

Conservation Authorities Act

ONTARIO REGULATION 402/22 BUDGET AND APPORTIONMENT

Consolidation Period: From April 20, 2022 to the [e-Laws currency date](#).

Note: THIS REGULATION IS NOT YET IN FORCE. It comes into force on July 1, 2023, the day subsection 24 (1) of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force.

No amendments.

This is the English version of a bilingual regulation.

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INTERPRETATION

Definitions

1. (1) In this Regulation,

“benefit-based apportionment method” means the method of apportioning an authority’s operating expenses and capital costs described in subsection 7 (6); («méthode de répartition fondée sur les avantages»)

“Category 1 CWA/LSPA operating expense or capital cost” means an operating expense or capital cost that is related to the provision of a Category 1 CWA/LSPA program or service; («dépense d’exploitation ou coût en immobilisations LES/LPLS de catégorie 1»)

“Category 1 CWA/LSPA programs and services” means the mandatory programs and services that an authority is required to provide under section 21.1 of the Act with respect to its duties, functions and responsibilities under the *Clean Water Act, 2006* and under the *Lake Simcoe Protection Act, 2008*; («programmes et services LES/LPLS de catégorie 1»)

“Category 1 operating expense or capital cost” means an operating expense or capital cost that is related to the provision of a Category 1 program or service; («dépense d’exploitation ou coût en immobilisations de catégorie 1»)

“Category 1 programs and services” means the mandatory programs and services that an authority is required to provide under section 21.1 of the Act; («programmes et services de catégorie 1»)

“Category 2 operating expense or capital cost” means an operating expense or capital cost that is related to the provision of a Category 2 program or service; («dépense d’exploitation ou coût en immobilisations de catégorie 2»)

“Category 2 programs and services” means the municipal programs and services that an authority provides under section 21.1.1 of the Act on behalf of a municipality situated in whole or in part within its area of jurisdiction; («programmes et services de catégorie 2»)

“Category 3 operating expense or capital cost” means an operating expense or capital cost that is related to the provision of a Category 3 program or service; («dépense d’exploitation ou coût en immobilisations de catégorie 3»)

“Category 3 programs and services” means programs and services that are not Category 1 or Category 2 programs and services but are other programs and services provided by an authority under section 21.1.2 of the Act; («programmes et services de catégorie 3»)

“general operating expense or capital cost” means an operating expense or capital cost that is not related to the provision of a program or service that an authority provides; («dépense d’exploitation générale ou coût en immobilisations général»)

“MCVA apportionment method” means a method of apportioning an authority’s operating expenses and capital costs that is based on the modified current value assessment of the properties within the authority’s area of jurisdiction and further described in subsections 7 (2), (3), (4) and (5); («méthode de répartition EVAM»)

“reduced capital costs” means the capital costs of an authority for a given year, as reduced under section 6; («coûts en immobilisations réduits»)

“reduced operating expenses” means the operating expenses of an authority for a given year, as reduced under section 6; («dépenses d’exploitation réduites»)

“specified municipality” means a specified municipality as defined in subsection 27.2 (1) of the Act. («municipalité précisée»)

(2) For the purposes of clause (e) of the definition of “operating expenses” in section 1 of the Act, any costs, other than capital costs in connection with a project, that support the operations of an authority are prescribed as operating expenses.

(3) For the purposes of the definitions of “Category 1 operating expense or capital cost”, “Category 2 operating expense or capital cost” and “Category 3 operating expense or capital cost” in subsection (1),

- (a) a capital cost shall be considered related to the provision of a Category 1, Category 2 or Category 3 program or service, as the case may be, if it is incurred in connection with a project that is related to the provision of the program or service; and
- (b) an operating expense that is incurred in connection with a project shall be considered related to the provision of a Category 1, Category 2 or Category 3 program or service, as the case may be, if the project is related to the provision of the program or service.

Budgetary matters

2. The following matters are prescribed as budgetary matters for the purposes of clause 14 (4.0.1) (d) of the Act:

1. Matters that are required to be voted on under this Regulation.
2. Matters relating to budget reallocations in a calendar year.
3. Matters relating to annual audits under section 38 of the Act.

BUDGET

Annual budget

3. Every authority shall prepare a budget for 2024 and for every subsequent calendar year in accordance with this Regulation.

Budgetary process

4. (1) An authority shall prepare the budget for a calendar year in accordance with the budgetary process set out in this Regulation.

(2) An authority shall begin the budgetary process for a given calendar year at such time during the preceding year as the authority determines and shall end the budgetary process at such time as the authority determines, subject to any timelines set out in this Regulation.

APPORTIONMENT

Determination of revenue, expenses and costs

5. (1) During the first phase of the budgetary process for a given calendar year, the authority shall,

- (a) identify all of the authority's sources of revenue for the year, other than revenue from the apportionment of operating expenses and capital costs under sections 7 to 12, including,
 - (i) revenue from fees or charges paid to the authority,
 - (ii) revenue from donations and grants received by the authority,
 - (iii) self-generated revenue from fund-raising or other efforts made during the year to generate funds,
 - (iv) any amounts that the authority plans to obtain from its reserve funds to finance its capital costs and operations, including its programs and services, for the year,
 - (v) revenue made under agreements entered into under clause 21 (1) (n) of the Act, and
 - (vi) revenue from other sources;
- (b) determine the amount of revenue from each of the sources identified under clause (a) and add those amounts to determine the authority's total revenue for the year;
- (c) identify all of the authority's operating expenses for the year, as required under subsection 27 (1) of the Act, and categorize them as,
 - (i) Category 1 operating expenses,
 - (ii) Category 2 operating expenses,
 - (iii) Category 3 operating expenses, or
 - (iv) general operating expenses;
- (d) determine the authority's total operating expenses for the year;
- (e) identify all of the authority's capital costs for the year, as required under subsection 25 (1) of the Act, and categorize them as,
 - (i) Category 1 capital costs,
 - (ii) Category 2 capital costs,
 - (iii) Category 3 capital costs, or
 - (iv) general capital costs; and
- (f) determine the authority's total capital costs for the year.

(2) If the Minister has consolidated two or more source protection areas into a drinking water source protection region under section 6 of the *Clean Water Act, 2006*,

- (a) the authority that is designated by the Minister as a lead source protection authority shall include under clause (1) (a) any revenue that it receives from other source protection authorities in the source protection region under an agreement entered into under subsection 6 (3) of the *Clean Water Act, 2006*; and
- (b) the authorities that are part of the source protection region but are not designated as the lead source protection authority shall identify under clause (1) (c) and (e) any operating expenses and capital costs that they are required to pay to the lead source protection authority under an agreement entered into under subsection 6 (3) of the *Clean Water Act, 2006*.

Determination of reduced amounts to be apportioned

6. For the purposes of subsections 25 (1) and 27 (1) of the Act, the authority shall, with respect to each operating expense and capital cost identified under clauses 5 (1) (c) and (e), determine which portion of the operating expense or capital cost will be apportioned to participating municipalities by,

- (a) determining if there are any restrictions or rules with respect to the use of revenue from certain sources by the authority;

- (b) determining if, in the authority's opinion, the operating expense or capital cost can or should be offset, in whole or in part, by any of the revenue identified in clause 5 (1) (a) and the extent to which it should be offset; and
- (c) applying such part of the revenue from a source identified in clause 5 (1) (a) as the authority determines is appropriate to the operating expense or capital cost so as to reduce it.

Methods of apportionment

7. (1) Subject to subsections 8 to 11, an authority may apportion a reduced operating expense or a reduced capital cost among its participating municipalities in accordance with one of the following methods of apportionment:

1. The MCVA apportionment method described in subsections (2), (3), (4) and (5).
2. The benefit-based apportionment method described in subsection (6).

(2) Under the MCVA apportionment method, the portion of a reduced operating expense or of a reduced capital cost to be apportioned to a participating municipality shall be based on the ratio that the participating municipality's modified current value assessment bears to the authority's modified current value assessment.

(3) For the purposes of subsection (2), a participating municipality's modified current value assessment shall be determined as follows:

1. For each of the property classes set out in Column 2 of the Table to this subsection, determine the sum of the current value assessment for all the properties in the municipality that are in the property class, if any.
2. Multiply the current value assessment for each property class by the factor set out in Column 3 of the Table to this subsection opposite the property class.
3. Determine the sum of the amounts obtained under paragraph 2.
4. Multiply the sum obtained under paragraph 3 by a percentage based on one of the following ratios:
 - i. If apportioning an operating expense or capital cost that is related to a program or service provided under the *Clean Water Act, 2006*, the ratio of the amount of the municipality's land that is in the source protection area for which the authority is the source protection authority under that Act to the total amount of land in the municipality.
 - ii. If apportioning any other operating expense or capital cost, the ratio of the amount of the municipality's land that is in the jurisdiction of the authority under the Act to the total amount of land in the municipality.

TABLE
PROPERTY CLASSES AND FACTORS

Column 1 Item	Column 2 Property Class	Column 3 Factor
1.	Residential/Farm	1
2.	Multi-residential	2.1
3.	Commercial	2.1
4.	Industrial	2.1
5.	Farmlands	0.25
6.	Pipe lines	1.7
7.	Managed Forests	0.25
8.	New multi-residential	2.1
9.	Office Building	2.1
10.	Shopping Centre	2.1
11.	Parking lots and Vacant land	2.1
12.	Large industrial	2.1

(4) Despite subsection (3), if a participating municipality is a regional municipality, the modified current value assessment for the regional municipality shall be equal to the sum of the modified current value assessment for all of the local municipalities in the regional municipality, as determined under subsection (3).

(5) For the purposes of subsection (2), an authority's modified current value assessment shall be equal to the sum of the modified current value assessments for,

- (a) if apportioning an operating expense or a capital cost that is related to a program or service provided under the *Clean Water Act, 2006*, every participating municipality in the source protection area for which the authority is a source protection authority under that Act; and
- (b) if apportioning any other operating expense or capital cost, every participating municipality within the authority's area of jurisdiction.

- (6) Under the benefit-based apportionment method, the authority shall apportion an operating expense or capital cost by,
 - (a) evaluating the benefit that each participating municipality obtains from the program or service to which the operating expense or capital cost is related; and
 - (b) allocating to each participating municipality a portion of the reduced operating expense or reduced capital cost that is based on the ratio of the benefit afforded to the participating municipality by the program or service referred to in clause (a), relative to the overall benefit afforded by the program or service to all benefitting participating municipalities.

Category 1 operating expenses and capital costs

8. (1) Before apportioning a Category 1 operating expense or capital cost, an authority shall make the following determinations:

- 1. Whether the related Category 1 program or service,
 - i. benefits all of the participating municipalities within the authority's area of jurisdiction, or
 - ii. benefits one or more, but not all, of the participating municipalities within the authority's area of jurisdiction.
- 2. If the related Category 1 program or service benefits all of the participating municipalities within the authority's area of jurisdiction, whether one or more of the participating municipalities' benefit from the Category 1 program or service is disproportionate to the benefit obtained by the other participating municipalities.
- 3. In the case of a Category 1 CWA/LSPA operating expense or capital cost, a determination made in accordance with Ontario Regulation 401/22 (Determination of Amounts under Subsection 27.2 (2) of the Act) made under the Act that,
 - i. the related Category 1 CWA/LSPA program or service benefits one or more of the authority's specified municipalities, and
 - ii. the benefitting specified municipalities owe or will owe amounts with respect to the program or service under subsection 27.2 (2) of the Act.

(2) An authority shall use the MCVA apportionment method to apportion the reduced operating expense or reduced capital cost for Category 1 operating expenses and capital costs, subject to subsection (3).

(3) An authority shall use the benefit-based apportionment method to apportion the reduced operating expense or reduced capital cost for a Category 1 operating expense or capital cost if the authority has determined under subsection (1) that the related Category 1 program or service,

- (a) benefits one or more, but not all, of the participating municipalities within the authority's area of jurisdiction; or
- (b) benefits all of the participating municipalities within the authority's area of jurisdiction but one or more of the participating municipalities is provided with a benefit that is disproportionate to the benefit provided to the other participating municipalities.

(4) An authority shall apportion a Category 1 CWA/LSPA operating expense or capital cost in accordance with subsections (2) and (3), except if the authority has determined under Ontario Regulation 401/22 that,

- (a) the related Category 1 CWA/LSPA program or service benefits one or more of its specified municipalities; and
- (b) the benefitting specified municipality owes or will owe amounts under subsection 27.2 (2) of the Act.

(5) In the case of Category 1 CWA/LSPA operating expense or capital cost described in clauses (4) (a) and (b), the apportionment of the operating expense or capital cost conducted under Ontario Regulation 401/22 to determine the amounts owing under subsection 27.2 (2) of the Act by specified municipalities shall be considered an apportionment under this Regulation and used to determine the portion of the operating expense or capital cost to be apportioned to each participating municipality within the authority's area of jurisdiction.

Category 2 operating expenses and capital costs

9. When apportioning a Category 2 operating expense or capital cost, an authority shall apportion the reduced operating expense or the reduced capital cost, as the case may be, in its entirety, to the participating municipality that has entered into a memorandum of understanding or other agreement with the authority under section 21.1.1 of the Act for the authority to provide the Category 2 program or service on the municipality's behalf.

Category 3 operating expenses and capital costs

10. (1) When apportioning a Category 3 operating expense or capital cost, an authority shall apportion the reduced operating expense or the reduced capital cost, as the case may be, among the participating municipalities that entered into an agreement described in subsection 21.1.2 (2) of the Act in accordance with that agreement.

(2) Despite subsection (1), if the agreement described in subsection 21.1.2 (2) of the Act does not address how to apportion a Category 3 operating expense or capital cost, the authority shall apportion the reduced operating expense or the reduced capital cost, as the case may be, in the following manner:

1. Subject to subparagraph 2 i, if all of the participating municipalities within the authority's area of jurisdiction have entered into the agreement described in subsection 21.1.2 (2) of the Act, by using the MCVA apportionment method.
2. By using the benefit-based apportionment method if,
 - i. all of the participating municipalities within the authority's area of jurisdiction have entered into the agreement described in subsection 21.1.2 (2) of the Act but, in the authority's opinion, one or more participating municipalities obtains a benefit from the related Category 3 program or service that is disproportionate to the benefit obtained by the other participating municipalities, or
 - ii. one or more, but not all, of the participating municipalities within the authority's area of jurisdiction have entered into the agreement described in subsection 21.1.2 (2) of the Act.

General operating expenses and capital costs

11. When apportioning a general operating expense or capital cost, an authority shall use the MCVA apportionment method to apportion the reduced operating expense or capital cost, as the case may be.

Agreements

12. Despite sections 7 to 11, where an authority has entered into an agreement with its participating municipalities with respect to the apportionment of the following operating expenses or capital costs, the apportionment of the reduced operating expense or the reduced capital cost, as the case may be, shall be in accordance with the agreement:

1. Category 1 operating expenses that are related to a Category 1 program or service that benefits one or more, but not all, of the participating municipalities within the authority's area of jurisdiction.
2. Category 1 capital costs.
3. Category 1 CWA/LSPA operating expenses and capital costs.
4. General capital costs.

DRAFT BUDGET AND CONSULTATIONS

Draft budget

13. (1) After having determined the apportionment of operating expenses and capital costs, an authority shall begin the second phase of the budgetary process by preparing a draft budget.

(2) The draft budget for any given year shall set out:

1. The authority's total revenue for the year, as determined under clause 5 (1) (b).
2. The sources of the revenue for the year referred to in subclauses 5 (1) (a) (i) to (vi) and the amount of the revenue from each such source, as determined under clause 5 (1) (b).
3. The authority's total operating expenses for the year, as determined under clause 5 (1) (d), and a list of operating expenses setting out as separate amounts,
 - i. Category 1 operating expenses related to each Category 1 program and service,
 - ii. Category 2 operating expenses related to each Category 2 program and service,
 - iii. Category 3 operating expenses related to each Category 3 program and service, and
 - iv. general operating expenses.
4. The authority's total capital costs for the year as determined under clause 5 (1) (f), and a list of capital costs setting out as separate amounts,
 - i. Category 1 capital costs related to each Category 1 program and service,
 - ii. Category 2 capital costs related to each Category 2 program and service,
 - iii. Category 3 capital costs related to each Category 3 program and service, and
 - iv. general capital costs.
5. The amount of revenue that the authority will obtain during the year from the apportionment of operating expenses and capital costs under sections 7 to 12 to its participating municipalities, and the portion of this revenue that each participating municipality shall pay.

6. The amount of revenue that the authority will obtain during the year from amounts to be paid by specified municipalities under section 27.2 of the Act, as determined under Ontario Regulation 401/22 (Determination of Amounts under Subsection 27.2 (2) of the Act) made under the Act, and the portion of this revenue that each specified municipality shall pay.
7. If the authority considered opportunities to raise and use self-generated revenue to help finance the authority's operations, including the programs and services it provides, a description of what the authority considered.
8. Any additional financial information that the authority considers relevant to include.

Meeting on draft budget

- 14.** (1) An authority shall hold a meeting to,
 - (a) consider the draft budget for a given year; and
 - (b) decide whether or not to approve the draft budget for consultation purposes.
- (2) The authority shall give notice of the meeting on a draft budget for a given year to a specified municipality if,
 - (a) the authority has determined under subsection 27.2 (2) of the Act that the specified municipality owes or will owe amounts for the year in connection with Category 1 CWA/LSPA programs and services; and
 - (b) the amounts owing or to be owed, as determined under sections 5 to 8 of Ontario Regulation 401/22 (Determination of Amounts under Subsection 27.2 (2) of the Act) made under the Act, are set out in the draft budget.
- (3) At a meeting held under this section, the authority shall hold a vote on whether to approve the draft budget for consultation purposes.
- (4) If notice of the meeting has been given under subsection (2) to a specified municipality that is designated as a participating municipality under the *Clean Water Act, 2006*, the authority shall, before voting on approving the draft budget under subsection (3),
 - (a) convene the members appointed by the municipalities designated as participating municipalities under the *Clean Water Act, 2006*; and
 - (b) hold a vote of the members referred to in clause (a) to approve, for consultation purposes, the portion of the draft budget relating to programs and services provided by the authority under the *Clean Water Act, 2006*.
- (5) If notice of the meeting has been given under subsection (2) to a specified municipality that is designated as a participating municipality under the *Lake Simcoe Protection Act, 2008*, the authority shall, before voting on approving the draft budget under subsection (3),
 - (a) convene the members appointed by the municipalities designated as participating municipalities under the *Lake Simcoe Protection Act, 2008*; and
 - (b) hold a vote of the members referred to in clause (a) to approve, for consultation purposes, the portion of the draft budget relating to programs and services provided by the authority under the *Lake Simcoe Protection Act, 2008*.
- (6) For greater certainty, for the purposes of a vote held under subsection (4) or (5), section 16 of the Act applies except that the members appointed by the specified municipalities shall be included when determining the quorum and shall be entitled to vote.

Consultations

- 15.** (1) If an authority approves a draft budget for consultation purposes under section 14, the authority shall,
 - (a) send to each participating municipality, and to any specified municipality, a copy of the draft budget and of all financial information relating to the apportionment of operating expenses and capital costs; and
 - (b) make a copy of the draft budget and of the financial information referred to in clause (a) available to the public by posting them on the section of the authority's website entitled "Governance" and by any other means the authority considers appropriate.
- (2) An authority shall carry on such consultations with participating municipalities and specified municipalities affected by the draft budget as are necessary to finalize the annual budget.

APPROVAL OF APPORTIONMENT UNDER SUBSECTIONS 25 (1) AND 27 (1) OF THE ACT AND AMOUNTS OWING UNDER SUBSECTION 27.2 (2) OF THE ACT

Meeting on apportionment, etc.

- 16.** At the beginning of the third phase of the budgetary process, an authority shall hold a meeting to approve,
 - (a) the apportionment of operating expenses and capital costs to participating municipalities under subsections 25 (1) and 27 (1) of the Act, as determined under sections 7 to 12; and

- (b) the apportionment of any Category 1 CWA/LSPA operating expenses and capital costs among participating and specified municipalities in accordance with Ontario Regulation 401/22 (Determination of Amounts under Subsection 27.2 (2) of the Act) made under the Act.

Notice of meeting

17. (1) An authority shall give notice of a meeting under section 16 to all participating municipalities and to any specified municipality that is entitled to receive notice of the meeting under subsection (2).

(2) The authority shall give notice of a meeting under section 16 to a specified municipality if, after consultations held under section 15, the authority has determined under section 3 of Ontario Regulation 401/22 (Determination of Amounts under Subsection 27.2 (2) of the Act) made under the Act that the specified municipality should be required to pay amounts owing under subsection 27.2 (2) of the Act for the budget year in connection with Category 1 CWA/LSPA programs and services.

(3) The notice of meeting shall be given at least 30 days before the meeting.

(4) The notice of meeting shall include,

(a) a copy of the most recent draft of the budget; and

(b) the amount of the reduced operating expenses and reduced capital costs that the participating municipality or specified municipality that is given notice will be required to pay for the year.

Voting on apportionment, etc.

18. (1) At a meeting under section 16, an authority shall,

(a) if the apportionment of any Category 1 CWA/LSPA operating expenses and capital costs among participating municipalities and specified municipalities is on the meeting agenda, hold such votes as are necessary with respect to the apportionment of those operating expenses and capital costs before voting on the apportionment of any other operating expenses and capital costs; and

(b) after votes have been held under clause (a), if any, hold such votes as are necessary on the apportionment of other operating expenses and capital costs among participating municipalities.

(2) Despite section 16 of the Act,

(a) on a vote under clause (1) (a) with respect to an apportionment of the Category 1 CWA/LSPA operating expenses and capital costs, a person appointed by a specified municipality shall be entitled to vote as a member of the authority and shall be included in the quorum of members required for the purposes of that vote; and

(b) any vote held at a meeting under section 16, including a vote on which members appointed by specified municipalities are entitled to vote, shall be carried by a weighted majority in accordance with section 19.

(3) All votes held at a meeting under section 16 shall be recorded.

Weighted majority vote

19. The following rules apply to a vote that is to be carried by a weighted majority:

1. Each member's vote shall be weighted according to the ratio that the modified current value assessment for the municipality that appointed the member bears to the authority's modified current value assessment.

2. A weighted majority requires 51 per cent or more of the total weighted value for all of the votes cast.

3. In the case of tie vote, the vote is lost.

4. If a municipality appoints more than one member to the authority, each of those members' votes shall be equal to the municipality's weighted vote divided by the number of members the municipality appoints to the authority.

5. A municipality shall not have a weighted vote of more than 50 per cent of the total weighted value for all of the votes to be cast unless the municipality appoints more than 50 per cent of the members to the authority.

Notice to pay

20. (1) An authority shall not send a notice of apportionment to a participating municipality under subsection 25 (2) or 27 (3) of the Act until a vote has been held at a meeting under section 16 with respect to the apportionment under section 25 or 27 of the Act.

(2) An authority shall not send a notice under subsection 27.2 (3) of the Act setting out the amounts owing by a specified municipality with respect to a Category 1 CWA/LSPA program or service until a vote has been held at a meeting under section 16 of this Regulation with respect to the apportionment of the related Category 1 CWA/LSPA operating expenses and capital costs under subsection 27.2 (2) of the Act.

FINAL BUDGET

Final budget

- 21.** (1) An authority shall prepare a final budget as part of the final phase of the budgetary process.
- (2) The final budget shall meet all the requirements of a draft budget under subsection 13 (2), subject to subsection (3).
- (3) The amounts in the final budget shall reflect the matters agreed to during consultations under section 15 and the amounts voted on during a meeting held under section 16.

Meeting

- 22.** An authority shall hold a meeting of its members to approve the final budget.

Vote

- 23.** (1) The vote to approve the final budget shall be carried by a majority of votes.
- (2) Despite subsection (1), the vote to approve the final budget shall be carried by a weighted majority in accordance with section 19 if required to do so by the authority's by-laws.
- (3) A vote held to approve the final budget shall be recorded.

Providing copies and posting of budget

- 24.** Promptly after the final budget is approved by participating municipalities, the authority shall end the budgetary process for a given year by,
- (a) providing a copy of the final budget to the Minister and to each of the authority's participating municipalities and specified municipalities; and
 - (b) making a copy of the final budget available to the public by posting it on the section of the authority's website entitled "Governance" and by any other means the authority considers appropriate.

- 25.** OMITTED (REVOKES OTHER REGULATIONS).

- 26.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

Français

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