

8 ADMINISTRATIVE PROCEDURES

8.1 APPLICATION PROCEDURES

Persons who wish to develop within the Authority's regulatory jurisdiction, interfere with a wetland and/or alter a shoreline or watercourse require prior written permission from the Authority, through an application and permit process, pursuant to Section 28 of the Conservation Authorities Act and its enacted regulations.

Under current legislation, the Authority may grant permission for activities prescribed by the regulation once in the opinion of the Authority, the control of flooding, erosion, dynamic beach, pollution or the conservation of land will not be affected by the proposed activity.

Authority staff will make every effort to assist a proponent in the analysis of their site and the acceptability of the proposed activity or use with regard to the regulation. However, when technical information beyond the resources of the Authority is required, the onus will be on the applicant to provide necessary technical design data and advice, at no cost to the Authority and of a quality acceptable to the Authority.

8.1.1 Pre-Consultation:

Pre-consultation is strongly encouraged to provide clarity and direction, to facilitate receipt of complete applications and to streamline the permitting process. To meet these objectives, depending on the scale and scope of the project, pre-consultation may include representatives from other parties and/or agencies. (e.g. Municipality, MNR, etc...)

The following policies shall apply for pre-consultation:

- (1) Authority staff may request pre-consultation prior to submission of an application, to provide an opportunity to determine complete application requirements for specific projects.
- (2) Applicants may request pre-consultation prior to the submission of an application, to provide an opportunity for Authority staff to confirm complete application requirements.
- (3) Authority staff will engage in pre-consultation by discussing the proposal with the applicant, undertaking a site inspection and noting any potential affects on the control of flooding, erosion, dynamic beach, pollution or conservation of land. Authority staff will engage in pre-consultation in a timely manner so as not to delay the proponent's ability to submit an application.
- (4) In order to determine complete application requirements, applicants must provide a minimum amount of information for pre-consultation, such as property information and a description of what is being proposed. Detailed drawings may also be required to assist Authority staff in their review.
- (5) Authority staff will identify complete application requirements for specific projects requiring a permit from the Authority, in writing, within 21 days of the pre-consultation meeting. If technical studies are needed, additional requirements may be necessary upon review of such technical studies by Authority staff.

8.1.2 Site Clearance:

A Site Clearance letter is designed to streamline the process for proposed activities within the Authority's regulatory jurisdiction that are considered minor in nature and, due to their size and location, are considered by staff not to impact the control of flooding, erosion, dynamic beaches, pollution or the conservation of land.

Upon receipt of the applicable fee (Appendix III), Authority staff may issue a Site Clearance letter for a proposed activity within the Authority's regulatory jurisdiction for which a permit is not required and/or if the affected municipality requires written assurances from the Authority prior to issuance of a municipal building permit. A municipality may require written assurances from the Authority to satisfy its obligations of applicable law requirements under the Ontario Building Code Act.

Though issued by Authority staff, a monthly report of Site Clearance letters issued will be considered by the Full Authority at its monthly meetings for ratification.

8.1.3 Applications:

Each proposed activity, which requires a permit of the Authority under its Section 28 regulation, will be dealt with in the following manner:

- (1) An application form must be filled out and submitted for all activities requiring a permit from the Authority. The Authority's Section 28 Application forms to develop, interfere or alter are available online at the Authority's website, or alternatively, hard copies may be obtained at the Authority's Administration Centre.
- (2) The applicable application fee must accompany the submission of an application. Refer to Section 8.4 for Application Fees and Deposits and Appendix III.
- (3) An application submitted under Section 3 and/or Section 6 of the regulation shall be made by a person having an interest in the land for which the application is being made. This may be done prior to the actual purchase of the property. However, the proposed activity must not be undertaken until purchase of the property has been finalized.
- (4) An application may be submitted by a solicitor or agent on behalf of the owner. The Authority's "Landowner Authorization" form which is attached as Appendix VI of this document, must be completed and signed by the owner, and must accompany the application if an agent is acting on their behalf.
- (5) Authority staff will record the applicable information into the "KCCA Office Use Only" section of the application upon receipt of its submission.
- (6) Authority staff will review the application and attachments thereto upon submission with regard to Section 8.1.4 of this document for completeness.

8.1.4 Completeness:

Authority staff must deem an application complete before it can be processed. Requirements of a complete application for a specific activity will be provided by Authority staff in writing following pre-consultation as discussed in Section 8.1.1 of this document.

The following policies shall apply for Authority staff determining completeness of an application:

- (1) A complete application must include the following information and/or attachment(s):
 - a. requirements as set out by the Section 28 regulation (Section 4 & 7);
 - b. associated application fee(s);
 - c. landowner authorization, if applicable;
 - d. technical studies or plans prepared by professionals, if applicable;
 - e. structural drawings and details prepared by professionals, if applicable; and
 - f. any other information as prescribed by Authority staff in order to determine the affects upon the control of flooding, erosion, dynamic beach, pollution or conservation of land.
- (2) Authority staff will notify applicants, in writing, within 21 days of the receipt of an application, as to whether the application is complete.
- (3) If an application is deemed incomplete, Authority staff will provide the applicant with a written list of missing and/or needed information. Authority staff will make every effort to work with the applicant to obtain the required information in a timely manner.
- (4) If an applicant is not satisfied with the Authority staff's decision, they may request an administrative review by the General Manager/Secretary Treasurer.
- (5) If an applicant is not satisfied with the decision of the administrative review, they may request their application be referred to a Hearing with the Authority Board of Directors. In this case, the recommendation of the Authority staff will be to deny the application as it is incomplete. For information regarding a Hearing, refer to Section 8.2.

8.1.5 Complete Application Process:

Each proposed activity which requires a permit from the Authority under its Section 28 regulation and for which an application has been filed and deemed complete by Authority staff, will be dealt with in the following manner:

- (1) Authority staff will review the application and attachments thereto with regard to the policies within this document and to the potential affects on the control of flooding, erosion, dynamic beach, pollution or conservation of land caused by the proposed activity. A subsequent site inspection by Authority staff may be required.
- (2) Minor Application: (*Low to moderate risk and/or potential impact. Review of technical letter report or professional plans*) The Authority will make a decision pursuant to the Conservation Authorities Act on complete applications that are considered minor, within 30 days of the date of written confirmation of a complete application.
- (3) Major Application: (*High risk and/or potential impact. Review of one or more technical studies*) The Authority will make a decision pursuant to the Conservation Authorities Act on complete applications that are considered to be major, within 90 days of the date of written confirmation of a complete application.
- (4) The Authority's designated Regulations Approval Officer(s) may issue a permit to the applicant if it has been determined that the proposed activity is consistent with the policies of this document and that the affects upon the control of flooding, erosion, dynamic beach, pollution or conservation of land can be mitigated to the satisfaction of the Authority.
- (5) The Regulations Approval Officer(s) may issue a permit with or without conditions. The maximum period, including extensions, for which a permission granted may be valid is,
 - (a) 24 months, in the case of a permission granted for projects other than projects described in clause (b); and
 - (b) 60 months, in the case of permissions granted for,
 - (i) projects that, in the opinion of the authority, cannot reasonably be completed within 24 months from the day the permission is granted, or
 - (ii) projects that require permits or approvals from other regulatory bodies that, in the opinion of the Authority, cannot reasonably be obtained within 24 months from the day the permission is granted.
- (6) A permission granted for less than the maximum period of validity may be extended to the maximum period, if
 - a. the person who was granted the permission submits a written application for the extension to the Authority at least 60 days before the expiry of the permission;
 - b. the application sets out the reasons why the extension is required and demonstrates that circumstances beyond the control of the person granted permission prevented completion of the project within the initial period.

- (7) Though a permit may be issued by the Regulations Approval Officer(s), a monthly report of permits issued will be forwarded to the Full Authority at its monthly meetings for ratification.
- (8) If a decision has not been rendered by the Authority within the appropriate timeframe as noted in items #2 and #3 above, the applicant may request an administrative review by the General Manager/Secretary Treasurer.
- (9) If the applicant is not satisfied with the decision of the administrative review, they may request that the application be referred to a Hearing with the Authority Board of Directors. For information regarding a Hearing, refer to Section 8.2.
- (10) If Authority staff recommends denial of a complete application, the application will be deferred to a Hearing with the Authority's Board of Directors. Refer to Section 8.2 for information regarding a Hearing.
- (11) The Regulations Approval Officer(s) **may not** issue a permit to the applicant if:
 - a. current legislation requires authorization of the Full Authority;
 - b. the application is deemed incomplete by Authority staff;
 - c. Authority staff recommend the application be denied;
 - d. the application poses a significant controversy with a third party, such as a lawyer or municipal/provincial agency with respect to the Authority's position; or
 - e. the application, as deemed by the Regulations Approval Officer(s) as warranting review by the Full Authority, for technical, policy or information purposes.
- (12) The following policies shall apply for complete applications requiring review of the Full Authority:
 - a. Complete applications requiring review of the Full Authority may be considered by the Authority's Planning and Community Relations Committee or Executive Committee which will make recommendations to the Full Authority.
 - b. Complete applications requiring review of the Full Authority must be submitted prior to the first day of the month in order to be considered by the Authority's Board of Directors at the next available Full Authority meeting. Full Authority meetings are scheduled for every third Wednesday of each month. If the first day of the month falls on a weekend (Saturday or Sunday), then the preceding Friday will be the submission deadline. This timeline allows for staff to prepare a report with recommendations to be considered by the Full Authority.

- c. If the Full Authority authorizes issuance of a permit, the permit will be issued by the Regulations Approval Officer(s) the first working day following the Full Authority meeting.

8.2 HEARING

If Authority staff recommends denial of a complete application or an applicant has requested an application be referred to a Hearing subject to Section 8.2's, a Hearing will be held with the Authority's Board of Directors.

The following policies shall apply for all Section 28 regulation hearings:

- (1) The Authority will adhere to the procedures and guidelines of the Ministry of Natural Resources/Conservation Ontario Hearing Guidelines (October 2005 and amendments thereto) which forms Appendix XII of this document.
- (2) Authority staff will consult with the applicant regarding a Hearing to determine an agreeable date and time based on the Authority's regular meeting schedule. A written letter noting the date, time and location of the meeting shall be delivered to the applicant by either registered mail or hand delivery by Authority staff.
- (3) After holding a hearing, the Authority shall deny the issuance of a permit or authorize the issuance of a permit with or without conditions. If the Authority denies the issuance of a permit, a written response from the Authority shall be provided to the applicant with reasons for its decision.
- (4) Should the Authority authorize issuance of a permit, the permit shall be issued by the Regulations Approval Officer(s) and sent to the applicant by regular mail, the first working day following the hearing.

8.3 FOLLOW UP INSPECTIONS

Limited staff time prohibits follow-up-inspections of all permitted works. In addition, the cooperation of municipal staff eliminates the need to follow-up with some types of permitted works. Minor works seldom require follow-up. Authority staff also has an opportunity to view any ongoing or completed work when traveling within its vicinity.

However, it is the policy of the Authority that specific site inspections will take place for any of the following:

- a) An application that has been denied, to ensure works have not been initiated or continued;
- b) Any application process posing any sign of controversy with the landowner or municipality;
- c) Any permit for filling or construction within the floodplain or alteration of a watercourse; and
- d) Any permitted works, as viewed by Authority staff as warranting inspection for technical, policy or information reasons.

The frequency and timing of follow-up visits will be at the discretion of Authority staff and based upon:

- a) Application reference to the timing of the works;
- b) Complexity of works permitted;
- c) Municipal staff support; or
- d) Contact with the applicant to determine the status of works.

8.4 APPLICATION FEES AND DEPOSITS

The Authority has adopted a schedule of fees and deposits for the review of applications under the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation made under Section 3 and Section 6 of the regulation.

A copy of the Application Fee Schedule forms Appendix III to this document. These fees are required to protect the Authority from financial loss exposure due to potentially unrecoverable and large expenses in staff time, support expenses and professional review and assistance to KCCA (legal, engineering, biology, hydrology, etc.) of applications or development of applications. They are divided into two sections; a refundable deposit and a non-refundable fee.

Both the fees and deposits will not be applicable to municipal public projects that have a general public benefit (ie. Roadways, sewers, etc.). In addition, application fees and deposits for stewardship projects, such as rehabilitation or environmental enhancement which provide an overall benefit within the Authority's watershed, may be waived subject to consideration of the Full Authority on a case by case basis.

- A. *Refundable Deposit:* The deposit will be required upon submission of a complete application. The deposits are solely for the purpose of financing extra expenses incurred by the Authority to be determined at the discretion of the General Manager/Secretary Treasurer, to cover Authority costs of professional review of a proposal in development of a submission or of a submission (legal, engineering, biology, hydrology, etc.). Any deposit balance remaining upon permit issuance or denial is to be returned to the applicant. The deposit does not apply to Authority staff time.
- B. *Non-Refundable Fees:* The premise of this program is to support the regulations/applications process and to recoup a portion of general tax dollars applied to Authority staff wages and support expenses in the time consuming assessment of applications that ultimately have only specific personal or corporate benefit.

No portion of the administration fee is refundable. The fee will be required upon submission of a complete application.

A copy of the Application Fee Schedule forms Appendix III to this document.

8.5 PERMIT CANCELLATION

The following policies shall apply in the event that Authority staff are recommending that a permit be revoked or cancelled.

- (1) The Authority may cancel a permit if it is of the opinion that the conditions of the permit have not been met or works undertaken have exceeded the works permitted by the Authority.
- (2) Before cancelling a permit, Authority staff shall give a notice of intent to cancel to the permit holder indicating that the permit will be cancelled unless the holder shows cause at a Hearing with the Authority Board of Directors why the permit should not be cancelled.
- (3) The Authority shall give the permit holder a minimum of five days notice of the date of the Hearing. Refer to Section 8.2 for information regarding a Hearing,

8.6 ENFORCEMENT PROCEDURES

In accordance with section 28(1(d)) of the Conservation Authorities Act and Section 10 of the regulation, the Authority may appoint officers to enforce the regulation. These officers have the responsibility of liaising with applicants, inspecting properties and processing the application.

The Authority's Board of Directors may appoint an officer for enforcement of its Section 28 regulation through an adopted motion. The appointed Authority staff shall meet the qualifications of a regulations officer as recommended by the Ministry of Natural Resources/Conservation Ontario.

Any initiators of unauthorized works that contravene the regulation will be requested to halt the works immediately. The Authority's appointed Regulations Enforcement Officer(s) will advise the offender(s) of the regulation and its purpose.

The officer will review the details of the violation with the General Manager/Secretary Treasurer of the Authority. The General Manager/Secretary Treasurer may direct the officer to issue a Notice of Violation to the involved parties immediately.

A Notice of Violation shall be sent to the involved parties by registered mail, with a copy sent to the respective municipality. The officer will prepare a report containing all relevant information of the violation and update the Full Authority at its subsequent meeting.

The offender has the option of removing the unauthorized works, or providing a remedial plan acceptable to the Authority in order to address any concerns. The Authority must be informed of the offenders' intention within 48 hours of the receipt of the Notice of Violation.

The proponent may apply for a permit from the Authority to undertake such works in accordance with the regulation subsequent to removal of the unauthorized works.

The unauthorized works may remain, if a proposed remedial plan which addresses the Authority's concerns regarding potential affects upon the control of flooding, erosion, dynamic beach, pollution and the conservation of land is accepted by the Full Authority. The notice of violation may be revoked upon written confirmation from the Authority for the proposed remedial plan. More time of Authority staff is required in resolving unauthorized works and revoking a notice of violation. Therefore, a fee of 1.5 times the applicable application fee will applied for unauthorized works to remain and to have the notice of violation revoked.

A charge may be laid under the Authority's regulation made pursuant to Section 28 of the Conservation Authorities Act. Prior to laying charges, the Regulations Enforcement Officer(s) and/or the General Manager/Secretary Treasurer shall consult with the Authority's Solicitor to review the details of the violation. The officer will then make a recommendation to the Full Authority outlining the latest developments in the violation, the Solicitor's recommendations, the costs that may be incurred in pursuing the matter in court compared to the total fine that could be expected and the Solicitor's estimation of the chances of getting a conviction.

The Full Authority may then direct the officer to proceed with the laying of charges.

If an affidavit or statement is required from the parties to be charged, the following procedure should be adhered to:

- a) The officer shall be accompanied by a full-time staff member who shall act as a witness.
- b) Conduct the interview in a quiet place to minimize disturbances or distractions.
- c) Advise the accused that charges are being laid with respect to the violation and that anything they say may be used against them in court. Confirm that they understand what is being told to them and that they are willing to proceed.
- d) Record the date and time of the statement, the location, the accused full name, date of birth, occupation and place of residence.
- e) Proceed with questioning. Do not "lead on" the accused. Word the questions so that they can respond in their own words.
- f) When finished questioning, allow the accused to read the statement, sign it and date it.

In laying a charge, the following must be undertaken:

- a) Prepare the summons (copies on file) or have the solicitor prepare it.
- b) Take the completed summons to the sheriff's office for delivery or deliver by hand to offender. Provide 1 copy of the summons and 1 copy of the affidavit (if any) to the offender.
- c) Ensure copies of information in (b) above are submitted to provincial Offenses Court prior to the first appearance.
- d) Prepare a brief on the violation for the Authority's solicitor. The brief should include:
 - details on the Statutory and Regulatory powers of the Authority;
 - excerpts from the Policies and Procedures document relevant to the violation;

- details of the violation;
 - a chronology of events from the first time the violation was brought to the attention of the Authority until the laying of charges;
 - details on the impacts of the violation (ie. loss of flood storage, threat to life and property, impacts on existing dams or structures); and
 - a conclusion recommending what remedy that the Authority is seeking through the courts.
- e) For the trial, a certified copy of the Regulation Limit mapping is required and can be obtained from the Authority's Administration office. The Authority's solicitor will complete any necessary title searches. The title search must be certified by the Land Registry Office.

The Authority may also seek a court injunction to be served on the violator in order to have the works stopped. The Conservation Authorities Act makes no provision for the Authority to utilize a "stop work order" to have the activity ceased; however, legislation administered by MNR provides for "stop work order" authority. If the work negatively affects MNR regulations, assistance in this regard may be possible.

9 AMENDMENTS

Amendments to the contents of this document shall be approved by the Full Authority prior to implementation. Additions or modifications to the regulation schedules that maintain the intent and improve the accuracy of the regulated area, such as updated wetland boundaries, will not require an approval process. These will normally be site-specific amendments. The Authority will consult the affected municipality and keep a listing of these modifications to the regulated area and file a report with the peer review committee and MNR.

Additions or modifications to the regulation schedules resulting from comprehensive or larger scale studies require re-circulation through the Peer Review/MNR process and public notification if they substantially change the impact of the regulation. A copy of the mapping highlighting the proposed modification(s) and the rationale for the change(s) as well as a record of any consultation will be provided to the Peer Review Committee in support of the amendment application.

The Authority will provide public notice and undertake public and/or stakeholder consultation prior to submission for final Board approval of proposed policy amendments of this document, that are intended to influence future land use and land use planning, or those policies that affect service delivery and procedures for applications.

The public will be provided an opportunity, subject to KCCA's administrative policies, to speak to proposed policy amendments of this document at the relevant Board meetings prior to final approval of the Board.