

ATTACHMENT 3: Section 29 Minister's Regulation

Part Three: Other Regulatory Matters

Section 29 Minister's Regulation

Conservation Ontario notes that the ministry is intending for the Minister's regulation to be broadly consistent with the provincial content that has been used in the past. Conservation Ontario recommends that the province defer the approval of a new Section 29 regulation until such time as a fulsome review and update of the regulation can be undertaken. To support this position, Conservation Ontario offers the following detailed comments related to the Section 29 Minister's Regulation.

Under the *Conservation Authorities Act*, conservation authorities are required to provide programs and services related to the conservation and management of lands owned or controlled by the authority. This includes a regulation made under Section 29 of the *Conservation Authorities Act* regarding public use of authority's property. It is proposed that the Section 29 regulation be redesigned to better align with by-laws made under the *Municipal Act* related to the use of municipal property including parks, and the [Provincial Parks and Conservation Reserves Act](#), 2006 and its associated regulations, including O. Reg. 347/07: [Provincial Parks: General Provisions](#).

Collectively, conservation authorities own and protect a total of 150, 000 hectares of land, including forests, wetlands, areas of natural and scientific interest, recreational lands as well as land for flood and erosion control. Among these lands are approximately 500 Conservation Areas, many of which are publicly accessible, representing 80 000 hectares of property. Throughout the pandemic and particularly in southern Ontario, conservation authorities have seen a huge increase in the number of people attending Conservation Areas. For example, Credit Valley Conservation received over 1 million visitors in 2020 alone even with the COVID-19 restrictions in place.

Conservation Areas differ significantly in terms of size and amenities. Many are local areas which are akin to municipal parkland. Others include a number of amenities including water parks, marinas, ski hills and education buildings. Conservation Areas include more than 8, 400 campsites, some accessible by public transit, which allows a greater number of Ontarians to experience camping. Given the wide array of uses and the potential for overnight visits, conservation authorities need the legislative tools to effectively protect their properties, provide opportunities for ecologically sustainable outdoor recreation opportunities, provide opportunities for Ontarians to increase their knowledge of Ontario's natural heritage and to facilitate scientific research and monitoring on the landscape.

There is a public expectation that conservation authorities will ensure the orderly use of their Conservation Areas to ensure public safety and security, cleanliness and to minimize impacts on other enforcement agencies, including municipal by-law officers and police departments.

All public green space (conservation areas, municipal parks, provincial parks) experienced a significant increase in use during the pandemic. This increase, which is expected to continue post-pandemic, challenged conservation authority staff, municipal bylaw officers and provincial park wardens. It is recommended that a working group be formed of enforcement staff from conservation authorities,

municipalities and the province, as well as staff from the Office of the Attorney General, to ensure all parties and levels of government have the tools they need to ensure the orderly use of their properties and to ensure public and staff safety and security. This may require a redesign of the Section 29 regulation and CA regulatory powers to better align with bylaws made under the *Municipal Act* as well as the *Provincial Parks and Conservation Reserves Act*.

Proposed Additions and Amendments

Given the similarities between the activities of municipal by-law officers and provincial park wardens, conservation authorities request the following amendments to the compliance program and associated regulations to ensure that they can continue to provide high quality recreational experiences to the public while providing a similar level of service as municipalities and the province.

Proposed Addition/Amendment	Description	Rationale
<p>Include “peace officer” in the definition of conservation authority officer.</p>	<p>Currently municipal by-law officers and park wardens are included in the definition of “peace officer” for purposes of enforcing their regulation.</p>	<p>Many conservation authority staff are designated by their municipal partners as by-law officers to enforce municipal by-laws (e.g. Niagara Region’s Municipal Tree Cutting By-law). This amendment would make CA officers more comparable to municipal by-law officers and provincial park wardens. Designating CA staff as peace officers will provide them with the protections afforded to similar officers under the Criminal Code of Canada and will give CA staff the appropriate standing should they need to testify in front of the courts.</p>
<p>Require the public to identify themselves to a Provincial Offences Officer</p>	<p>Include a requirement that the public identifies themselves when asked by a Provincial Offences Officer. Conservation Authorities staff are currently afforded this tool by the Province in order to assist the Province with compliance with the <i>Emergency Management and Civil Protection Act</i> orders.</p>	<p>While conservation authorities have had the ability to issue certificates of offence (tickets) for many years, they lack the ability to require that an individual identify themselves to the Provincial Offences Officer. This significantly limits the CA’s ability to enforce the S. 29 regulation when necessary and/or unnecessarily complicates the process.</p>

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Campsite permit holder responsibility	Enable the CA to cancel the camping permit of a person who is in contravention of the regulation or a provision of the <i>Liquor License Act</i> . Require that the campsite permit holder provide the permit for inspection by an officer.	Under the <i>Provincial Parks and Conservation Reserves Act, 2006</i> the registered permit holder has to produce the campsite permit upon request. Conservation areas which contain campsites should also have the same standards to create greater consistency across the province and to reinforce the responsibility of the registered permit holder.
Seizure of an object	Create the ability for a Provincial Offences Officer to seize an object which is part of an offence	Under the current S. 29 regulation there are a number of offences which are subject to Part I (tickets). For example, it is unlawful to ignite fireworks. A S. 29 officer may choose to issue a ticket to a person of legal age who is discharging the fireworks, but they have no ability to seize any remaining fireworks on site. This has led to additional problems in conservation areas in the past.
Update of Set Fines	Set fines are the amount of money that is associated with a ticket. Most conservation authorities do not issue tickets for infractions on their properties; however, it is one of the few compliance tools that CAs have available to them.	With the creation of a single regulation to be implemented by all conservation authorities new set fines will need to be established for routine offences. Prior to the establishment of new set fines, a review and update of the fines should be undertaken to ensure consistency with comparable pieces of legislation (e.g. municipal by-laws). The set fines for conservation areas were last updated in 2012.
Expand the Class Designation for CA Officers	Currently conservation authority staff are designated by the Minister of Natural Resources and Forestry to enforce the	Conservation authorities provide programs and services to the public which include

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	<p><i>Conservation Authorities Act</i> and the <i>Trespass to Property Act</i>. Conservation authorities would greatly benefit from an expansion in the Class Designation process to include: <i>Highway Traffic Act</i>, <i>Liquor Licence Act</i>, <i>Motorized Snow Vehicles Act</i>, and the <i>Off-Road Vehicles Act</i>. This would be consistent with the provincial park warden (superintendent/assistant superintendent) Class Designation.</p>	<p>trails and, in some cases, overnight camping. Due to the significant increase in use of these properties as a result of the pandemic, conservation authorities and municipalities have been struggling to control parking and access to these sites via various off-road vehicles. Including these designations would allow CAs to better manage their lands, decrease demand on municipal by-law officers to manage traffic and prevent destruction of conservation authority property. These designations would be consistent with 29 (1) (a)(b)(e) of the <i>Conservation Authorities Act</i>.</p>
<p>Include the ability to stop a vehicle that is in contravention of the regulations</p>	<p>Currently the S. 29 regulation includes prohibitions related to the <i>Highway Traffic Act</i>, including prohibiting the operation of a motor vehicle at a speed exceeding 20 km / hour.</p>	<p>The incorporation of key elements of the <i>Highway Traffic Act</i> is an important public safety consideration for conservation areas. Unfortunately, many of the current tools are ineffective as conservation authority staff are unable to stop drivers who are in contravention of the <i>Highway Traffic Act</i> in conservation areas. Allowing speeding drivers to be stopped will help to protect the most vulnerable users of conservation areas (small children/ people with limited mobility).</p>
<p>Improve the ability for CAs to integrate compliance work with municipalities</p>	<p>Expand the definition of officer to include other types of Provincial Offences Officers (for example, Municipal Law Enforcement Officers) and to remove limitations associated with having only one enforcement lead.</p>	<p>Many conservation authorities work closely with their municipal partners to address non-compliance issues in and around conservation areas. This has included the</p>

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		<p>designation of conservation authority staff as Municipal Law Enforcement Officers (MLEOs). These amendments are intended to maximize flexibility in approach and to share resources between municipalities and conservation authorities where there is agreement to do so.</p>
<p>Update the regulation to reflect modern technologies</p>	<p>Include a new prohibition with regard to the unauthorized use of any remotely controlled device including boats, aircraft including drones, vehicles, etc</p>	<p>The regulation should reflect the current challenges that conservation authorities face with maintaining the orderly use of their lands.</p>
<p>Clarify that permissions can be issued for certain prohibited activities</p>	<p>Clarify that permissions can be issued by the Authority for activities currently prohibited in 4(1)(c) and (d) of the regulation. This includes (c) cut, remove, injure or destroy a plant, tree, shrub, flower or other growing thing and (d) remove or destroy any soil or rock.</p>	<p>The current regulation allows a permit to be issued for any purpose (see 3(2)) by the Authority whereas 4(2) indicates that a permit can only be issued for certain activities. Many conservation authorities engage in sustainable forestry practices to maintain the health of their woodlots. Routine grading is associated with many conservation area infrastructure projects.</p>