



## **LOWER TRENT C O N S E R V A T I O N**

### **Appendix F**

### **Hearing Guidelines**

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**TABLE OF CONTENTS**

F-1. Definitions .....	1
F-2. PURPOSE OF HEARING GUIDELINES .....	2
F-3. PRE-HEARING PROCEDURES .....	5
F-3.1 Role of the Hearing Board .....	5
F-3.2 Application .....	5
F-3.3 Notice of Hearing .....	6
F-3.4 Pre-submission of Reports .....	7
F-4. HEARING .....	7
F-4.1 Public Hearing .....	7
F-4.2 Hearing Participants .....	7
F-4.3 Attendance of Hearing Board Members .....	7
F-4.4 Adjournments .....	8
F-4.5 Orders and Directions .....	8
F-4.6 Information Presented at Hearings .....	8
F-4.7 Conduct of Hearing .....	8
F-4.7.1 Record of Attending Hearing Board Members .....	8
F-4.7.2 Opening Remarks .....	9
F-4.7.3 Presentation of Authority Staff Information .....	9
F-4.7.4 Presentation of Applicant Information .....	9
F-4.7.5 Questions .....	10
F-4.7.6 Deliberation .....	10
F-5. DECISION .....	10
F-5.1 Notice of Decision .....	12
F-5.2 Adoption .....	12
F-6. RECORD .....	12
F-7. HEARINGS UNDER SECTION 28.1.2 CAA .....	13

**Appendices:**

Appendix F-1: Notice of Hearing – Section 28.1 (5)

Appendix F-2: Notice of Hearing - Section 28.1.2 (7)

Appendix F-3: Notice of Hearing – Section 30.4 (6)

Appendix F-4: Notice of Hearing – Section 28.3 (4)

Appendix F-5: Notice of Hearing – Section 11 (6) of Ontario Regulation 41/24

Appendix F-6: Hearing Procedures

Appendix F-7: Chair’s Remarks When Dealing with Hearing with respect to Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 – Section 28.1 (5)

Appendix F-8: Chair’s Remarks When Dealing with Hearing with respect to Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 – Section 28.1.2 (7)

Appendix F-9: Chair’s Remarks When Dealing with Hearing with respect to Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 – Section 30.4 (6)

Appendix F-10: Chair’s Remarks When Dealing with Hearing with respect to Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 – Section 28.3 (4)

Appendix F-11: Chair’s Remarks When Dealing with Hearing with respect to Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 – Section 11 (6) of Ontario Regulation 41/24

Appendix F-12: Notice of Decision – Example

Appendix F-13: Board Approved Permit – Cover Letter Example

**Revision Notes:**

May 12, 2016 – Original Hearing Guidelines – Approved by Board (Resolution G67/16)

Revision 1: April 13, 2017 – Clarifications and Consistency Updates (Resolution G44/17)

Revision 2: November 16, 2018 – Admin Updates

Revision 3: March 26, 2021 – Include Electronic Hearings (Resolution G51/21)

Revision 4: February 10, 2022 – MZO Hearings and OLT Reference (Resolution G20/22)

Revision 5: May 31, 2024    Update to reflect changes to the Act and addition of Ontario Regulation 41/24

Revision 6: Sept 26, 2025 – Updated to reflect all appeal mechanisms in the legislation.

## F-1. Definitions

“Act” means the Conservation Authorities Act, R.S.O. 1990, c. C.27;

“Applicant” means a person who applies for a Permit to engage in an activity prohibited under the Act within the Authority’s jurisdiction;

“Application” means a formal request for a Permit to engage in an activity prohibited under the Act within the Authority’s jurisdiction;

“Authority” means the Board of Directors of the [XX] Conservation Authority;

“Executive Committee” means the Executive Committee appointed by the Authority;

“Hearing Board” means the Authority or Executive Committee while it is conducting hearings in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22. Further to section 28.4 of the Conservation Authorities Act, an Authority may also delegate any of its powers relating to the holding of hearings in relation to permits to any other person or body, subject to any limitations or requirements prescribed by Regulation;

“Minister” means the Minister of Environment, Conservation and Parks (MECP);

“Party” means an Applicant, Permit Holder, or individual subject to a Stop Order;

“Permit” means a permit to engage in otherwise prohibited activities under the Act, issued by the Authority (s. 28.1 and s. 28.1.2 permits) or by the Minister (s. 28.1.1 permits).

“Permit Holder” means a person who holds an active Permit issued by the Authority or a Minister’s Permit issued by the Minister;

“Staff” means the employees of the Lower Trent Region Conservation Authority;

“Stop Order” means a stop order issued under section 30.4 of the Act; and,

“Witness” means a person who is called to speak to evidence presented at a hearing.

## F-2. PURPOSE OF HEARING GUIDELINES:

The Conservation Authorities Act requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious conditions. Further, a permit may be refused if, in the opinion of the Authority, the proposal adversely affects the control of flooding, erosion, dynamic beaches, unstable soils or bedrock. The Hearing Board is empowered by law to make a decision, governed by the *Statutory Powers Procedures Act (SPPA)*.

The Hearing Rules are adopted under the authority of Section 25.1 of the *Statutory Powers Procedures Act (SPPA)*. The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority for to establish rules to govern such proceedings.

The Hearing Board shall hear and decide whether the application will be approved with or without conditions or refused. In the case of hearings related to applications submitted purposed to Section 28.1.2, the Hearing Board shall determine what conditions, if any, will be attached to the permission. See Section G-6 for further details.

These guidelines have been prepared as an update to previous hearing guidelines and are intended to provide a step-by-step process to conducting hearings required under Section 28.1 (5), (7)of the Conservation Authorities Act. It is expected that hearings meet the legal requirements of the *Statutory Powers Procedures Act* without being unduly legalistic or intimidating to the participants. Additional considerations have been included related to hearings under subsection 28.1.2 (7), ss.28.3 (2), (3) and (4), ss. 30.4 (6) of the Act and ss 11(4), (5) and (6) of O.Reg. 41/24 in Section F-6 to FX of this document.

Table 1 below summarizes the legislative and regulatory requirements where a Party is to be provided with an opportunity for a hearing before the Authority, or [where delegated further to s. 28.4 of the CAA] the Executive Committee, or any other person or body [sitting as the Hearing Board].

**Table 1: Summary of Hearing Requirements under the Conservation Authorities Act and O. Reg. 41/24<sup>1</sup>**

<b>Hearing Scenario</b>	<b>Legislative or Regulatory Reference</b>	<b>Party</b>	<b>Hearing Intent</b>	<b>Appeal</b>
<b>Refusal</b> Section 28.1 Permit	CAA, ss. 28.1 (5)	Applicant	Intent to refuse	OLT – Within 90 days of receiving the reasons for the Authority's decision
<b>Attaching Conditions</b> Section 28.1 Permit	CAA, ss. 28.1 (5)	Applicant	Intent to attach conditions	Minister's Review – Within 15 days of receiving reasons for the Authority's decision
<b>Attaching Conditions</b> Section 28.1.2 Permit	CAA, ss. 28.1.2 (7)	Applicant	Intent to attach conditions	
<b>Cancellation</b> Section 28.1 Permit	CAA, ss. 28.3 (2)	Permit Holder	Intent to cancel	OLT – Within 90 days of receiving notice of decision from Authority
<b>Cancellation</b> Section 28.1.1 Permit	CAA, ss. 28.3 (2)	Permit Holder	Intent to cancel	
<b>Refuse Extension</b> Section 28.1 Permit	O. Reg. 41/24, ss. 11(4), (5), and (6)	Permit Holder	Intent to refuse extensions	No appeal
<b>Refuse Extension</b> Section 28.1.2 Permit	O. Reg. 41/24, ss. 11(4), (5), and (6)	Permit Holder	Intent to refuse extensions	

<sup>1</sup> Note: The information presented in this table is a summary. For full details, please review the relevant sections of the *Conservation Authorities Act* and O. Reg. 41/24.

## APPENDIX G – HEARING GUIDELINES

<b>Stop Order</b>	CAA, ss. 30.4	Individual subject to Stop Order	Issuance of Stop Order	Minister or body prescribed by the regulations – Within 30 days of receiving reasons for the Authority's decision
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## F-3. PRE-HEARING PROCEDURES

### F-3.1 Role of the Hearing Board

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- a) No member of the Authority taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonable well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councillor, the *Municipal Conflict of Interest Act* applies. In the case of previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making.
- b) If material relating to the merits of an application that is the subject of a Hearing is distributed to Board members before the Hearing, the material should be distributed to the applicant. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed to the applicable parties electronically.
- c) The applicant will be given an opportunity to attend the Hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

### F-3.2 Application

An applicant or individual (Stop Order) has the right to a hearing when:

- staff are recommending refusal of a permit application because it doesn't comply with the approved policies (ss. 28.1 (5) of the CAA);
- the applicant objects to the conditions of approval (ss. 28.1 (5) of the CAA);
- the Authority has the intent of attaching conditions to a mandatory permit, zoning order by the Minister of Municipal Affairs and Housing (ss. 28.1.2 (7) of the CAA);
- the Authority has notified a permit applicant of their intent to cancel an issued permit or there is an intent to cancel a Minister's permit (ss. 28.3 (2) of the CAA);
- The Authority has notified a permit applicant of their intent to refuse a request for a validity period extension related to s. 28.1 and s. 28.1.2 permits (O.Reg. 41/24, ss. 11 (4), (5) and (6)); or,
- An individual requests a hearing in front of the Hearing Board in relation to the Issuance of Stop Order (ss. 30.4 of the CAA).

The applicant is entitled to reasonable notice of the hearing pursuant to the *Statutory Powers Procedures Act*.

### F-3.3 Notice of Hearing

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time based on the local Conservation Authority's regular meeting schedule. It is important to note that in cases where the Authority (or designated Staff) intends to refuse a request for a Permit extension, the Permit Holder must be given at least 5 days' notice of the hearing date, per ss. 11(6) of O. Reg. 41/24. This represents the minimum notice, and other timelines provided in these guidelines may influence the total notice period (e.g., timelines associated with pre-submission of reports).

The Notice of Hearing must contain the following:

- a) Reference to the applicable legislation under which the hearing is to be held (i.e., the Conservation Authorities Act)
- b) The date, time, place and the purpose of the hearing, or for electronic hearings: the time, purpose of the hearing, and details about the manner in which the hearing will be held. Note: for electronic hearings the Notice must also contain a statement that the applicant should notify the Authority if they believe holding the hearing electronically is likely to cause them significant prejudice. The Authority shall assume the applicant has no objection to the electronic hearing if no such notification is received.
- c) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing. Note: If the applicant is not the landowner but the prospective owner, the applicant must have written authorization from the registered landowner.
- d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so they can be adequately prepared for the hearing. It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.
- e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings. Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.
- f) Reminder that the applicant is entitled to be represented at the hearing by a

representative such as legal counsel, if desired. The Conservation Authority may be represented at the Hearing by counsel and/or staff.

- g) A copy of the Authority's Hearing Guidelines.

It is recommended that the Notice of Hearing be directed to the applicant and/or landowner by registered mail or other method where confirmation of delivery can be verified.

Refer to **Appendices F-1 to F-5** for an example **Notice of Hearing**.

#### **F-3.4 Pre-submission of Reports**

It is the practice of the Lower Trent Region Conservation Authority to submit reports to the Board members in advance of the hearing (i.e., inclusion on an Authority Agenda) and the applicant will be provided with the same opportunity. The applicant will be given reasonable time to prepare a report once the reasons for the staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the staff hearing reports. The applicant will be required to provide sufficient copies of this report for inclusion in the Agenda.

### **F-4. HEARING**

#### **F-4.1 Public Hearing**

Pursuant to the *Statutory Powers Procedure Act*, hearings, including electronic hearings, are required to be held in public. For electronic hearings, public attendance should be synchronous with the hearing. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

#### **F-4.2 Hearing Participants**

The Conservation Authorities Act does not provide for third party status at the Hearing. The Hearing however is open to the public. Any information provided by third parties should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff as appropriate.

#### **F-4.3 Attendance of Hearing Board Members**

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member to leave, the remaining members can continue with the Hearing and render a decision, provided quorum is maintained.

#### F-4.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held. While adjourned, members of the Hearing Board shall not discuss the matter that is the subject of the hearing. Any adjournments form part of the hearing record.

#### F-4.5 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix F-6**.

#### F-4.6 Information Presented at Hearings

- a) The *Statutory Powers Procedure Act* requires that a witness be informed of their right to object pursuant to the *Canada Evidence Act*. The *Canada Evidence Act* indicates that a witness shall not be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- c) The Board may authorize receiving a copy rather than the original document. However, the Board can request certified copies of the document if required.
- d) Privileged information, such as solicitor/client correspondence, cannot be heard.
- e) Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- f) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc. or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.
- g) Staff and the Party shall not present new information at the hearing that has not been submitted to the Hearing Board.

#### F-4.7 Conduct of Hearing

##### F-4.7.1 Record of Attending Hearing Board Members

A record should be made of the members of the Hearing Board.

#### F-4.7.2 Opening Remarks

The Hearing Board Chair should convene the hearing with opening remarks which; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the *Canada Evidence Act*. Please reference **Appendices F-7 to F-11** for the Opening Remarks Template. In an electronic hearing, all the parties and members of the Hearing Board must be able to clearly hear one another and any witnesses throughout the hearing.

#### F-4.7.3 Presentation of Authority Staff Information

Staff of the Authority presents the reasons supporting the recommendation for the refusal or conditions of approval of the application, refusal of permit extensions, cancellations or Stop Orders; in addition to providing legislative/regulatory background and case background. Any reports, documents or plans that form part of the presentation should be properly indexed and received.

Staff of the Authority should not submit new technical information at the Hearing as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

Consideration should be given to the designation of one staff member or legal counsel who coordinates the presentation of information on behalf of Authority staff and who asks questions on behalf of Authority staff.

#### F-4.7.4 Presentation of Applicant Information

The applicant or party has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received.

The applicant or party shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beaches, unstable soils or bedrock? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant or party may be represented by legal counsel or agent, if desired.
- The applicant or party may present information to the Board and/or have invited advisors to present information to the Board.
- The applicant/party's presentation may include technical witnesses, such as an engineer, ecologist, hydro-geologist etc.

The applicant should not submit new technical information at the hearing as the

Staff of the Authority will not have had time to review and provide a professional opinion to the Hearing Board.

#### F-4.7.5 Questions

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The applicant and/or party/agent can make any comments or questions on the staff report. Staff will be given an opportunity to respond to questions posed by either the Board or the applicant. Staff may also rebut comments or pose questions to the applicant at this time.

Pursuant to the *Statutory Powers Procedure Act*, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Please note that the courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

#### F-4.7.6 Deliberation

After all the information is presented, the Board may debate and vote in open session or adjourn the hearing and retire in private to confer. The Board may reconvene on the same date or at some later date to advise the applicant of the Board's decision. The Board members shall not discuss the hearing with others prior to the decision of the Board being finalized.

### F-5. DECISION

The applicant must receive written notice of the decision. The applicant should be informed of the right to appeal the decision within 15 days to the Minister and/or 90 days upon receipt of the written decision to the Ontario Land Tribunal.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Board should itemize and record information of particular significance which led to their decision.

Table 2 below summarizes the Hearing Board decision powers in accordance with the Act and O. Reg. 41/24, as well as associated appeal rights for the Party.

**Table 2: Hearing Board Decision Powers and Associated Appeal Mechanisms<sup>2</sup>**

Hearing Scenario	Hearing Board Decision Powers	Appeal Rights

<b>Considering Refusal or Attaching Conditions</b> (Section 28.1 Permit)	(a) Issue the Permit; (b) Issue the Permit subject to conditions; or, (c) Refuse the Permit.	Request Minister's Review within 15 days after receiving Authority's decision (CAA, ss. 28.1 (8)); or,  Appeal to the OLT within 90 days of receiving the Authority's decision (in accordance with CAA requirements) (CAA, ss. 28.1 (20) (21)).
<b>Considering Attaching Conditions</b> (Section 28.1.2 Permit)	(a) Issue the Permit; or, (b) Issue the Permit subject to conditions.	Request Minister's Review within 15 days after receiving Authority's reasons for conditions (CAA, ss. 28.1.2 (9)); or,  Appeal to the OLT within 90 days of receiving the Authority's reasons for conditions (in accordance with CAA requirements) (CAA, ss. 28.1.2(14)(15)).
<b>Considering Cancellation</b> (Section 28.1 or 28.1.1 Permit)	(a) Confirm decision to cancel Permit; (b) Rescind decision to cancel Permit; or, (c) Vary decision to cancel Permit.	Appeal to the OLT within 90 days after receiving the Authority's decision (CAA, ss.28.3(6))
<b>Considering Extension</b> (Section 28.1 or 28.1.2 Permit)	(a) Confirm the refusal of the extension; or, (b) Grant an extension for such period of time as it deems appropriate, as	No appeal mechanism.

	long as the total period of validity of the Permit does not exceed the applicable maximum period specified in O. Reg. 41/24.	
<b>Considering Stop Order</b> (Section 30.4)	<ul style="list-style-type: none"> <li>(a) Confirm the order;</li> <li>(b) Amend the order; or,</li> <li>(c) Remove the order, with or without conditions.</li> </ul>	Appeal to the Minister or a body prescribed by the regulations within 30 days after receiving the Authority's decision (CAA, ss. 30.4(9))

<sup>1</sup> Note: The information presented in this table is a summary. For full details, please review the relevant sections of the *Conservation Authorities Act* and O. Reg. 41/24

### F-5.1 Notice of Decision

The decision notice should include the following information:

- a) The identification of the applicant, property and the subject of the hearing that was the subject of the hearing;
- b) The decision to refuse or approve the application or request. A copy of the Hearing Board resolution should be attached; and,
- c) Written reasons for the decision.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail or other method where confirmation of delivery can be verified.

A sample Notice of Decision and cover letter has been included as **Appendix F-12**. Note that if the decision of the Board is to approve the application or request, the written notice of decision can be included as part of the Permit Cover Letter. An example of Permission Granted through Hearing has been included as **Appendix F-13**.

### F-5.2 Adoption

A resolution advising of the Board's decision and particulars of the decision should be adopted.

## F-6. RECORD

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the Ontario Land Tribunal or Minister (as applicable). The record must include the following:

- a) The application for the permit, Issued Permit, Notice of Cancellation, or Stop Order;.

- b) The Notice of Hearing;
- c) Any orders made by the Board (e.g., for adjournments);
- d) All information received by the Board;
- e) Attendance of Hearing Board members;
- f) The transcript/minutes, if one exists, of the oral presentations made at the hearing;
- g) The decision and reasons for decision of the Board; and,
- h) The Notice of Decision sent to the applicant.

## F-7. HEARINGS UNDER SECTION 28.1.2 CAA

Section 28.1.2 of the Conservation Authorities Act came into force with the Royal Assent of *Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020*. This section applies to any application submitted to an authority under a regulation made under Section 28 of the Act for permission to carry out all or part of a development project associated with an approved Minister's Zoning Order (MZO). For such applications, an Authority must grant permission to the applicant to carry out the activity, provided an MZO has been made by the Minister of Municipal Affairs and Housing, and provided that the authority's regulated area in which the development activity is proposed to take place is not located in the Greenbelt Area designated under section 2 of the Greenbelt Act. A permission which is granted under s.28.1.2 may be subject to conditions as prescribed by the issuing Authority.

Understanding that an Authority must grant permission for applications submitted pursuant to an approved MZO (pending the above-noted conditions are met), hearings for these applications differ from those under Section 28(12) of the Act, in that a hearing cannot be held to determine if a permission should be refused. The Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. Per s.28.1.2 (7) of the Act, the applicant for a permission will be given the opportunity to be heard by the Authority prior to any conditions being attached to the granted permission.

The following table is intended to provide a step-by-step process to conducting hearings required under Section 28.1.2(7) of the Conservation Authorities Act. It is recognized that much of the guidance provided in the body of the Section 28 Hearing Guidelines will be applicable to the s. 28.1.2(7) hearing process. Where processes differ, the table outlines the necessary considerations for the s. 28.1.2(7) processes. Where the processes are the same, the table refers to the appropriate sections of the Section 28(5) hearing guidelines.

**Sections of the Section 28  
Conservation Authorities Act  
Hearing Guidelines**

**Specific Guidance and/or Processes for S. 28.1.2  
(7) Hearings**

## F-2 Purpose of Hearing Guidelines

The *Conservation Authorities Act* requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious conditions. In the case of hearings related to applications submitted pursuant to s. 28.1.2 of the *Conservation Authorities Act*, the Authority must grant permission to the applicant, provided the requirements set out under this section are met. In this scenario, a hearing will only be held to determine conditions which will be attached to a permission.

Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, unstable soils or bedrock, and additional erosion and dynamic beaches. In the case of applications submitted pursuant to s. 28.1.2 of the *Conservation Authorities Act*, the Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. The Hearing Board is empowered by law to make a decision, governed by the *Statutory Powers Procedures Act*.

The Hearing Rules are adopted under the authority of Section 25.1 of the *Statutory Powers Procedures Act* (SPPA). The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority for to establish rules to govern such proceedings.

The Hearing Board shall hear and decide whether the application will be approved with or without

conditions or refused. In the case of hearings related to applications submitted purposed to Section 28.1.2, the Hearing Board shall determine what conditions, if any, will be attached to the permission. See Section G-6 for further details.

These guidelines have been prepared as an update to the October 1992 hearing guidelines and are intended to provide a step-by-step process to conducting hearings required under Section 28.1(5), (7) of the *Conservation Authorities Act*. It is hoped that the guidelines will ensure that hearings meet the legal requirements of the *Statutory Powers Procedures Act* without being unduly legalistic or intimidating to the participants. Additional considerations have been included related to hearings under Section 28.1.2 (7) in Section G-6

F-3 Prehearing Procedures  
F-3.1 Role of the Hearing Board

Not applicable to S.28.1.2(7) hearings

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias.

The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

(a) No member of the Authority taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councillor, the *Municipal Conflict of Interest Act* applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making

- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.
- (c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.
- (d) Where a hearing is required for applications submitted pursuant to s. 28.1.2 of the *Conservation Authorities Act* (e.g., to determine the conditions of the permission), final decisions on the conditions shall not be made until such a time as the applicant has been given the opportunity to attend a hearing.

F-3.2 Application	The right to a hearing arises where staff is recommending refusal of an application or is recommending conditions to the approval of an application. Additionally, in the case of applications submitted pursuant to s. 28.1.2 of the CA Act, the authority shall not attach conditions to a permission unless the applicant has been given an opportunity to be heard by the authority. The applicant is entitled to reasonable notice of the hearing pursuant to the <i>Statutory Powers Procedures Act</i> .
F-3.3 Notice of Hearing	<i>Refer to Section F-3.3</i>
F-3.4 Pre-submission of Reports	<i>Refer to Section F-3.4</i>
F-4.0 Hearing	Not applicable to S.28.1.2(7) hearings
F-4.1 Public Hearing	<i>Refer to Section F-4.1</i>
F-4.2 Hearing participants	<i>Refer to Section F-4.2</i>
F-4.3 Attendance of Hearing Board Members	<i>Refer to Section F-4.3</i>
F-4.4 Adjournments	<i>Refer to Section F-4.4</i>
F-4.5 Orders and Directions	<i>Refer to Section F-4.5</i>
F-4.6 Information Presented at Hearings	<i>Refer to Section F-4.6</i>
F-4.7 Conduct of Hearing	N/A

## APPENDIX G – HEARING GUIDELINES

F-4.7.1 Record of Attending Hearing Board Members	<i>Refer to Section F-4.7.1</i>
F-4.7.2 Opening Remarks	<i>Refer to Section F-4.7.2</i>
F-4.7.3 Presentation of Authority Staff Information	<i>Refer to Section F-4.7.3</i>
F-4.7.4 Presentation of Applicant Information	<i>Refer to Section F-4.7.4</i>
F-4.7.5 Questions	<i>Refer to Section F-4.7.5</i>
F-4.7.6 Deliberation	<i>Refer to Section F-4.7.6</i>
F-5.0 Decision	<i>Refer to Section F-5.0</i>
F-5.1 Notice of Decision	<p>The decision notice should include the following information:</p> <p>(a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.</p> <p>(b) The decision to refuse or approve the application, and in the case of applications under s. 28.1.2 of the CA Act, the decision to approve the application with or without conditions. A copy of the Hearing Board resolution should be attached.</p> <p>It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as <b>Appendix F-12</b>.</p>
F-5.2 Adoption	<i>Refer to section F-5.2</i>
F-6.0 Record	<i>Refer to Section F-6.0</i>
Appendix F-2	A separate Appendix F-2 has been prepared which provides an example “Notice of Hearing” for hearings under Section 28.1.2 (7) of the <i>Conservation Authorities Act</i>
Appendix F-12	Appendix F-12 has been prepared which provides an example “Notice of Decision” for hearings under Section 28.1.2 (7) of the <i>Conservation Authorities Act</i>

**Appendix F-1**

**NOTICE OF HEARING**

**IN THE MATTER OF**

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** an application by XXXXXX

**FOR THE PERMISSION OF THE CONSERVATION AUTHORITY**

Pursuant to Regulations made under Section 28.1, Subsection 5 of the said Act

**TAKE NOTICE THAT** a Hearing before the Full Board of the Lower Trent Region Conservation Authority will be held under Section 28.1, Subsection 5 of the *Conservation Authorities Act* at the offices of the said Authority located at 714 Murray Street, RR #1 Trenton, Ontario K8V 0N1 at the hour of, **on the day of**, 20\_\_\_\_, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by **(NAME)** to permit development within an area regulated by the Authority in order to ensure no adverse effect on **(the control of flooding, erosion, dynamic beaches or unstable soils or bedrock/alter or interfere with a watercourse or wetland)** on Lot, Plan/Lot, Concession, **(Street)** in the City of, Regional Municipality of, River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of **(meeting number)**. If you intend to appear, [for electronic hearings: or if you believe holding the hearing is likely to cause significant prejudice], please contact **(name)**. Written material will be required by **(date)**, to enable the Hearing Board members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the effect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Hearing

## APPENDIX G – HEARING GUIDELINES

Board of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the    day of   , 20  .

The Board of Directors of the Lower Trent Region Conservation Authority

Per:

Staff Member, Title: \_\_\_\_\_

Chief Administration Officer/ Secretary Treasurer: \_\_\_\_\_

**Appendix F-2**

**NOTICE OF HEARING**

**IN THE MATTER OF**

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** an application by XXXXXX

**MADE TO THE Lower Trent Region Conservation Authority**

Pursuant to Regulations made under Section 28.1.2, Subsection 7 of the said Act

**TAKE NOTICE THAT** a Hearing before the Full Board of the Lower Trent Region Conservation Authority will be held under Section 28.1.2, Subsection 7 of the Conservation Authorities Act at the offices of the said Authority located at 714 Murray Street, RR #1 Trenton, Ontario K8V 0N1 at the hour of , **on the day of , 20\_\_\_**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by **(NAME)** to permit development within an area regulated by the Authority in association with a Minister's Zoning Order [REGULATION NUMBER] on Lot , Plan/Lot , Concession, **(Street)** in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of **(meeting number)**. If you intend to appear, [for electronic hearings: or if you believe holding the hearing is likely to cause significant prejudice], please contact **(name)**. Written material will be required by **(date)**, to enable the Hearing Board members to review the material prior to the meeting.

**TAKE NOTICE THAT** pursuant to section 28.1.2, subsection 3 of the *Conservation Authorities Act*, a Conservation Authority is required to grant the permit applied for and may only impose conditions to the permit, provided all legislative requirements are met. The Hearing will therefore focus on the conditions to be imposed to the granting of the permit.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and

## APPENDIX G – HEARING GUIDELINES

cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the effect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Hearing Board of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

DATED the \_\_\_\_ day of , \_\_\_\_ 20 \_\_\_\_.

The Board of Directors of the Lower Trent Region Conservation Authority

Per:

Staff Member, Title: \_\_\_\_\_

Chief Administration Officer/ Secretary Treasurer: \_\_\_\_\_

**Appendix F-3**

**NOTICE OF HEARING**

**IN THE MATTER OF**

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF a STOP ORDER**

**Issued by the Lower Trent Region Conservation Authority**

Pursuant to Regulations made under Section 30.4, Subsection 6 of the said Act

**TAKE NOTICE THAT** a Hearing before the Full Board of the Lower Trent Region Conservation Authority will be held under Section 30.4, Subsection 6 of the *Conservation Authorities Act* at the offices of the said Authority located at 714 Murray Street, RR #1 Trenton, Ontario K8V 0N1 at the hour of , **on the day of** , 20\_\_\_\_, [for electronic hearings, include details about the manner in which the hearing will be held] with **respect to a STOP ORDER issued to [NAME] on {date Stop Order issued}**. The Stop Order requires [NAME] to {stop engaging in or to not engage} in the following activity(ies) on Lot , Plan/Lot , Concession, (*Street*) in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of (*meeting number*). If you intend to appear, [for electronic hearings: or if you believe holding the hearing is likely to cause significant prejudice], please contact (*name*). Written material will be required by (*date*), to enable the Hearing Board members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the effect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Hearing Board of the Conservation Authority may proceed in your absence, and you will not be

## APPENDIX G – HEARING GUIDELINES

entitled to any further notice in the proceedings.

**DATED** the    day of    20  .

The Board of Directors of the Lower Trent Region Conservation Authority

Per:

Staff Member, Title: \_\_\_\_\_

Chief Administration Officer/ Secretary Treasurer: \_\_\_\_\_

**Appendix F-4**

**NOTICE OF HEARING**

**IN THE MATTER OF**

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF CANCELLATION OF PERMIT NUMBER RP-XX-XXX**

**Issued by the Lower Trent Region Conservation Authority**

**Pursuant to Section 28.3, Subsections 2, 3, AND 4 of the said Act**

**TAKE NOTICE THAT** a Hearing before the Full Board of the Lower Trent Region Conservation Authority will be held under Section 28.3, Subsection 4 of the *Conservation Authorities Act* at the offices of the said Authority located at 714 Murray Street, RR #1 Trenton, Ontario K8V 0N1 at the hour of , **on the day of , 20\_\_\_**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the **'Notice of Intent to Cancel Permit Number XX' issued to [NAME] on [DATE] the Intent to Cancel Notice was issued**] that permits development within an area regulated by the Authority on Lot , Plan/Lot , Concession, **(Street)** in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of **(meeting number)**. If you intend to appear, [for electronic hearings: or if you believe holding the hearing is likely to cause significant prejudice], please contact **(name)**. Written material will be required by **(date)**, to enable the Hearing Board members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the effect of any evidence that a witness may give.

## APPENDIX G – HEARING GUIDELINES

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Hearing Board of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the    day of    20  .

The Board of Directors of the Lower Trent Region Conservation Authority

Per:

Staff Member, Title: \_\_\_\_\_

Chief Administration Officer/ Secretary Treasurer: \_\_\_\_\_

**Appendix F-5**

**NOTICE OF HEARING**

**IN THE MATTER OF**

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** refusal of a request for an extension to the period of validity  
for Permit Number ##

Issued by the **Lower Trent Region Conservation Authority**

Pursuant to Section 11, Subsections. 4, 5, AND 6 of Ontario Regulation 41/24,  
made pursuant to Section 40, Subsection 4  
of the said Act

**TAKE NOTICE THAT** a Hearing before the Full Board of the Lower Trent Region Conservation Authority will be held under section 11, subsection 6 of Ontario Regulation 41/24 made pursuant to the *Conservation Authorities Act* at the offices of the said Authority located at 714 Murray Street, RR #1 Trenton, Ontario K8V 0N1 at the hour of, **on the day of**, 20\_\_, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to a 'Request for Permit Extension' for Permit Number XX issued to {NAME} on [DATE] that permits [INSERT PERMITTED DEVELOPMENT ACTIVITIY] on Lot , Plan/Lot , Concession, (*Street*) in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of (*meeting number*). If you intend to appear, [for electronic hearings: or if you believe holding the hearing is likely to cause significant prejudice], please contact (*name*). Written material will be required by (*date*), to enable the Hearing Board members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal

## APPENDIX G – HEARING GUIDELINES

has no knowledge of the effect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Hearing Board of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the    day of,    20  .

The Board of Directors of the Lower Trent Region Conservation Authority

Per:

Staff Member, Title: \_\_\_\_\_

Chief Administration Officer/ Secretary Treasurer: \_\_\_\_\_

## Appendix F--6

### HEARING PROCEDURES

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chair's opening remarks. For electronic hearings, the Chair shall ensure that all parties and the Hearing Board are able to clearly hear one another and any witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the applicant/owner, his agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject matter (permit application, issued permit, stop order, etc.) and the conclusions.
5. Staff will present the staff report included in the Authority agenda.
6. The applicant and/or his party/agent will speak and also make any comments on the staff report, if they so desire.
7. The Hearing Board will allow others to speak, and, if necessary, the applicant in rebuttal.
8. The Hearing Board will question, if necessary, both the staff and the applicant/agent/party.
9. The Hearing Board will move into deliberation. The Hearing Board may also adjourn the hearing and retire in private to confer (i.e., closed session/in-camera). For electronic hearings, the Hearing Board will separate from the other participants.
10. Members of the Hearing Board will move and second a motion.
11. A motion will be carried which will culminate in the decision.
12. The Hearing Board will move out of camera. For electronic meeting, the Hearing Board will reconvene with other participants.
13. The Chair or Acting Chair will advise the owner/applicant/party of the Hearing Board decision.
14. If decision is "to refuse" or "approve with conditions", the Chair or Acting Chair shall notify the owner/applicant of his/her right to appeal the decision to the Minister within 15-days of receiving the decision and/or the Ontario Land Tribunal within 90 days of receipt of the reasons for the decision.
15. Motion to move out of Hearing Board and sit as the Board of Directors.

## Appendix F-7

### CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO Part VI of the Conservation Authorities Act and ONTARIO REGULATION 41/24.

**Date:** Month XX, XXXX

**O.Reg. 41/24:** Permit Application # RP-XX-XXX

**Applicant:** Name

We are now going to conduct a hearing under Section 28.1 of the Conservation Authorities Act in respect of an application by \_\_\_\_\_: , for permission to: \_\_\_\_\_

The Authority has adopted regulations under section 28.1 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse effect on the control of flooding, erosion, dynamic beaches, unstable soils or bedrock, or to permit alteration to a shoreline or watercourse or interference with a wetland. This Hearing is about granting permission to develop under the Authority regulations; a separate matter from approvals under the *Planning Act*.

The Staff has reviewed this proposed work and a copy of the staff report has been given to the applicant.

The Conservation Authorities Act (Section 28.1 [5]) provides that:

“(5) An authority shall not refuse an application for a permit or attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority.”

While holding this hearing, the Hearing Board is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing. It is not our place to suggest alternative development methods.

It is to be noted that if the Hearing Board decision is “to refuse” or not support the proposed work within the permit submission, the Chair or Acting Chair shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunals.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any

## APPENDIX G – HEARING GUIDELINES

question. The procedure in general shall be informal without the evidence before it being given under oath or affirmation.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the Board.

At this time, if any member of this Board has intervened on behalf of the Applicant with regards to this matter, they should recuse themselves so there is no apprehension of bias and that a fair and impartial Hearing may be conducted.

**Appendix F-8**

**HEARING BOARD CHAIR'S REMARKS WHEN DEALING WITH HEARINGS**

**(Section 28.1.2, Subsection 7 of the Conservation Authorities Act)**

**WITH RESPECT TO Part VI of the Conservation Authorities Act and ONTARIO  
REGULATION 41/24**

**Date:** Month XX, XXXX

**O.Reg. 41/24:** Permit Application # RP-XX-XXX

**Applicant:** Name

We are now going to conduct a hearing under section 28.1.2 of the Conservation Authorities Act in respect of an application by \_\_\_\_\_: , for permission to: \_\_\_\_\_

Under Section 28.1.2 of the Conservation Authorities Act, an Authority is required to grant permission for any application submitted under a regulation made under subsection 28.1.2 (1) for permission to carry out all or part of a development project, in an area regulated by the Authority, associated with a Minister's Zoning Order, provided the criteria listed under subsection 28.1.2 (1) are met. A permission is subject to any conditions as may be prescribed by the Authority.

The Staff has reviewed this proposed work and prepared a staff report, including the proposed conditions of approval for the proposed work, which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under Section 28.1.2(7) of the Conservation Authorities Act, the person requesting permission has the right to a hearing before the Authority/ Hearing Board.

In holding this hearing, the Authority Board/ Hearing Board is to determine the prescribed conditions to be attached to the approved permission. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only Information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*. Under Section 5 of the *Canada Evidence Act*, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given

## APPENDIX G – HEARING GUIDELINES

under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the board.

**Appendix F-9****CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS****(Section 30.4, Subsection 6 of the Conservation Authorities Act)****To Consider a Stop Order**

**Date:** Month XX, XXXX

**Stop Order#**

**Appellant:** Name

We are now going to conduct a hearing under section 30.4, subsection 6 of the Conservation Authorities Act in respect to a Stop Order issued to [Party] on [Date], 20XX.

In accordance with section 30.4, subsection 1 of the Act, [NAME] was served with a Stop Order by an officer of the Authority because the officer believed [NAME] [had engaged / was about to engage] in an activity that [has contravened/will contravene] the Act or a regulation made under the Act; and/or the conditions of Permit Number XXX.

Furthermore, the officer believes that the activity [has caused / is likely to cause] significant damage and the damage [affects / is likely to affect] the control of flooding, erosion, dynamic beaches or unstable soil or bedrock and/or in the event of a natural hazard, the damage has created / is likely to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and that, the order will prevent or reduce said damage.

Section 30.4, subsection 6 of the Act requires that a person who is served with a Stop Order be provided with an opportunity to request and attend a hearing before the Authority.

The Staff have prepared a report, a copy of which has been given to the [APPELLANT NAME] and the Board. The [APPELLANT NAME] was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

In accordance with section 30.4, subsection 7 of the Act, after holding the hearing, the Authority shall confirm the order, amend the order, or remove the order with or without conditions. In doing so, we can only consider the information in the form that is before us, the staff report, such evidence as may be given, and the submissions to be made on behalf of [APPELLANT NAME]. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any

## APPENDIX G – HEARING GUIDELINES

witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If [APPELLANT NAME] has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix F-10

### CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS

**(Section 28.3, Subsections 4 of the Conservation Authorities Act)**

#### To Consider the Cancellation of a Permit

**Date:** Month XX, XXXX

**O.Reg. 41/24:** Permit Application # RP-XX-XXX

**Applicant:** Name

We are now going to conduct a hearing under section 28.3, subsection 4 of the Conservation Authorities Act to consider the cancellation of permit number ## issued to [Permit Holder], on [Date], 20XX.

In accordance with section 28.3, subsection 1 of the Act, the Authority notified the permit holder of the intent to cancel permit number ### by [Date], 20## because, it is the opinion of the Authority, the conditions of the permit have not been met; or that the circumstances prescribed by regulation exist (include detail here if applicable).

Section 28.3, subsection 3 of the Act provides that a permit holder may request a hearing within 15 days of receiving the Authority's intent to cancel a permit.

The Staff have prepared a report, a copy of which has been given to the permit holder and the Board. The permit holder was invited to file material in response to the Staff report, a copy of which has also been provided to the Board.

In accordance with section 28.3, subsection 5 of the Act, after holding the hearing, the Authority may confirm, rescind or vary the decision to cancel the permit. In doing so, we can only consider the information in the form that is before us, the Staff report, such evidence as may be given, and the submissions to be made on behalf of the permit holder. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

## APPENDIX G – HEARING GUIDELINES

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the permit holder has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix F-11

### CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS

**(Section 11, Subsection 6 of Ontario Regulation 41/24, made pursuant to Section 40, Subsection 4 of the Conservation Authorities Act)**

#### To Consider an Extension to the Period of Validity of a Permit

**Date:** Month XX, XXXX

**O.Reg. 41/24:** Permit Application # RP-XX-XXX

**Applicant:** Name

We are now going to conduct a hearing under section 11, subsection 6 of Ontario Regulation 41/24, made under section 40, subsection 4 of the Conservation Authorities Act regarding a request for extension of permit number ## issued to [Permit Holder].

Section 11, subsections 4 and 5 of Ontario Regulation 41/24 provides that a permit holder may request a hearing to consider their request to extend the period of validity of a permit issued under section 28.1 or 28.1.2 of the Act within 15 days of receiving notice that the Authority intends to refuse a request for extension.

The Staff have prepared a report, a copy of which has been given to the permit holder and the Board. The permit holder was invited to file material in response to the Staff report, a copy of which has also been provided to the Board.

In accordance with section 11, subsection 7 of the Regulation, after holding the hearing, the Authority may confirm the refusal of the extension or grant an extension for a time deemed appropriate, provided the total period of validity of the permit does not exceed the applicable maximum period of 60 months prescribed by Regulation. In doing so, we can only consider the information in the form that is before us, the Staff report, such evidence as may be given, and the submissions to be made on behalf of the permit holder. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under section 9 of the Evidence Act and section 5 of the Canada Evidence Act, any witness called may object to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

## APPENDIX G – HEARING GUIDELINES

If the permit holder has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## Appendix F-12

**(Date) BY REGISTERED MAIL/ EMAIL**

**(name) , (address)**

Dear:

**RE: NOTICE OF DECISION**

**Hearing Pursuant to Section 28.1(5)/28.1.2(7)/30.4(6) of the Conservation Authorities Act**

**Proposed Residential Development**

**Lot , Plan ; ?? Drive, City of**

**(Application #)**

In accordance with the requirements of the Conservation Authorities Act, the Lower Trent Region Conservation Authority provides the following Notice of Decision:

On **(meeting date and number)**, the Hearing Board of the Lower Trent Region Conservation Authority refused/approved your application/approved your application with conditions. A copy the Board's Resolution # \_\_\_\_\_ has been attached for your records. Please note that this decision is based on the following reasons: **(the proposed development/alteration to a watercourse adversely affects the control of flooding, erosion, dynamic beaches, unstable soils or bedrock.)**

In accordance with Section 28.1 (7) of the Conservation Authorities Act, an applicant who has been refused permission or who objects to conditions imposed on a permission may, within 15 days of receiving the reasons under subsection (7), appeal to the Minister who may refuse the permission; or grant permission, with or without conditions. Additionally, if a decision is not made by the Minister within 30-days after receiving the request, an applicant may appeal the decision to the Ontario Land Tribunal Through Order in Council 332/2018 the responsibility for hearing the appeal has been transferred to the Ontario Land Tribunal. For your information, should you wish to exercise your right to appeal the decision, a letter by you or your agent/counsel setting out your appeal must be sent within 90 days of receiving this decision addressed to:

**For Minister's Review:**

[Hon. Todd McCarthy](#)

[College Park, 5<sup>th</sup> Floor](#)

[777 Bay Street](#)

[Toronto ON M7A 2J3](#)

Phone: 416-314-6790

**For Appeal to Ontario Land Tribunal:**

Ontario Land Tribunal

655 Bay Street, Suite 1500

Toronto ON M5G 1E5

Phone: 416-212-6349 or 866-448-2248

Email: [OLT.General.Inquiry@ontario.ca](mailto:OLT.General.Inquiry@ontario.ca)

## APPENDIX G – HEARING GUIDELINES

Email: [minister.mecp@ontario.ca](mailto:minister.mecp@ontario.ca)

[Information on Filing an Appeal Link](#)

A carbon copy of this letter should also be sent to Lower Trent Region Conservation Authority. Should you require any further information, please do not hesitate to contact **(staff contact)** or the undersigned.

Yours truly,

Chief Administration Officer/ Secretary Treasurer

Enclosure

**Appendix F-13**

Date

FILE #: RP-XX-XXX

PERMIT#: P-XX-XXX

Name of Applicant

Address of Applicant

**ATTENTION: It is important that you read and understand the contents of this letter and ensure that all necessary parties (i.e., landowner(s) and anyone conducting site works) are aware of any special mitigation requirements contained herein.**

RE: Location where Permission Applies

Application for permission to (development, interference and/or alteration) pursuant to Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 - *Prohibited Activities, Exemptions and Permits*

As you are aware, your application to allow for (Proposed development/interference/alteration) on the property noted above was heard and approved by the Lower Trent Region Conservation Authority's (LTC) Hearing Board on Hearing Date. The following resolution was passed (draft resolution for final approval at the upcoming LTC's Board of Directors' meeting – Next Meeting Date):

**RES: HC2/17 Moved by: Board Member      Seconded by: Board Member**  
***THAT the permit application RP-XX-XXX by Applicant for permission (development/interference/alteration) in the (Regulated Area) be approved.***

**Carried**

Please accept this letter as formal notice of the decision of the Hearing Board.

The proposed (development/alteration/interference) is situated within regulated areas associated with (Regulated Area). Attached you will find a copy of Permit No. P-XX-XXX issued for the works noted above in accordance with Ontario Regulation 41/24. The permit has been issued based on the information, plans and specifications submitted with the application as well as your acceptance of the general conditions of approval detailed in the application. The plans and specifications are attached as part of the approved documentation.

The following mitigation measures are expected to be implemented as part of the approval from LTC:

- 1) *Listed Conditions of Permission;*

## APPENDIX G – HEARING GUIDELINES

Should you require any further information, please do not hesitate to contact (*staff contact*) or the undersigned.