

October 2021

Changes to Conservation Authorities: Municipal Programs and Services (Category 2)

Context:

Subsection 21.1(1) of the *Conservation Authorities Act* empowers Conservation Authorities (CAs) to provide programs and services to municipalities that are situated wholly or in part within the CA's area of jurisdiction. Any municipal programs or services offered under Section 21.1(1) must be authorized under a Memoranda of Understanding (MOU) or other type of Service Agreement between the municipal government and CA.

This will create a fee for service relationship between the municipality and CA for Category 2 (i.e. Municipal Programs and Services). These agreements can be for individual municipalities or groups of municipalities. Where groups of municipalities are involved, the levy process may continue. Further details on how programs will be paid for will be forthcoming.

Category 2 Agreements – Contents:

1. Meeting Environmental Requirements through Category 2 Agreements

The Provincial Policy Statement (Sections 2.1, 2.2 and some aspects of 3.1) requires municipal governments to protect natural heritage features including wetlands, woodlands, habitat, protect water quality considering the watershed and hydrologic features. Much of this is done through the land use planning and development approvals process.

Many municipalities purchase CA expertise for environmental work to ensure compliance with various pieces of legislation. For many it is a cost effective option, as purchasing this expertise avoids the need for municipal governments to hire staff in-house or external consultants. There are other programs and services outside municipal planning which support the Provincial Policy Statement. Again, CAs are instrumental in achieving these municipal requirements.

Other services such as GIS services, various types of monitoring, and in some cases septic inspection programs would be part of these agreements (if desired). Municipalities should ask for clarification as to whether these are included as a Category 2 or Category 3 programs or services.

As the **Fact Sheet #3** lays out, CAs have a mandatory role to identify natural hazard areas. However, there is a second possible role for CAs supporting municipal responsibilities for the natural hazards portion of the PPS (Section 3.1). It is very important for municipal Councils address with the CA(s) how the review of the municipal responsibility will be addressed in the Category 2 programs and services agreement.

The agreement should identify which organization will undertake what aspects of this process and how communications will take place between the organizations and developers. It should also outline expectations around timing.

Another area where there has been service delivery overlap in some places is that of storm water management. Similarly roles and expectations need to become part of these agreements and be clear to all parties. In some cases this will be a very simple agreement, but in other cases there will

be a more complex agreement depending on the local governments' goals. Examples may include green infrastructure, or staffing expertise within these organizations.

Many municipalities already have agreements for planning-related services from CAs. A template created in June 2019 for planning-related services can be found at the [CA-Municipality MOU Template for Planning and Development Reviews \(2019\)](#). This template was jointly developed by Conservation Ontario and the Association of Municipalities of Ontario (AMO) to serve as the starting place for the redevelopment of existing or the creation of new agreements.

NOTES:

- Agreements can also include municipalities providing programs and services to CAs.
- The province may issue regulations that pertain to delivery of the programs and services of CAs.
- Should the province enact regulations regarding the provision of services, the regulation would prevail in the event of conflict between the terms and conditions set out in the municipal agreement.

2. These are legal documents and a number of elements are important and typical of service agreements.

Most Category 2 agreements will require:

- Affirmation of the programs and services being agreed to (the inventory) including the process and timelines (service standards) for these items
- Contact information
- Expiry date and notice periods to end prior to the end date
- Dispute resolution
- Payment and whether this is a fee for service or relying on levy for payment
- Use of CA own source funds, if any
- A place for signature to bind the municipality

NOTE: An AMO fact sheet providing further details will be issued once Phase 2 Regulations are in place.

Category 2 Agreements: Process

1. Consultation as Municipal Stakeholders

Since many of the programs and services offered under Category 2 (i.e. Municipal Programs and Services) take place on a watershed basis, there will be a need for consultations with groups of participating municipalities. There will also be a need to consult with upper-tier or single-tier governments.

It is critical to start discussions with your CA(s) and include all affected municipalities as soon as possible. This will allow for enough time to determine where there is agreement amongst the group, where improvements might be sought, and how you wish to move forward as both group and individual municipalities.

2. Timelines

As described in the **Fact Sheet #1 (Overview)** and **Fact Sheet #2 (Timelines)**, CAs must provide participating municipalities a workplan by no later than December 31, 2021. The workplan must outline how the CA will meet the new requirements by the end of 2023. The CA(s) must also provide participating municipalities an inventory of existing and future programs and services. This inventory must also account for which category the activity falls under and the current funding for these activities by no later than February 28, 2022.

Discussions about future programs and services under Category 2, and the required agreements and integration into the municipal budgeting process can begin as soon as the inventory is received, the CAs do not need to wait until February to deliver the inventory. See the **Fact Sheet #3 (Mandatory)** and **Fact Sheet #5 (Other)** for more information about what programs and services fit where.

3. MOUs or Service Agreements

The goal of these agreements is to create transparency and coordination while also avoiding service or program duplication and/or delays. These agreements will be based on the inventory of programs and services to which municipalities and CAs agree. This excludes the **Category 1, Mandatory Programs and Services** (see **Fact Sheet #3**).

The *Conservation Authorities Act* requires that all Category 2 agreements:

- Are available to the public;
- Are subject to review at intervals determined in the memorandum or agreement; and,
- Detail how programs and services must be provided in accordance with the terms and conditions of the agreement.

NOTE: An additional regulation respecting fees that CAs can charge is anticipated in Phase 2 Regulations. In the meantime, **AMO recommends that clauses in the Category 2 agreements identify which entities collect the fees and encourage CAs to charge fees to recover costs.**

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