



LOWER TRENT
CONSERVATION

Appendix M
Process for Administrative Review
Under Section 8 of Ontario Regulation 41/24

Date approved **TBD**

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1 Introduction

On April 1, 2024, the Province enacted Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits (O. Reg. 41/24 or the “Regulation”), and associated sections of the [Conservation Authorities Act](#). Section 8 of the Regulation establishes the eligibility, timeline, and notification requirements for an applicant to request a review of their permit application by the Authority. Section 12, item 2 of the Regulation requires all Conservation Authorities to develop policies and procedures for the administrative review process and sets out minimum requirements to be incorporated into a Conservation Authority's policy and procedure document(s). This guideline aims to provide a structured and consistent process for Lower Trent Conservation (LTC) Managerial staff conducting and evaluating administrative reviews for permit applications. The administrative review policies, the request for review form and an example decision notice are provided within this document.

1.1 How to Read this Document

Throughout the document, references made to legislative and regulatory requirements will be underlined unless direct quotes are provided. Otherwise, all other guidance is recommended **as best practice that will be implemented by LTC**. Furthermore, “Requests for Review” will herein be referred to as an “Administrative Review”.

2 Overview of the Administrative Review Process

2.1 Purpose of the Administrative Review

The purpose of an administrative review, is to provide the applicant with an opportunity to resolve issues specified in ss. 8 (1) of the Regulation,

Administrative reviews do not determine whether a permit will be issued, or the scope of conditions proposed to be attached to a permit; these factors will be assessed throughout the permit review process, after the administrative review is completed. Other administrative processes (e.g. hearings, permit fee disputes) are separate from the “administrative review.” An applicant will be provided with an opportunity to be heard by the Authority in a hearing should staff recommend refusal of their application or should staff propose permit conditions the applicant disagrees with.

Additionally, administrative reviews are not intended to be a procedure to settle permit fee disputes. Disputes related to the charging of the LTC's permit fees will be addressed in accordance with the LTC's [fee policy](#). Details regarding eligibility for administrative reviews are provided in Section 2.4 below.

2.2 Pre-Submission Consultation

O. Reg. 41/24, ss. 6(1) requires that:

Prior to submitting an application for a permit under s. 28.1 of the Act, an authority may engage in pre-submission consultation for the purpose of confirming the requirements of a complete application to obtain a permit for the activity in question, which may include;

- (a) requests by the authority to the applicant for,
 - (i) initial information on the proposed activity such as a description of the project and any associated plans, or*
 - (ii) details about the property upon which the activities are proposed to be carried out, including copies of plans, maps or surveys; or**
- (b) meetings between the authority and the applicant prior to the submission of an application, including any site visits to the property where the activities are proposed to be carried out.*

Subsection 6(2) of the Regulation specifies:

If the applicant requests a pre-submission consultation under subsection (1), the authority is required to engage in the pre-submission consultation.

Pre-submission consultation is a **best practice** to streamline the permit application process that LTC Staff **highly recommend** to all proponents during the consultation stages for a development activity project. Pre-submission consultation is a critical value-added service that assists applicants with the application process. A pre-submission consultation meeting allows potential applicants to present and discuss a development activity proposal with LTC staff and other relevant staff from various agencies, including the municipality. This meeting may occur prior to or at the same time as a site visit to the property where the activity is proposed to be carried out. The objective of pre-submission consultation is to prepare the applicant to make a high-quality submission by clearly outlining the approval process, requirements for complete applications (e.g., technical studies and fees), review and approval timelines and to allow LTC staff to understand the applicant's timelines, constraints, and communication preferences.

Following a pre-submission consultation meeting, LTC staff shall provide the applicant with complete application requirements, scoping of required studies and to inform the applicant of their right to an Administrative Review. A successful pre-submission consultation should result in a quality submission where the LTC's complete application requirements are met; thereby reducing the potential for an administrative review request.

Where an application has been submitted without pre-consultation, complete application requirements shall be communicated to the applicant, in writing, during the 21 days allotted for a complete application decision.

2.3 Complete Application Requirements

The Authority's complete application requirements are in accordance with s. 7 (1) and (2) of O. Reg. 41/24 and are outlined in the [LTC Regulatory Policy document](#) that supports the administration of O. Reg. 41/24 and s.28 of the *Conservation Authorities Act*.

2.4 Scope and Eligibility

As stated in the Regulation, the administrative review process is only available to the applicant. It is important to note that an administrative Review will only be available where the development activity has not commenced (i.e., there is no active contravention of s.28 of the *Conservation Authorities Act*).

Subsection 8 (1) of the Regulation provides that:

An applicant may request a review by the authority if:

- a) the applicant has not received a notice from the authority within 21 days in accordance with subsection 7 (2) [confirmation of complete application];*
- b) the applicant disagrees with the authority's determination that the application for a permit is incomplete; or,*
- c) the applicant is of the view that a request by the authority for other information, studies or plans under clause 7 (1) (i) [any other technical information] is not reasonable.*

The request for review applies to applications made under s. 28.1 of the *Conservation Authorities Act* and does not apply to comments provided by LTC through the land use planning process.

2.5 Timeline for Review

Per ss. 8 (2) of the Regulation, a review requested by an applicant *shall be completed by the Authority no later than **30 days** from the date of the request. As such, LTC will abide by the legislative timeline* noted within the Regulation.

If there are circumstances where it is not possible to complete the administrative review within the legislated 30-day period (e.g., office closures), LTC will provide notice to the applicant of any anticipated delays and obtain written approval from the applicant to extend the timeline. If an extension is not provided, LTC will strive to complete the review within a timely manner.

2.6 Authority Powers Upon Request for Review

Per ss. 8 (2) of the Regulation, upon completion of the review the Authority shall:

- (a) *confirm that the application meets the requirements of subsection 7 (1) [general requirements for an application], and is complete or provide reasons why the application is incomplete; or,*
- (b) *provide reasons why a request for other information, studies or plans under clause 7 (1) (i) is reasonable or withdraw the request for all or some of the information, studies, or plans.*

Section 28.4 of the *Conservation Authorities Act* states:

An authority may delegate any of its powers relating to the issuance or cancellation of permits under this Act or the regulations, or to the holding of hearings in relation to the permits, 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.

Section 28.4 of the *Conservation Authorities Act* enables an Authority to delegate any of its powers related to the issuance or cancellation of permits or to the holding of hearings in relation to the permits to its executive committee or to any other person or body subject to limitations or requirements prescribed by regulation.

Given the limited timeframe (30 days) for completing administrative reviews, the administrative review powers have been delegated to the CAO/Secretary-Treasurer (per Board Resolution no. G55/24), so reviews can be carried out expeditiously. Authority delegates have the appropriate expertise and ability to be impartial when completing this review, and have been sufficiently trained in the legislative and regulatory requirements for administrative reviews and applicable LTC policies.

3 Administrative Review Procedures

3.1 Submitting a Request for Review

To ensure a transparent process, LTC's administrative review procedures are noted to the applicant at the onset of the application process and upon the applicant's request for a review.

Administrative reviews require a request using a "Request for Administrative Review" form and is available to the public on the LTC's website or via hard copy upon request. The administrative review process must be commenced by the applicant by notifying LTC regulatory staff through their email or directly to the Authority via the permits@ltc.on.ca email account. Upon submission of the completed form and confirmation of the permit

application fee, the delegated Authority staff member will commence the administrative review.

The “Request for Administrative Review” form is provided in Appendix A of this document.

3.2 Administrative Review Process

Upon receipt of an application, LTC will determine that the application complies with ss. 28.1 (3) of the *Conservation Authorities Act* which states “*an application for a permit shall be made in accordance with the regulations and include such information as is required by regulation.*”

Complete application requirements are listed in ss. 7 (1) of O. Reg. 41/24; and ss. 7 (2) of the Regulation states: ***Upon receipt of the information required under subsection (1) and payment by the applicant of the fee charged by the authority under subsection 21.2 (4) of the Act, the authority shall notify the applicant in writing, within 21 days, whether or not the application complies with subsection 28.1 (3) of the Act and is deemed to be a complete application.*** Within the administrative review period (i.e., 30 days after receipt of the request for review), the Authority’s delegate should review all the information provided through the initial application process.

The Authority’s delegate will undertake the administrative review and document decisions and rationale in writing for the applicant. Oral (in-person) reviews will not be conducted to ensure the Authority has clear documentation further to their decision making.

It is important to note that decisions on an administrative review by the Authority’s delegate have no direct appeal process. In the event an applicant is dissatisfied with the outcome of an administrative review, their only recourse is to request a judicial review. When requested, the Authority’s delegate may meet with the applicant once a decision has been made to discuss the outcomes of the administrative review. The applicant can be contacted for clarification on the administrative review request. A diagram illustrating the process can be found on page 7.

Administrative Review Process



4 Evaluation of Request for Review

4.1 Evaluation Criteria

LTC's criteria for evaluating requests for administrative reviews are established in policy to ensure the review is fair, consistent and transparent for all applicants. These policies have been codified in this document and within the [LTC Regulatory Policy document](#).

The evaluation criteria that have been established takes into consideration the administrative review scenarios below.

A) No Notice Received from Authority within 21 Days or the Applicant Disagrees with Authority's Determination of Incomplete Application

Evaluations should be guided by the *Conservation Authorities Act* and ss. 7 (1) of O. Reg. 41/24 in addition to LTC policies and guidelines. To be determined complete, the application must include all required information outlined in s. 7 (1) of the Regulation, all other information, plans and studies requested by LTC (including those requested during pre-submission consultation, if applicable), and the permit application fee.

B) Applicant Believes the Authority's Request for Additional Information, Studies or Plans is Unreasonable

Where the applicant is of the opinion that the Authority's request for other information, studies or plans is not reasonable, the Authority's delegate shall use the following tests to decide if the Authority's request for technical studies is reasonable:

- i. Consistent with the LTC's current Development Policies;
- ii. Consistent with similar application requirements within the LTC watershed;
- iii. Requested information, studies or plans are necessary due to site-specific hazards; and,
- iv. Where applicable, consistent with adjacent CA policy and procedures, recognizing watershed characteristics and site conditions can vary between CAs.

5 Decision

The decision for an administrative review is limited to determining a complete application and / or whether the request for all or some of the information, studies or plans is reasonable; it is not a decision as to whether or not to issue a permit, nor a process to settle permit fee disputes.

As indicated in the Regulation, upon completion of an administrative review, the Authority's delegate shall:

- a) *Confirm that the application meets complete application requirements as per subsection 7(1) of the Regulation or provide reasons why the application is incomplete; or*
- b) *Provide reasons why a request for other information, studies or plans under clause 7(1) (i) of the Regulation is reasonable or withdraw the request for all or some of the information, studies or plans.*

The Authority's reasons for their decision shall be provided in writing to the applicant. The decision shall be **clear and well-reasoned**, outlining the findings and conclusions of the administrative review (see Appendix B for an example decision letter). Upon completion of the review, the Authority may provide a decision (where no notice was previously provided within 21 days), or uphold, modify, or overturn the original decision.

A copy of or link to LTC's policy and decision-making framework will be included in the decision notice.

Given neither the *Conservation Authorities Act*, nor the Regulation legislates an appeal process for administrative reviews, the decision of the Authority's delegate is considered final. However, **it is important to note** that although there are no direct statutory appeals for administrative review decisions, **there may be scrutiny from the Ontario Land Tribunal (OLT) on such decisions should the final permit decision be appealed to the OLT.** Given this, **it is important that the reasons behind the decision are principled and consistent with the legislation, regulation and relevant internal policies/guides to bolster the decision before the OLT.**

Further to the above, an established robust policy and decision-making framework is crucial in that **a decision made under this process may still be reviewed by the Superior Court should an applicant apply for judicial review.** If the Authority refuses to hear a permit application through the hearing process because the permit application has been deemed incomplete, an applicant may apply for judicial review seeking a court order for the CA to undertake a hearing and/or seek the relevant relief (i.e. writ of mandamus or other prerogative writs.)

6 Notice and Communication

There is no legislated timeline for the issuance of reasons for the decision; however, the Authority's delegate shall provide the following correspondence in writing to the applicant:

- 1) Within 1-2 business days, upon receipt of a "Request for Review" form, confirm the receipt of the request, set out the start and end dates of the administrative review

- period (requests for administrative review shall be completed within 30 days upon receipt of the request, unless an extension is approved by the applicant); and,
- 2) Forthwith, upon completion of the review, provide notice of decision, with reasons.

Appendix B of this document provides an example 'Notice of Decision' letter.

7 Review and Update

The LTC's Administrative Review Policies shall be reviewed and updated periodically along with the LTC Regulatory Policy document for the administration of O. Reg. 41/24 and s.28 of the *Conservation Authorities Act*.

APPENDIX A

Request for Administrative Review Form under s. 8 of O. Reg. 41/24 made under the *Conservation Authorities Act*

Date of Request: _____

FOR OFFICE USE ONLY:

Application Number: _____

Date Received by the Authority: _____

Applicant Information:

Owner and/or Applicant Contact Information

Legal Property Information:

Address, Municipality, Roll Number, Lot + Concession

In accordance with the LTC's Administrative Review Policies (attached), a request for administrative review applies to permit applications made under Section 28.1 of the *Conservation Authorities Act*, and under the following circumstances. Check all that apply:

- ☐ I [the applicant] believe I have submitted all information required for a complete application and I have not received written confirmation from the Authority within 21 days upon submission of the application. I would like confirmation from the Authority that my application has been received by this office and is complete.

The permit application for my proposed project was submitted on [Date:] _____.

- ☐ I [the applicant] disagree with the Authority's determination that the application for my permit is incomplete.

Please explain: _____

- ☐ I [the applicant] am of the view that the Authority's request for other information, studies or plans is not reasonable.

Please explain: _____

- ☐ The proposed project has not commenced.
- ☐ I have paid the CA permit application fee for the proposed project.

Signature of Applicant

Date

Upon submission of this form, applicants will be contacted to confirm receipt of the request for review.

APPENDIX B

NOTICE OF DECISION – REQUEST FOR REVIEW - EXAMPLE

(Request for Review Under s. 8 of O. Reg. 41/24 made under the *Conservation Authorities Act*)

Date

John Smith

STREET ADDRESS

MUNICIPALITY/TOWNSHIP, ON, POSTAL CODE

Re: Notice of Decision: Request for Administrative Review
Permit Application No. xx

The Authority has carried out an administrative review of your permit application to undertake *(description of proposed project)* at *(legal property description)*. As per your request, the administrative review was based on the following grounds *(insert those that apply)*:

- ☐ The applicant submitted all the information required for a complete application on *(date)*; and did not receive notice of a complete application from the Authority within 21 days.
- ☐ The applicant disagrees with the Authority's determination that the application for a permit is incomplete; and/or,
- ☐ The applicant is of the view that the request by the Authority for other information, studies or plans is not reasonable.

LTC's complete application requirements are established in accordance with s. 7(1) of O. Reg. 41/24 and are outlined in *(refer to the CAs policy for complete application requirements)*.

Decision

The Administrative review commenced on *[start date]* and was completed on *[completion date]* and was conducted in conformity with the LTC's Administrative Review Policies. Based on a review of the information provided through the review process, the Authority) reached the following decision *(insert those that apply)*:

- ☐ The application is complete.
- ☐ The application is incomplete.
- ☐ The request for other information, studies or plans is reasonable.
- ☐ The Authority will be withdrawing requested other information, studies or plans *(reasons provided at the discretion of LTC)*
Requested information to be withdrawn:

Requested information still required:

Reasons for Decision

*[This paragraph: LTC to provide detailed, clear and concise reasons for deciding against the opinion of the applicant. **Provide a link to applicable policy on LTC's website.** The reasons must be well documented should the review decision be subject to judicial review at the Superior Court.]*

Next Steps

[Provide information on what next steps should be. i.e. information required to complete the application., etc. If requests for select "other information" were withdrawn, be explicit about what additional information, studies or plans are still required.]

Conclusion

This document serves as the record of the Administrative Review decision under s.8 (2) of O. Reg. 41/24 made under the *Conservation Authorities Act*. The Authority's administrative review decision is final. Should you have any questions, please contact the undersigned.

Sincerely,

Name and Title