

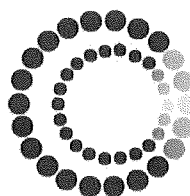


Development, Interference with Wetlands and Alteration to Shorelines and Watercourses

Implementation Policy

Prepared: September, 2005

Revised Oct. 31, 2005



Mississippi Valley Conservation

1.0 Background

This document was prepared for use by Mississippi Valley Conservation Staff to provide clarification and consistency in the implementation of Ontario Regulation 153/06. Ontario Regulation 153/06 (Mississippi Valley Conservation's "***Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation***") was approved by Ontario Cabinet onto replace Ontario Regulation 159/90. Traditionally, Section 28 regulations described regulated activities in terms of "Fill, Construction and Alterations to Waterways". These regulated activities are now phrased in terms of "*development*" and "*interference with wetlands*" and "*watercourses*".

In addition to redefining the activities that are subject to the regulation, the new regulation has resulted in some changes to the extent of area that is subject to the regulation. In some locations, the new Regulation Limit covers less area than the previous "fill regulated" area and in some locations it covers more area. The changes have also resulted in the inclusion of some wetlands within the Regulation Limit.

As part of the approval process, MVC was required to prepare a new set of regulation Schedules to show the exact location of the Regulation Limit. The criteria used for determining the revised Regulation Limits are described in MVC's ***Reference Manual for the Preparation of Regulation Schedules***.

In terms of implementation requirements, the relevant Sections of the "***Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation***" are presented below.

Relevant Sections of Generic Regulation

3. *Subject to subsection 4, no person will*
 - a. *develop or permit development in or on areas that are adjacent or close to erosion or dynamic beach hazards, hazardous lands, river or stream valleys, wetlands or in the areas described in Schedule 2; or,*
 - b. *straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream, or watercourse or change or interfere in any way with a wetland.*
4. *The Authority may permit in writing, with or without conditions,*
 - a. *the straightening, changing, diverting, or interfering with the existing channel of a river, creek, stream or watercourse or for changing or interfering in any way with a wetland; or,*
 - b. *development, if in the opinion of the Authority such development will not adversely affect the control of flooding, erosion, dynamic beaches, pollution or the conservation of land.*

2.0 Hazardous Lands

Hazardous Lands refer to lands that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock.

Under Ontario Regulation 153/06, MVC will continue to regulate development in areas where there is engineered floodplain mapping. Table 1 presents a list of the watercourses for which existing engineered flood plain mapping is available. It includes portions of fourteen watercourses and lakes within the watershed. This flood plain mapping is generally limited to urban areas and rural built-up areas such as Mississippi Lake. Mapping coverage in the rural part of the watershed is extremely limited.

Mapped schedules have been produced for all areas listed in Table 1, to identify the limits of the regulated areas. The Regulation Limit is based on potential hazards associated with flooding, slope instability, stream bank and valley erosion, and the erosion associated with meandering rivers or streams. In some cases, the potential flood hazard along a watercourse extends beyond the potential erosion hazard for that watercourse, while in other cases, the potential erosion hazard extends beyond the potential flood hazard. The furthest landward limit of these two lines determines the extent of the regulated area.

MVC will regulate all aspects of *development* as defined under the new regulation in all areas where there is existing engineered flood plain mapping. The removal of vegetation, without the removal, movement, grading of soil/earth/rock, will not be subject to the regulation.

Table 1 MVC Flood Plain Mapping

Watercourse	Coverage	Map Base	Scale	Contour Interval	No. Maps
Ottawa River	entire jurisdiction	map base (1981)	1:2000	1.0 m.	87
Mississippi R.	Carleton Place to Ottawa R.	photobase (1979)	1:5000	1.0 m.	10
Indian River	Clayton Lake to Mississippi R.	photobase (1979)	1:5000	1.0 m.	2
Clayton & Taylor Lakes	entire lakeshore	photobase (1979)	1:5000	1.0 m.	3
Cody Creek	Manion Corners to Mississippi R.	photobase (1979)	1:5000	1.0 m.	5
Carp River	Fitzroy Harbour	photobase (1979)	1:2000	0.5 m.	4
Carp River	Hazeldean to Ottawa River	photobase (1979)	1:5000	1.0 m.	8
Mississippi R.	Carleton Place, Appleton, Almonte, Blakeney, Pakenham, Galetta	photobase (1979)	1:2000	0.5 m.	9
Indian River	Clayton	photobase (1979)	1:2000	0.5 m.	1

Watercourse	Coverage	Map Base	Scale	Contour Interval	No. Maps
Carp River	Carp	photobase (1979)	1:2000	0.5 m.	2
Poole Creek	Stittsville	photobase (1979)	1:2000	0.5 m.	4
Carp Creek	Glen Cairn	photobase (1979)	1:2000	0.5 m.	2
Watts Creek	Kanata to Shirley's Bay	photobase (1979)	1:2000	0.5 m.	6
Mississippi Lake	entire lake shore	photobase (1976)	1:5000	2.0 m.	14
Kizell Drain	Kanata to Watts Creek	map base (1981)	1:2000	1.0 m.	10
Shirley's Brook	Kanata to DND property	map base (1981)	1:2000	1.0 m.	14
Constance Creek	entire watercourse	map base (1994)	1:5000	1.0 m.	3
Clyde River	Cedardale, Lanark Village	map base (1985)	1:2000	1.0 m.	5
Dalhousie Lake/Mississippi R.	entire lakeshore/ river downstream of lake to Sheridan's Rapids	map base (2003)	1:3000	0.5 m.	10

3.0 Alterations to Shorelines and Watercourses

MVC will continue to regulate *alterations to shorelines and watercourses* on all watercourses/waterbodies within the MVC watershed where the upstream drainage area is 125 hectares or greater. Written schedules will be used to identify the limits of the regulated areas falling under this category.

Activities involving the straightening, changing, diverting, or interfering with the existing channel of a river, creek, stream or watercourse, will require written permission from MVC. Following are examples of such activities/projects:

- road crossings, bridges, culverts
- channel realignments, diversion dams, weirs, etc.
- shoreline rehabilitation projects
- shoreline stabilization projects and repairs (rip rap treatments, retaining walls)

4.0 Wetlands

4.1 Background

Ontario Regulation 153/06 applies to all wetlands within the watershed that have been evaluated and classified by Ministry of Natural Resources as Provincially Significant (Class 1, 2 or 3). There are a total of 35 Provincially Significant Wetlands (PSWs) in MVC's watershed area. The Regulatory Limit is generally based on a 120 metre area of influence around the wetland. This area is intended to include lands adjacent to wetlands that provide wetland supporting hydrologic functions.

There are a number of instances where the boundaries of the PSW and/or its 120 metre adjacent lands, partially overlap the regulated hazardous lands described in Section 2.0. (Ex. part of a PSW is also within a mapped flood plain area). For these areas, the portion of the wetland and/or adjacent lands that lies within these overlap areas will be subject to the applicable policies for wetland/adjacent lands as well as the applicable policies for hazardous lands.

The PSWs that fall partially within a regulated hazardous lands area are:

- Appleton Wetland (Mississippi River)
- Clayton Lake Wetland (Clayton lake)
- Kilmaurs Wetland (Carp River)
- Lower Mississippi River Wetland (Mississippi River)
- Mississippi Lake Wetland (Mississippi Lake)
- McEwen Bay Wetland (Mississippi Lake)
- Morris Island Wetland Complex (Ottawa River)
- Shirley's Bay Wetland (Shirley's. Brook, Ottawa River)

Within the 120 metre adjacent lands, it is MVC's intention to regulate only those lands that may provide wetland supporting hydrological functions. Land features that are most likely to provide wetland supporting functions include the following:

- areas with high groundwater table
- organic soils
- seeps-springs and other drainage
- forested areas

Within the 120 metre adjacent lands, it is MVC's intention not to apply the regulation in situations where it is obvious that the subject lands or land uses do not support or contribute to the hydrologic functions of the wetland. This would include lands that are separated from the wetland by a major physical barrier such as a highway. It may also include lands that have accommodated an ongoing active use of the land for a number of years, such as farming or residential development. For regulatory

purposes, the following are examples of land features/uses that may be assessed as not providing wetland supporting functions:

- road, railway
- land that is separated from the wetland by a road, railway, etc.
- lands that drain away from the wetland because of local topography
- agricultural land that is being actively cultivated
- primary buildings (residence, barn, commercial building, etc.)
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In preparing the Regulation Schedules, mapping information was used to adjust the Regulatory Limit in order to exclude these areas from the 120 metre regulated area. MVC recognizes that, through the mapping process, some areas that should have been excluded, based on the above criteria, may have been inadvertently included within the regulatory limit. In such cases, MVC will refer to the following guidelines to determine whether written permission from MVC is required for the activity that is proposed.

4.2 Implementation Guidelines for Wetlands

In regulating development in and adjacent to wetlands, MVC will strive to complement the policies set out under Section 2.1 of the Provincial Policy Statement, 2005 (PPS). To streamline the regulatory process for development MVC will adopt a limited regulatory role where the proposed activity is already subject to municipal planning approval under the *Planning Act*.

Relevant Sections of Provincial Policy Statement 2005:

2.1.3 *Development and site alteration shall not be permitted in:*
b) *significant wetlands* in Ecoregions 5E*, 6E and 7E1;

2.1.5 *Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.*

2.1.6 *Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.*

2.1.7 Nothing in policy 2.1 is intended to limit the ability of existing agricultural uses to continue.

* MVC watershed lies within Ecoregions 5E and 6E

Within the 120 metre adjacent lands, the following activities will not require written permission from MVC:

- existing *agricultural uses* as defined in Provincial Policy Statement 2005, including: crop activities (tilling, planting, harvesting); pasturing livestock; fence construction and maintenance; drain maintenance (subject to requirements under the *Drainage Act*.)
- *development* that has received municipal approval under the *Planning Act* within the past 2 years and for which the policies under Section 2.1.6 of the Provincial Policy Statement have been addressed (Environmental Impact Statement requirements) and for which any required mitigative measures will be implemented through the planning process (i.e. Site Plan Control, Development Agreement, etc.);
- vegetation removal without the removal, movement, grading of soil/earth/rock;
- development or site alterations that are characterized by one or more of the following:
 - on land that is hydrologically separated from the wetland by an existing road, railway, or other significant physical barrier
 - on land that is more than 30 metres from the boundary of the wetland and drains away from the wetland because of local, natural topography

The following activities will require written permission from MVC:

- *development*, as per definition, that is not subject to municipal approval under the *Planning Act*

Definitions:

Agricultural uses: means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment. (Provincial Policy Statement 2005)

Development:

“development” means;

- i. the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii. 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;
- iii. site grading; or,
- iv. the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere; (“aménagement”) (Conservation Authorities Act, R.S.O. 1990, C. 27)

Hazardous Land:

“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 such as lands where sensitive marine clays, organic soils and karst formations are present; (“terrain dangereux”)

Pollution:

“pollution” means any deleterious physical substance or other contaminant that has the potential to be generated by development in an area to which a regulation made under clause (1) (c) applies; (“pollution”) (Conservation Authorities Act, R.S.O. 1990, C. 27)

Watercourse:

“watercourse” means an identifiable depression in the ground in which a flow of water regularly or continuously occurs. (“cours d’eau”) (Conservation Authorities Act, R.S.O. 1990, C. 27)

Wetland:

“wetland” means land that,

- a. is seasonally or permanently covered by shallow water or has a water table close to or at its surface;
- b. directly contributes to the hydrological function of a watershed through connection with a surface watercourse;
- c. has hydric soils, the formation of which has been caused by the presence of abundant water; and
- d. has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which has been favoured by the presence of abundant water,” but does not include

periodically soaked or wet lands that is used for agricultural purposes and no longer exhibits a wetland characteristic referred to in clause (c) or (d)” (“terre marécageuse”) (Conservation Authorities Act, R.S.O. 1990, C. 27)

