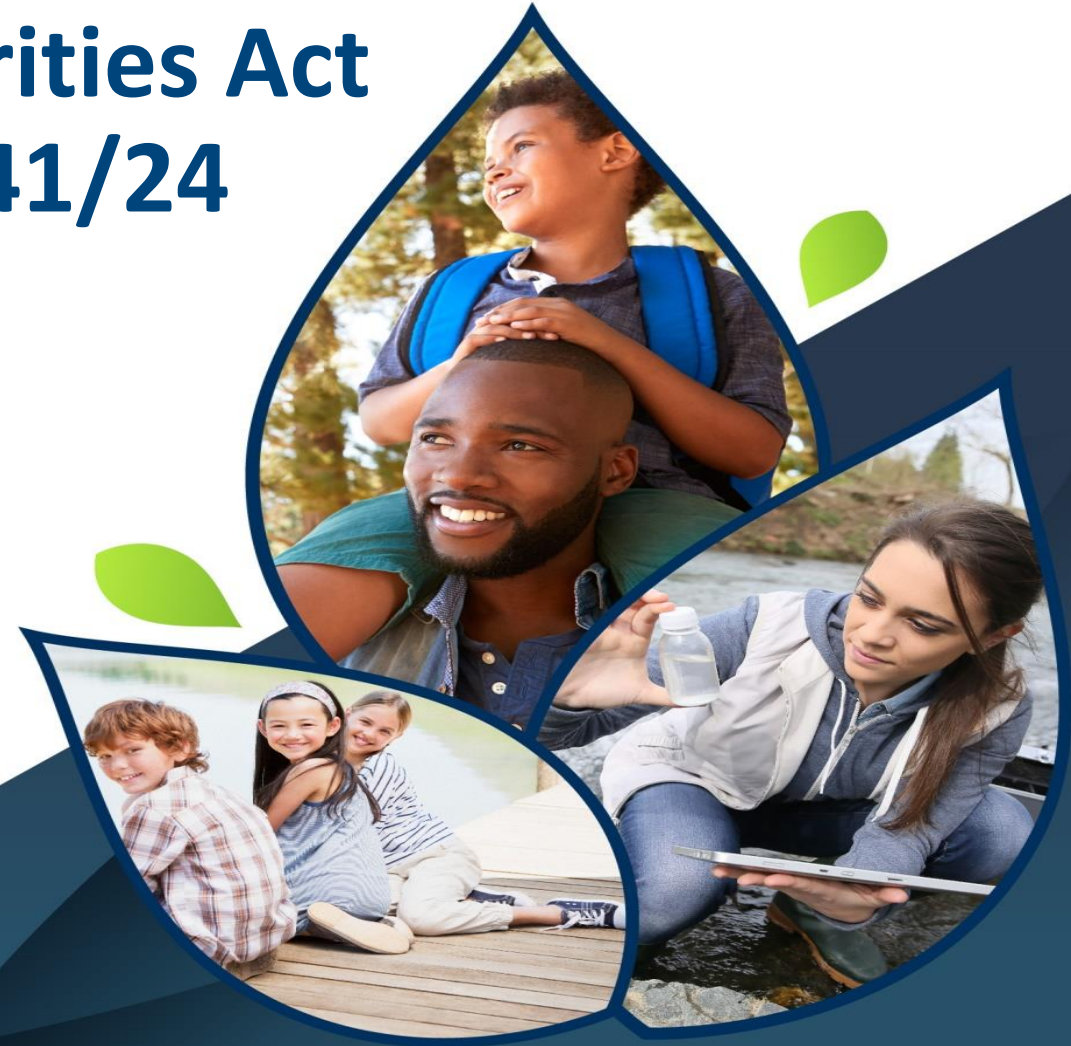
# Conservation Authorities Act Updates and O.Reg.41/24

Board of Directors  
February 23, 2024

Rob Baldwin  
Chief Administrative Officer



**Lake Simcoe Region**  
conservation authority



Member of Conservation Ontario



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# New O. Reg. 41/24 Associated Legislative Changes & Next Steps

Presented to LSRCA Board of Directors  
By Rob Baldwin, CAO  
February 23, 2024



# Overview

## New Legislative & Regulatory Changes

- New O. Reg. 41/24 and O. Reg 42/24
- Enactment of O. Reg. 688/21, Rules of Conduct in CA Areas
- New proclaimed sections of the CA Act
- Effective Date, April 1, 2024
- New O. Reg. 41/24 replaces all existing 36 CA s.28 regulations
- Existing s.28 of the CA Act is repealed
- Mandatory Program & Service Regulation amended – requires annual permitting and regulatory compliance reporting
- New changes not previously consulted on (additional exceptions)
- Regulatory requirements cross-referenced between CA Act & O. Reg 41/24



# Key Changes - Lands

## Section 29 Regulation

- Move from individual “Conservation Areas” Regulations to a single “Rules of Conduct in Conservation Areas” regulation for all CAs.
- Outlines prohibited activities and activities requiring a permit on lands owned by CAs
- Enforcement and compliance tools remain unchanged (e.g., use of provincial offence notices, set fines for offences, etc.)
  - Note: Set fines not yet updated to reflect new regulatory sections and appropriate short form wording
- CO Training Available on Members Pages



## **Enactment of Part VI of the CAA**

**Regulation of Areas over which Authorities have  
Jurisdiction**

**+**

**O. Reg. 41/24**

**Prohibited Activities, Exemptions and Permits  
Regulation**



# Key Changes

## Definitions and Regulated Limits

Current Legislative & Regulatory Framework	New Legislative & Regulatory Framework
<p><b>Watercourse</b> An identifiable depression in the ground in which a flow of water regularly or continuously occurs.</p>	<p><b>A defined channel, having a bed and banks or sides</b>, in which a flow of water regularly or continuously occurs</p>
<p><b>Pollution</b> Any deleterious physical substance or other contaminant that has the potential to be generated by development.</p>	<p>Removed</p>
<p><b>Wetland “Other Areas”</b> 120 m of all provincially significant wetlands and within 30 metres of all other wetlands</p>	<p><b>Other areas - 30 m</b> of all wetlands</p>
<p><b>Shoreline: other water related hazards</b> The 100-year flood level, plus an allowance of 15 metres for wave uprush and other water-related hazards.</p>	<p>The 100-year flood level, plus the appropriate allowance for wave uprush, and, if necessary, for other water-related hazards, including ship-generated waves, ice piling and ice jamming;</p>

- ❖ **No other changes to definitions and regulated areas**
- ❖ **Definitions moved to Regulation**



# Key Changes Regulatory Maps

Current Legislative & Regulatory Framework	New Legislative & Regulatory Framework
<p><b>CA Regs ss. 2(2)</b></p> <p>Regulated areas must be shown on maps to be filed at the head office of the CA.</p>	<p><b>O. Reg. 41.24 (s.4)</b></p> <ul style="list-style-type: none"><li>• Regulated areas shall be filed at the CAs head office and made available to the public on the authority's website, and by any other means that the authority considers advisable.</li><li>• At least once annually, the authority shall,<ul style="list-style-type: none"><li>✓ review &amp; update maps</li><li>✓ make updated maps available to the public</li></ul></li><li>• For significant updates (enlargements or reductions):<ul style="list-style-type: none"><li>✓ stakeholders, municipalities and the public to be notified online at least 30 days prior to an Authority meeting</li><li>✓ the authority shall promptly update the maps</li></ul></li></ul>





# Key Changes Exceptions – Expected

CAA ss. 28(2)(3)(4), ss. 28.1(6) & Reg. s.5

- a non-habitable accessory structure
- unenclosed detached deck or patio
- seasonal or floating dock
- installation of a fence
- installation, maintenance or repair of tile drains
- installation, maintenance of an offline pond for watering livestock
- installation of agricultural in-field erosion control
- driveway, private lane, or public road maintenance or repair







# Key Changes

## Pre-submission Consultation (Reg s.6)

Prior to app submission, CA and applicant may engage in pre-submission consultation (meetings included) to confirm complete application requirements, which may include;

- Project description and associated plans
- Property details, plans, maps, surveys technical reports.
- Meetings/site-visit

CA **must** pre-consult if requested by the applicant.



# Key Changes

## Complete Application Requirements (Reg. s. 7)

### **Applications shall include:**

- ✓ Plans (site plans, cross-sections, etc.)
- ✓ Proposed use / statement of purpose
- ✓ Start/completion dates
- ✓ Descriptions of methods used
- ✓ Elevations/grading plans & drainage details
- ✓ Description of fill proposed
- ✓ **Landowner authorization**
- ✓ **Permit fee**
- ✓ Other technical information, studies or plans
  - ✓ Including information requested during pre-submission consultation



# Key Changes

## Complete Application Requirements (Reg s.7)

CAs shall confirm if application complete within 21 days, in writing.

Once confirmed complete, request for additional studies, plans, etc. is not permitted – unless approved by the applicant.

CA may ask applicant for clarification regarding submission materials.



# Key Changes Regulatory “Tests” for Permit Approvals

Current Legislative & Regulatory Framework	New Legislative & Regulatory Framework
<p><b>Individual Regs s.3</b></p>	<p><b>CAA s.28.1</b></p>
<p><b>Development</b> Control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development</p>	<p><b>Development Activities + Alteration Activities</b> The activity is not likely to:</p> <ul style="list-style-type: none"> <li>a) Affect the control of flooding, erosion, dynamic beaches or <b>unstable soil or bedrock</b>;</li> <li>b) Create conditions or circumstance that, in the event of a natural hazard, might jeopardize the <b>health or safety of persons</b> or result in the <b>damage or destruction of property</b>; and</li> <li>c) Other requirements prescribed by the regulations are met</li> </ul>

❖ **Pollution & Conservation of land test removed + other tests added**



# Key Changes Limitation on Permit Conditions

Current Legislative & Regulatory Framework	New Legislative & Regulatory Framework
<p data-bbox="191 505 1009 551"><b>CAA ss. 28(3) &amp; CA Regs ss. 3(2) &amp; ss. 6(2)</b></p> <p data-bbox="191 582 1149 676">CAs may grant permission <b>subject to conditions</b> and cancel permission if conditions are not met.</p>	<p data-bbox="1276 505 1768 551"><b>CAA ss. 28.1(4) &amp; Reg s.9</b></p> <p data-bbox="1276 582 2206 676">Conditions may be attached to a Permit, only if the conditions:</p> <ul data-bbox="1276 691 2390 1110" style="list-style-type: none"><li>a) Mitigate effects that the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;</li><li>b) Prevent or mitigate effects on human health or safety or any damage or destruction of property in the event of a natural hazard</li><li>c) support administration or implementation of the permit, including reporting and notification, monitoring and compliance with the permit.</li></ul> <p data-bbox="1276 1176 2372 1376">**In addition to above conditions, the Lake Simcoe Region Conservation Authority may attach conditions that relate to designated policies and other policies in the Lake Simcoe Protection Plan.</p>



# Key Changes Administrative Reviews

Current Legislative & Regulatory Framework	New Regulatory Framework
N/A	Reg. s.8
	<p><b><u>New</u> process</b> to undertake administrative review upon request if:</p> <ul style="list-style-type: none"> <li>• Applicant has submitted all information for a complete application and has not heard back from the Authority (determination of complete application)</li> <li>• Applicant disagrees with CA decision that the application incomplete; or</li> <li>• Applicant believes CA requests for other information, studies or plans under are not reasonable</li> </ul> <p><b>CAs <u>must</u> undertake administrative reviews</b> within 30 days of receiving request. Outcomes:</p> <ul style="list-style-type: none"> <li>• Confirm application is complete or provide reasons why application is incomplete; or</li> <li>• Provide reasons why request for other information, studies or plans is reasonable, or</li> <li>• Withdraw the request for all or some of the information, studies or plans.</li> </ul>



# Administrative Reviews

## Additional Details and Best Practices

- No appeal mechanism if Applicant disagrees with outcome of review.
- Review of application begins when complete application confirmed (90-day timeline).
- **Best Practice:** Designate specific staff to complete administrative reviews of applications (*e.g., GM/CAO*)





# Delegation of Power Permits & Hearings

Current Legislative & Regulatory Framework	New Legislative & Regulatory Framework
<p><b>CA Act ss.28 (2) &amp; CA Regs ss.2 (1) &amp; ss.6 (3)</b></p>	<p><b>CA Act s.28.4</b></p>
<p>Authority may designate <b>issuing 24 month permits</b> to the Authority's executive committee or CA staff, subject to limitations set in the regulation.</p> <p>Authority or executive committee may issue permits <b>up to 60 months</b>.</p>	<p>An authority may delegate issuance <b>or cancellation of permits or to the holding of hearings in relation to the permits</b>, to the Authority's executive committee or to any other person or body, subject to any limitations or requirements that may be prescribed by regulation.</p> <p>Includes 60 month permits &amp; permit extensions</p>



# Key Changes

## Period of Validity + Extensions

Current Regulatory Framework	New Regulatory Framework
<p><b>CA Regs. S9</b></p> <p><b>Permits issued by delegate:</b></p> <ul style="list-style-type: none"><li>➤ 24 months for minor/major permits, including extensions</li></ul> <p><b>Permits issued by Board/Exec:</b></p> <ul style="list-style-type: none"><li>➤ 60 months for complex project, including extension</li></ul> <p><b>CA to give notice of intent to refuse</b></p> <ul style="list-style-type: none"><li>➤ If applicant requires hearing, CA to give at least 5 days notice of hearing date.</li></ul>	<p><b>O. Reg. 41/24 s.11</b></p> <p><b>Permits issued by delegate or Minister</b></p> <ul style="list-style-type: none"><li>➤ 60 months, including extension</li></ul> <p><b>CA to give notice of intent to refuse</b></p> <ul style="list-style-type: none"><li>➤ Applicant to request hearing, in writing, within 15 days of notice.</li></ul> <p><b>Hearing to be held in reasonable time</b></p> <ul style="list-style-type: none"><li>➤ If applicant requires hearing, CA to give at least 5 days notice of hearing date.</li></ul>



# Key Changes Review Timelines

Current Policy Framework	New Legislative and Regulatory Framework
Review timelines found in “Policies and Procedures for CA Plan Review and Permitting Activities” (“CALC Document”)	Review timelines found in Act (ss. 28.1(22)) and O. Reg. 41/24 (s.7)
<p><b>21 Days</b> to confirm complete application (<i>following pre-consultation meeting</i>)</p>	<p><b>21 Days</b> to confirm complete application (<i>following receipt of all application requirements and fee</i>)</p>
<p><b>21 Days</b> to confirm complete application (<i>following receipt of application</i>)</p>	<p><b>90 Days</b> to make and give notice of decision</p>
<p><b>30 (minor) or 90 (major) Days</b> to make decision</p>	



# Key Changes Standards and Requirements

- **NEW regulation 42/24**
- **All CAs will prepare and make public an annual report for statistics on permits** (*including level of compliance with details of application for and issuance of permits, including associated timelines, under O. Reg. 41/24*)



# Key Changes

## NEW Policy and Procedure Documents (O. Reg 41/24 (s.12))

CAs shall develop policy and procedure documents for permit applications and reviews that, **at a minimum**, include:

1. Pre-submission consultation, including additional details related to complete permit application requirements.
2. Administrative reviews
3. Timelines for making permit application decisions following complete application notification
4. Other policies and procedures, as the authority considers advisable, for administering the issuance of permits
5. A process for periodic reviews and updating policy/procedure documents, including public/stakeholder consultation procedures during the review process



# Key Changes

## Reconsideration of Fees for Permit Applications

### New Legislative Framework

#### **CA Act ss. 21.2 (13 to 21)**

Applicants can request a permit fee reconsideration.  
CAs have 30 days to make a decision.

Applicants can appeal to the OLT if no decision is made within 30 days.

Authorities can decide to order the original amount to be paid or vary the fee.

For fees paid under protest, a person may:

- Advise CA in writing that the fee is being paid in protest
- Appeal amount charged to the OLT within 30 days.

After hearing the appeal, the OLT may dismiss the appeal, vary the amount, or order that no fee be charged.

CA may be ordered by OLT to provide a refund



# Appeals Current Framework

**\*Note: For section 28.1 permit applications (non-zoning order)**

## Current Legislative Framework

### **ss. 28(15)**

Applicants whose application for permission was refused or who reject to conditions imposed on a permission may appeal to the OLT (within 30 days)





# Key Changes Appeals

**\*Note: For section 28.1 permit applications (non-zoning order)**

## New Legislative Framework

### **ss. 28.1(8) – Minister’s Review**

Applicants whose application for permission was refused or who reject to conditions imposed on a permit may submit a request for **the Minister** to review the Authority’s decision (15 days)

### **ss. 28.1 (20) – Appeal to OLT**

Applicants may appeal an Authority’s decision to refuse a permit or issue a permit subject to conditions following a hearing **to the OLT** (*Appeal provisions limited where a request for Minister’s review has been made*)

### **ss. 28.1 (22) – Appeal to OLT (No Decision by CA)**

Where complete application has been made and the Authority fails to give a decision within 90 days, the applicant may appeal the application **to the OLT**

### **ss. 28.3(6) – Cancellation of Permits**

Authorities may cancel permits if conditions have not been met or other prescribed circumstances. Authority must provide notice and opportunity for hearing. If hearing results in cancellation, applicant may appeal decision to OLT (90 days)



# Key Changes

## Permits Issued by Minister

### NEW CA Act s.28.1.1

#### **Ministers Order**

- Direct a CA not to issue a permit
- Direct a CA or CAs not to issue a permit for a specified period of time;

#### **Ministers Power**

- Can issue a permit for any activity if s.28.1 "tests" are satisfied
- Orders can be made before or after a CA application has been submitted, even if CA decision is pending

#### **Conditions**

- Minister can issue permit with conditions as they determines are appropriate.

**MINISTERS DECISION IS FINAL**



# Key Changes

## Cancellation of Permits

Current Legislative and Regulatory Framework	New Legislative and Regulatory Framework
<p><b>CA Regs s. 8</b></p>	<p><b>CA Act s.28.3</b></p>
<p>An authority may cancel a permit if it is of the opinion that the conditions of the permit have not been met.</p>	<p>An authority may cancel a permit if it is of the opinion that the conditions of the permit have not been met <b>or that the circumstances prescribed by regulation exist.</b></p>
<p>Notice of intent to cancel to be provided to the permit holder unless the holder shows cause at a hearing why the permit should not be cancelled.</p>	<p>Notice of intent to cancel <b>on a specified date</b> must be given to the holder.</p>
<p>Authority shall give the holder at least <b>five days notice</b> of the date of the hearing.</p>	<p><b>Permit holder must submit written request for hearing within 15 days.</b></p>
<p><b>***where in act does it say authority's decision to cancel a permit can be appealed to OLT&gt;</b></p>	<p>Hearing date to be set within <b>reasonable time</b></p>
	<p>Authority may confirm, rescind or vary the decision to cancel a permit.</p>
	<p><b>Applicant can appeal to OLT within 90 days of receiving Authority's decision.</b></p>



# **Part VII: Enforcement and Offences**



# Key Changes Enforcement and Offences

- **Appointment of Officers** moved from individual regulations to Section 30.1 of the Act
- Changes to how **Officers may enter private property without warrants + bring experts on site**
- New ability for **Officers to make Stop Orders**
- **Offences and penalties**



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# Stop Orders

- **NEW!** ability for CA Officers to issue Stop Orders (**s. 30.4**)
- Circumstances for use:
  1. Officer forms **reasonable grounds** of contravention
  2. Person(s) has, is, or will be engaging in activity that will contravene Act, regulations or conditions of permit
  3. Activity has, is or is likely to cause **significant damage**; and,
  4. Stop order will prevent or reduce the significant damage.
- Act outlines information requirements for Stop Order and service of Order.
- Act provides ability for individual to request hearing before the CA, and further appeal to Minister.



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# Penalties

Type	Max Fine	Imprisonment	Additional Fine / Day
Individual ( <i>s.28 or Stop Order</i> )	\$50,000	Up to 3 months	\$10,000
Corporation ( <i>s.28 or Stop Order</i> )	\$1,000,000	N/A	\$200,000
s.29 Regulation Contravention	\$1,000	N/A	N/A
Obstruction of Officer	\$10,000	N/A	N/A

**ss. 30.5 (3) Monetary benefit:**

Upon conviction the court may increase the fine to an amount equal to the amount of the monetary benefit that was acquired as a result of the offence.





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# CA Actions for Compliance

## **Update:**

- ✓ Reg. references on application forms, admin docs. etc.
- ✓ Implementation support material/guidelines/policies
- ✓ Websites – maps, policies, references
- ✓ CA Officer designations
- ✓ Communications to municipalities, stakeholders, and public
- ✓ Attend CO & MNRF training
- ✓ Re-delegate Authority powers
- ✓ Mapping – Other areas, watercourses