

EXHIBIT IV-H

CHAPTER 28, MARSH DEVELOPMENT PERMITS

(Note: **Red = New Language**, **Black = Existing language** and **Strikethrough = language to be deleted**)

Sec. 28-52. MARSH DEVELOPMENT PERMITS.

- (a) Purpose. The purpose of a marsh development permit is to allow uses within the secondary management of the Suisun Marsh, subject to specific conditions and County approval. Lands designated as primary or secondary management areas of the Suisun Marsh are those as defined in Section 29101, 29102 and 29103 of the Public Resources Code. **County permits issued in the secondary management area may be appealed to the San Francisco Bay Conservation and Development Commission under PRC 29504.**
- (b) When required. Marsh development permits shall be required from any person or entity wishing to undertake a development as defined in Section 29114 of the Public Resources Code within the secondary management area of the Suisun Marsh. Any land use development permit or other permit which conforms with the provisions of this Section may serve as a marsh development permit, as determined by the County. If a portion of the site or development is within the primary management area, a permit may also be required from the County prior to application for any marsh development permit which may be required by the San Francisco Bay Conservation and Development Commission **within the primary management area. The lawful use of land under County permit, issued prior to the certification of the Suisun Marsh Local Protection Program, shall be eligible for a marsh development permit, provided, said use does not have an adverse impact upon the Suisun Marsh.**
- (c) Issuance. ~~Marsh development permits may be issued for any of the uses or purposes for which such permits are required or permitted by the terms of this Chapter. The lawful use of land under County permit, issued prior to the certification of the Suisun Marsh Local Protection Program, shall be eligible for a marsh development permit, provided, said use does not have an adverse impact upon the Suisun Marsh.~~
Compliance with building codes or other ordinances. Granting of a marsh development permit does not exempt the applicant from complying with requirements of building codes adopted pursuant to other provisions of this code, or other ordinances.
- (d) Application. Application for a marsh development permit **within the secondary management area** shall be filed by the owner or the owner's agent with the Department of Resource Management. ~~and shall be accompanied by plans and data assuring the fullest practical presentation of facts about the development; a~~

~~site plan drawn to scale and fully dimensioned showing property lines; the location and extent of existing and proposed work and uses; information clearly distinguishing existing from proposed improvements, existing and proposed public access areas, building elevations, and primary and secondary management area boundaries; the approximate distance to the nearest marsh, managed wetland, or tidal area; and the location and name of the nearest public road and private access. Such application shall be accompanied by a fee or fees as may be set by the Board of Supervisors by resolution pursuant to Section 11-111 of this code. No part of such fee shall be refundable.~~ Application shall be in the form prescribed by the Director of Resource Management. The application shall consist of a written narrative and detailed site plan. When a land use subject to a marsh development permit is proposed in both the Primary Management Area and Secondary Management area, the land use shall be subject to a use permit covering the whole of the project. The application shall, at a minimum, include the items and information described in this Section.

1. Fee or fees as set by the Board of Supervisors pursuant to Section 11-111 of this code. No part of such fee shall be refundable.
2. A complete legal description of the subject property.
3. A narrative description of existing uses of the subject property and adjacent properties, proposed uses and improvements including proposed water supply, sewage disposal and utility service.
4. Findings of fact demonstrating the proposed marsh development permit in its entirety is consistent with the Solano County general plan; the certified Suisun Marsh Local Protection Program and findings set forth in subsection (h) of this Section.
5. A site plan at a scale no smaller than one inch equals a hundred feet depicting property lines; the foot print of any pre-existing use or development area; location of proposed work, buildings and uses showing building, parking and landscape coverage and yard set backs, drainage, water supply, sewage disposal and utility service; information clearly distinguishing existing and proposed improvements; existing and proposed public access areas; primary and secondary management area boundaries, the approximate distance to the nearest marsh, managed wetland, or tidal areas; and the location and name of nearest public road and private access.
6. Project design and improvement details including but not limited to preliminary grading plans, building elevations, landscaping and signs.
7. Performance standards as may be applicable (e.g., hazardous materials and waste management).

8. Such other information as may be required by the Board of Supervisors, Planning Commission, or Director of Resource Management concerning the proposed development and use of such property, or which the applicant may deem appropriate for a full consideration of the proposal by the Board of Supervisors, Planning Commission, and Director of Resource Management.
 9. All information required by this Section shall be stated in a manner to describe the character and style of the proposed development and use in sufficient detail to constitute definite criteria under which subsequent development can be judged for compliance.
- (e) Public hearing. At least one public hearing on any marsh development permit application shall be held by the Zoning Administrator or the Planning Commission ~~who shall maintain a public record of all hearings.~~
- (f) Public notice. Notice of this hearing shall be given pursuant to Section 28-14 of this Chapter.
- (g) Action.
- (1) The zoning administrator or planning commission may ~~grant~~ **approve** marsh development permits upon the finding, in each case, that the requirements set forth in **the certified Suisun Marsh Local Protection Program**, this Chapter and in subsection (h) of this Section are fulfilled.
 - (2) ~~The~~ **When approving a marsh development permit, the** zoning administrator or planning commission may ~~stipulate~~ **impose** conditions **enumerated in subsection (h) of this section, together with** ~~and~~ guarantees that such conditions will be complied with, ~~when such conditions are in the public interest, and deemed necessary.~~
 - (3) ~~Unless the marsh development permit application is withdrawn, action to approve, conditionally approve, or deny the marsh development permit shall be taken by the zoning administrator or planning commission within the time limits specified in the Permit Streamlining Act, except that the applicant and zoning administrator may mutually agree to extend such period.~~
 - (4) Any action taken by the zoning administrator or the planning commission on a marsh development permit application shall not become effective until:
 - (i) ~~the time for filing an appeal with the County and the appeal period has expired or, if an appeal has been filed, the appeal has been decided or withdrawn, and~~

(ii) the twenty (20) working day period after the Bay Conservation and Development Commission has received notice of the County's final action approving the marsh development permit has expired or, if an appeal by or to the Bay Conservation and Development Commission has been filed, the appeal has been decided or withdrawn.

(h) ~~General conditions~~ Required Findings. ~~In granting a~~ A marsh development permit shall not be approved unless; the zoning administrator or planning commission shall find the makes all of the following general conditions to be fulfilled findings:

- (1) That the application process complies with the California Environmental Quality Act of 1970, as amended.
- (2) That the establishment, maintenance, or operation of the use is in conformity with the County General Plan with regard to traffic circulation, population densities and distributions, and all other pertinent aspects.
- (3) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
- (4) That the applicant has exhibited proof that such use will not constitute a nuisance or be detrimental to the health, safety, comfort, or general welfare of the people of the County, or be detrimental to adjacent property or improvements to the neighborhood.
- (5) That the proposed development shall be consistent with the certified Suisun Marsh Local Protection Program.
- (6) Where the proposed development is located in both the secondary and primary management areas, the development proposed within both the secondary management area and the primary management area, subject to a marsh development permit from the Bay Conservation and Development Commission, shall be consistent with the certified Suisun Marsh Local Protection Program.

(i) Revocation.

- (1) In any case where the conditions of a marsh development permit have not been or are not complied with, or where the use has been abandoned the Zoning Administrator shall give to the permittee notice of intention to revoke such permit, at least ten fifteen days prior to a Planning Commission review thereof.
- (2) Formal rules of evidence shall not apply to revocation proceedings, and witnesses need not be sworn, but the permittee shall be given an opportunity

to respond to any evidence or testimony presented by the zoning administrator or the public. After conclusion of the review, the planning commission may revoke such permit or modify the permit by imposing new or modified conditions to address the previous noncompliance.

(j) Expiration.

- (1) Marsh permits approved for a temporary, fixed period of time shall expire on the date specified in the permit and shall thereafter be null and void, but any such permit may be revised to modify its expiration date if an application to do so is filed at least 30 days prior to the expiration date. Marsh development permits approved for an indefinite period do not expire but shall be revoked by the planning commission if abandoned or not timely renewed.
- (2) In any case where a marsh development permit has not been exercised within one year after the date of ~~granting~~ approval thereof, or any other period for exercise stated in a condition of the permit, then without further action by the Zoning Administrator or Planning Commission, the use permit shall ~~expire and thereafter~~ be null and void; ~~excepting~~ that upon written request by the permittee, the ~~Planning Commission~~ zoning administrator may authorize an extension of the permit not to exceed one year. Only one such extension may be granted.

(jk) Reapplication. Whenever a marsh development permit application has been denied for a specific use, no new application covering all or a portion of the property involved in the original application shall be accepted by the ~~County~~ Department of Resource Management for a period of six months from the effective date of the final denial of the original application; provided that upon a showing of a substantial change of circumstances, the planning commission may permit the filing of such new application prior to the expiration of such six-month period.

(kl) Appeal. Appeal from the action of the Zoning Administrator or Planning Commission may be made according to the provisions of Section 28-63 of this code.

(lm) Minor revisions. Minor revisions not constituting substantial alteration in the marsh development permit, or any element thereof, may be reviewed and approved by the Zoning Administrator or Planning Commission, whichever shall have issued the permit sought to be revised. Each application for a minor revision shall be accompanied by a fee as may be set by the Board of Supervisors, pursuant to Section 11-111 of this code. No part of said fee or fees shall be refundable.

- (n) Renewal. A marsh development permit approved for an indefinite period shall be subject to periodic renewal every five years, or such other period of time as may be set by the zoning administrator or planning commission in approving a marsh development permit. The zoning administrator shall administratively approve a marsh development renewal if the following conditions are satisfied:
- (1) the permittee has requested renewal.
 - (2) the permittee has paid a renewal fee as may be set by the board of supervisors pursuant to Section 11-111 of this Code, and
 - (3) the use is being conducted in full compliance with all conditions of the marsh development permit.

If the zoning administrator is unable to approve a renewal, the marsh development permit shall be set for revocation. Every marsh permit approved in conjunction with a use permit prior to , 2012 and still in effect as of that date shall be subject to the renewal period and procedure described in this subsection unless a different period or procedure is specifically described in the conditions of the marsh development permit or use permit.