



June 13, 2024

Public Input Coordinator
MNRF – RPDPB – Natural Heritage Section
300 Water St., 2nd Floor South
Peterborough, ON K9J 3C7

RE: Conservation Ontario's Comments on the "Proposed amendments to development permit exemptions under R.R.O. 1990, Regulation 828 for lands in the Niagara Escarpment Planning Area that is under the area of development control" (ERO #019-8364)

Thank you for the opportunity to comment on the proposed amendments to development permit exemptions under Regulation 828. Conservation Ontario (CO) is a network of Ontario's 36 Conservation Authorities (CAs). These comments are not intended to limit the consideration of comments shared individually by CAs.

The Province is proposing to amend Regulation 828 under the *Niagara Escarpment Planning and Development Act* (NEPDA) to clarify or expand exemptions for development occurring in the Area of Development Control. It is CO's understanding the Province proposes to exempt activities related to accessory structures, agriculture, business, construction and decommissioning, infrastructure, and institutional uses including:

- the erection of accessory structures,
- installation of sewage disposal systems,
- demolition, reconstruction, and/or extensions of buildings or structures,
- construction, installation, or maintenance of communication systems and road works; and,
- driveway extensions or farm entrance installations, including culvert installation, maintenance, or replacement for vehicular access.

Additionally, the Province proposes to exempt activities related to environmental, forest, and vegetation management that includes:

- Certain projects carried out by government or non-government conservation organizations (e.g., upgrades to trail systems, construction of boardwalks, stairs); and,
- Activities related to vegetation management (e.g., pruning, cutting, landscaping) required to facilitate certain work including work under an existing exemption or a development permit application.

CO supports opportunities to streamline development within the NEP area that would not result in significant environmental impacts nor increase risks associated with natural hazards. The above

activities, if located within a CA regulated area, may be associated with “prohibited activities” identified under s. 28 (1) of the *Conservation Authorities Act (CA Act)* and may require a permit under s. 28.1 of the *CA Act*. Conservation Authority regulated areas contain hazardous lands and hazardous sites associated with watercourses, valleylands, wetlands, and shorelines of the Great Lakes – St. Lawrence River System and large inland lakes where the proposed activities could affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock. The proposed exempt activities, if undertaken within hazardous lands and hazardous sites, may create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property. The Province and the NEC are encouraged to ensure proponents are aware of their requirement to obtain other agency approvals, prior to undertaking development, site alteration, and environmental management activities.

Regarding exempt activities proposed for environmental, forest, and vegetation management, Conservation Ontario supports proposed exemptions related to forestry and vegetation management in principle, however, the scope of these works may require CA approval. Further consultation should be undertaken if it is proposed to exempt broader forest / vegetation management activities, particularly if these activities were to occur in wetlands. Changing or interfering in any way with a wetland may negatively impact the hydrology of the wetland, which could exacerbate flooding and erosion.

Section 24 (3) of the NEPDA requires that “no building permit, work order, certificate or license that relates to development shall be issued, and no approval, consent, permission or other decision that is authorized or required by an Act and that relates to development shall be made, in respect of any land, building or structure within an area of development control, unless the development is exempt under the regulations or, a development permit relating to the land, building or structure has been issued under this Act.” To accommodate this legislative requirement while having regard for CA permit review timelines, communication must be maintained between NEC and CAs to clarify that a NEC permit will not be issued for an exempt activity in cases where a CA permit is still required. This will ensure the local CA is not awaiting confirmation of NEC approvals and can proceed with decisions on CA permit applications.

The Province is also seeking feedback on conditions of the proposed exemptions, such as limits on size or distance from a sensitive area or feature. Exemptions for certain development activities are documented under other provincial regulations (e.g., section 5 of O. Reg. 41/24 under the *CA Act* or section 1.3.1.1 of O. Reg. 332/12 under the *Building Code Act*). Where possible, the Ministry should consider aligning conditions for exemptions under Regulation 828 with other similar exemptions to streamline the development approvals process for proponents.

The ERO posting notes that not all exemptions would apply across the entirety of the NEP area. Some exemptions may be limited to lands outside of certain environmentally sensitive or natural areas. Conservation Ontario supports this approach, and requests the Ministry clarify such limitations for exemptions in regulation.

Finally, Conservation Authorities are public bodies as defined in the NEP and are essential partners to implement the Niagara Escarpment Parks and Open Space System (NEPOSS) objectives and policies as described in Part 3 of the NEP. Many CAs own or manage lands within the NEPOSS, and, along with other public bodies, must comply with policies in Part 3 of the NEP. Given the shared responsibility to achieve NEPOSS objectives, streamlining opportunities should be explored to assist designated public bodies with meeting the NEPOSS objectives. It is recommended the Province consult with NEPOSS partners on the proposed exemptions for “certain projects carried out by government or non-government conservation organizations”. Such exemptions could further enable large landowners such as CAs to operate conservation areas in the NEPOSS effectively and efficiently while providing public access to greenspace and related amenities.

Thank you for the opportunity to review and provide comments on the proposed amendments to development permit exemptions under Regulation 828. Should you have any questions regarding the comments in this letter please feel free to contact the undersigned.

Sincerely,

Brandi Walter

Brandi Walter
Policy and Planning Liaison

c.c. CAOs, All Niagara Escarpment Conservation Authorities