

**REPORT TO:** Conservation Halton Board

**REPORT NO.: #** CHB 01 24 07

**FROM:** Kellie McCormack, Director, Planning & Regulations

**DATE:** February 15, 2024

**SUBJECT:** Regulatory Allowance Policy Update  
CH File No.: AADM-431

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### Recommendation

THAT the Conservation Halton Board **endorses the draft policies for public release and engagement, as presented in the staff report entitled “Regulatory Allowance Policy Update”;**

And

THAT the Conservation Halton Board **receives the staff report entitled “Regulatory Allowance Policy Update”.**

### Executive Summary

This report provides background information on Conservation Halton’s (CH) current policies for development in regulatory allowances and presents the rationale for undertaking a review and update to CH’s regulatory allowance policies; an overview of other Conservation Authority (CA) policy approaches; and recent Provincial legislative, regulatory, and policy changes. Staff is seeking the Board’s endorsement to enable staff to commence public engagement on the proposed draft policies. All input received will be documented and incorporated in further revisions to the draft policies, where appropriate. Staff anticipates making recommendations to the CH Board on the approval of regulatory allowance policies later in Q2 2024.

### Report

The purpose of this report is to:

- Provide an overview of CH’s current policies related to development in regulatory allowances and past site-specific Board-approved exceptions to CH’s regulatory allowance policies, as well as background on other policy approaches to development within regulatory allowances used by other CAs and recent Provincial legislative, regulatory, and policy changes; and
- Present the rationale for undertaking an update to CH’s regulatory allowance policies, as well as present draft policies recommended for public release and consultation.

## Background

### *Ontario Regulation 162/06, Regulatory Allowances, and CH's Regulatory Allowance Policies*

Section 28 (1) of the *Conservation Authorities Act* (CA Act) allows CAs to make regulations prohibiting development in hazardous lands. CH administers *Ontario Regulation 162/06* which regulates development, interference with wetlands and watercourses, and interference with shorelines within CH's jurisdiction. The purpose of the regulation is to protect life and property from natural hazards such as flooding and erosion. If, in the opinion of the Board, the regulatory tests (i.e., control of flooding, erosion, pollution, conservation of land, and dynamic beaches) are not affected, permission may be granted.

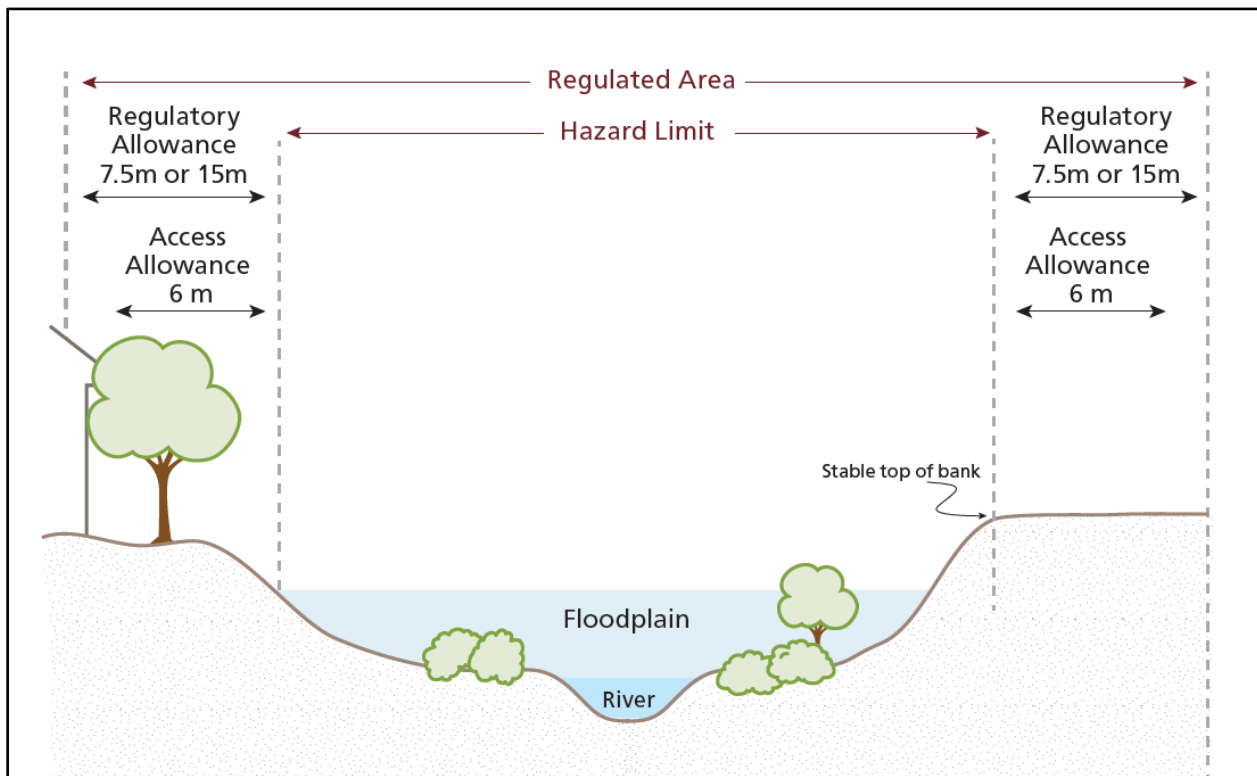
Section 2(1) of *Ontario Regulation 162/06* establishes that CH regulates flooding and erosion hazards, as well as an allowance "not to exceed 15 metres" from the limit of the greatest hazard (i.e., greater of the flooding or erosion hazard). In CH's watershed, a 7.5 metre regulatory allowance is applied from the greatest hazard associated with a minor valley system (i.e., urban creeks) and a 15 metre regulatory allowance is applied adjacent to the greatest hazard associated with a major valley system (i.e., Bronte, Sixteen Mile & Grindstone Creeks). The regulatory allowance serves multiple purposes, including providing a "buffer" to the hazard, protecting access for emergency purposes, repair, and maintenance, and ensuring development applications within the regulatory allowance are evaluated to determine if regulatory tests can be met.

CH's Board has approved regulatory policies which outline the circumstances under which permission may be granted and that must be followed by CH staff when granting permission (*Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Document*, approved April 27, 2006, last revised November 26, 2020). If, after review, it is determined that the Board-approved policies can be met, staff that have been delegated approval authority by the CH Board may issue a permit.

CH's regulatory allowance policies were last updated in 2006 and contain direction on the types of development that are permitted within the regulatory allowances. CH's policies permit limited types of development within the regulatory allowance (e.g., the reconstruction of existing buildings, building additions, pools, decks, grading, and non-habitable accessory structures) but the policies otherwise restrict all other types of development within the regulatory allowance.

Figure 1 below depicts the regulatory allowance described above, as well as a 6 metre access allowance. Provincial technical guides (e.g., *Technical Guide, River & Stream Systems: Erosion Hazard Limit*; *Technical Guide, River & Stream Systems: Flooding Hazard Limit*) that support the implementation of the natural hazard policies of the Provincial Policy Statement (PPS) and CA regulations state that a 6-metre access allowance is necessary to provide access for emergency purposes and regular access to a site in the event of a hazard or failure/repair of a structure, and to protect against unforeseen conditions. The access allowance is considered a component of the erosion hazard, as defined by the PPS.

**Figure 1: CH's Regulatory Allowance and Access Allowance**



### Provincial Legislative, Regulatory and Policy Changes

There have been significant changes to the CA and planning landscape since *Ontario Regulation 162/06* came into force and CH's regulatory allowance policies were approved in 2006. Among other changes, the PPS and Provincial Plans have been updated and numerous legislative changes have introduced changes to the *CA Act* and the *Planning Act* including, most recently, Bill 229 and Bill 23. Many of the recent CA-related changes (e.g., Ontario Regulation 686/21 and 596/22) are intended to focus or narrow the scope of CAs' involvement in the planning and development process to mandatory (Category 1) programs and services related to natural hazards.

Bill 23 introduced updates to Section 28 of the *CA Act*, related to CA regulatory / permitting roles and responsibilities. While some of these updates are yet to be proclaimed, the regulatory "tests" that are considered in CA permit decisions will be amended to remove the "conservation of land" and "pollution" tests and to include a new "unstable soils and bedrock" test. The "control of flooding, erosion, and dynamic beaches" tests are to remain. This aligns with other Provincial changes that focus CAs on natural hazards, as the "conservation of land" test was generally thought to support the protection of the ecological features and their functions, and the "pollution" test was generally thought to support the protection of water quality.

CAs are still awaiting updated draft regulations under Section 28 of the *CA Act*. In Fall of 2022, the Province signaled through consultation documents that CAs can expect to see several changes to

Section 28 regulations, including changes to CA regulation limits. However, they did not explicitly indicate whether changes are contemplated to the regulatory allowances.

In addition to CA related changes, natural heritage protection and planning has evolved considerably over the past couple of decades, from a feature-based protection approach to a systems-based approach. Municipalities are now solely responsible for the implementation of the natural heritage-related policies of the PPS and Provincial Plans through their Official Plans and Zoning Bylaws (except where it is shared within the Niagara Escarpment Plan Area) and the establishment of buffers or development setbacks from natural areas or systems that may be required to protect natural features and their functions. CA regulatory policies should complement provincial and municipal natural heritage policies rather than duplicate.

#### Other Conservation Authority Allowance Policies

A jurisdictional scan was completed to confirm how other CAs in Ontario are approaching development within the regulatory allowance. Most CAs include policies regarding development setbacks from the limit of the hazard (typically ranging between 6-10 metres), with policies that allow for closer encroachment for some types of development and/or require a technical study providing the rationale for a reduced setback. No CAs surveyed employ the policy approach that CH currently uses, which is to restrict any other types of development in the allowance that are not explicitly outlined in policy even if the tests of the regulation can be met.

#### Policy Exception Reports to CH's Board

CH's 2006 policies were written at a time when a significant share of new development in CH's watershed was accommodated through greenfield development in new secondary plan areas. Since that time, there has been a shift to direct more development within existing urban areas through re-development, infill, and intensification. As a result of these development trends, CH has seen an increase in the number of requests for policy exceptions to allow for encroachments within the regulatory allowance on previously developed lots in urban areas, including through appeals of *Planning Act* applications at the Ontario Lands Tribunal (OLT). CH staff anticipate that the demand for policy exceptions will continue to increase due to the provincial priority to build more homes, particularly through re-development and intensification.

Further, there have been significant advances in the tools and technologies used to model and delineate hazards since CH's regulatory policies were approved in 2006. These tools have enabled CH and professionals to delineate hazards more accurately, reduce uncertainties regarding the limit of the hazard, as well as better understand the level of risk that may be associated with a development proposal.

Since CH staff can only issue permits that meet Board-approved policies, each policy exception requires approval from CH's Board. While staff works with applicants to adjust their proposals to meet CH's Board approved policies, there are some cases where this can be challenging, and not feasible or reasonable. Staff recommends policy exceptions to the Board for approval when the regulatory tests have been addressed. Since 2017, the CH Board has approved 24 policy exceptions and 15 of these were to allow development within the regulatory allowance. Obtaining Board approval requires additional time and can lead to project delays for applicants.

Increased requests and Board approval of policy exceptions over the past several years indicates that gaps exist in CH's current regulatory allowance policies. Opportunities exist to amend CH's policies to address this gap and to allow for development within CH's regulatory allowance where it is outside of the access allowance and the tests of the regulation and technical requirements can be met. The Provincial priority to build more homes has increased the pressure for faster approvals and risk-based decision-making. Updated regulatory allowance policies would support improved customer service delivery and faster approvals for applicants who no longer require a policy exception approval from the Board. Updated policies would also enable more efficient use of resources, including reduced staff time and legal costs.

### *Land Use Planning Policies*

Staff does not recommend any substantive changes to CH's land use policies (i.e., Section 3 of CH's policy document) related to the regulatory allowance. Staff will continue to make recommendations consistent with CH's existing land use policies as they apply to *Planning Act* applications in greenfield/Secondary Plan areas, large infill subdivisions, and other sites that are large enough to accommodate re-development and a municipally owned Natural Heritage System/creek block. In these scenarios CH will continue to recommend the municipality place the full regulatory allowance of 15 or 7.5 metres from the limit of the greatest hazard into public ownership and designate/zone the lands Natural Heritage System/Open Space. Full public ownership and designating and zoning the full extent of the regulated area in these types of development are the best practice to avoid land use conflicts. For instance, including the entire regulated area within the creek block will help to limit encroachments into hazard lands and reduce unauthorized development and related enforcement challenges. Including all CH regulated lands in a creek block also aligns with municipal policies regarding natural heritage system buffers and secures space for municipal trails and essential infrastructure. In addition, individual landowners would not be subject to CH regulation, which simplifies the process for obtaining building permits, minor variances, etc. for the landowner and also allows CH to stay out of these processes and focus its resources elsewhere.

### *Regulatory Allowance Policy Amendment*

CH has initiated policy reviews and updates over the past several years, but these were delayed in anticipation of forthcoming regulatory changes from the Province. As a result, a comprehensive update to CH's regulatory policies has not occurred since 2006. The CA and planning landscape has evolved considerably since *Ontario Regulation 162/06* and CH's regulatory policies were introduced, including changes to provincial legislation, regulations and policies, and CA roles and responsibilities. Based on current development trends, the demand for development within existing urban areas will likely accelerate, necessitating more Board approvals for policy exceptions regardless of if the proposed development meets the regulatory tests.

Based on the policy gaps and reasons described above, staff recommends updates to CH's regulatory allowance policies. Proposed draft regulatory policies are outlined in detail in Appendix A. Board endorsement of the draft policies presented in this report will enable staff to commence public engagement on the proposed policies. Under the proposed draft regulatory allowance policies, staff recommends development be permitted according to the following general direction:

- i. New buildings and accessory structures must be setback a minimum of 6 metres from the limit of the greatest hazard to provide an access allowance, consistent with the PPS and provincial technical guidance.
- ii. Reconstruction, alteration or additions to existing buildings and accessory structures must be setback a minimum of 6 metres from the limit of the greatest hazard if the existing building/structure is located outside of the 6 metre access allowance; however, if the existing building or structure is within the 6 metre access allowance it may remain provided it is for the same use, any additions are minor in nature, and the building does not encroach closer to the hazard than existing development at its closest point.
- iii. In all instances the development must be designed to mitigate risks, not create new hazards or aggravate existing hazards on neighbouring properties, and the applicant is encouraged to relocate the development outside of the 7.5 metre or 15 metre regulatory allowance where reasonable.
- iv. The precise limit of the hazard may need to be delineated through a technical assessment (e.g., slope stability assessment, flood plain mapping and/or modeling, topographic survey, etc.), as outlined in CH's general policies.

With the above policy changes, the required CA regulatory tests would still be met. New buildings would need to be setback a minimum of 6 metres from the limit of the greatest hazard to provide for access during emergencies and maintenance/repairs of structures, and to protect against unforeseen circumstances. Where buildings and structures already exist within the 6 metre access allowance, reconstructions, alterations and additions may be permitted within the access allowance in recognition that access has already been impeded. However, applicants would need to demonstrate that new hazards are not created and existing hazards are not aggravated on neighbouring properties and that risks to life and property are mitigated.

### *Next Steps*

Following endorsement of this report, CH staff will engage with municipalities, members of the public, and other stakeholders on the proposed draft policies. CH staff will assess the input received and make recommendations to the Board on the approval of new policies for incorporation into CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Policy Document*. All input received will be documented. The projected timeline to return to the board with a final set of policies for approval is late Q2 2024.

### *Recommendation*

Staff is seeking Board endorsement of the draft policies presented in this report to enable staff to commence public engagement on the proposed draft policies. All input received will be documented and staff anticipates making recommendations to the Board on the approval of regulatory allowance policies by late Q2 2024. Updated regulatory allowance policies will provide the public and stakeholders with greater clarity on CH's requirements for development in the regulated allowance and enable consistent and efficient review of development proposals by staff.

### Impact on Strategic Priorities

This report supports the Momentum priority of Natural Hazards and Water.

### Financial Impact

No costs are associated with this report. It is anticipated that the proposed policy update will reduce legal fees and result in more efficient use of staff time.

Signed & respectfully submitted:



Kellie McCormack  
Director, Planning and Regulations

Approved for circulation:



Hassaan Basit  
President & CEO/Secretary-Treasurer

### FOR QUESTIONS ON CONTENT:

Kellie McCormack, Director, Planning & Regulations  
[kmccormack@hrca.on.ca](mailto:kmccormack@hrca.on.ca), 905-336-1158 x 2228

### PREPARED BY:

Leah Smith, Policy & Special Initiatives Lead, Planning & Regulations

Attachments:

Appendix A: Regulatory Allowance Policy Update



Policy Section	Existing Policies Proposed to be Deleted or Amended ( <del>strikethrough</del> for deletions, <b>red text</b> for additions)	Proposed New or Amended Policies ( <del>strikethrough</del> for deletions, <b>red text</b> for additions)	Commentary
<b>General Policies</b>  2.4.2. Stable Top of Bank (Valleylands and Shoreline)	2.4.2.1 Valleylands  <del>The stable top of bank is to be established by a professional, geotechnical engineer utilizing the guidelines and manuals outlined in Section 5, to the satisfaction of Conservation Halton staff. Where no geotechnical assessment has been undertaken, a minimum 8 to 15 metre toe erosion allowance (depending on soil type) and 3:1 stable slope allowance will be utilized. In addition to the requirements outlined in Section 5, the geotechnical assessment must take into consideration, and make recommendations pertaining to: construction equipment/access; limit of work area; vegetation protection; sediment and erosion controls; drainage; etc.</del>	2.4.2.1 Valleylands  <b>For any <i>development</i> adjacent to a valley slope, a slope stability assessment may be required to verify the limit of the stable top of bank, to demonstrate that erosion hazard risks have been mitigated, and to demonstrate that the proposal does not create new or aggravate existing hazards on neighbouring properties . The slope stability assessment must be completed by a qualified professional(s) following the most current versions of Conservation Halton and Provincial guidelines and to the satisfaction of Conservation Halton. Where no geotechnical assessment has been undertaken, a minimum 8 to 15 metre toe erosion allowance (depending on soil type) and 3:1 stable slope allowance is required.</b>	Updates general policy to require that the slope stability assessment demonstrates that erosion hazard risks are mitigated.  The existing policy has also been amended to remove recommendations related to limit of work area, drainage, etc., that are now addressed by CH’s Board approved Slope Stability Assessment Guidelines.
<b>2.24.2 Swimming Pools</b>	Above and below ground swimming pools will only be considered within the <i>flood plain</i> where an alternative site outside of the <i>flood plain</i> is not available and where it is not within a confined valley in a natural state. Pools are not permitted within the <i>meander belt allowance</i> and the 6-metre erosion access allowance. There must be no loss of flood storage or flood conveyance due to the pool’s construction, fencing or associated grading. Electrical facilities must be <i>dry floodproofed</i> . An assessment of potential hydrostatic pressures under both normal and <i>regulatory storm</i> conditions may be required for below ground pools. It must be shown that on-going maintenance of the pool can be achieved without any <i>adverse environmental impacts</i> .	Above and below ground swimming pools will only be considered within the <i>flood plain</i> where an alternative site outside of the <i>flood plain</i> is not available and where it is not within a confined valley in a natural state. Pools are not permitted within the <i>meander belt allowance</i> and the 6- metre erosion access allowance <b>or within the 6 metre access allowance adjacent to the stable top of bank</b> . There must be no loss of flood storage or flood conveyance due to the pool’s construction, fencing or associated grading. Electrical facilities must be <i>dry floodproofed</i> . An assessment of potential hydrostatic pressures under both normal and <i>regulatory storm</i> conditions may be required for below ground pools. It must be shown that on-going maintenance of the pool can be achieved without any <i>adverse environmental impacts</i> .	Text added to existing swimming pools policy to clarify that swimming pools must also be a minimum of 6 metres from the stable top of bank, consistent with proposed policy direction.
<b>2.24.3.2 Agriculture</b>	The construction of farm buildings and structures (excluding residences, commercial greenhouse operations and large- scale enclosed equestrian or livestock facilities) may be considered within the <i>flood plain</i> , where: a) It is not located within a confined valley in a natural state; b) It is not located within the <i>meander belt allowance</i> and 6 metre access allowance of an unconfined system; c) No site can be reasonably utilized for the proposed works outside of the <i>flood plain</i> ; and, d) The structures and buildings will be <i>wet floodproofed</i> .	The construction of farm buildings and structures (excluding residences, commercial greenhouse operations and large- scale enclosed equestrian or livestock facilities) may be considered within the <i>flood plain</i> , where: a) It is not located within a confined valley in a natural state <b>or within the 6 metre access allowance adjacent to the stable top of bank</b> ; b) It is not located within the <i>meander belt allowance</i> and 6 metre access allowance of an unconfined system; c) No site can be reasonably utilized for the proposed works outside of the <i>flood plain</i> ; and, d) The structures and buildings will be <i>wet floodproofed</i> .	Text added to existing agriculture policy to clarify that farm buildings and structures must also be a minimum of 6 metres from the stable top of bank, consistent with the PPS Erosion Hazard definition and Provincial technical guides.
<b>2.24.5.1 Stormwater Management Facilities</b>	A stormwater management facility may be permitted within the <i>Regional Storm flood plain</i> if there is sufficient technical justification and it meets the following requirements: a) The facility will not be located within a confined valley; b) The facility will be located outside of the 1:100-year <i>flood plain</i> ; c) The facility will be located outside of the 1:100-year <i>meander belt allowance</i> and a 6-metre erosion access allowance;	A stormwater management facility may be permitted within the <i>Regional Storm flood plain</i> if there is sufficient technical justification and it meets the following requirements: a) The facility will not be located within a confined valley <b>or the 6 metre access allowance adjacent to the stable top of bank</b> ; b) The facility will be located outside of the 1:100-year <i>flood plain</i> ;	Text added to existing stormwater management facilities policy to clarify that the SWM facility must also be a minimum of 6 metres from the stable top of bank, consistent with the PPS Erosion Hazard definition and Provincial technical guides.



	<p>d) There will be no loss of <i>flood plain</i> storage or conveyance, achieved by the removal of fill from the <i>flood plain</i> or through an incremental balanced cut and fill analysis. Flood storage provided by the facility itself is excluded from the <i>flood plain</i> storage; and,</p> <p>e) All other recommended Ministry of Environment, Conservation and Parks guidelines (see Section 4).</p>	<p>c) The facility will be located outside of the 1:100-year <i>meander belt allowance</i> and a 6-metre erosion access allowance;</p> <p>d) There will be no loss of <i>flood plain</i> storage or conveyance, achieved by the removal of fill from the <i>flood plain</i> or through an incremental balanced cut and fill analysis. Flood storage provided by the facility itself is excluded from the <i>flood plain</i> storage; and,</p> <p>e) All other recommended Ministry of Environment, Conservation and Parks guidelines (see Section 4).</p>	
<p>2.25 All Major Valley Systems – Development within 15 metres of Flood Plain</p>	<p><del><b>2.25.1 Existing Development Within 15 metres of Flood Plain</b></del> <del>Where buildings and structures already exist within 15 metres of the flood plain, reconstruction, alteration or additions may be permitted subject to the following:</del></p> <p><del>a) The reconstruction, alteration or addition does not encroach any closer to the flood plain than the existing development at its closest point;</del></p> <p><del>b) Even if existing development is closer than 6 metres to the flood plain, no new development is permitted within 6 metres in order to provide for an access allowance as per the Provincial Policy Statement; and,</del></p> <p><del>c) In cases where the building or structure can be reasonably relocated outside of the flooding hazard setback the applicant will be encouraged to do so.</del></p>		<p>Replaced by proposed new policy 2.33.</p>
<p>2.25 All Major Valley Systems – Development within 15 metres of Flood Plain</p>	<p><del><b>2.25.2 New Development Within 15 metres of Flood Plain</b></del> <del><b>2.25.2.1</b> Where there is an existing lot of record and residential dwelling in existence prior to May 11, 2006, and where no land exists outside of the 15 metre area adjacent to the flood plain, decks, sheds and other non-habitable accessory structures that are less than 20 square metres in size may be permitted. Generally, non-habitable accessory structures under 10 square metres in size, that do not require a building permit from the municipality, will not require a Permit and Conservation Halton will issue a clearance letter for approvals.</del></p>		<p>Replaced by proposed new policy 2.34.</p>
<p>2.25 All Major Valley Systems – Development within 15 metres of Flood Plain</p>	<p><del><b>2.25.2.2</b> Works that would be considered or permitted under Policies 2.24.2 to 2.24.6 would also be considered or permitted within 15 metres of the flood plain.</del></p> <p><del><b>2.25.2.3</b> Non-structural development, such as grading works, may be permitted if all general policies have been met. Minor grading works may only require the issuance of a clearance letter but major grading works would require that a Permit be obtained.</del></p>		<p>Replaced by proposed new policy 2.36.</p> <p>Replaced by proposed new policy 2.35.</p>

<b>2.25 All Major Valley Systems – Development within 15 metres of Flood Plain</b>	<del><b>2.25.2.4</b> Except as provided for in Policies 2.25.2.1 – 2.25.2.3, no new development is permitted within 15 metres of the flood plain.</del>		Propose to no longer restrict all new development within the regulatory allowance but rather a new building policy has been added to address the requirements for any new construction in the regulatory allowance. See new policy 2.32.
<b>2.26 Unconfined Major Valley Systems - Development within 15 metres of Meander Belt Allowance</b>	<del><b>2.26.1 Existing Development Within 15 Metres of Meander Belt Allowance</b> Where buildings and structures already exist within 15 metres of the meander belt allowance, reconstruction, alteration or additions may be permitted subject to the following: a) The reconstruction, alteration or addition does not encroach any closer to the meander belt allowance than the existing development at its closest point; b) Even if existing development is closer than 6 metres to the meander belt allowance, no new development is permitted within 6 metres in order to provide for an access allowance as per the Provincial Policy Statement; and, c) In cases where the building or structure can be reasonably relocated outside of the erosion hazards limits the applicant will be encouraged to do so.</del>		Replaced by proposed new policy 2.33.
<b>2.26 Unconfined Major Valley Systems-- Development within 15 metres of Meander Belt Allowance</b>	<del><b>2.26.2 New Development Within 15 metres of Meander Belt Allowance</b> <b>2.26.2.1</b> Where there is an existing lot of record and residential dwelling in existence prior to May 11, 2006, and where no land exists outside of the 15 metre area adjacent to the flood plain, decks, sheds and other non-habitable accessory structures less than 20 square metres in size may be permitted between 6 and 15 metres from the meander belt allowance. Structures permitted within the meander belt allowance as per Policy 2.24.1c) may be permitted throughout the 15-metre allowance. Generally, non-habitable accessory structures under 10 square metres in size, that do not require a building permit from the municipality, will not require a Permit and Conservation Halton will issue a clearance letter for approvals.</del>		Replaced by proposed new policy 2.34.
<b>2.26 Unconfined Major Valley Systems - Development within 15 metres of Meander Belt Allowance</b>	<del><b>2.26.2.2</b> Works that would be considered or permitted under Policies 2.24.2 to 2.24.6 would also be considered or permitted within 15 metres of the meander belt allowance.  <b>2.26.2.3</b> Non-structural development, such as grading works, may be permitted if all general policies have been met. Minor grading works may only require the issuance of a clearance letter but major grading works would require that a permit be obtained.</del>		Replaced by proposed new policy 2.36.  Replaced by proposed new policy 2.35.
<b>2.26 Unconfined Major Valley Syst–ms - Development within 15 metres of Meander Belt Allowance</b>	<del><b>2.26.2.4</b> Except as provided for in Policies 2.26.–.1 – 2.26.2.3, no new development is permitted within 15 metres of the meander belt allowance.</del>		Propose to no longer restrict all new development within the regulatory allowance but rather a new building policy has been added to address the requirements for any new construction in the regulatory allowance. See new policy 2.32.

<b>2.27 Minor Valley Systems – Development within 7.5 metres of Flood Plain</b>	<del><b>2.27.1 Existing Development Within 7.5 metres of Flood Plain</b> Where buildings and structures already exist within 7.5 metres of the flood plain, reconstruction, alteration or additions may be permitted subject to the following: a) The reconstruction, alteration or addition does not encroach any closer to the flood plain than the existing development at its closest point; b) Even if existing development is closer than 6 metres to flood plain, no new development is permitted within 6 metres in order to provide for an access allowance as per the Provincial Policy Statement; and, c) In cases where the building or structure can be reasonably relocated outside of the setback the applicant will be encouraged to do so.</del>		Replaced by proposed new policy 2.33.
<b>2.27 Minor Valley Systems – Development within 7.5 metres of Flood Plain</b>	<del><b>2.27.2 New Development Within 7.5 metres of Flood Plain</b> <b>2.27.2.1</b> Where there is an existing lot of record and residential dwelling in existence prior to the adoption of these policies, and where no land exists outside of the 7.5 metre area adjacent to the flood plain, decks, sheds and other non-habitable accessory structures less than 20 square metres in size may be permitted. Generally, non-habitable accessory structures under 10 square metres in size, that do not require a building permit from the municipality, will not require a Permit and Conservation Halton will issue a clearance letter for approvals.</del>		Replaced by proposed new policy 2.34.
<b>2.27 Minor Valley Systems – Development within 7.5 metres of Flood Plain</b>	<del><b>2.27.2.2</b> Works that would be considered or permitted under Policies 2.24.2 to 2.24.6 would also be considered or permitted within 7.5 metres of the flood plain.  <b>2.27.2.3</b> Non-structural development, such as grading works, may be permitted if all general policies have been met. Minor grading works may only require the issuance of a clearance letter but major grading works would require that a permit be obtained.</del>		Replaced by proposed new policy 2.36.  Replaced by proposed new policy 2.35.
<b>2.27 Minor Valley Systems – Development within 7.5 metres of Flood Plain</b>	<del><b>2.27.2.4</b> Except as provided for in Policies 2.27.2.1 – 2.27.2.3, no new development is permitted within 7.5 metres of the flood plain.</del>		Propose to no longer restrict all new development within the regulatory allowance but rather a new building policy has been added to address the requirements for any new construction in the regulatory allowance. See new policy 2.32.
<b>2.28 Unconfined Minor Valley Systems - Development within 7.5 metres of Meander Belt Allowance</b>	<del><b>2.28.1 Existing Development Within 7.5 metres of Meander Belt Allowance</b> Where buildings and structures already exist within 7.5 metres of the meander belt allowance, reconstruction, alteration or additions may be permitted subject to the following: a) The reconstruction, alteration or addition does not encroach any closer to the meander belt allowance than the existing development at its closest point; b) Even if existing development is closer than 6 metres to the meander belt allowance, no new development is permitted within 6 metres in order to provide for an access allowance as per the Provincial Policy Statement; and,</del>		Replaced by proposed new policy 2.33.

	<p>c) In cases where the building or structure can be reasonably relocated outside of the erosion hazards limits the applicant will be encouraged to do so.</p>		
<p><b>2.28 Unconfined Minor Valley Systems – Development within 7.5 metres of Meander Belt Allowance</b></p>	<p><b>2.28.2 New Development Within 7.5 metres of Meander Belt Allowance</b></p> <p><del>2.28.2.1</del> Where there is an existing lot of record and residential dwelling in existence prior to the adoption of these policies, and where no land exists outside of the 7.5 metre area adjacent to the meander belt allowance, decks, sheds and other non-habitable accessory structures less than 20 square metres in size may be permitted between 6 and 7.5 metres from meander belt allowance. Structures permitted within the meander belt allowance as per Policy 2.24.1 € may be permitted throughout the 7.5 metre allowance. Generally, non-habitable accessory structures under 10 square metres in size, that do not require a building permit from the municipality, will not require a Permit and Conservation Halton will issue a clearance letter for approvals.</p> <p><b>2.28.2.2</b> Works that would be considered or permitted under Policies 2.24.2 to 2.24.6 would also be considered or permitted within 7.5 metres of the meander belt allowance.</p>		<p>Replaced by proposed new policy 2.34.</p>
<p><b>2.28 Unconfined Minor Valley Systems - Development within 7.5 metres of Meander Belt Allowance</b></p>	<p><del>2.28.2.2</del> Works that would be considered or permitted under Policies 2.24.2 to 2.24.6 would also be considered or permitted within 7.5 metres of the meander belt allowance.</p> <p><b>2.28.2.3</b> Non-structural development, such as grading works, may be permitted if all general policies have been met. Minor grading works may only require the issuance of a clearance letter but major grading works would require that a Permit be obtained.</p>		<p>Replaced by proposed new policy 2.36.</p> <p>Replaced by proposed new policy 2.35.</p>
<p><b>2.28 Unconfined Minor Valley Systems - Development within 7.5 metres of Meander Belt Allowance</b></p>	<p><del>2.28.2.4</del> Except as provided for in Policies 2.28.2.1 – 2.28.2.3, no new development is permitted within 7.5 metres of the meander belt allowance.</p>		<p>Propose to no longer restrict all new development within the regulatory allowance but rather a new building policy has been added to address the requirements for any new construction in the regulatory allowance. See new policy 2.32.</p>
<p><b>2.35 Major Valley Systems - Development within 15 metres of Stable Top of Bank</b></p>	<p><del>2.35.1</del> Where there is a 7.5 metre publicly owned access adjacent to the stable top of bank, neither a Permit nor a clearance letter will be required from Conservation Halton, pursuant to Ontario Regulation 162/06, for any development between 7.5 metres and 15 metres of the stable top of bank.</p>		<p>The existing policy was intended to provide flexibility in permitting requirements for development between 7.5-15 metres of the stable top of bank where a 7.5 metre publicly owned access exists. No longer required as the proposed new policy provides flexibility to allow development within this area.</p>
<p><b>2.35 Major Valley Systems - Development within 15 metres of Stable Top of Bank</b></p>	<p><del>2.35.2</del> Where buildings and structures already exist within 15 metres of the stable top of bank of major valley systems, and a 7.5 metre publicly owned access is not provided adjacent to the stable top of bank the following policies will apply:</p>		<p>Replaced by proposed new policy 2.33.</p>

	<p><del><b>2.35.2.1</b> Any replacement (same size and use) or additions, to the existing buildings and structures may be permitted subject to the following:</del></p> <p><del>a) the replacement or addition does not encroach any closer to the stable top of bank than the existing development at its closest point;</del></p> <p><del>b) even if existing development is closer than 6 metres to the stable top of bank, no new development is permitted within 6 metres of the stable top of bank in order to provide for an erosion access allowance as per the Provincial Policy Statement;</del></p> <p><del>c) a geotechnical assessment by a qualified engineer (at the expense of the applicant), may be required to determine the location of the stable top of bank and to determine if the proposed development would have a negative impact on slope stability. See Policy 2.4.2 and Section 4 for study requirements; and,</del></p> <p><del>d) In cases where the building or structure can be reasonably relocated outside of the setback the applicant will be encouraged to do so.</del></p>		
<p><b>2.35 Major Valley Systems - Development within 15 metres of Stable Top of Bank</b></p>	<p><del><b>2.35.2.2</b> Pools, decks and non-habitable accessory structures may be permitted subject to:</del></p> <p><del>a) no reasonable alternative exists outside of the 15 metres from the stable top of bank;</del></p> <p><del>b) no development permitted within 6 metres of the stable top of bank in order to provide for an erosion access allowance as per the Provincial Policy Statement;</del></p> <p><del>c) a geotechnical assessment by a qualified engineer (at the expense of the applicant), may be required to determine the location of the stable top of bank and to determine if the proposed development would have a negative impact on slope stability. See Policy 2.4.2 and Section 4 for study requirements.</del></p>		<p>Replaced by proposed new policy 2.34.</p> <p>Building Code permit exemption has been added to the stable top of bank policies to be consistent with the approach taken adjacent to flood plains and meander belts.</p>
<p><b>2.35 Major Valley Systems - Development within 15 metres of Stable Top of Bank</b></p>	<p><del><b>2.35.3</b> Except as provided for in Policies 2.35.1 and 2.35.2, no new development or redevelopment is permitted within 15 metres of the stable top of bank of major valley features.</del></p>		<p>Propose to no longer restrict all new development within the regulatory allowance but rather a new building policy has been added</p>

			to address the requirements for any new construction in the regulatory allowance. See new policy 2.32.
<b>2.36 Minor Valley Systems – Development within 7.5 metres of Stable Top of Bank</b>	<del>2.36.1</del> Where buildings and structures already exist within 7.5 metres of the stable top of bank of minor valley systems, any replacement (same size and use) or additions may be permitted subject to the following: a) the replacement or addition does not encroach any closer to the stable top of bank than the existing development at its closest point; b) even if existing development is closer than 6 metres to the stable top of bank, no new development is permitted within 6 metres of the stable top of bank in order to provide for an erosion access allowance as per the Provincial Policy Statement; c) a geotechnical assessment may be required (at the expense of the applicant, by a qualified geotechnical engineer) to determine the location of the stable top of bank and to determine if the proposed development will have a negative impact on slope stability. See Policy 2.4.2 and Section 4 for study requirements; and, d) In cases where the building or structure can be reasonably relocated outside of the setback the applicant will be encouraged to do so.		Replaced by proposed new policy 2.33.
<b>2.36 Minor Valley Systems - Development within 7.5 metres of Stable Top of Bank</b>	<del>2.36.2</del> Where there is an existing lot of record and residential dwelling, in existence prior to May 11, 2006, and where no reasonable alternative exists outside of the 7.5 metre area adjacent to the stable top of bank, pools, decks and non-habitable accessory structures may be permitted within three (3) metres of the stable top of bank. A geotechnical assessment by a qualified engineer (at the expense of the applicant) may be required to determine the location of the stable top of bank and to determine if the proposed development will have a negative impact on slope stability. See Policy 2.4.2 and Section 4 for study requirements.		Replaced by proposed new policy 2.34.  The existing 3 metre setback was established as a transitional policy to recognize approved minor valley creek block systems in new subdivisions prior to 2006 that did not contain a regulatory allowance in order to allow landowners some potential to have accessory structures in their rear yards. Since this transitional policy has been in place for 17 years, propose removal of this direction to align with all other hazards and require a minimum 6 metre setback unless the landowner is replacing an existing structure within 6 metres of the hazard.
<b>2.36 Minor Valley Systems - Development within 7.5 metres of Stable Top of Bank</b>	<del>2.36.3</del> Except as provided for in Policies 2.36.1 – 2.36.2, no new development or redevelopment is permitted within 7.5 metres of the stable top of bank of minor valley systems.		Propose to no longer restrict all new development within the regulatory allowance but rather a new building policy has been added to address the requirements for any new construction in the regulatory allowance. See new policy 2.32.
<b>NEW</b>  <b>Regulatory Allowance - Preamble</b>		<b>REGULATORY ALLOWANCE- Flood Plains, Meander Belts and Valleylands</b>  Ontario Regulation 162/06 establishes that CH may regulate an allowance from the limit of the greater of the <i>flood plain, stable top of bank, physical top of bank and/or meander belt allowance</i> associated with a <i>watercourse</i> , depending on the hazards present on site. In CH’s	This section describes the limits and size of the regulatory allowance.  Proposed policy continues to encourage applicants to relocate development out of the regulatory allowance to eliminate the need for future permits and to enhance protection of the watercourse system, where feasible.



		<p>watershed, a 7.5 metre regulatory allowance is applied from the limit of each hazard associated with a <i>minor valley system</i> and a 15 metre regulatory allowance is applied adjacent to each hazard associated with a <i>major valley system</i>. The following policies guide <i>development</i> within the regulatory allowance.</p> <p>Wherever reasonable, the applicant is encouraged to relocate development outside of the regulatory allowance.</p>	
<p><b>NEW</b></p> <p><b>2.32</b></p> <p><b>Regulatory Allowance – New Buildings</b></p>		<p><b>2.32 New Buildings</b></p> <p>New buildings may be permitted within 15 metres of any hazard in <i>major valley systems</i> or within 7.5 metres of any hazard in <i>minor valley systems</i>, provided:</p> <p>a) The building and site grading is designed to mitigate hazard risks and does not create new hazards or aggravate existing hazards on neighbouring properties; and,</p> <p>b) The building and any associated structures are located a minimum of 6 metres from all hazards.</p>	<p>New buildings are required to be setback the minimum 6 m access allowance. The building and site must be designed to mitigate hazard risks (e.g., stabilizing disturbed areas, providing appropriate freeboard, stormwater management measures to prevent an increase downstream flooding, etc.).</p>
<p><b>NEW</b></p> <p><b>2.33</b></p> <p><b>Regulatory Allowance – Reconstruction Alteration or Additions to Existing Buildings</b></p>		<p><b>2.33 Reconstruction, Alteration or Additions to Existing Buildings</b></p> <p>Where there is no proposed change to the building or structure that would have the effect of altering the use or potential use of the building or structure, and where buildings already exist within 15 metres of any hazard in <i>major valley systems</i> or within 7.5 metres of any hazard in <i>minor valley systems</i>, reconstruction, alteration, and/or additions may be permitted subject to the following:</p> <p>a) The building and site grading is designed to mitigate hazard risks and does not create new hazards or aggravate existing hazards on neighbouring properties; and,</p> <p>b) If the existing building is within the 6 metre access allowance, the proposed works do not encroach closer to each hazard than the existing building at its closest point and the proposed change, including any reconstruction, alteration or addition is minor in nature; or,</p> <p>c) If the existing building is located outside of the 6 metre access allowance, the proposed works must be located a minimum of 6 metres from all hazards.</p> <p>The applicant is encouraged to provide sufficient space to allow for future accessory structures. Policy 2.34 applies to decks, sheds, and other non-habitable accessory structures.</p> <p>Building reconstruction, alteration, and additions that do not meet the above policy will be assessed as a new building under policy 2.32.</p>	<p>This policy is intended to recognize the reconstruction, alteration, or additions to <u>existing buildings</u>. Buildings must be a minimum of 6 metres from all hazards, except for properties with existing buildings within the 6 metre access allowance, which are offered some flexibility in recognition that access has already been impeded, and provided the development is the same use and any additions are minor in nature. Any proposals that do not meet these criteria are subject to the new building policy, 2.32.</p> <p>The proposed policies ensure that all proposed development is not at a greater risk than existing development and will provide for reconstruction that may improve risk.</p> <p>The same use provision ensures no higher risk uses (e.g., vulnerable uses, higher density residential) are permitted within the 6 metre access allowance to ensure any change of use is consistent with the PPS Erosion Hazard definition and Provincial technical guides.</p> <p>The proposed flexibility within the 6 metre access allowance recognizes reconstruction scenarios where the development is a second story addition or addition to a building that is already in the access allowance; and/or, the redevelopment can take the building out of the hazard but not out of the allowance entirely.</p> <p>Proposals must mitigate risks where necessary and to the extent possible (e.g., stabilizing disturbed areas, providing appropriate freeboard through grading, etc.)</p> <p>This approach would eliminate the need for commonly requested policy exceptions.</p>

<b>NEW</b> <b>2.34</b> <b>Regulatory Allowance -</b> <b>Decks, Sheds, and Other</b> <b>Non-habitable Accessory</b> <b>Structures</b>		<b>2.34 Decks, Sheds, and Other Non-habitable Accessory Structures</b>  Decks, sheds, and other non-habitable accessory structures may be permitted within 15 metres of any hazard in <i>major valley systems</i> or within 7.5 metres of any hazard in <i>minor valley systems</i> , subject to the following:  a) The structure and site grading are designed to mitigate hazard risks and do not create new hazards or aggravate existing hazards on neighbouring properties; and, b) The structure is located a minimum of 6 metres from all hazards; or, c) If there is an existing building or structure within the 6 metre access allowance, the proposed structure does not encroach closer to each hazard than the existing structure at its closest point.  Non-habitable accessory buildings and structures under a total of 15 square metres in size that do not require approval under the Building Code do not require a Conservation Halton Permit within the regulatory allowance adjacent to the hazard.	New decks, sheds and other non-habitable accessory structures must be a minimum of 6 metres from all hazards, except for properties with existing non-habitable accessory structures which are offered flexibility within the 6 metre allowance.  In April 2022 the Building Code was amended to exempt sheds under 15 square meters in size. New policy proposes exemption of structures under 15 square meters to be consistent with the Building Code.
<b>NEW</b> <b>2.35</b> <b>Regulatory Allowance –</b> <b>Non-structural</b> <b>Development and Grading</b>		<b>2.35 Non-structural Development and Grading</b>  Non-structural development, such as grading works, may be permitted within 15 metres of any hazard in <i>major valley systems</i> or within 7.5 metres of any hazard within <i>minor valley systems</i> , subject to the following:  a) The non-structural development and site grading are designed to mitigate hazard risks and do not create new hazards or aggravate existing hazards on neighbouring properties.	Maintains policy direction from existing policies 2.25.2.3, 2.26.2.3, 2.27.2.3, and 2.28.2.3, with a minor editorial change to remove reference to clearance letters which have not been required in practice for minor grading as it is typically proposed in conjunction with other permitted works. Revised policy also clarifies that hazard risks must be mitigated, new hazards are not created or aggravated.
<b>NEW</b> <b>2.36</b> <b>Regulatory Allowance –</b> <b>Other Works</b>		<b>2.36 Works that would be permitted under Policies 2.24.2 to 2.24.6</b> may be permitted within 15 metres of any hazard in <i>major valley systems</i> or within 7.5 metres of any hazard in <i>minor valley systems</i> , subject to the requirements of policies 2.24.3 to 2.24.6	Maintains policy direction from existing policies 2.25.2.2, 2.26.2.2, 2.27.2.2, and 2.28.2.2.
<b>Land Use Policies</b>  <b>3.2 Flood and Erosion</b> <b>Hazard Limits</b>	3.2.2 Through the review of planning applications, staff will work with the applicant and watershed municipalities to ensure no new development, including lot creation, or site alteration is permitted within the flooding and erosion hazard limits, that would be contrary to the Provincial Policy Statement and/or Conservation Halton regulatory policies. For major valley systems, a minimum lot line setback of 15 metres from the greater of the limit of the flooding and erosion hazard limit. For minor valley systems a minimum lot line setback of 7.5 metres from the greater of the limit of the flooding and erosion hazard limit will be recommended.	3.2.2 Through the review of planning applications, staff will work with the applicant and watershed municipalities to ensure no new development, including lot creation, or site alteration is permitted within the flooding and erosion hazard limits, that would be contrary to the Provincial Policy Statement and/or Conservation Halton regulatory policies. For major valley systems, a minimum lot line setback of 15 metres from the greater of the limit of the <i>flooding hazard, stable top of bank</i> and <del>erosion hazard</del> <i>meander belt allowance</i> limit <b>will be recommended</b> . For minor valley systems a minimum lot line setback of 7.5 metres from the greater of the limit of the flooding and erosion hazard limit will be recommended.	Housekeeping edits to clarify that CH’s existing policies to recommend a 15 m or 7.5 m lot line setback from the greatest hazard will continue to apply through the review of <i>Planning Act</i> applications where new lots including new creek blocks are created.
<b>Land Use Policies</b>	3.3.2 Through the review of planning applications, staff will work with the applicant and watershed municipalities to ensure no new development,	3.3.2 Through the review of planning applications, staff will work with the applicant and watershed municipalities to ensure no new	

<b>3.2 Flood and Erosion Hazard Limits</b>	including lot creation, or site alteration is permitted within valleylands and the associated erosion hazard limits that would be contrary to the Provincial Policy Statement and/or Conservation Halton policies. Where the flooding hazard limit is contained within the valley, the lot line setbacks are a minimum of 15 metres from the greater of the physical or stable top of bank adjacent to major valley systems and 7.5 metres from the greater of the physical or stable top of bank adjacent to minor valley systems. Conservation Halton will recommend to municipalities, through the provision of conditions of draft plan approval, that applications for a plan of subdivision adjacent to valleylands, be required to include protection of the valleyland and adjacent tableland in perpetuity. It is Conservation Halton’s preference that this be done through dedication to the municipality however there may be other acceptable methods to ensure that these areas are protected by a public agency.	development, including lot creation, or site alteration is permitted within valleylands and the associated erosion hazard limits that would be contrary to the Provincial Policy Statement and/or Conservation Halton policies. Where the flooding hazard limit is contained within the valley, <del>the lot line setbacks are a minimum</del> <b>lot line setback</b> of 15 metres from the greater of the physical or stable top of bank adjacent to major valley systems and 7.5 metres from the greater of the physical or stable top of bank adjacent to minor valley systems <b>will be recommended</b> . Conservation Halton will recommend to municipalities, through the provision of conditions of draft plan approval, that applications for a plan of subdivision adjacent to valleylands, be required to include protection of the valleyland and adjacent tableland in perpetuity. It is Conservation Halton’s preference that this be done through dedication to the municipality however there may be other acceptable methods to ensure that these areas are protected by a public agency.	Housekeeping edits to clarify that CH’s existing policies to recommend a 15 m or 7.5 m lot line setback from the greatest hazard will continue to apply through the review of <i>Planning Act</i> applications where new lots including new creek blocks are created.
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