

**MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS**

**REGULATORY AND POLICY PROPOSAL CONSULTATION GUIDE:  
Regulations regarding Municipal Levies, Conservation Authority  
Budget Process, Transparency, and Provincial Policy for the Charging  
of Fees by Conservation Authorities**

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# Contents

|   |           |
|---|-----------|
| <b>Purpose</b> .....  | <b>1</b>  |
| <b>Introduction</b> .....   | <b>1</b>  |
| REGULATORY AND POLICY PROPOSALS FOR CONSULTATION .....  | 2         |
| <b>Part 1: Proposed Municipal Levies Regulation</b> .....   | <b>3</b>  |
| BACKGROUND .....  | 3         |
| <i>Municipal Levy Framework</i> .....   | 3         |
| <i>New Legislative And Regulatory Framework</i> .....   | 4         |
| PROPOSAL .....  | 5         |
| <i>Municipal Levy</i> .....   | 5         |
| <i>Conservation Authority Budgeting</i> .....   | 7         |
| <i>Apportionment Methods For Conservation Authority Programs And Services Costs</i> .....   | 9         |
| <b>Part 2: Proposed Minister’s Regulation For Determining Amounts Owed By Specified Municipalities</b> .....  | <b>11</b> |
| BACKGROUND .....  | 11        |
| PROPOSAL .....  | 12        |
| <b>Part 3: Proposal For Minister’s Published List Of Classes Of Programs And Services For Which A Conservation Authority May Charge A Fee</b> ..... | <b>13</b> |
| BACKGROUND .....  | 13        |
| PROPOSAL .....  | 14        |
| <b>Part 4: Complementary Proposals To Increase Transparency Of Authority Operations</b> .....   | <b>17</b> |
| PROPOSAL .....  | 17        |
| <b>Appendix</b> .....   | <b>18</b> |
| CURRENT MUNICIPAL LEVY FRAMEWORK.....   | 18        |
| <i>Current Authority Budget And Municipal Levy Approval Process</i> .....   | 18        |
| <i>Current Annual Authority Budget And Municipal Levy Voting Methods</i> .....  | 18        |
| <i>Current Approach To Apportionment Of Conservation Authority Costs</i> .....  | 19        |

## PURPOSE

The Ministry of the Environment, Conservation and Parks (the “ministry”) is consulting on a second phase of provincial regulatory and policy proposals that would be made under the *Conservation Authorities Act* to ensure that conservation authorities focus and deliver on their core mandate including helping protect people and property from the risk of natural hazards, the conservation and management of conservation authority-owned lands, and their roles in drinking water source protection and to improve governance and oversight in conservation authority operations.

The purpose of this Consultation Guide (guide) is to provide a description of the proposed Phase 2 levy and budget regulations (Lieutenant-Governor-in-Council (LGIC) and Minister’s regulation), provincial policy to be made under the *Conservation Authorities Act*, and complementary regulatory proposals, in order for the ministry to obtain feedback on the proposals. The guide describes the proposals that would inform the drafting of the regulations and associated policy document and is not intended to convey the precise language that would be used in regulation or policy.

Comments on the proposals may be submitted before the date indicated through either the Environmental Registry of Ontario or can be emailed directly to the ministry at [ca.office@ontario.ca](mailto:ca.office@ontario.ca). Comments received will be considered by the ministry when developing the final regulations and policy.

## INTRODUCTION

In 2018, the government made a commitment in its environment plan to collaborate with municipalities and other stakeholders to ensure that conservation authorities focus and deliver on their core mandate.

As part of that commitment, the government made amendments to the *Conservation Authorities Act* through the *More Homes, More Choice Act, 2019* which received Royal Assent on June 6, 2019. Beginning in late 2019, the ministry undertook extensive consultations with municipalities, the public, landowners, development, agricultural, environmental and conservation organizations as well as conservation authorities, about the core role of conservation authorities.

Based on the extensive and valuable feedback received, legislative amendments to the *Conservation Authorities Act* were made through [Bill 229, \*Protect, Support and Recover from COVID-19 Act \(Budget Measures\), 2020\*](#) which received Royal Assent on December 8, 2020.

The government is proclaiming unproclaimed provisions in the *Conservation Authorities Act* (stemming from amendments made in 2017, 2019, and 2020) through a staged process enabling a staggered rollout of regulations and policies in two phases.

The first stage of proclamations occurred on February 2, 2021 and included housekeeping amendments as well as provisions related to conservation authority governance, government requirements and the Minister of the Environment, Conservation and Parks powers. These were followed by the first phase of regulatory proposals posted to the Environmental Registry of Ontario and Ontario's Regulatory Registry for comment for 45-days from May 13 to June 27, 2021.

Following extensive consultation, the final regulations were filed on October 1, 2021 when the enabling provisions in the *Conservation Authorities Act* were proclaimed.

More information on the recently proclaimed provisions and approved regulations can be found via <https://ero.ontario.ca/notice/019-2986>.

## REGULATORY AND POLICY PROPOSALS FOR CONSULTATION

The proposals in this guide for consultation are to support development of the following:

1. LGIC regulation governing the apportionment by conservation authorities of their capital costs and operating expenses to be paid by their participating municipalities through municipal levies, as well as related conservation authority budgetary matters, including requirements that conservation authorities distribute their draft and final budgets to relevant municipalities and make them publicly available – i.e. “Municipal Levies Regulation”.
2. Minister's regulation governing the determination by a conservation authority of costs owed by specified municipalities for the authority's mandatory programs and services under the *Clean Water Act, 2006*, and the *Lake Simcoe Protection Act, 2008* – i.e. “Minister's regulation for determining amounts owed by specified municipalities”.
3. Minister's published list of classes of programs and services in respect of which a conservation authority may charge a user fee.
4. Complementary regulations to increase transparency of authority operations.

Until the levy regulations and policy proposals noted above are finalized and in effect and the associated legislative provisions proclaimed into force, conservation authorities and municipalities would continue to follow current levy and budgeting processes, as well as the current list of eligible user fees set out in provincial policy. The schedule of timing for the effective date of these proposed regulations and provincial policy is proposed to align with municipal and conservation authority calendar year budget cycles, beginning January 1, 2023. This would ensure that conservation authority 2024 budgets and levy processes would follow the updated regulations, and conservation authorities would have the necessary time to satisfy the legislative requirements following the Minister's publication of the list of classes of programs and services for which an authority may charge a user fee.

# PART 1: PROPOSED MUNICIPAL LEVIES REGULATION

## BACKGROUND

### MUNICIPAL LEVY FRAMEWORK

The province established conservation authorities through the *Conservation Authorities Act* based on resolutions by municipalities within a common watershed to address provincial and cross-municipal boundary interests in resource management, principally for water and natural hazard management.

The participating municipalities who petitioned for or later joined a conservation authority were agreeing to appoint their share of representative members to the authority, with the collective membership being the authority.

Municipalities also were agreeing to finance the conservation authority which, under the *Conservation Authorities Act*, must be done through the levy provisions. This Act enabled municipalities to take advantage of cost sharing through joint municipal funding of the conservation authority and its programs, services and projects (e.g., flood control infrastructure) that provide economic benefits, including through the protection of people and property.

A 'levy' is a compulsory financial charge on participating municipalities. Under the *Conservation Authorities Act*, an authority has the power to charge the participating municipalities for its operating expenses and capital costs if not funded by other revenue sources. The municipal levy provisions under the Act provide that the authority can determine the amount of levy required for expenses/costs and can apportion an amount of the total to each participating municipality as prescribed in the regulation. The levy under the Act is a debt due by the participating or specified municipalities to the authority and may be enforced by the authority as such.

Un-proclaimed provisions under the Act will, once proclaimed, continue to provide participating municipalities with the ability to appeal to the Ontario Land Tribunal regarding levy apportionments. Participating municipalities also have an opportunity to provide direct input into the authority annual municipal levy and authority budget.

Current legislation, regulations and provincial policy provide direction to the authorities and municipalities on the annual conservation authority budget process. The budget process also determines the total municipal levy required to be paid and how each type of authority cost can be apportioned among the participating municipalities based on the benefit each such municipality receives (or derives) from the costs. The *Conservation Authorities Act* provides that a conservation authority can determine the total benefit afforded to all the participating municipalities and the proportion of the benefit afforded to each of the participating municipalities (clause 21(1)(h)).

In 2019, participating municipalities provided over \$231 million to their conservation authorities through municipal levies (general and special project levies) under the *Conservation Authorities Act*. Municipal levies, the principal source of conservation authority funding, accounted for 56.6% of total authority revenue in 2019 with authority self-generated revenue accounting for 33.6%. Self-generated revenue could include cash raised through fees, such as user fees for park admissions, permitting fees, nature centre programs or stewardship services. Other revenue sources included provincial grants (6%) and federal grants (3.8%) (Conservation Ontario 2019 statistics).

Given the varying scope of programs and services each of the 36 conservation authorities provide and the size of their annual budgets to support those programs and services, each has a different makeup of revenue sources to finance their operations. For example, one authority may finance up to 81% of its annual operations through the municipal levy while another may only rely on the municipal levy for 28% of their budget, with the rest covered through other sources including self-generated revenue or provincial and federal grants (2019 conservation authority statistics).

Please see the Appendix for more information on the current municipal levy framework.

## NEW LEGISLATIVE AND REGULATORY FRAMEWORK

With the proclamation of recent amendments made to the *Conservation Authorities Act* and newly approved regulations (Environmental Registry of Ontario notice number [019-2986](#)) made under this Act, the ministry is reviewing the current municipal levy context. Unproclaimed amendments to the *Conservation Authorities Act* would replace the existing municipal levy provisions with new levy provisions, once proclaimed, and would be supported by proposed regulations intended to bring the municipal levy framework into alignment with the new legislative and regulatory framework.

The new legislative amendments and corresponding regulations now require the categorization of conservation authority programs and services into three categories: category 1 (those programs and services every conservation authority is required to provide), category 2 (programs and services a municipality requests the conservation authority to undertake pursuant to a memorandum of understanding or agreement) and category 3 (programs and services the authority decides to adopt to further the purposes of the Act).

Category 1 mandatory programs and services that conservation authorities must now deliver pursuant to [O. Reg. 686/21: "Mandatory Programs and Services."](#) may be funded by provincial grants and, in some cases, conservation authority self-generated revenue (e.g., user fees, resource development). Where such revenue sources cannot finance the entire cost of these programs and services, under the unproclaimed levy provisions, a conservation authority will have the authority to levy their participating municipalities to finance these mandatory programs and services without any separate agreement. Most of the mandatory programs and services reflect long-standing programs and services that all 36 CAs have provided within their areas of jurisdiction.

Category 2 programs and services are those that a conservation authority delivers at the request of and on behalf of one or more municipalities (i.e., are municipally requested). Under the *Conservation Authorities Act*, a memorandum of understanding or service level agreement (or other similar agreement) between the parties is required and would describe the program(s) or service(s) to be delivered and will include provisions for how it is funded, where appropriate. Funding for such programs and services could be through special project levy and/or combined with user fees, or by other means as may be specified in the agreement if the municipality is not a participating or specified municipality. The ability for municipalities to request programs and services to be delivered by authorities on behalf of the municipalities is fundamental in the *Conservation Authorities Act* and long standing in authority budgets.

Category 3 programs and services are those a conservation authority determines are advisable to deliver in their area of jurisdiction (authority determined). For a conservation authority to levy for these programs and services, the authority must have cost apportioning agreements in place with the participating municipalities who have individually agreed to fund the programs and services. This requirement for participating municipalities to decide on funding category 3 programs and services and then enter into a cost apportioning agreement where the municipal levy is proposed to be used, is new to the funding and programming relationship between conservation authorities and participating municipalities. Cost apportioning agreements need to be in place as of January 1, 2024, for authorities to be able to levy for these category 3 programs and services as per the recently approved [O. Reg. 687/21 “Transition Plans and Agreements Regulation”](#).

## PROPOSAL

### MUNICIPAL LEVY

Unproclaimed provisions of the *Conservation Authorities Act* provide for legislative changes to the current levy provisions to reflect the changes stemming from the new categorization of programs and services and provide for an enhanced LGIC “Municipal Levies” Regulation to replace existing LGIC levy regulations (O. Reg. 670/00 “Conservation Authority Levies”; Ontario Regulation 139/96 “Municipal Levies”).

We are proposing to proclaim unproclaimed provisions of the *Conservation Authorities Act* that provide expanded regulatory authority for the LGIC to develop regulations which will govern the apportionment of the authority ‘operating expenses’ and ‘capital costs’ and conservation authority budgetary matters in general. ‘Operating expenses’ are defined in the *Conservation Authorities Act* and includes salaries of authority staff, per diems of authority members, rent and other office costs, program expenses, and costs related to the operation or maintenance of a project, and authority budgets break down these types of costs.

In order to safeguard the effective and timely transition of conservation authority operations to the new funding framework, we are proposing as part of this new Municipal Levies Regulation to apply the long practised municipal levy processes to the changed municipal levy context by:

- Maintaining consistency with current budget and municipal levy processes (i.e., budget, voting and apportionment methods as described in this guide).
- Using and adapting existing voting and apportionment methods and practices set out in current regulations or provincial policy.

Please see the Appendix for more details on the current municipal levy voting and apportionment methods.

The overall proposed approach in general is to provide direction as well as clarification where required while ensuring conservation authorities and municipalities have the necessary flexibility to respond to local circumstances. For example, for category 3 programs and services where an authority and participating municipalities are entering into cost apportioning agreements, these agreements could be with one, some or all municipalities and could use different apportioning methods on a case by case basis.

As a result, we propose that the Municipal Levies Regulation would:

- Incorporate the two current levies regulations (O. Reg. 670/00 “Conservation Authority Levies”; O. Reg. 139/96 “Municipal Levies”) and update as appropriate, including terminology such as ‘general levy’, ‘special project levy’, and removing ‘matching’, and ‘non-matching’ levy (see appendix for definitions).
- Incorporate the standards and policy for the authority budget process as currently set out in regulation and provincial policy. This is summarized in Table 1 below.

The intent is to ensure clear, consistent and transparent practice by the authorities and municipalities in the annual budget and municipal levy process and approval, and in the authority apportionment of project capital costs and operating expenses, including corporate administrative costs, to participating municipalities.

Additionally, we propose that the Municipal Levies Regulation would include:

- The two existing voting methods (i.e., the ‘one member, one vote’ and ‘weighted vote’, as set out in current legislation and regulation).
- The three current methods of apportioning expenses/costs (i.e., modified current property value assessment, agreement of the authority and participating municipalities, and as decided by the authority), while adapting the appropriate use of the apportionment and voting methods to the categories of programs and services where costs may be apportioned among all participating municipalities or to one or some.

See the Appendix for a summary of the current voting methods and methods for apportioning expenses/costs.

## CONSERVATION AUTHORITY BUDGETING

The total annual municipal levy amount is confirmed with the approval of the annual authority budget by the authority (the members) at the annual budget meeting.

Unproclaimed provisions provide the LGIC with regulatory authority to develop regulations that govern conservation authority budget matters including the process authorities must follow when preparing a budget, the consultations required, and the rules and procedures governing budget meetings including quorum for these meetings and voting on the budget.

Current budget processes that the authorities and participating municipalities have developed at the local level are based on a mix of legislation, regulation, policy and guidance, and appears generally to function well and often leads to unanimous approval of the authority budget.

We propose to update and consolidate current regulation, policy and guidance for the budget, where relevant, into the proposed Municipal Levies Regulation. We propose to leave the working relationship for authorities and municipalities to develop, and they can coordinate and communicate their fiscal and budgetary timelines and expectations. The proposed regulation would include what is in the current O. Reg. 139/96 "Municipal Levies", such as the items provided in Table 1 (i.e., methods of voting and notice).

In addition, it is proposed that as part of the consultation process on the budget with the participating municipalities, conservation authorities would be required to provide a summary of how the authority considered opportunities for self-generated revenue. We know that many conservation authorities provide valuable programs and services that are important to their local communities. These may be funded in whole or in part by self-generated revenue including from contracts with other organizations and user-generated fees or through other means. A greater reliance on self-generated revenue can reduce demands on the overall municipal levy and respect taxpayer dollars. Self-generated revenue can also come from resource development (e.g. logging, hydroelectric generation), fundraising and donations, services such as weddings and other events, as well as other rental / leasing opportunities such as for movie productions.

To enable full transparency in the conservation authority budget process, we are also proposing that the LGIC regulation would require each conservation authority to:

- 1) Publicly post its full draft budget, including the details related to operating and capital costs, on its website, irrespective of sources of revenue. This shall be done upon circulation to the municipality a minimum of 30 days prior to the meeting to decide any municipal levy component of the budget.
- 2) Distribute a copy of the final approved conservation authority budget to the Minister and its participating municipalities; and, make the final budget available

to the public by posting on its website and any other means the authority deems appropriate.

**Table 1. Elements of the proposed conservation authority budget process to be included in the proposed Municipal Levies Regulation.**

| Conservation Authority Budget            | Description   |
|--|---|
| <p><b>1. Draft Annual Budget</b></p>     | <p>Process:</p> <ul style="list-style-type: none"> <li>• Conservation authority staff prepare draft budgets each year including proposed municipal levy amounts (general and special project levies) and apportionments. The overall budget addresses all anticipated revenues and expenditures for the core mandatory programs and services and local priorities (category 2 and 3) as well as corporate costs.</li> <li>• Budgets are set based on the experience from the previous year, staff recommendations to address current priorities, and authority member input and direction.</li> <li>• An authority and participating municipalities coordinate and communicate with each other their fiscal and budgetary timelines and expectations for the municipal levy and for the budget.</li> <li>• The draft preliminary authority budget is circulated to participating municipalities and upon circulation, the authority would be required to publicly post the draft budget to its website a minimum of 30 days before a vote on the final budget by the municipally appointed members.</li> <li>• NOTE: this proposal aligns with current provincial policy.</li> </ul> <p>Vote:</p> <ul style="list-style-type: none"> <li>• The authority (i.e. the members) vote to approve the draft preliminary budget for circulation to the participating municipalities by one member/one vote (i.e., each member is entitled to one vote per subsection 16(1) of the <i>Conservation Authorities Act</i>).</li> </ul> |
| <p><b>2. Notification of Meeting</b></p> | <ul style="list-style-type: none"> <li>• Minimum 30 days' notice given to participating municipalities of the conservation authority meeting to decide on the municipal levy component of the annual budget (generally held at the meeting to approve the annual budget).</li> <li>• Notice must contain the amount of the municipal levy to be voted on and be accompanied by the financial information used to determine the levy, including the full draft authority budget which includes all operating and capital costs.</li> <li>• NOTE: this proposal aligns with requirements set out in the current Municipal Levies Regulation and provincial policy.</li> <li>• In addition, it is proposed that the conservation authority must provide a summary of how the authority considered opportunities</li> </ul>   |

|                               |   |
|-------------------------------|---|
|                               | for self-generated revenue as part of the consultation process with participating municipalities on the budget and the levy.  |
| <b>3. Municipal Levy Vote</b> | <ul style="list-style-type: none"> <li>• The municipal levy part of the authority budget includes both the general and special project levies, and would continue to be approved by a ‘weighted’ majority vote of 51% of all the members present at the meeting for the levy vote (generally also the meeting for the budget vote), as set out in current regulations.</li> <li>• Member votes are ‘weighted’ by the percentage of municipal levy their appointing municipality pays to the authority (‘pay for say’ principle).</li> <li>• A municipality cannot have a weighted vote of its members exceeding 50% of all the weighted votes unless that municipality has more than 50% of the members in the authority.</li> <li>• When a member represents more than one municipality, each of their weighted votes would be based on the respective municipal weighting.</li> <li>• Municipal levy vote is a recorded vote. No proxy vote.</li> <li>• NOTE: this proposal aligns with requirements set out in the current Municipal Levies Regulation and provincial policy.</li> </ul> |
| <b>4. Budget Vote</b>         | <ul style="list-style-type: none"> <li>• Proposal is to provide the two voting options: <ul style="list-style-type: none"> <li>○ Each member is entitled to one vote.</li> <li>○ The member vote is ‘weighted’ (as noted above).</li> </ul> </li> <li>• The budget vote is a recorded vote. No proxy vote.</li> <li>• NOTE: this proposal aligns with current practices, where some authorities use the one member/one vote while others use the ‘weighted vote’.</li> </ul>  |
| <b>5. Final Budget</b>        | <ul style="list-style-type: none"> <li>• The conservation authority would distribute a copy of the final approved conservation authority budget to the Minister and its participating municipalities and would be required to make the final budget publicly available by posting it on their website in a timely manner and by any other means the authority considers advisable.</li> <li>• NOTE: this proposal aligns with current practices of many conservation authorities.</li> </ul>  |

## APPORTIONMENT METHODS FOR CONSERVATION AUTHORITY PROGRAMS AND SERVICES COSTS

Conservation authorities will be able to levy for all category 1 mandatory programs and services, and only levy for category 2 and 3 programs and services with memorandums of understanding or service level agreements (or other similar agreement) or cost apportioning agreements in place. It would be required that the conservation authority budget clearly show these programs and services categories and detailed associated cost apportionment method for the municipal levy among the participating municipalities for each going forward.

As noted above, we are proposing to provide direction on the methods available to conservation authorities to apportion 'capital costs' and 'operating expenses' while enabling flexibility in determining which method meets local needs.

### Category 1 Mandatory Programs and Services

Apportionment of 'operating expenses' and 'capital costs' of mandatory programs and services and the voting on the municipal levies for these programs and services is not proposed to change significantly from the current levy requirements. For the most part, the prescribed mandatory programs and services have been delivered by conservation authorities for many years, paid for (in whole or part) through the municipal levy.

'Operating expenses' for mandatory programs and services are proposed to be apportioned against all the participating municipalities using the modified current property value assessment method as set out in the current O. Reg. 670/00 "Conservation Authority Levies." However, where there may be operating expenses that do not apply to all participating municipalities (e.g., ice management, certain types of infrastructure operation and maintenance costs) it is proposed that those operating expenses may be apportioned by agreement of the authority and participating municipalities, or as decided by the authority, rather than the modified current property value assessment method.

Currently maintenance costs may be apportioned using two of the methods (i.e., modified current property value assessment or agreement of the authority and participating municipalities). It is proposed that capital costs would still be apportioned by any of the three of the current apportionment methods.

### Category 2 and 3 Programs and Services

We propose that the apportionment method(s) used for costs/expenses related to category 2 and 3 programs and services would provide flexibility, allowing the conservation authority and its participating municipalities to decide the method to use, which must be set out in an agreement (e.g., memorandum of understanding or service level agreement (or other such agreement) for category 2, or cost apportioning agreement for category 3). This would likely be dependent on the benefit afforded or derived by a municipality from the program or service relative to other participating municipalities funding the program or service and how many participating municipalities may be involved.

### Conservation Authority Corporate Administrative Costs (costs not directly related to the delivery of programs and services)

In order to successfully deliver all categories of programs and services, conservation authorities have ongoing 'operating expenses' and 'capital costs' to function effectively as an organization and ensure they can best deliver their programs and services. These

on-going 'corporate administrative' costs are not directly related to the delivery of any specific program or service and are costs to maintain the organization itself.

These costs could include for example: staffing and expenses for the authority members (governance costs), general management, clerical, financial (e.g., accounting, payroll), general asset management planning, IT staff, senior management costs, legal costs (e.g. 'back office functions'), office equipment and supplies including IT, vehicles and machinery, workshop space, main office occupancy costs (e.g., heating, utilities, potentially rent), depreciation on owned buildings and equipment, main office maintenance, repair as well as insurance and property taxes.

These corporate administrative costs do not require a memorandum of understanding or service level agreement (or other similar agreement) or cost apportioning agreement with a participating municipality for an authority to levy for these costs. We are proposing that these costs be included in the Municipal Levies Regulation and accounted for in a transparent, detailed and stand-alone manner in the authority's draft and approved budgets.

Unproclaimed provisions in the *Conservation Authorities Act* would also continue, once proclaimed, to enable a conservation authority to apportion a minimum levy for operating expenses to a participating municipality. The unproclaimed term 'operating expenses' under the Act includes corporate administrative costs as well operating costs of programs and services.

## PART 2: PROPOSED MINISTER'S REGULATION FOR DETERMINING AMOUNTS OWED BY SPECIFIED MUNICIPALITIES

### BACKGROUND

Recent changes to the *Conservation Authorities Act* include unproclaimed provisions that, once proclaimed, would allow conservation authorities to levy participating municipalities and 'specified municipalities' for the mandatory programs and services related to authority responsibilities under the *Clean Water Act, 2006* and for the Lake Simcoe Region Conservation Authority mandatory policy implementation under the *Lake Simcoe Protection Act, 2008*.

A 'specified municipality' is a municipality designated by regulation for a source protection authority/area under the *Clean Water Act, 2006* or designated under a regulation of the *Lake Simcoe Protection Act, 2008* as a municipality in the Lake Simcoe Region Conservation Authority; however, a specified municipality is not a participating municipality of a conservation authority under the *Conservation Authorities Act*. In other words, a specified municipality is a municipality or part of a municipality that did not join a conservation authority under the *Conservation Authorities Act* and is geographically

outside of any conservation authority area of jurisdiction under the *Conservation Authorities Act*.

The *Conservation Authorities Act* provides the Minister of the Environment, Conservation and Parks with regulatory authority to govern the determination of amounts owed by any of the specified municipalities for the programs and services an authority provides in respect of the *Clean Water Act, 2006* and the *Lake Simcoe Protection Act, 2008*.

We are proposing to proclaim the unproclaimed provisions in the *Conservation Authorities Act* related to the municipal levy and those related specifically to these other Acts.

No change is anticipated to the provincial funding for the drinking water source protection program under the *Clean Water Act, 2006* or *Lake Simcoe Protection Act, 2008*.

The unproclaimed provision (subsection 27.2(2)) of the *Conservation Authorities Act* would enable, once proclaimed, conservation authorities to determine amounts owed by any of its specified municipalities in connection with the mandatory programs and services the authority provides in respect of the *Clean Water Act, 2006* and *Lake Simcoe Protection Act, 2008* as set out in O. Reg. 686/21 "Mandatory Programs and Services Regulation."

## PROPOSAL

For the proposed Minister's regulation with respect to determining amounts owed by specified municipalities related to the programs and services under the *Clean Water Act 2006* and the *Lake Simcoe Protection Act, 2008*, as set out in the Mandatory Programs and Services Regulation, we propose to:

- clearly identify the specified municipalities for each of these Acts; and
- identify the methods available for conservation authorities to determine the costs that the specified municipalities may need to pay, including a process of engagement with and integration of the specified municipalities with the participating municipalities into the levy and budget process for the costs associated with these two mandatory programs and services, as set out in the LGIC regulation.

For the levy of participating and 'specified' municipalities under the *Lake Simcoe Protection Act, 2008*, the ministry is proposing that the modified current property value assessment method be the method for apportionment. It is anticipated that this would primarily cover operating expenses for the implementation of the mandatory Lake Simcoe Protection Plan policies by the Lake Simcoe Region Conservation Authority.

For the levy of participating and 'specified' municipalities for programs and services provided by a conservation authority in respect of the *Clean Water Act, 2006*, all three

apportionment methods are being proposed (i.e., modified current property value assessment, agreement of the authority and municipalities, and as decided by the authority). This is intended to enable flexibility for the local circumstances in each source protection area, with apportionment, if needed, taking into consideration the extent of risk to sources of drinking water in each municipality. The consideration of risk may involve assessing different agreed upon criteria (e.g., number of municipal drinking water systems, extent of wellhead protection areas and intake protection zones with significant drinking water threats).

The process for engaging specified municipalities on levies under the *Lake Simcoe Protection Act, 2008* and *Clean Water Act, 2006* is proposed to be similar to the levy process and budget process for participating municipalities under the *Conservation Authorities Act* (see Table 1, including the requirement for a minimum of 30 days' notice of the levy vote, distribution of the draft budget to the specified municipalities and public posting of the draft budget to the authority's website upon circulation of it to the specified municipalities). Voting on these levies is proposed to occur with both appointed members from the participating and specified municipalities together and the member vote on the municipal levy for these programs and services is "weighted" by the amount of levy for these mandatory programs and services the municipality pays to the authority. In addition, it is proposed that a copy of the final conservation authority budget be distributed to the specified municipalities, in addition to the Minister and the participating municipalities.

## PART 3: PROPOSAL FOR MINISTER'S PUBLISHED LIST OF CLASSES OF PROGRAMS AND SERVICES FOR WHICH A CONSERVATION AUTHORITY MAY CHARGE A FEE

### BACKGROUND

The current clause 21(1)(m.1) of the *Conservation Authorities Act* provides conservation authorities with the ability to charge fees for services that are approved by the Minister. The Minister approved list of services that conservation authorities may charge a fee for that is currently in effect is set out in the provincial *Policies and Procedures for the Charging of Conservation Authority Fees* (June 13, 1997) and includes section 28 permit fees, plan review, response to legal, real estate and public inquiries, extension services (e.g., technical advice / implementation of erosion control measures, forest management / tree planting), information and education services, and sale of products.

Also, in addition to the services the Minister approved for the charging of fees, under *Conservation Authorities Act* clause 21(1)(m), conservation authorities may charge admission for the use of lands that they own or control and to their building and facilities on that land for recreational purposes.

## PROPOSAL

We are proposing to proclaim s. 21.2 of the *Conservation Authorities Act*, which provides that the Minister may determine a list of 'classes of programs and services' that a conservation authority may charge a fee for, publish this list and distribute it to each conservation authority. An authority would be permitted to charge a fee for a program or service only if it is set out in the Minister's list of classes of programs and services. Once a conservation authority is granted the power to charge a fee for a program and service, the authority may determine the fee amount to charge.

The proclamation of s. 21.2 would ensure that a conservation authority administers fees in a transparent and accountable manner. For example, it would require a conservation authority to adopt and publish a written fee policy and fee schedule that lists the programs and services for which it charges a fee and the amount to be charged. If an authority makes changes to its fee schedule, it would be required to notify the public. The section also requires a conservation authority to set out the frequency with which the authority will conduct a review of its fee policy, including its fee schedule, the process for carrying out a review of the policy, including giving notice of the review and how the policy will be changed as a result of a review, and the circumstances and procedures under which any person may request the authority to reconsider a fee that was charged to the person.

In addition, a conservation authority would be required to reconsider a fee at the request of any person who finds that a fee the authority has charged is contrary to their fee schedule or excessive in relation to the program or service for which it was charged. After being requested to reconsider a fee, the authority may either vary the amount of the fee to be charged to an amount the authority considers appropriate, order that no fee be charged or confirm the original amount of the fee.

The Minister's classes of programs and services for which conservation authorities may charge fees captures 'user' fees - i.e., fees paid by a person or organization who requests a service they specifically benefit from. This includes use of a public resource (e.g., park access or facility rental) or the privilege to do something (e.g., receive an approval through a permit or an approval to undertake a regulated activity). The 'user' pay principle is considered appropriate when a program or service is delivered by a conservation authority to a requestor that is the primary beneficiary of the program or service. Conversely, the principle holds that those who do not benefit from the delivery of a program or service should not be obliged to pay. For these types of programs and services, such as the delivery of programs and services by the conservation authority that generate a public good or service, the municipal levy is the primary mechanism to fund conservation authorities.

The Minister's list of classes of programs and services is not however meant to capture fees for programs and services that are already enabled under other legislation. For example, North Bay-Mattawa Conservation Authority may charge a fee to administer on-site sewage systems approvals as prescribed in the *Building Code Act, 1992*. Since the

ability to charge this fee is already enabled through another statute, it is not proposed to be listed in the published list of classes of programs and services for which a conservation authority may charge a fee under the unproclaimed s. 21.2 of the *Conservation Authorities Act*. Similarly, where conservation authorities have been delegated by municipalities the role of a risk management official under the *Clean Water Act, 2006*, they may charge a fee for this role as set out by that Act; this fee will not be listed in the proposed Minister’s list of classes for which a conservation authority may charge a fee.

Once subsection 29(1) of the *Conservation Authorities Act* is proclaimed and [O. Reg. 688/21 “Rules of Conduct in Conservation Authorities”](#) is in effect, the current authority for conservation authorities to charge fees under subsection 29(1) would be repealed and a conservation authority’s ability to make such regulations would be transferred to the Minister. However, since the new Minister’s section 29 regulation does not prescribe any fees, the power to impose fees will depend on the Minister’s list of classes of programs and services that conservation authorities can charge a fee for, in amounts that the conservation authority may determine, under section 21.2 of the Act. This would affect the charging of fees by authorities for permits required to engage in activities on conservation authority owned or controlled lands, such as camping permits, and for the use (i.e. rental) of conservation authority property including vehicles, boats, recreational facilities and services.

It is recognized that continuing to enable user fees can increase opportunities for a conservation authority to generate their own revenue as well as reduce the overall municipal levy, respecting taxpayer dollars. We are proposing to continue to enable conservation authorities to charge fees where the user-pay principle applies and that the following be the published list of classes of programs and services that conservation authorities may charge fees for:

**Table 2. Proposed classes of programs and services for which a conservation authority may charge a fee.**

| List of Classes                            | Qualifications   |
|--|--|
| Category 1 Mandatory programs and services | <p>All mandatory programs and services where the following requirement is met:</p> <ul style="list-style-type: none"> <li>• Where the ‘user’ pay principle is appropriate such as:               <ul style="list-style-type: none"> <li>– Administration of s. 28 permits (current s. 28 and proposed s. 28.1, including technical advice and studies)</li> <li>– Responses to legal, real estate and public inquiries regarding a s. 28 permit</li> <li>– s. 29 regulation activities</li> <li>– Review of applications under other legislation</li> <li>– Access to authority owned or controlled land for passive recreation</li> </ul> </li> </ul> |

|   |  |
|---|--|
| <p>Category 2 programs and services – i.e. those requested by municipalities and requiring a memorandum of understanding or service level agreement (or other similar agreement).</p> | <p>All Category 2 programs and services where the following requirements are met:</p> <ul style="list-style-type: none"> <li>• Where the ‘user’ pay principle is appropriate <b>and</b></li> <li>• Provisions for the charging of fees are set out in the memorandum of understanding or service level agreement (or other similar agreement) between the authority and municipality(ies) for these programs and services.</li> </ul> <p>Examples may include commenting on <i>Planning Act</i> applications for matters other than natural hazards, such as for consistency with natural heritage policies.</p>   |
| <p>Category 3 authority determined programs and services <u>with</u> cost apportioning agreement with participating municipalities</p>  | <p>All Category 3 programs and services requiring a cost apportioning agreement where the following requirements are met:</p> <ul style="list-style-type: none"> <li>• Where the ‘user’ pay principle is appropriate <b>and</b></li> <li>• Provisions for the charging of fees are set out in the cost apportioning agreement<sup>1</sup> between the authority and the participating municipality(ies) for the program and service.</li> </ul> <p>Examples may include stewardship extension services that are partially funded by municipal levy.</p> <p>Exception to the requirement for provisions to charge fees in the agreement is where the cost apportioning agreement is to fund: i) category 3 park or non-passive recreational programs and services offered by conservation authorities on authority owned or controlled land that are funded in part by the municipal levy (for example, for public access and use (rental) of authority land, facilities and services such as active recreation and equipment rentals) or, ii) community relations, information and education as well as product sales. An authority would be able to charge a fee as appropriate in this case.</p> |
| <p>Category 3 authority determined programs and services <u>without</u> cost apportioning agreement</p>   | <p>All Category 3 programs and services with no cost apportioning municipal agreement (i.e., no levy required), where the ‘user’ pay principle is appropriate, such as:</p> <ul style="list-style-type: none"> <li>• Programs and services offered by conservation authorities on authority owned or controlled land (for</li> </ul>   |

<sup>1</sup> To support this proposed fee class, amendments to [O. Reg. 687/21 “Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act”](#) are proposed to allow a participating municipality and conservation authority to determine where user fees can be established for those programs and services.

|  |   |
|--|---|
|  | <p>example, public access and use (rental) of authority land, facilities and services such as active recreation).</p> <ul style="list-style-type: none"> <li>• Sale of products from on or off authority owned land.</li> <li>• Provision of community relations / information / education services when on or not on conservation authority owned land.</li> </ul> |
|--|---|

## PART 4: COMPLEMENTARY PROPOSALS TO INCREASE TRANSPARENCY OF AUTHORITY OPERATIONS

### PROPOSAL

Complementary regulations are proposed to increase transparency of conservation authority operations. Specifically, the proposed Minister’s list of fee classes would enable fees for category 3 programs and services where a cost apportioning agreement is in place for a program or service if the ‘user’ pay principle is appropriate and provisions for the charging of fees are set out in the cost apportioning agreement between the authority and the participating municipality as noted in the Table above, including the proposed exception. To support this proposed Minister’s fee class, amendments to [O. Reg. 687/21 “Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act”](#) are proposed to allow a participating municipality and conservation authority to determine, through agreement, if user fees can be established for those programs and services. Requiring conservation authorities and participating municipalities to include provisions in the cost apportioning agreements increases transparency of user fees.

We are proposing through a Minister’s regulation that conservation authorities be required to maintain a *Governance* section on their website in a conspicuous and easily accessible location for the public to access key information. This section must include the conservation authority membership with email and phone contact information; authority bylaws; draft and final budgets; category 2 and 3 agreements between conservation authorities and municipalities; meeting schedule and could include other relevant governance documents (e.g. strategic plans). Noting that the *Conservation Authorities Act* already requires the following to be posted on the authority website: financial statements, meeting agendas and meeting minutes.

We are also proposing the authority would be required to include a notice on the website when it amends or enters into a new memorandum of understanding or other agreement with municipalities and ensure the most up to date version of the agreements are available on the authority’s website. The regulation would provide an exception for agreements that relate to the authority participating in a procurement process or portions of agreements that contain commercially sensitive information.

## APPENDIX

### CURRENT MUNICIPAL LEVY FRAMEWORK

There are two current LGIC regulations governing the nature and amount of the municipal levies:

- Municipal Levies regulation (O. Reg. 139/96) – provides the procedure for the ‘weighted’ votes for ‘non-matching’ levies and the requirement for notice to participating municipalities when the levy would be approved by a weighted vote. Also, it provides that levies cannot exceed the total cost of the project.
- Conservation Authority Levies regulation (O. Reg. 670/00) – provides the process to ‘apportion’ costs among all the participating municipalities using the modified current property value assessments. Also, it provides that an authority may establish a minimum sum to levied against a participating municipality.

Guidance materials are in place which support authorities and municipalities on the development of the annual authority budget and municipal levy, the voting method on the levies and the accountability of authority members to their appointing municipalities for the authority budget and municipal levy.

### CURRENT AUTHORITY BUDGET AND MUNICIPAL LEVY APPROVAL PROCESS

The total municipal levy amount is confirmed by the approval of the authority’s annual budget by the authority. Once the budget is approved, the levy for each participating municipality is automatically apportioned.

The amount of levy required from each municipality is sent in a notice of apportionment. Single-tier and regional municipalities are the ‘participating municipality’ in an authority and the levy would be apportioned to them. The levy is a debt due by the participating municipality to the authority and may be enforced by the authority as such.

The levy amount sent out in the notice to a municipality includes the municipality’s portion of the shared costs that are apportioned among all the participating municipalities, referred to as ‘general’ levy, and the costs specific to that municipality (or shared among a few) for specific authority programs or services, generally referred to as ‘special project levy’.

### CURRENT ANNUAL AUTHORITY BUDGET AND MUNICIPAL LEVY VOTING METHODS

For the authority’s current voting process on the municipal levy and the annual authority budget, there are two different voting methods: the ‘weighted vote’ in the Municipal Levies regulation, and ‘one member/one vote’ set out in the Act.

A ‘weighted’ vote occurs in a manner prescribed by the current Conservation Authority Levies regulation which is based on the ‘pay for say’ principle, where the ‘weighting’

reflects the percentage of municipal levy the appointing municipality pays to the authority. This levy vote is carried by a 'weighted majority'; each authority member's vote is 'weighted' by the percent of levy the member's appointing municipality pays to the authority. For example, if a municipality has 10 members in an authority that has a total of 15 members and that municipality has 89% of the levy to pay, the vote for each member of that municipality would 'weigh' 8.9% of the total 'weighted' vote.

The Conservation Authority Levies regulation stipulates however that a municipality cannot have a 'weighted' vote that exceeds 50% of the overall vote unless that municipality has more than 50% of the actual authority members. This ensures that unless that municipality has more than half the members in the authority, the municipality would need to have at least one other municipality's member(s) vote to pass the 'non-matching' levy. For example, if a municipality has 4 appointed members of a total of 10 authority members and that municipality provides 75% of the levy to the authority, the total weighted vote of its four members would not exceed 50% of the total weighted vote. Each member's weighted vote would then be 12.5%; the total of all four members' weighted vote equals 50% of the total weighted vote. Without the 'weighing', each member's vote would have been 18.75% for a total of 75% of the vote. Neither the Act nor current regulations specify when a 'weighted' vote should be used or for what sections of the Act.

Methods for authority voting on the annual budget is also variable among conservation authorities: some vote on the whole budget using the weighted vote, others may use the one member, one vote, with the levy portion of the budget voted by 'weighted vote'.

For approval of the levy associated with certain eligible provincial grant 'projects' (i.e., flood forecasting and warning) that require the authority to match or cost share with matching municipal levy, authority members use the one-member/one vote method.

## CURRENT APPROACH TO APPORTIONMENT OF CONSERVATION AUTHORITY COSTS

How the authority's current costs (administration, maintenance, and capital) under the Act are apportioned among the participating municipalities, is determined in different ways for the different types of costs.

### 1. Modified Current Property Value Assessment

This long-standing apportionment method set out in O. Reg. 670/00 Conservation Authority Levies is based on two principles:

- a. 'Municipal Ability to Pay': determined through the relative value of a municipality's total property tax base to the other property tax bases of the other municipalities in an authority; and

- b. 'Benefit derived' by a municipality from being in the authority: determined through the percentage of a municipality physically in an authority's jurisdiction (which can be in whole or in part) relative to the percentages of all the other municipalities' jurisdictions in an authority's jurisdiction.

The combination of relative modified current property value assessment dollars and the relative percentage of municipal jurisdiction in the authority's jurisdiction creates a percentage of what each municipality is to pay of the total levy amount the authority determines for its annual budget. While the method is complex, basically municipalities with relatively high property tax value pay a larger proportion of authority costs than municipalities with relatively low property tax value, tempered by how much of the geographic area of the participating municipality (the municipal jurisdiction in whole or in part) is located within the authority's area of jurisdiction.

This apportionment approach currently must be used when apportioning administration costs (as currently defined under the Act) as all the participating municipalities would be paying for these costs. This method may also be used for apportioning maintenance and capital costs of a project, again when all participating municipalities are to share these costs. The Conservation Authority Levies regulation describes this apportionment method.

This current levy apportionment method uses municipal property tax assessments at the single and lower tier municipal levels; however, the notice of apportionment (payment) from the authority goes to the 'participating' municipality which would include regional municipalities.

## 2. Agreement among the Authority and Participating Municipalities

A second method for authorities to apportion costs among all the participating municipalities is also enabled by the Conservation Authority Levies regulation. As an alternative to apportioning based on the modified current property assessment-based method, maintenance costs can be apportioned by agreement among the authority and participating municipalities on what the 'benefit derived' is for each participating municipality related to these maintenance costs where the modified current property assessment value based method is not considered appropriate. Capital costs may also be apportioned by this method.

## 3. As Determined by the Authority

A third method for an authority to apportion costs is for the authority (the members) to decide among themselves. This is the method often used for capital projects. The authority decides which participating municipalities should pay and how much each should pay ('benefit derived'). Dividing capital costs on the basis of 'benefit' is intended to ensure that costs paid by individual participating municipalities in support of project capital costs are proportionate to the benefits they receive (i.e., those who receive the greatest benefit pay the greatest share of costs).

**Table 3. Summary of current apportionment methods and authority costs.**

| Current Conservation Authority Project Costs | Apportion by Modified Current Property Value Assessment | Apportion by Authority / Municipal Agreement | Apportion by the Authority |
|--|---|--|----------------------------|
| Capital                                      | Yes   | Yes  | Yes                        |
| Maintenance                                  | Yes   | Yes  | No                         |
| Administration                               | Yes   | No   | No                         |

**Table 4. Summary of the current municipal levy framework.**

| <i>Conservation Authorities Act</i> | Capital Costs for a Project   | Maintenance and Administration Costs   |
|-------------------------------------|---|--|
| Rules for administering             | s. 25, s. 26, Municipal Levies regulation and provincial policy   | s. 27, Municipal Levies and Conservation Authority Levies regulations and provincial policy  |
| Voting                              | 'Weighted Vote' method under the current Municipal Levies Regulation and provincial policy is required for capital costs unless there are specific provincial natural hazard grants for the authorities, in which case the one vote per member method applies. However, for capital costs, there are no provincial grants to be matched under the <i>Conservation Authorities Act</i> therefore the vote for capital costs has been by weighted vote. | One vote per member method for maintenance and administration costs funded by a specific provincial grant, and 'Weighted Vote' method under Municipal Levies regulation and provincial policy for costs <u>not</u> associated with activities or projects funded by the province.  |
| Apportionment                       | Authority determines apportionment by benefit derived.  | Authority determines apportionment of benefit derived using the modified current property value assessment method for administration costs.<br><br>Maintenance costs portion may use alternative system to the modified current property value assessment method if agreed upon by the participating municipalities and the authority. |
| Minimum levy                        | Not available.  | Authority may set a minimum for administration costs.  |