

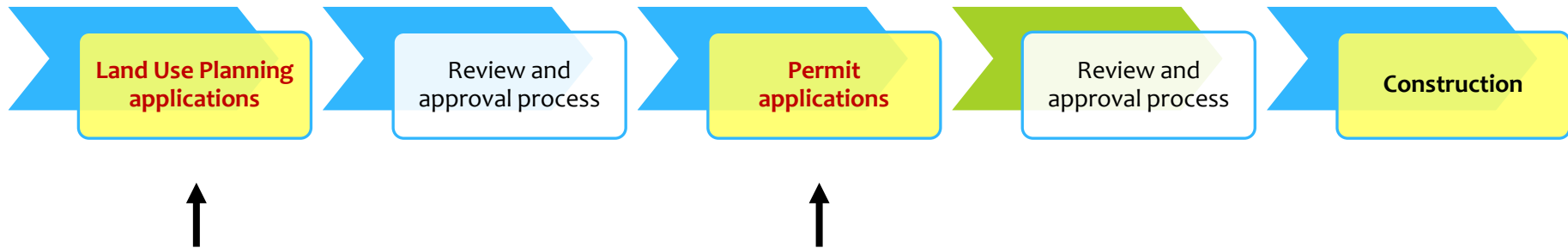
Executive Committee Training

Hearings Under Section 28 of the
Conservation Authorities Act

May 12, 2023



Development Review Process



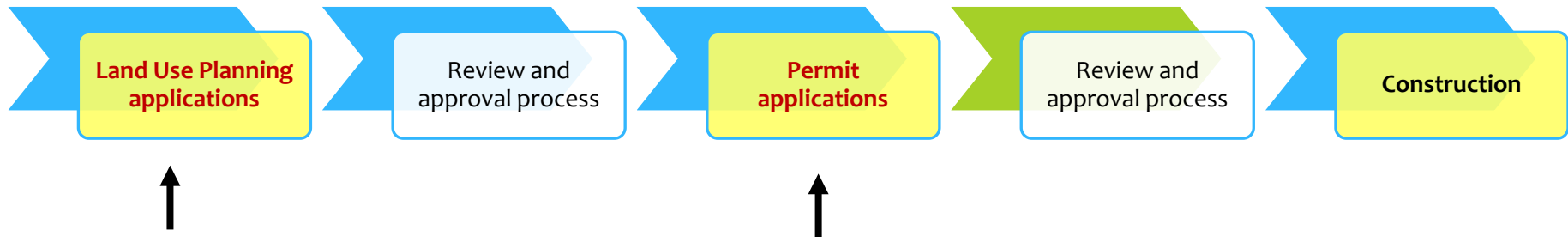
Key Legislation:

- Planning Act
- Provincial Policy Statement
- Official Plans & Zoning Bylaws

Key Legislation:

- Building Code
- Conservation Authorities Act
- Public Lands Act
- Historic Canals Regulation
- Federal Fisheries Act
- Other legislation

Development Review Process



Approval Bodies:

- Province
- Municipalities

Commenting Bodies:

- Conservation Authorities
- MNRF
- Parks Canada

Approval Bodies:

- Municipalities
- Conservation authorities
- MNRF
- MECP
- Parks Canada
- DFO

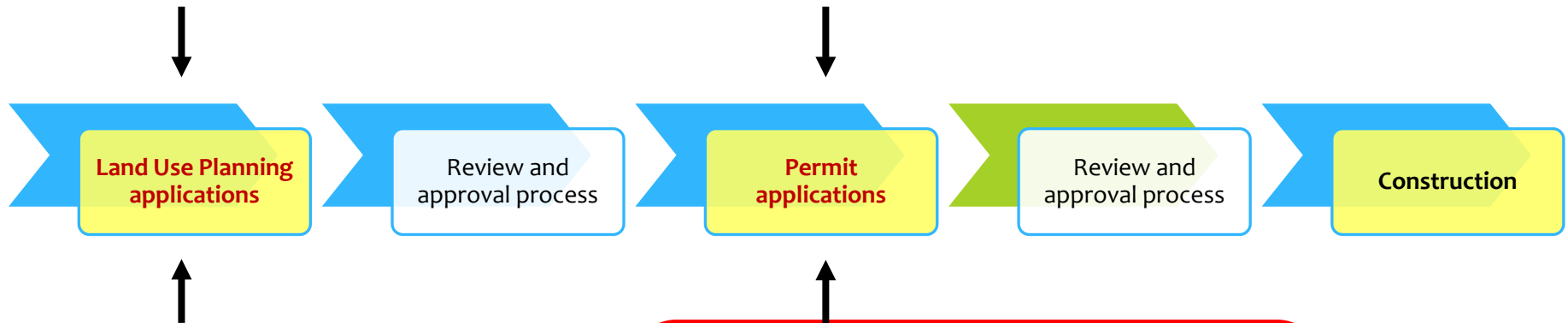
Development Review Process

Municipalities Approve:

- OPA, ZBA
- Site Plan Control
- Minor Variance
- Severance
- Subdivision

Municipalities Approve:

- Building Permits
- Septic Permits (or CA on their behalf)



CAs Comment On:

- Natural Hazards
- Drinking Water Source Protection

CAs Approve:

- Section 28 Permits
 - Development (Natural Hazards)
 - Wetland Interference
 - Watercourse & Shoreline Alteration

Section 28 Permits

Conservation Authorities Act

- Section 28

Ontario Regulation 174/06

- RVCA's *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses* Regulation

Conservation Authority Policies

- *RVCA Policies Regarding Development Including the Construction / Reconstruction of Building and Structures, Placing of Fill and Alterations to Waterways*
- *RVCA Wetland Policies*

Conservation Authorities Act

Through regulation, an authority may **prohibit, regulate or require 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
- Interfering in any way with a wetland
- 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

Development means:

- The construction, reconstruction, erection or placing of a building or structure or any kind
- 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
- Site grading
- The temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere

Conservation Authorities Act

The authority's **regulation can only apply in** areas that are:

- Adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards
- River or stream valleys
- Hazardous lands
- Wetlands
- Other areas where, in the opinion of the Minister, development should be prohibited or regulated or should require the permission of the authority

Hazardous land means land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock

Conservation Authorities Act

The authority may grant permission if, in its opinion, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land will not be affected

An authority shall not refuse permission or attach conditions unless the applicant has been given the **opportunity to require a hearing before the executive committee**

After holding a hearing, the executive committee must:

- Refuse the permission; or
- Grant the permission, with or without conditions

If the executive committee refuses permission or grants permission subject to conditions, they must give the applicant **written reasons for the decision**.

An applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons, **appeal to the Ontario Land Tribunal** who may refuse the permission or grant the permission with or without conditions.

Conservation Authorities Act

An authority **must grant permission** if the Minister of Municipal Affairs and Housing has authorized the development project under section 34.1 or 47 of the Planning Act (lands must be outside the Greenbelt).

An authority shall not refuse to grant permission for a development project authorized by a Minister's order despite:

- Anything in section 28 or in a regulation made under section 28
- Anything in subsection 3 (5) of the Planning Act, 2020

An authority may attach conditions to the permission, including conditions to mitigate,

- Any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- Any conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; or
- Any other matters that may be prescribed by regulation.

Conservation Authorities Act

Minister's Order continued...

An authority shall not attach conditions unless the applicant has been given an opportunity to be heard by the authority.

Written reasons for deciding to attach the conditions must be given.

The applicant has 15 days to ask the Minister to review conditions or 90 days to appeal them to the Ontario Land Tribunal.

An authority must enter into an agreement with the applicant that sets out actions or requirements that the applicant must complete or satisfy in order to compensate for ecological impacts and any other impacts that may result from the project.

RVCA Section 28 Permits

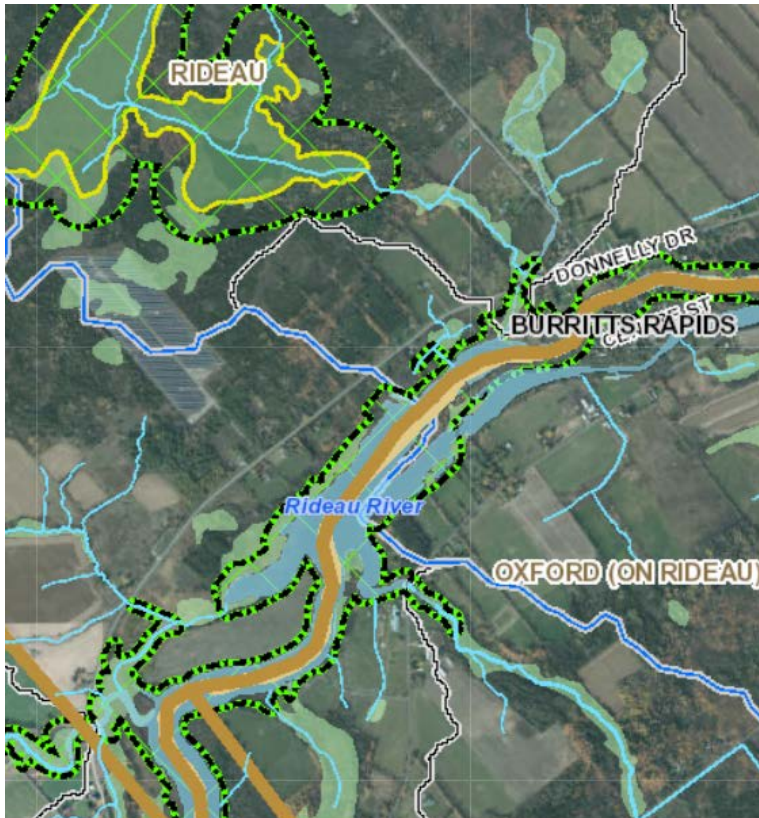
Conservation Authorities Act


- An authority may delegate any of its powers or duties under its Section 28 regulation to the authority's executive committee or to any other person or body, subject to any limitations or requirements that may be set out in the regulation

RVCA's Administrative Bylaw

- Delegating to the General Manager and other staff by resolution, the issuance of permits as may be required under any regulations made under Section 28 of the Act.
 - General Manager
 - Director of Engineering and Regulations
 - Director of Science and Planning
- Delegating to the Executive Committee the holding of hearings as may be required under any regulations made under Section 28 of the Act.

RVCA Section 28 Permits





 RIDEAU VALLEY
CONSERVATION AUTHORITY

REGULATION OF DEVELOPMENT, INTERFERENCE WITH
WETLANDS AND ALTERATIONS TO SHORELINES AND
WATERCOURSES (ONTARIO REGULATION 174/06 UNDER
SECTION 28 OF THE CONSERVATION AUTHORITIES ACT, R.S.O.
1990, c. C.27)

WETLAND POLICIES

Approved: September 2010

 RIDEAU VALLEY | Regulatory
CONSERVATION AUTHORITY | Services



Policies Regarding Development Including
the Construction / Reconstruction of Building
and Structures, Placing of Fill and Alterations
to Waterways Under Section 28 of the
Conservation Authorities Act of Ontario

02.16.2010

Adopted by RVCA Executive Committee
October 21, 2009

RVCA Board of Directors
approved amendments

- August 18, 2009
- December 10, 2009
- February 22, 2010
- April 18, 2010
- February 18, 2011
- November 20, 2010
- February 22, 2014

These watershed policies are intended to guide the use of land in areas susceptible to natural hazards as set to ensure that the level of flooding and erosion control and the conservation of land are addressed in accordance with Section 28 of the Conservation Authorities Act (R.S.O. 1990, Chapter 27) and the "protection clause".

RVCA Section 28 Policies

Policies Regarding the Construction of Buildings and Structures

1.1.1	General Principles	1
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1.2.2	Prohibitions	2
1.2.3	Public infrastructure	2
1.2.4	Public Parks	3
1.2.5	Floodplain development associated with valley lands	3
1.2.6	Minor Works	3
1.2.7	Minor development involving site grading	4
1.2.8	Surface Parking	4
1.2.9	Agricultural Buildings	4
1.2.10	Marinas	5
1.2.11	Golf Courses	5
1.2.12	Small above or below ground swimming pools	6
1.3	Reconstruction / Relocation / Repairs and Renovations	
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1.3.3	Minor Additions to Existing Structures and Reconstruction	8
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1.4.2	Floodproofing Methods	12
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Policies Regarding Interference with Wetlands

- 1.6 Development and Interference within Wetlands
- 1.7 Compensation
- 1.8 Development Within the 120 Metre Adjacent Lands

RVCA Hearing Procedures

Agenda Package

- Staff Report
- Applicant Submission

Hearing Intro

- Motion to sit as a Hearing Board
- Chair's Opening Remarks
- Staff introduce applicant/agent
- Member administers oaths/affirmations

Staff Presentation

- Property details
- Project details
- Relevant policies
- Implications
- Staff Position
- Members ask questions of clarification

Applicant Presentation

- Rationale / representations
- Respond to staff presentation
- Members ask questions of clarification

Deliberations

- Members ask questions / clarify understanding
- Retire in-camera to deliberate
- Consider information from staff & applicant
- Consider legislation and policies
- Vote to:
 - Approve
 - Approve with conditions
 - Deny

Must document reasons
- Move out of camera
- Chair reads decision and reasons

RVCA Hearings

Other Procedural Details

- Hearings are public meetings
- Agendas and minutes are posted on the website
- The *Conservation Authorities Act* does not permit third party representations
- Members can adjourn a hearing / come out of camera to ask additional questions

General Points

- Important that member's come prepared
 - Procedures, policies, application
- Important that members are engaged
 - Attentive, ask questions
- Important that hearings are accessible but credible
 - Friendly and welcoming but maintain decorum
 - Thorough consideration and deliberation
 - Procedures must be followed

RVCA Legal Counsel

Topics of Discussion

- Scope of Section 28 Hearings
- Appropriate questions
- Bias / Apprehension of Bias
- Conflict of Interest
- Risk and Liability
- General Does and Don'ts

Question and Answer Period



Future Changes / Training

May 2023

- Updated RVCA Hearing Procedures

Summer 2023

- Anticipate amended Section 28 regulation

Summer / Fall 2023

- Updated RVCA Hearing Procedures
- Updated RVCA Section 28 Policies

