November 30, 2011

To: Municipal Clerks
Municipal Chief Building Officials

As directed by the Niagara Peninsula Conservation Board of Directors, at the November 16, 2011, Full Authority Meeting, please find attached, "Green Energy Act, Conservation Authorities Act and Other Provincial Statutes: Report No 62-11", for your information, as noted in the following Resolution.

Thank you,

Diane L. Bois
Administrative Assistant, Operations
N.P.C.A.
905-788-3135, ext 222

The following resolution was presented.

FA-143-11
MOVED BY: B. Timms
SECONDED BY: D. Ransom
THAT: a copy be forwarded to local municipal Clerks and Municipal Chief Building Officials.

"CARRIED"

FA-144-11
MOVED BY: M. DiFruscio
SECONDED BY: D. Ransom
THAT: Report No. 62-11 be received for information.
Further that, a copy of the report be forwarded to local municipal Clerks and Municipal Chief Building Officials.

"CARRIED"
To: Chairman and Members of the Authority  
Date: November 16, 2011  
Subject: Green Energy Act, Conservation Authorities Act and Other Provincial Statutes: Report No. 62-11  

Members will recall that at the September 21, 2011 meeting a number of questions were raised with respect to how/if Conservation Authorities Act and subordinate Regulations applied to "green" or renewable energy projects, under the Green Energy Act. There were also a number of questions raised with respect to the applicability of municipal building and planning approvals. The purpose of this report is to attempt to bring further clarity to these questions.

1) Conservation Authorities Act  

When the Green Energy Act was approved, changes were also made to other Provincial legislation including the Conservation Authorities Act. Ontario Regulation 15/10 (Attachment 1)pursuant to the Green Energy Act confirms that restrictions under the Conservation Authorities Act do apply to green/renewable energy projects. However, concurrently the Province also inserted a specific section into the Conservation Authorities Act that imposes one unique restriction on the issues a Conservation Authority can consider when deliberating if an approval of a permit for a green/renewable energy work is to be withheld. This stipulation is that Conservation Authorities may only reject approval of a permit/project if control of flooding, erosion, dynamic beaches or pollution will be affected. For all other applications where the Green Energy Act does not apply, Authorities must also consider impacts to "conservation of land", which is a broad consideration that has been established by case law and includes issues such as natural heritage features and habitat corridors.

Appended as Attachments 1) through 6) are a number of excerpts from applicable statutes and guidelines which confirm conservation authorities jurisdiction in green/renewable energy projects.

While green/renewable energy projects are clearly not exempted from conservation authority requirements related to natural hazard lands (i.e. slopes, floodplains, etc.) current NPCA policy which governs how NPCA staff assess these projects makes no distinction or exceptions for any renewable energy projects (i.e. microfit). Nevertheless, staff would advise that it is within the NPCA Board's ability to modify its policies to include special/new provisions lessening restrictions for certain green/renewable energy projects.

Staff would also advise that, larger scale green/renewable energy projects that require a Renewable Energy Permit from the Ministry of Environment must, for the most part, be located outside of areas which conservation authorities are typically concerned with. Therefore, to date the requirements of NPCA have not been "at odds" with these larger projects.

With respect to Provincial oversight, implementation of the Green Energy Act and the Renewable Energy Permit approval process is under the portfolio of the Ministry of Environment. Oversight of the Conservation Authorities Act and its NPCA's related Regulations, remains with the Ministry of Natural Resources.
2) Building Code Act and Planning Act

Some Board members have advised that considerable confusion exists around how the Building Code Act relates to green/renewable energy projects. While the legislative intricacies are cumbersome to follow, NPCA staff believe that the direct authority of municipal building divisions in relation to green/sustainable energy projects is limited.

While it is very clear that Regulations under the Green Energy Act list the Building Code Act as applicable legislation, (see Attachment No. 6), the "code" itself only contains criteria for governing-solar collectors mounted on a building and having a face area equal to or greater than 5 square metres; and structures that support a wind turbine generator having a rated output of more than 3 kilowatts, which in most cases is a reinforced concrete pad (see Attachment No.7).

This is not entirely surprising since the Building Code Act has traditionally not dealt with many types of specialty "structures" forming parts of various utility and transportation systems (i.e. bridges, retaining walls, electrical transmission towers, free standing pressure vessels); rather other specific statutes/codes have been relied on by the Province to ensure public safety for these more highly specialized structures.

To date, many of the "structures" not covered by the Building Code have been located in utility corridors or within larger industrial/commercial type facilities. The passing of the Green Energy Act has brought with it an emerging concern at the local level regarding how some green/renewable energy projects (i.e. solar panels, small wind turbines, etc.) may impact residential properties in established residential areas. Traditionally, local Councils had tools via the zoning bylaws process to require setbacks, drainage studies, etc. to address local concerns. However, with reference again to Attachment No.1, the green/renewable energy projects are not subject to the requirements of the Planning Act (i.e. Official Plan and Zoning Bylaws have no force). Therefore, local Councils do not have the tools previously relied on to address local residents concerns.

3) The Niagara Escarpment Planning and Development Act

The situation regarding green/renewable energy projects and the Niagara Escarpment Commission's jurisdiction is very similar to that of NPCA's. Concurrent with the Green Energy Act, the definition of "utility" was revised in the Niagara Escarpment Planning and Development Act to include "generation, transmission and distribution of electrical power" as permitted use in the plan area. Nonetheless, as can be seen in Attachment No.1 & 8, green/renewable energy projects are still subject to the Niagara Escarpment Planning and Development Act and therefore, NEC's development control policies and permit process can be applied.

Attachments:

1) Ontario Regulation 15/10 under Green Energy Act; other applicable statutes

2) excerpt from Conservation Authorities Act ; section 13.1; re: Grounds for refusing permission for renewable energy projects

3) excerpt from Green Energy Act ; re: definition renewable energy project

4) Fact Sheet from Conservation Ontario; re: Information for Green Energy Proponents

5) excerpt from Conservation Authorities Policy and Procedures Manual, Ministry of Natural Resources; Plan Review and Permitting Activities May 2010; re: Green Energy Act
6) excerpt from Guide: Provincial approvals for Renewable Energy Projects 2011; Ministry of Environment; re: conservation authorities

7) excerpt from Building Code; re: designated structures

8) excerpt from Niagara Escarpment Planning and Development Act; re: definition

**RECOMMENDATION:**

That Report No. 62-11 be received for information.
Further that; a copy of the report be forwarded to local municipal Clerks.

Prepared by: John Kukalis, C.E.T.; Director, Water Management

Respectfully Submitted By:  

Tony D’Amario, P. Eng.
Chief Administrative Officer/Secretary-Treasurer
Green Energy Act, 2009
Loi de 2009 sur l'énergie verte

ONTARIO REGULATION 15/10
DESIGNATIONS RE SECTION 5 OF THE ACT

Constitutional Period: From February 9, 2010 to the expiry thereof.

No amendments.

This Regulation is made in English only.

Designation of renewable energy projects

1. A renewable energy project related to a renewable energy generation facility that uses solar energy harnessed by photovoltaic technology as its renewable energy source is a designated renewable energy project for purposes of subsection 5 (1) of the Act, if the project meets the following criteria:
   1. The photovoltaic technology is mounted on the roof or wall or both of a building.
   2. The photovoltaic technology is installed in compliance with the Building Code Act, 1992, O. Reg. 15/10, s. 1.

Designation of renewable energy sources

2. (1) Ground source energy is designated as a renewable energy source for purposes of subsection 5 (1) of the Act, if the ground source energy is harnessed by ground source heat pump technology and the ground source heat pump technology is installed in compliance with the Building Code Act, 1992, O. Reg. 15/10, s. 2 (1).

   (2) Solar energy is designated as a renewable energy source for purposes of subsection 5 (1) of the Act, if the solar energy is harnessed by thermal air technology or thermal water technology that meets the following criteria:
   1. The thermal air technology or thermal water technology is mounted on the roof or wall or both of a building.
   2. The thermal air technology or thermal water technology is installed in compliance with the Building Code Act, 1992, O. Reg. 15/10, s. 2 (2).

Exception, prescribed by-laws etc.

3. By-laws, instruments and other restrictions that relate to the following classes of matters are prescribed for the purposes of clause 5 (4) (b) of the Act:
   1. The prevention of injury to or the destruction of trees.
   2. The protection of groundwater.
   3. The designation and protection, including interim protection, of properties of cultural heritage value or interest, heritage conservation study areas and heritage conservation districts and the designation of properties of archaeological or historic significance pursuant to Parts II, III, IV, V and VI of the Ontario Heritage Act.

4. Any activity or matter that is the subject of a regulation made by a conservation authority pursuant to clauses 28 (1) (a), (b) and (c) of the Conservation Authorities Act, O. Reg. 15/10, s. 3.

Exception, restrictions imposed under prescribed Acts

4. Restrictions at law imposed under the following Acts are prescribed for the purposes of clause 5 (4) (b) of the Act:
   8. The Environmental Assessment Act.
9. The Environmental Protection Act.
15. The Oil, Gas and Salt Resources Act.
17. The Ontario Heritage Act.
24. The Trades Qualification and Apprenticeship Act. O. Reg. 15/10, s. 4.

5. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 15/10, s. 5.
Conservation Authorities Act

R.S.O. 1990, CHAPTER C.27

Consolidation Period: From June 6, 2011 to the e-Laws currency date.
Last amendment: 2011, c. 9, Sched. 27, s. 22.

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(d) shall interfere with any rights or powers under the Electricity Act, 1998 or the Public Utilities Act, 1998, c. 15, Sched. E, s. 3(8). 1998, c. 18, Sched. I, s. 12.

Activities under the Aggregate Resources Act

(11) A requirement for permission of an authority in a regulation made under clause (1) (b) or (c) does not apply to an activity approved under the Aggregate Resources Act after the Red Tape Reduction Act, 1998 received Royal Assent. 1998, c. 18, Sched. I, s. 12.

Right to hearing

(12) Permission required under a regulation made under clause (1) (b) or (c) shall not be refused or granted subject to conditions unless the person requesting the permission has been given the opportunity to require a hearing before the authority or, if the authority so directs, before the authority's executive committee. 1998, c. 18, Sched. I, s. 12.

Powers of authority

(13) After holding a hearing under subsection (12), the authority or executive committee, as the case may be, shall,

(a) refuse the permission; or

(b) grant the permission, with or without conditions. 1998, c. 18, Sched. I, s. 12.

Grounds for refusing permission

(13.1) If the permission that the person requests is for development related to a renewable energy project, as defined in section 1 of the Green Energy Act, 2009, the authority or executive committee, as the case may be,

(a) shall not refuse the permission unless it is necessary to do so to control pollution, flooding, erosion or dynamic beaches; and

(b) shall not impose conditions unless they relate to controlling pollution, flooding, erosion or dynamic beaches. 2009, c. 12, Sched. I, s. 2.

Reasons for decision

(14) If the authority or its executive committee, after holding a hearing, refuses permission or grants permission subject to conditions, the authority or executive committee, as the case may be, shall give the person who requested permission written reasons for the decision. 1998, c. 18, Sched. I, s. 12.

Appeal

(15) A person who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Minister who may,

(a) refuse the permission; or

(b) grant the permission, with or without conditions. 1998, c. 18, Sched. I, s. 12.

Offences contravening regulation

(16) Every person who contravenes a regulation made under subsection (1) or the terms and conditions of a permission of an authority in a regulation made under clause (1) (b) or (c) is guilty of an offence and on conviction is liable to a fine of not more than $10,000 or to a term of imprisonment of not more than three months. 1998, c. 18, Sched. I, s. 12, 2010, c. 16, Sched. 10, s. 1 (2).

Limitation for proceeding

(16.1) A proceeding with respect to an offence under subsection (16) shall not be commenced more than two years from the earliest of the day on which evidence of the offence is discovered or first comes to the attention of officers appointed under clause (1) (d) or persons appointed under clause (1) (e). 2010, c. 16, Sched. 10, s. 1 (3).

Orders

(17) In addition to any other remedy or penalty provided by law, the court, upon making a conviction under subsection (16), may order the person convicted to,

(a) remove, at that person's expense, any development within such reasonable time as the court orders; and

(b) rehabilitate any waterfront or wetland in the manner and within the time the court orders. 1998, c. 18, Sched. I, s. 12.
Green Energy Act, 2009

S.O. 2009, CHAPTER 12
Schedule A

Consolidation Period: From June 6, 2011 to the e-Laws currency date.

Last amendment: 2011, c. 9, Sched. 27, s. 27.

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Preamble

The Government of Ontario is committed to fostering the growth of renewable energy projects, which use cleaner sources of energy, and to removing barriers to and promoting opportunities for renewable energy projects and to promoting a green economy.

The Government of Ontario is committed to ensuring that the Government of Ontario and the broader public sector, including government-funded institutions, conserve energy and use energy efficiently in conducting their affairs.

The Government of Ontario is committed to promoting and expanding energy conservation by all Ontarians and to encouraging all Ontarians to use energy efficiently.

PART I

INTERPRETATION AND GENERAL APPLICATION

Definitions and interpretation

Definitions

1. (1) In this Act,
Interpretation

(2) This Act shall be interpreted in a manner that is consistent with section 3 of the Constitution Act, 1982 and with the duty to consult aboriginal peoples. 2009, c. 12, Sched. A, s. 1 (2).

Administration, community consultation

(2) This Act shall be administered in a manner that promotes community consultation. 2009, c. 12, Sched. A, s. 2.

Note: Section 3 comes into force on a day to be named by proclamation of the Lieutenant Governor. See 2009, c. 12, Sched. A, s. 19.

Mandatory home energy disclosure

(3) (1) A person making an offer to purchase an interest in real property has the right to receive from the person offering to sell the property such information, reports or ratings as are prescribed,

(a) relating to energy consumption and efficiency with respect to a prescribed residence on the property or a class of prescribed residences on the property; and

(b) in such circumstances and at such times as are prescribed and in such manner as is prescribed. 2009, c. 12, Sched. A, s. 3 (1).

Provision before accepting offer

(2) The person offering to sell the property shall, in accordance with subsection (1), provide the information, reports or ratings to the person making the offer to purchase before accepting that person's offer. 2009, c. 12, Sched. A, s. 3 (2).

Waiver

(3) Subsections (1) and (2) do not apply where the person making the offer waives, in writing, the provision and receipt of the information, reports or ratings. 2009, c. 12, Sched. A, s. 3 (3).

Agent

(4) A person acting as an agent on behalf of the person offering to sell shall inform that person promptly of any request for the information, reports or ratings. 2009, c. 12, Sched. A, s. 3 (4).

Same

(5) Subsection (4) applies only to agents acting for or in anticipation of receiving valuable consideration with respect to the offer to sell. 2009, c. 12, Sched. A, s. 3 (5).
Information for Green Energy Proponents

Conservation Authorities (CAs) are actively involved in the Green Energy Agenda. Development taking place within an area under the regulatory jurisdiction of the CA under the Conservation Authorities Act may require permit approval from a Conservation Authority in advance of the commencement of work on site. Additionally, CAs may be a key source of information for green energy proponents in preparing their applications. CAs have been identified as information providers in a number of Provincial publications. Pre-consultation with your local CA will be useful in the preparation of your applications and will help to avoid potentially costly delays.

Mandate:

Conservation Ontario is the "umbrella organization" for Conservation Authorities. CAs are community-based watershed management agencies dedicated to conserving, restoring, and managing Ontario's natural resources on a watershed basis.

The mandate of Conservation Authorities is to ensure the conservation, restoration, and responsible management of Ontario's water, land, and natural habitats though programs that balance human, environmental, and economic needs.

Approvals Required

Conservation Authorities Act

Renewable energy projects may require Conservation Authorities Act approval from the local Conservation Authority (CA) on both private and public (Crown) land. Through Conservation Authorities' Development, Interference, and Alteration Regulations made under Section 28 of the Conservation Authorities Act, Conservation Authorities regulate development in or adjacent to river or stream valleys, Great Lakes, and large inland lakes, watercourses, hazardous lands, and wetlands. Development taking place on these lands may require permission (with or without conditions) from the CA to confirm that the control of flooding, erosion, dynamic beaches, or pollution is not affected. Conservation Authorities also regulate the straightening, changing, or interfering in any way with a wetland. These are Ontario Regulations approved by the Minister of Natural Resources.

For an explanation of the process Conservation Authorities undertake when reviewing a Renewable Energy Project, see our Generic Flow Diagram. For more Information about the Conservation Authority regulations and permit requirements see our Development, Interference, and Alterations Regulations Information Brochure. Please note that, pursuant to Section 28 (13.1) of the Conservation Authorities Act, which was an amendment to the legislation made through the Green Energy Act, 2009, the control of "conservation of land" is not a consideration for approvals of renewable energy projects.

Federal Fisheries Act

Possible Project Requirements

To help ensure a timely response, the following minimum information may be requested/required in support of an application made under Section 28 of the Conservation Authorities Act for a renewable energy project. Please consult with your local CA staff member to review the requirements in advance of commencing any studies on the property.

Application Criteria and Property Constraints

Technical Study Requirements

Once the constraints on a property have been identified, detailed study may be required. Any technical study requirements would be identified in consultation with the CA reviewing the proposal. The following supporting technical study requirements may be required to assess the impact of the project. As outlined in Section 28 (1)(b) and (c) of the Conservation Authorities Act, the purpose of these studies is to demonstrate the impact of the proposed development with respect to control of flooding, erosion, dynamic beaches, and pollution, and to assess interference to wetlands and watercourses. The studies required will be determined and scope through the preconsultation based on the location of the site, site characteristics and complexity of the proposed works.

Click here to see a list of possible requirements
POLICIES AND PROCEDURES FOR CONSERVATION
AUTHORITY PLAN REVIEW AND PERMITTING
ACTIVITIES
2.1.3 Pursuant to Section 28 (1) of the CA Act and in accordance with Ontario Regulation (O. Reg.) 97/04 "Content of Conservation Authority Regulations under Subsection 28(1) of the Act: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses" (i.e. Generic or Content Regulation), "subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction.

(b) prohibiting, regulating or requiring the permission of the authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;

(c) prohibiting, regulating, or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

2.1.4 Section 28 (26) of the CA Act defines development as: meaning:
   a) the construction, reconstruction, erection, or placing of a building or structure of any kind
   b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure
   c) site grading
   d) the temporary or permanent placing, dumping, or removal of any material originating on the site or elsewhere

Note: This definition for "development" differs from the definition that is contained in the PPS, 2005 (see Section 2.2.5). The relevant definition needs to be applied to the appropriate process.

2.1.5 CA Act S. 28 and the Green Energy Act

Conservation Authorities review renewable energy project proposals within their regulated areas as per the provisions of CA Act sections 28, (1)(b) and (c). Permission of the CA is required for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland.

As per Section 28 (13.1), permission will be granted, with or without conditions, for development related to a renewable energy project unless it is in the opinion of the Conservation Authority, the control of flooding, erosion, dynamic beaches or pollution will be affected by the development or activity. Where possible, CA permit application review and decision-making will be concurrent with the review and issuance of approvals from provincial Ministries. The timelines for permit
GUIDE

Provincial approvals for
Renewable Energy Projects

Ontario
Purpose of this guide

The purpose of this guide is to explain the updated approvals process for renewable energy projects to people thinking about undertaking small-scale projects themselves and others with an interest in renewable energy in a non-technical way. Ontario's new rules for these projects go hand-in-hand with the province's other renewable energy and conservation initiatives. Information on Ontario's leadership in sustainable energy is available at the Ministry of Energy and Infrastructure's website (www.mei.gov.on.ca).

This guide outlines the new and improved process for provincial approvals. The process coordinates approvals across government ministries to encourage renewable energy while ensuring the environment, health and natural resources are protected. This guide looks mainly at the provincial rules for developing renewable energy projects that use wind, solar and bio-energy to generate electricity. As outlined in the waterpower section, all waterpower projects currently do not require an REA, and will continue to follow the requirements of the Environmental Assessment Act and other existing approval processes.

Most renewable energy projects that generate electricity are subject to the approvals described in this guide, however, there are a few exceptions (see list on page 10). Renewable energy technologies that don't generate electricity, such as geothermal heating/cooling (also known as earth energy systems) or solar-thermal water or space heating are not covered here. The Ministry of Energy and Infrastructure's website (www.mei.gov.on.ca) provides information on these and other similar types of projects.

This guide provides an overview of the approvals process and requirements. Applicants and others interested in approvals are also encouraged to refer to technical guides and related regulations and requirements.

The requirements for other levels of government for a renewable energy project include federal laws and municipal building permits under the provincial Building Code Act, 1992. Conservation authorities, which manage the major watersheds in southern Ontario and parts of northern Ontario, may need to give approval for activities that may affect the control of flooding, erosion, dynamic beaches or pollution. In addition, the Ontario Energy Board, which regulates the province's electricity and natural gas sectors,
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Interpretation

1.- (1) Definitions. In this Act,

"building" means,
(a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,
(b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto,
(c) plumbing not located in a structure,
(d) structures designated in the building code; ("bâtiment")

"building code" means regulations made under section 34; ("code du bâtiment")

"change certificate" means a certificate prescribed under the building code as a change certificate; ("certificat de modification");

"chief building official" means a chief building official appointed or constituted under section 3 or 4; ("chef du service du bâtiment")

"code of conduct" means a code of conduct described in section 7.1; ("code de conduite");

"construct" means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and "construction" has a corresponding meaning; ("construire", "construction", "travaux de construction")

"demolish" means to do anything in the removal of a building or any material part thereof and "demolition" has a corresponding meaning; ("démolir", "démolition", "travaux de démolition")

"director" means the person appointed as director under section 2; ("directeur")

"final certificate" means a certificate prescribed under the building code as a final certificate; ("certificat définitif");

"inspector" means an inspector appointed under section 3, 3.1, 4, 6.1 or 6.2; ("inspecteur")
1.2.2.2. Used Materials, Appliances and Equipment

(1) Unless otherwise specified, recycled materials in building products may be used and used materials, appliances and equipment may be reused when they meet the requirements of this Code for new materials and are satisfactory for their intended use.

1.3.1. Interpretation

1.3.1.1. Designated Structures

(1) The following structures are designated for the purposes of clause (d) of the definition of building in subsection 1(1) of the Act:
   (a) a retaining wall exceeding 1 000 mm in exposed height adjacent to,
      (i) public property,
      (ii) access to a building, or
      (iii) private property to which the public is admitted,
   (b) a pedestrian bridge appurtenant to a building,
   (c) a crane runway,
   (d) an exterior storage tank and its supporting structure that is not regulated by the Technical Standards and Safety Act, 2000,
   (e) signs regulated by Section 3.15. of Division B that are not structurally supported by a building,
   (f) a solar collector that is mounted on a building and has a face area equal to or greater than 5 m²,
   (g) a structure that supports a wind turbine generator having a rated output of more than 3 kW,
   (h) a dish antenna that is mounted on a building and has a face area equal to or greater than 5 m²,
   (i) a communication tower exceeding 16.6 m above ground level,
   (j) an outdoor pool that has a water depth greater than 3.5 m at any point,
   (k) a public pool, and
   (l) a public spa.

1.3.1.2. Farm Buildings

(1) Except as provided in Sentences (2) to (5), farm buildings shall conform to the requirements in the CCBFC, “National Farm Building Code of Canada”.

(2) Articles 1.1.1.2. and 3.1.8.1. and Subsections 3.1.4. and 4.1.4. in the CCBFC, “National Farm Building Code of Canada” do not apply to farm buildings.

(3) In the CCBFC, “National Farm Building Code of Canada”, references in Articles 1.1.1.3., 2.2.2.1., 2.2.2.2., 2.3.1.1., 2.3.2.1., 3.1.1.1., 3.1.1.2., 3.1.2.1. and 3.1.6.1. to the CCBFC, “National Building Code of Canada” are deemed to be references to Ontario Regulation 403/97 (Building Code), made under the Act, as that regulation read immediately before it was revoked.

(4) A farm building of low human occupancy having a building area not exceeding 600 m² and not more than three storeys in building height is deemed to comply with the structural requirements of the CCBFC, “National Farm Building Code of Canada” if it is designed and constructed in conformance with Supplementary Standard SB-11.

(5) A manure storage tank shall comply with the requirements of Subsection 4.4.5. of Division B.
Definitions

1. In this Act,

“Commission” means the Niagara Escarpment Commission; (“Commission”)

development” includes a change in the use of any land, building or structure; (“aménagement”)

“local plan” means an official plan under the Planning Act; (“plan local”)
(2) The Lieutenant Governor in Council may designate any minister of the Crown in respect of any land acquired under subsection (1), and thereupon the minister so designated may, for the purpose of developing any feature of the Niagara Escarpment Plan,

(a) clear, grade or otherwise prepare the land for development or may construct, repair or improve buildings, works and facilities thereon; or

(b) sell, lease or otherwise dispose of any of such land or interest therein. R.S.O. 1990, c. N.2, s. 18 (2); 2009, c. 12, Sched. L, s. 7.

Statutory amendment to Plan

19. (1) On the day subsection 25 (3) of the Greenbelt Act, 2005 comes into force,

(a) the lands that are part of the Niagara Escarpment Planning Area and described in paragraphs 26, 30, 31 and 33 of the Schedule to Regulation 684 of the Revised Regulations of Ontario, 1980 (as the Schedule read on December 31, 1990) shall be covered by, and subject to, the Niagara Escarpment Plan; and

(b) the Niagara Escarpment Plan is amended so that the provisions of the Plan that define the parts of the Niagara Escarpment Planning Area that are covered by the Plan shall be deemed to include a reference to the lands referred to in clause (a). 2005, c. 1, s. 25 (3); 2009, c. 12, Sched. L, s. 7.

Consequential amendments to Plan

(2) On or after the day subsection 25 (3) of the Greenbelt Act, 2005 comes into force, the Lieutenant-Governor in Council may order that the Niagara Escarpment Plan be amended to,

(a) provide for such land use designations with respect to the lands referred to in clause (1) (a) as the Lieutenant-Governor in Council considers advisable; and

(b) make such other amendments to the Niagara Escarpment Plan as the Lieutenant Governor in Council considers necessary for the effective implementation of the amendment described in clause (1) (b). 2005, c. 1, s. 25 (3); 2009, c. 12, Sched. L, ss. 7, 15 (1).

Definition of utility

2. (1) On the day the Green Energy Act, 2009 comes into force, the definition of "utility" in Appendix 2 of the Niagara Escarpment Plan is revoked and the following substituted:

Utility — a water supply, storm or sanitary sewage system, gas or oil pipeline, the generation, transmission and distribution of electric power, including renewable energy projects as defined in the Green Energy Act, 2009, commercial or otherwise, and all associated infrastructure; the generation, transmission and distribution of steam or hot water, telegraph and telephone lines and other cabled services; a public transportation system; licensed broadcasting, receiving and transmitting facilities; or any other similar works or systems necessary to the public interest, but does not include:

* the establishment of a new waste disposal site;

* any expansion or alteration to an existing waste disposal site from what has been approved under the applicable legislation (including any expansion in area or height of a landfill site or any change in the type of waste material being disposed);

* incineration facilities (including energy from waste facilities); or

* large scale packer and/or recycling plants or similar uses.

2009, c. 12, Sched. L, s. 15 (2).

Non-application

(3) For greater certainty, the requirements of sections 6.1, 7, 10 and 11 with respect to amendments to the Niagara Escarpment Plan do not apply to the amendments described in clause (1) (b) and subsection (2.1). 2005, c. 1, s. 25 (3); 2009, c. 12, Sched. L, ss. 7, 15 (3).

Financial assistance

20. When the Niagara Escarpment Plan is in effect, the Minister may, out of the money appropriated therefor by the Legislature, provide financial assistance to any person, organization or corporation, including a municipal corporation, undertaking any policy or program that implements the Plan. R.S.O. 1990, c. N.2, s. 20; 2009, c. 12, Sched. L, ss. 7, 16.

Transfer of Commission functions