

Section:	FINANCE		
Title:	FIN-08: Fee Policy		
Resolution	#106/21	Approval Date:	October 27, 2021
Revisions	#116/22		

1.0 Purpose

This Policy establishes guidelines for the charging of Conservation Authority Fees. The Policy applies to all classes of programs and services for which the LRCA charges a fee.

2.0 Legislative Framework

On January 1, 2023 the *Conservation Authorities Act* is amended by enacting section 21.2 (1)-(12) “Fees for Programs and Services”. Subsection (1) enables the Minister to determine the classes of programs and services in respect of which an authority may charge a fee and (2) requires the minister to publish a List in a policy document. Conservation Authorities may only charge a fee or service that it provides if it falls within this list. On April 11, 2022 the Minister released Policy: Minister’s list of classes of programs and services in respect of which conservation authorities may charge a fee (attached). The policy outlines the following classes of program and services for which conservation authorities may charge a fee:

- **Category 1: Mandatory programs and services.** Mandatory programs and services that the conservation authority is required to provide. These services are further defined in O. Reg. 686/21: Mandatory Programs and Services and may be funded by provincial grants, other sources, municipal apportionment and/or self-generated revenue (e.g., user fees) where the user-pay principle is appropriate.
- **Category 2: Non-mandatory programs and services at the request of a municipality.** Programs and services that authority agrees to provide on behalf of a municipality under a Memorandum of Understanding (MOU) or agreement. The program or service may be funded by the municipality or by other funding mechanism (e.g., user fees where the user-pay-principle is appropriate) as per the MOU or agreement.
- **Category 3: Non-mandatory programs and services.** Programs and services that an authority determines are advisable to further the purposes of the Act. The program or service may be funded by the municipality or by other funding mechanisms (e.g., user fees where the user-pay-principle is appropriate) as per the cost apportioning agreement (if levy is used) and the Minister’s List.

Principles

As a result of the legislative policy basis, LRCA's Fees Policy is based on the following:

- The user-pay principle
- Fees for planning and permitting services should be set to recover but not exceed the costs associated with administering and delivering the service on a program basis
- Adequate consultation and notification
- Opportunity or right to an appeal

3.0 Establishment of Fees

When developing and establishing fees, the Authority will review and consider similar fees set out by the other Northern Conservation Authorities and other Conservation Authorities of similar size; fees charged by our Member Municipalities; and fees charged if applicable, by the private sector for similar services.

Fees account for estimated staff time, travel, equipment, and material costs plus a reasonable charge to cover administration of the program, where applicable.

Fee Schedules will be reviewed and approved by the Board of Directors.

4.0 Implementation

Established fees will be set out in a Summary of Fees and associated Fee Schedules. The Summary of Fees will list fees associated with rentals, sales, services and parking/day use at Conservation Areas; Fee Schedules will summarize fees for specific program areas such as:

- Development, Interference with Wetlands and Alterations to Shorelines and Watercourses, O. Reg. 180/06
- Plan Input and Review
- Education Programming.

The current Summary of Fees and Fee Schedules will be posted on the LRCA website. Physical copies will be provided upon request.

5.0 Exemption and In-Kind Services

The Authority may waive fees for non-profit conservation groups contributing to the protection and restoration of the natural environment. Examples include but are not limited to: North Shore Steel-head Association, Stewardship Council, etc. If an exemption is requested by a non-profit group, the CAO will review and exempt as appropriate.

In addition, staff may provide in-kind services to assist non-profit groups, such providing maps for funding applications, letters of support, etc., personnel and time permitting.

6.0 Revision and Review Process

The public will be notified of any proposed increases or revisions to the Fee Schedules, by way of posting a notice on the LRCA website. All fee changes or new fees will be approved by the Board of Directors.

The Fee Schedule will be reviewed and updated as warranted by staff and presented annually to the Board of Directors for consideration and approval.

Plan Review and Permitting Fees will be reviewed every five years.

The Fee Policy will be reviewed, every five years.

7.0 Appeals Process

The applicant has the right to appeal a fee and request either a reduction or waiving of the fee. In order to appeal a fee, the applicant must submit in writing the reasons for the appeal. The consideration for waiving/reducing the fee will be based largely on:

1. The scope of work required to administer and review the application and supporting technical reports.
2. If the municipality has waived or reduced their application fee.

Appeals will first be heard by the Chief Administrative Officer (CAO). If the request is denied by the CAO or the applicant is still unsatisfied, the appeal will be heard by the Board of Directors. The CAO and the Board of Directors after consideration of an appeal will either:

1. Determine that the full fee is applicable.
2. Vary the amount of the fee originally charged.
3. Determine that no fee be charged.

All Board of Director decisions will be via resolution. The appellant will be notified in writing of the CAO and/or Board of Director's decision.

The cost of products sold by the Authority (i.e. t-shirts, water bottles, etc.) is not appealable.

Attachment:

- Minister's list of classes of programs and services in respect of which conservation authorities may charge a fee, April 11, 2022

Policy: Minister's list of classes of programs and services in respect of which conservation authorities may charge a fee

April 11, 2022

Preamble

A conservation authority is permitted to charge a fee for a program or service only if the program or service is included in the Minister's list of classes of programs and services in respect of which a conservation authority may charge a fee. The Minister's published list of classes of programs and services in respect of which a conservation authority may charge a fee ("Minister's Fee Classes Policy") is provided as per the provisions set out in section 21.2 of the *Conservation Authorities Act*. From time to time, the Minister may make changes to the list and will promptly update this document and distribute it to each conservation authority.

Fees that a conservation authority may charge under the *Conservation Authorities Act*

Section 21.2 of the *Conservation Authorities Act* requires a conservation authority to administer the charging of fees in a transparent and accountable manner by adopting and publishing a written fee policy, which includes a fee schedule that lists the programs and services for which an authority charges a fee and the amount to be charged. Conservation authorities must maintain their fee schedule and if an authority wishes to make changes to its fee schedule, it must notify the public of the proposed change (e.g., on its website). In its fee policy, a conservation authority must also set out the frequency with which it will conduct a review of its fee policy, including its fee schedule, the process for carrying out a review of the fee policy, including the rules for giving notice of the review and any changes as a result of a review, and the circumstances under which any person may request the authority to reconsider a fee that was charged to the person and the procedures applicable to the reconsideration. Decisions regarding the fee policy and fee schedule are made by the members of a conservation authority, comprised of representatives appointed by the participating municipalities and the agricultural sector representative member, where appointed by the Minister of the Environment, Conservation and Parks.

Reconsideration of fee charged

A conservation authority's fee policy must define the circumstances in which a person may request that the authority reconsider a fee that was charged and the procedures applicable to the reconsideration. Where the authority's fee policy permits a person to request the authority to reconsider the fee it has charged that person because it is contrary to the authority's fee schedule or excessive in relation to the program or service for which it was charged, that person may apply to the authority, in accordance with the procedures set out in the authority's fee policy, to request a reconsideration of the fee.

After receiving and considering the request, the authority may 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.

Fees that a conservation authority may charge as prescribed by other legislation

The Minister's Fee Classes Policy does not include those instances where the authority is already authorized under another statute to charge a fee for a program or service. For example, where an authority administers an on-site sewage system program under the *Building Code Act, 1992*, the authority has the power to charge fees for that program. Similarly, under Part IV of the *Clean Water Act, 2006*, a municipality has enforcement responsibility to regulate significant drinking water threats in wellhead protection areas and intake protection zones and may delegate that responsibility to a conservation authority. When this delegation occurs, the conservation authority is also given the power to charge fees as the enforcement body under that Act.

User-Pay Principle

The fees that conservation authorities charge, in accordance with the Minister's Fee Classes Policy, are considered 'user fees.' 'User fees' are fees paid to an authority by a person or organization for a service that 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 other permission to undertake a regulated activity).

For the purposes of this Minister's Fee Classes Policy, a fee may only be applied when the User-Pay Principle is considered appropriate, which is when there is a class of persons that directly benefits from a program or service delivered by an authority ("User-Pay Principle") (note: other restrictions may apply; see Table 1 below).

Enabling authorities to charge a fee for programs and services where the User-Pay Principle is considered appropriate increases opportunities for an authority to generate revenue. This may reduce an authority's reliance on the municipal levy (now called an "apportionment") to finance the programs and services it provides. However, it is up to a conservation authority to decide the proportion of the costs associated with administering and delivering a program or service that should be recovered by a user fee versus those costs that are offset by other funding sources, such as the municipal levy. Beginning with the 2024 calendar year budgets, if an authority considered opportunities to raise and use self-generated revenue such as fees to finance its operations, the authority will be required to include in its budget a description of what the authority considered.

Fee amounts

A conservation authority may determine the amount of a fee to be charged for a program or service that it provides. If a fee is to be charged for a program or service, the amount to be charged or the manner for determining the amount must be listed in the conservation authority's fee schedule. Some fee amounts cannot exceed the authority's costs for administering and delivering a program or service. For example, fees for planning services should be developed in conjunction with the appropriate planning authorities and set to recover but not exceed the costs associated with administering and delivering the services on a program basis. Similarly, fees for permitting services should be developed to recover but not exceed the costs associated with administering and delivering the services on a program basis. Other fees set by the authority for a program or service are not subject to this restriction, such as fees for selling products or fees for rentals. Fees that are not subject to this restriction can provide the authority with a source of revenue to help offset costs for other programs and services offered by the authority.

Minister's fee classes

The following is the list of classes of programs and services in respect of which an authority may charge a fee.

Table 1. Classes of programs and services for which conservation authorities may charge a fee

Classes of programs and services	Criteria	Examples
Category 1 mandatory programs and services (section 21.1 of the <i>Conservation Authorities Act</i>)	Category 1 programs and services where the following requirement is met: <ul style="list-style-type: none"> • The User-Pay Principle is appropriate. 	Examples may include: <ul style="list-style-type: none"> – Administration of section 28 natural hazards development permits (current section 28 and unproclaimed section 28.1), including related technical advice and studies. – Responses to legal, real estate and public inquiries regarding a section 28 permit (and unproclaimed section 28.1) and natural hazard inquiries under the <i>Planning Act</i>. – Activities requiring a permit made pursuant to section 29 of the <i>Conservation Authorities Act</i>. – Review and commenting on applications under other

		<p>legislation noted under the Mandatory Programs and Services Regulation (O. Reg. 686/21) and associated inquiries.</p> <ul style="list-style-type: none"> - Access to authority owned or controlled land for recreational activities not requiring direct authority or other staff involvement.
<p>Category 2 municipal programs and services – i.e., those programs and services an authority provides on behalf a municipality pursuant to a memorandum of understanding or service level agreement (or other agreement) (section 21.1.1 of the <i>Conservation Authorities Act</i>)</p>	<p>Category 2 programs and services where the following requirements are met:</p> <ul style="list-style-type: none"> • The User-Pay Principle is appropriate; and • The parties agree through provisions in a memorandum of understanding, service level agreement, or other agreement governing the provision of the Category 2 program or service that the authority should be permitted to charge a fee for that program or service. 	<p>Examples may include commenting on <i>Planning Act</i> applications for technical and policy matters other than for consistency with natural hazard policies, such as related to natural heritage, storm water management, or other matters requested by a municipality.</p>
<p>Category 3 authority determined programs and services (section 21.1.2 of the <i>Conservation Authorities Act</i>) that are financed in whole or in part by the municipal levy and on or</p>	<p>Category 3 programs and services that are financed in whole or in part by the municipal levy, where the following requirements are met:</p> <ul style="list-style-type: none"> • The User-Pay Principle is appropriate; and • Where a cost apportionment agreement has been entered into for a Category 3 program or service, the agreement includes provisions permitting the authority to charge a fee for the program or service. This requirement does not apply where the cost apportionment agreement 	<p>Examples may include private land stewardship or extension services that are partially funded by municipal levy.</p>

<p>after January 1, 2024 will require a cost apportioning agreement</p>	<p>relates to any of the following Category 3 programs and services:</p> <ul style="list-style-type: none"> i) Recreational activities that are provided on land that is owned or controlled by the authority with the direct support or supervision of staff employed by the authority or by another person or body, or with facilities or other amenities maintained by the authority, including equipment rentals and renting facilities for special events. ii) Community relations to help establish, maintain, or improve relationships between the authority and community members. iii) Public education services to improve awareness of issues relating to the conservation, restoration, development, and management of natural resources in watersheds in Ontario. iv) The provision of information to the public. v) The sale of products by the authority. 	
<p>Category 3 authority determined programs and services (section 21.1.2 of the <i>Conservation Authorities Act</i>) that are not financed in whole or in part by the municipal levy</p>	<p>Category 3 programs and services that are not financed in whole or in part by the municipal levy, where the following requirement is met:</p> <ul style="list-style-type: none"> • The User-Pay Principle is appropriate. 	<p>Examples may include those listed in the row above that are not financed in whole or in part by municipal levy.</p>

Disclaimer

This Minister’s Fee Classes Policy summarizes some of the requirements in the *Conservation Authorities Act* with respect to the charging of a fees by a conservation

authority for programs and services. This document should not be construed as legal advice or a substitute for seeking independent legal advice. Anyone seeking to fully understand how the Act may apply to the charging of fees by a conservation authority for programs or services should refer to the Act. In the event of any inconsistency between the *Conservation Authorities Act* and this policy, the Act will always take precedence.