

# Vermont State Wetlands Program

## Administrative Fee for Conditional Use Determinations

### CUD Fee Legislation

For all Conditional Use Determination (CUD) applications received after July 1, 2010, an administrative processing fee will be collected pursuant to 3 V.S.A. § 2822(j)(26):

3 V.S.A. § 2822(j)(26) is added to read:

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) **\$0.12 per square foot of proposed impact to Class I or II wetlands;**

(B) **\$0.09 per square foot of proposed impact to Class I or II wetland buffers;**

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, \$200.00 per application. For purposes of this subdivision, “cropland” means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees or vines and the production of Christmas trees;

(D) minimum fee, \$50.00 per application.

Subdivision (2) of this subsection (j) reads:

(2) For discharge permits issued under chapter 47 of Title 10 and orders issued under 10 V.S.A. § 1272, an **administrative processing fee of \$100.00** shall be paid at the time of application for a discharge permit in addition to any application review fee and any annual operating fee, except for permit applications under subdivisions (2)(A)(iii)(III) (IV), and (V) of this subsection.

### Important Information on Fees

- Fees for a CUD application are required, and are non-refundable, whether an application is approved as submitted, approved with conditions, withdrawn, or denied.
- Fees will be charged for the amount of wetland and buffer impacts initially proposed in the CUD application. Changes to any proposal that result in an increase in impacts to the wetland and buffer zone, will require additional fees as incurred by the changes.
- The fee for the conversion of wetland or wetland buffer zone to cropland shall not exceed \$200.00. See 3 V.S.A. § 2822(j)(26) for the definition of “cropland”.

### For All CUD Applications

Additional steps will be added to the CUD administrative process in order to incorporate the new administrative fees. The process is amended to as follows:

1. The applicant will contact a District Wetlands Ecologist for a site visit and pre-application consultation. The site visit is required in order to call the CUD application technically complete (see #4 below), and the consultation is to assist the applicant in developing a project that is compatible with the wetland resources on the property. A pre-application consultation also increases that chances that an application will be approved as submitted.
2. The applicant then submits a completed CUD application with original signatures from a) the applicant, b) the landowner (if different), or c) the legally authorized agent of the applicant or landowner. The applicant should also submit all supporting materials, and a *check or money order made payable to the State of Vermont*. The applicant pays a \$100.00 flat fee, plus \$0.12 per square foot of wetland impact and \$0.09 per square foot of buffer zone impact, with a minimum of \$50 (see section 12a of the CUD application). The following is an

example fee calculation for a CUD application (section 19 of the CUD application) that proposes 2,400-square feet of wetland impact, and 6,600-square feet of buffer zone impact:

**3 V.S.A. § 2822(j)(26) FEES:**

<b>Administrative Processing Fee</b> .....	<b>\$ <u>100.00</u></b>
<b>Plus</b>	
<b>Proposed wetland impact</b> ( <u>2,400 sq. ft.</u> X \$0.12 per sq. ft.).....	<b>\$ <u>288.00</u></b>
<b>Proposed buffer zone impact</b> ( <u>6,600 sq. ft.</u> X \$0.09 per sq. ft.).....	<b>\$ <u>594.00</u></b>
<b>Total fee enclosed</b> .....	<b>\$ <u>982.00</u></b>

3. If the application contains the appropriate signatures and a check or money order for the completed CUD application, it will be deemed administratively complete and will be passed on to the appropriate District Wetlands Ecologist. The applicant will receive a letter stating the application is administratively complete. If the application is not administratively complete, the applicant will be contacted and asked to submit additional materials.
4. The District Wetlands Ecologist will review the application to determine if it is technically complete (refer to the CUD handbook for review standards). At least one site visit to the subject property by the District Wetlands Ecologist is required in order for the application to be considered technically complete. Once the application is reviewed and found technically complete, the applicant or representative will receive a letter stating the application is complete and to proceed with the distribution requirements (see Section 10, 17 and 18 of the application form, and page 9 and 15 of the CUD Handbook). If the application is not technically complete, the applicant or representative will be contacted and asked to submit additional materials.
5. The applicant proceeds with the distribution of the of the CUD application to the town offices and to the regional planning commissions, and with CUD notices to adjacent landowners. Once the distribution requirement is satisfied, the landowner notifies the District Wetlands Ecologist in writing that the distribution is complete.
6. The application will be put on notice for a public comment period of 15 days. In situations where there is an application for a CUD within a wetland or buffer zone that has a large number of landowners, the Agency shall use its discretion to waive the notice requirement to landowners outside of the portion of the wetland or buffer zone in question. At a minimum, however, the applicant must provide notice to the immediate abutters and all persons owning property containing the wetland or the buffer zone within 500 feet of the project area, and the Secretary shall publish notice of the application in a local newspaper generally circulating in the area where the wetland is located, at the expense of the applicant. **In this situation, the applicant will be billed directly by the newspaper.**
7. The CUD will either be approved as submitted, approved with conditions, or denied.

For CUD Amendments

- For applications that request a time extension 30 days prior to the expiration date of CUD, with no other proposed changes to the original CUD, only the \$100.00 fee will be collected.
- For applications where the original CUD has already expired, the CUD will be treated as a new application, and all fees will be collected.
- For amendment applications that request additional impacts to the wetland or buffer zone, a \$100.00 fee, plus the wetland and buffer zone impact review fees for *only the additional impacts* will be collected.

VERMONT WETLAND RULES

CONDITIONAL USE DETERMINATION APPLICATION

Title 10 V.S.A., Chapter 37, Section 905

\*\*\*\*\*
file number: \_\_\_\_\_
date received: \_\_\_\_\_
[ ] complete
[ ] incomplete
date completed: \_\_\_\_\_
Check #:
Check amount:
Check from:
DEC receiver: \_\_\_\_\_
Application Last Revised: 6/24/02
\*\*\*\*\*
OFFICE USE ONLY

INTRODUCTION

The following questions must be answered in order for this application to be considered complete. If you have questions on any portion of this form, please call the Vermont Wetlands Office at (802)241-3770 for assistance. Please note that there is a non-refundable fee effective July 1, 2002 (see Section 19) as required by the Vermont General Assembly (3 V.S.A. § 2822(j)(26). Early consultation with the Wetlands Program may result in a reduction of the wetland area impacted. A pre-application site visit is required in order to call this application complete.

NAMES

1. Applicant: \_\_\_\_\_
Address: \_\_\_\_\_
Phone: \_\_\_\_\_

2. Landowner (if different): \_\_\_\_\_
Address: \_\_\_\_\_
Phone: \_\_\_\_\_

(If landowner is other than the applicant, attach copies of any easements, agreements, or other documents conveying permission, and an agreement with the landowner(s) stating who will be responsible for meeting the terms and conditions of the Conditional Use Determination.)

3. Representative: \_\_\_\_\_
Address: \_\_\_\_\_
Phone: \_\_\_\_\_

PROJECT DESCRIPTION

4. Location: (Street Address) \_\_\_\_\_

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5. Acres owned by applicant and landowner at project site: \_\_\_\_\_

Acres involved in project: \_\_\_\_\_

6. Project purpose: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. General project description (*include number and size of buildings; number of lots; length of roads; type of sewage disposal; etc.*) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OTHER INFORMATION

8. Are any other federal, state or local permits required for this project, and if so have they been applied for or obtained?

	Required	Applied for	Obtained
US Army Corps of Engineers Permit	[ ]	[ ]	[ ]
401 Water Quality Certification	[ ]	[ ]	[ ]
VT Act 250 Permit	[ ]	[ ]	[ ]
VT Stormwater Discharge Permit	[ ]	[ ]	[ ]
VT Lakes and Ponds Permit	[ ]	[ ]	[ ]
VT Stream Alteration Permit	[ ]	[ ]	[ ]
Local Zoning Permit	[ ]	[ ]	[ ]
Other: _____	[ ]	[ ]	[ ]
_____			
_____			

9. Attach the following information to the application:

[ ] Location map (*project area marked on a USGS topographic map or Vermont Significant Wetlands Map*)

[ ] Site plan(s) including existing conditions, proposed work, erosion controls, and wetland and buffer zone boundaries (*see Sections 3.2 and 4.6 of the Vermont Wetland Rules for description of methodology*).

[ ] Any other narratives or documents that the application intends to rely upon in support of the proposed Conditional Use.

[ ] Photos of wetland, if available.

10. List the names and complete mailing addresses of all persons owning property within or adjacent to the wetland or buffer zone in question.

Name Mailing Address with Zip  
Code

---

---

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*Attach additional sheets if necessary.*

**WETLAND AND BUFFER ZONE IMPACTS**

11. Complete the following for the wetland in question.

a. Size of wetland (to nearest 1/2 acre): \_\_\_\_\_.

b. Check the dominant type of wetland present:  
\_\_\_\_\_ open water \_\_\_\_\_ marsh \_\_\_\_\_ wet meadow  
\_\_\_\_\_ shrub swamp \_\_\_\_\_ forested swamp  
\_\_\_\_\_ bog or fen \_\_\_\_\_ beaver influenced wetland  
\_\_\_\_\_ other (explain): \_\_\_\_\_

c. Name of all streams, rivers, lakes, and ponds adjacent to the wetland and approximate distance from proposed activity:  
\_\_\_\_\_  
\_\_\_\_\_

d. Approximate the percentage of each of the following cover types in the area surrounding the wetland:  
\_\_\_\_\_ forested \_\_\_\_\_ agriculture  
\_\_\_\_\_ old field \_\_\_\_\_ open water  
\_\_\_\_\_ lawn \_\_\_\_\_ residential  
\_\_\_\_\_ commercial or industrial \_\_\_\_\_ road  
\_\_\_\_\_ other (specify) \_\_\_\_\_

12. Complete the following for the portion of the wetland and buffer zone in the area of proposed impact.

a. Area of impact in wetland (sq ft): \_\_\_\_\_.  
Area of impact in buffer zone (sq ft): \_\_\_\_\_.

b. Check the type of wetland present (check all that apply):  
\_\_\_\_\_ open water \_\_\_\_\_ marsh \_\_\_\_\_ wet meadow

\_\_\_\_\_ shrub swamp      \_\_\_\_\_ forested swamp  
\_\_\_\_\_ bog or fen      \_\_\_\_\_ beaver influenced wetland  
\_\_\_\_\_ other (*explain*):

c. Description of dominant vegetation: \_\_\_\_\_  
\_\_\_\_\_

d. Description of soils in the wetland and buffer zone (from Soil Conservation Service soil surveys or site investigations): \_\_\_\_\_  
\_\_\_\_\_

e. Check the characteristics of the wetland which apply:

\_\_\_\_\_ flooded most of the time  
\_\_\_\_\_ standing water during at least part of the growing season  
\_\_\_\_\_ water impounded by beavers  
\_\_\_\_\_ soils are saturated during at least part of the growing season  
\_\_\_\_\_ dry most of the year

f. Description of the buffer zone: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Describe in detail all work that is proposed within the wetland or buffer zone, including erosion control measures, referencing attached plans where appropriate.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Before this section is completed it will be necessary to determine for which functions the wetland in question is significant. The functional criteria for evaluating a wetland's significance are described in Section 5 of the Vermont Wetland Rules. The Vermont Wetland Evaluation form is available through the Wetlands Office to help determine which functions may be significant.

Demonstrate how the project as proposed will avoid any undue adverse impacts on each of the functions. Refer to plans and other attached documents as necessary.

a. Water storage for flood water and storm runoff: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Surface and ground water protection: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Fisheries habitat: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Wildlife and migratory bird habitat: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e. Hydrophytic vegetation habitat: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

f. Threatened and endangered species habitat: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

g. Education and research in natural science: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

h. Recreational value and economic benefit: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

i. Open space and aesthetics: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

j. Erosion control through binding and stabilizing the soil:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Demonstrate by narrative and reference to plans that the following mitigation measures have been used to achieve no undue adverse impacts to the protected wetland functions.

a. Can the proposed activity practicably be located on an upland portion of the site or on another site owned, controlled or available to satisfy the basic project purpose? (*Explain*).  
\_\_\_\_\_  
\_\_\_\_\_

b. Demonstrate how all practicable measures been taken to avoid or minimize adverse impacts on protected functions, including project redesign or project scale back.

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- c. For wetlands that have been disturbed, what steps will be taken to restore impacted functions (e.g. plantings, seeding, mulching exposed soil, removal of fill, etc.)
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16. Wetland compensation (creating replacement wetlands) is a measure to mitigate adverse impacts on protected functions that will only be possible in rare cases for specific functions (see Section 8.5c of the Vermont Wetland Rules). If a compensation plan is part of this proposal, demonstrate by narrative and reference to plans how the steps in Section 8.5c(1)-(7) will be met.

#### **DISTRIBUTION**

17. Submit the original request for conditional use determination to the Wetlands Office, Division of Water Quality, 103 South Main Street, 10 North, 2nd Floor, Waterbury, VT 05671-0408. Notification of receipt will be sent to the applicant once a complete application has been received by the Wetlands Office.
18. After receiving notification of completeness from the Wetlands Office, send a complete copy of the application to the Town Clerk and Regional Planning Commission. Also, send copies of the location map, a description of the specific action(s) for which conditional use determination is sought, the supporting narratives, and a listing of where complete copies of the request have been filed to:
- a. the municipal planning commission and/or conservation commission; and
  - b. all persons owning property within or adjacent to the wetland or buffer zone (item 10. of the application).

#### **FEES**

19. 3 V.S.A. § 2822(j)(26) FEES:
- |                                      |                  |
|--------------------------------------|------------------|
| Conditional Use Determination        |                  |
| Minimum application fee              | \$ <u>100.00</u> |
| Plus                                 |                  |
| Proposed wetland impact              |                  |
| (_____ sq. ft. X \$0.12 per sq. ft.) | \$ _____         |
| Proposed buffer zone impact          |                  |
| (_____ sq. ft. X \$0.09 per sq. ft.) | \$ _____         |
| Total fee enclosed                   | \$ _____         |

