GUIDELINES FOR WETLAND PERMIT APPLICATIONS
SUBMISSION REQUIREMENTS AND PROCESS
PURSUANT TO CHAPTER 209 WETLAND AND DRAINAGE LAW,
CHAPTER A216 SUBDIVISION OF LAND AND CHAPTER A218 WETLAND PERMITS

Purpose: To control, protect, conserve and regulate the use of wetlands, water bodies , watercourses and 100' adjacent areas to insure that the benefits found to be provided by such areas will not be lost and to avoid and or minimize activities that may cause the loss of such resources.

Wetland Permit Applications shall be obtained and filed at the Building Department at the Town Hall Annex. Submission materials will not be accepted at the Conservation Board office. The Building Department shall forward copies of submitted materials to the appropriate review and approval authority for determination of completeness.

Minor Projects- Activities related to an individual residential single family building lot provided activities do not involve excavation of greater than 100 cubic yards or disturbance of greater than 10,000 sf within an adjacent area. Approval authority is Town Engineer upon referral to Conservation Board and Town Wetland Consultant.

Major Projects- Any activity that does not qualify as a minor project or which requires a Wetland Permit where the approval authority is the Planning Board or the Town Board. Referral is made to the Conservation Board and Wetland Consultant by the approving authority.

Complete Wetland Permit Applications include all required information pursuant to Chapters 209, A216 and A218 including but not limited to:

- Application Form
- Environmental Clearance or Short Environmental Assessment Form
- Fees - Application Fee ($50) and consultant referral (see below)
- Plans (5 copies)
- Wetland Delineation and Flagging in field

Note that in order to be considered complete, wetland boundaries must be clearly delineated in the field within 1 year from the application submission and the surveyed wetland boundaries must be included on all plans. Upon determination of completeness, wetland delineations will be confirmed by the Town Wetland Consultant.

Process - The Town Engineer/Wetland Consultant shall provide a written determination of completeness and an evaluation of the application to the applicant, approval authority and Conservation Board. **Only upon determination of completeness will applications be referred to the Conservation Board for placement on the next available Conservation Board agenda.** Once placed on an agenda, the Conservation Board will determine the need for and timing of any site walks. Following the Conservation Board meeting, the Board shall provide a written recommendation to the approval authority. The approval authority shall consider forwarded comments and recommendations when determining consistency of the application with the policies stated in Chapters 209 and A216. Permits will be issued upon compliance with any/all conditions stated therein. Note that issuance of a wetland permit does not authorize construction. No construction related activities of any nature are to proceed without the applicable permit from the Building Department.

Schedule - The Conservation Board usually meets the third Tuesday evening of each month, except for the months of August and December when there are no scheduled meetings. **All new and continuing application materials must be received by the Building Department a minimum of 21 days and 14 days respectively prior to a regularly scheduled Conservation Board meeting for consideration on the next available agenda.**

Pre-Application Meetings - The Town Wetland Consultant is available to meet with applicants prior to submission to provide a conceptual review of a proposed application. Call (914) 273-2323 to schedule an appointment.

Consultant Fees - Pursuant to Chapter 209-8A(4)a, applicants are responsible for fees related to referrals to Town Consultants. Such consultant fees will be billed directly to the applicant by the Town. Applicants must demonstrate that all outstanding fees have been paid in full prior to the issuance of any wetland/building permit.

TOWN OF NORTH CASTLE
15 Bedford Road
Armonk, New York 10504

WETLANDS AND DRAINAGE LAW APPLICATION

Date:_____

Fee:_____

1. **Name and Address of Applicant:** **Owner** (if different):

_____ _____

_____ _____

_____ Zip _____ _____ Zip _____

(Telephone) _____ (Telephone) _____

2. **Street Address of Property:** _____

Tax Map Designation: Section_____ Block_____ Lots(s) _____

3. **Description of proposed work and materials:** plans and specifications annexed hereto. State name and occupation of preparer:

_____

_____

_____

_____

4. **Impact Statement** (if required) prepared by: _____

_____

_____

Dated:_____ Applicant's Signature_____

NOTE: Wetlands Applications will be reviewed by the Town Board, the Planning Board, the Conservation Board, or the Town Engineer at the discretion of the Town Engineer.

14-16-4 (9/95)—Text 12

PROJECT I.D. NUMBER

617.20

Appendix C

State Environmental Quality Review

SEQR

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR

2. PROJECT NAME

3. PROJECT LOCATION:
Municipality County

4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)

5. IS PROPOSED ACTION:
☐ New ☐ Expansion ☐ Modification/alteration

6. DESCRIBE PROJECT BRIEFLY:

7. AMOUNT OF LAND AFFECTED:
Initially _____ acres Ultimately _____ acres

8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?
☐ Yes ☐ No If No, describe briefly

9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?
☐ Residential ☐ Industrial ☐ Commercial ☐ Agriculture ☐ Park/Forest/Open space ☐ Other
Describe:

10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?
☐ Yes ☐ No If yes, list agency(s) and permit/approvals

11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?
☐ Yes ☐ No If yes, list agency name and permit/approval

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?
☐ Yes ☐ No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: _____ Date: _____

Signature: _____

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

Chapter 209, WETLANDS AND DRAINAGE

[HISTORY: Adopted by the Town Board of the Town of North Castle: Art. I, 6-14-1990 as L.L. 6-1990; Art. II, 8-26-1976 as L.L. No. 1-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction – See Ch. 73.
Environmental quality review – See Ch. 99.
Erosion and sediment control – See Ch. 101.
Excavations – See Ch. 102.
Flood damage prevention – See Ch. 109.
Landfills, littering and dumping – See Ch. 124.
Sewers – See Ch. 164.
Water – See Ch. 204.
Watercourses – See Ch. 206.
Zoning – See Ch. 213.
Subdivision of land – See Ch. A216.
Wetlands permit rules and regulations – See Ch. A218.

ARTICLE I, General Regulations [Adopted 6-14-1990 as L.L. No. 6-1990]

§ 209-1. Title.

This Article shall be known and cited as the "Freshwater Wetlands and Drainage Law of the Town of North Castle." The Wetlands and Drainage Law of the Code of the Town of North Castle is hereby repealed.[EN(1)]

§ 209-2. Statutory authority.

This Article is enacted pursuant to the authority of the town to promote the public health, safety and general welfare of its citizenry under New York State Municipal Home Rule Law.

§ 209-3. Findings; purpose.

A. Findings. The Town Board of the Town of North Castle hereby finds that:

(1) The public interest, health, safety and the economic and general welfare of the residents of the Town of North Castle will be best served by providing for the protection, preservation, proper maintenance and use of its wetlands and natural drainage systems, as hereinafter defined. including but not limited to its ponds, lakes, reservoirs, rivers, streams, water bodies and adjacent areas from encroachment, spoiling, polluting or elimination resulting from population growth attended by commercial development, housing, road construction and/or disregard for natural resources.

(2) The wetlands, water bodies, natural drainage systems and adjacent areas, as defined in this Article, in North Castle are a valuable natural resource which serve to benefit the entire town and the surrounding region by performing one or more of the following functions:

(a) Providing drainage, flood control and natural storage for water.

(b) Protecting subsurface water resources, watersheds and groundwater recharge systems serving as chemical and biological oxidation basins, and/or functioning as settling basins for naturally occurring sedimentation.

(c) Providing a suitable living, breeding, nesting and feeding environment for many forms of wildlife, including but not limited to wildfowl, shore birds and especially endangered and threatened species.

(d) Treating pollution through natural biological degradation and chemical oxidation.

(e) Controlling erosion by serving as sedimentation areas and filter basins.

(f) Providing sources of nutrients in freshwater food cycles.

(g) Serving as breeding and spawning grounds, nursery habitat and sanctuaries for various species of freshwater fish.

(h) Providing areas of unusually high plant productivity which support significant wildlife diversity and abundance.

(i) Providing recreation areas for hunting, fishing, boating, hiking, bird-watching, photography, camping and other uses.

(j) Serving as an educational and research resource.

(k) Preserving much needed open space which serves to satisfy man's psychological and aesthetic needs.

(3) Wetlands protection is a matter of concern to the entire town, and the establishment of regulatory and conservation practices for these areas serves to protect the town by ensuring review and regulation of any activity near or on wetlands that might adversely affect the town's citizens' health, safety and welfare.

(4) Wetlands in North Castle and other areas form an ecosystem that is not confined to any one property owner or neighborhood. Experience has demonstrated that effective wetlands protection requires consistency of approach to conservation efforts throughout the town.

(5) Loss of wetlands can cause or aggravate flooding, erosion, diminution of water supply for drinking and waste treatment and may pose a threat to the health, safety and welfare of the people of North Castle and the surrounding region.

(6) Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting and other acts inconsistent with the natural uses of such areas. Remaining wetlands are in jeopardy of being lost, despoiled or impaired by such acts, and the cumulative effect of such acts are contrary to the public interest, safety and welfare.

(7) Wetlands, by their nature, provide long-term storage for water. The water is not static but is slowly moving. Any potential negative impact is, therefore, cumulative over both time and distance and is worthy of careful scrutiny and regulation.

B. Purpose.

(1) The Town Board therefore declares that the purpose of this Article is to control, protect, preserve, conserve and regulate the use of wetlands, water bodies, natural drainage systems and adjacent areas, as defined in this Article, within the Town of North Castle to ensure that the benefits found to be provided by such areas as set forth in Subsection A of this section will not be lost and to protect the important physical, ecological, social, aesthetic, recreational and economic assets of the present and future residents of the town, so as to protect the broader public interest.

(2) This Article is enacted with the purpose of providing for a reasonable balance between

the rights of individual property owners to the free use of their property and the rights of the community as a whole.

§ 209-4. Definitions; word usage.

A. Unless specifically defined below, words and phrases used in this Article shall be interpreted to have the meanings they have in common English usage, to give effect to the purpose set forth in § 209-3B and to provide reasonable application of this Article.

B. The word "shall" is intended to mean mandatory.

C. As used in this Article, the following terms shall have the meanings indicated:

ADJACENT AREA -- An area that extends 100 feet horizontally away from and paralleling the wetland boundary, water body or natural drainage system; and such an "adjacent area" is subject to the regulations for wetlands as defined in this Article so as to provide protection to such area from human activity and other forms of encroachment.

APPLICANT -- Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the approval authority or who has an application pursuant to § 209-5 of this Article before the Town Board.

APPROVAL AUTHORITY -- The administrative board or public official empowered to grant or deny permits under this Article, to require the posting of bonds as necessary and to revoke or suspend a permit where lack of compliance with the permit is established. The approval authority shall be:

(1) The duly appointed Planning Board of the Town of North Castle for permit applications relating to activities that require approval of any major or minor subdivision or site development plan approval from such Board.

(2) The Town Engineer of the Town of North Castle, or his duly appointed representative, for permit applications relating to activities that do not require subdivision or site development plan approval and that involve the removal, deposit or regrading of material in any residential zone of the Town of North Castle.

(3) The duly elected Town Board of the Town of North Castle on all permit applications not covered by Subsection (1) or (2) above and for projects that are subject to the jurisdiction of the Excavation Ordinance, the Landfills, Littering and Dumping Ordinance and the Watercourses Ordinance.[EN(2)]

CONSERVATION BOARD -- The duly appointed Conservation Board of the Town of North Castle created pursuant to §§ 239-x and 239-y of the General Municipal Law.

DEPOSIT -- To fill, place, eject or dump any material, or the act thereof, but not including stormwater.

DISCHARGE -- The emission of any water, substance or material into a wetland, water

body, natural drainage system or adjacent area, whether or not such substance causes pollution.

ENVIRONMENTAL MAP FOR THE TOWN OF NORTH CASTLE -- The Environmental Map for the Town of North Castle, dated 1987, as updated from time to time, as originally prepared by F.P. Clark Associates, on which is indicated the approximate locations of the actual boundaries of wetlands within the town. This map shall be kept in the offices of both the Town Engineer and the Planning Board for public review.

GROWING SEASON -- Generally that period between March through October in Westchester County when soil temperatures are above biologic zero (5° C.).

MATERIAL -- Liquid, solid or gaseous substance, including but not limited to soil, silt, gravel, rock, sand, clay, peat, mud, debris and refuse; any organic or inorganic compound, chemical agent or matter (excluding pesticides, herbicides, algaecides and agricultural or radioactive wastes to the extent that the same are exempt or regulated exclusively by the State of New York); sewage, sewage sludge or effluent; and industrial or municipal solid waste.

MINOR AND MAJOR PROJECTS [Added 12-19-1991 by LL No. 5-1991]:

(1) MINOR PROJECT (OR PROJECTS) -- An activity or activities requiring a wetlands permit where the approval authority is the Town Engineer and where said activity is to be performed without the use of mechanical earthmoving equipment and will not disturb wetlands, water bodies, adjacent areas or natural drainage systems. A "minor project" shall include any activity which is to be performed on an individual residential single-family building lot containing an existing residence (for which, in this instance, the use of mechanical earthmoving equipment shall be permitted); provided, however, that such activities shall not take place within any portion of any wetlands, water bodies or natural drainage systems and provided also that such activities do not require the excavation of more than 100 cubic yards or disturb more than 10,000 square feet of any adjacent areas.

(2) MAJOR PROJECT (OR PROJECTS) -- Any activity or activities that does not qualify as a minor project or which requires a wetlands permit, where the approval authority is either the Planning Board or the Town Board. Additionally, in situations where multiple applications are involved for a specific project, if at least one activity constitutes a "major project," as defined herein, then each proposed activity for each multiple application concerning such specific project shall be treated as a "major project," notwithstanding anything contained herein to the contrary.

NATURAL DRAINAGE SYSTEM -- Rivers, streams and brooks which contain running water at least six months of the year.

PERMIT or WETLANDS PERMIT -- That form of town approval required by this Article for the conduct of a regulated activity within any wetland, water body, adjacent area or natural drainage system.

PERSON -- See "applicant."

PLANNING BOARD -- The duly appointed Planning Board of the Town of North Castle.

POLLUTION or POLLUTANTS -- The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property.

REMOVE -- To disturb, dig, dredge, suck, bulldoze, dragline, blast or otherwise excavate or regrade, or the act thereof.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) -- The law pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

STRUCTURE -- Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground. The term "structure" includes, but is not limited to, tennis courts and swimming pools.

TOWN BOARD -- The duly elected Town Board of the Town of North Castle.

TOWN CLERK -- The duly elected Town Clerk of the Town of North Castle.

TOWN ENGINEER -- Any person employed by the Town of North Castle as the Town Engineer or any consultant engineer retained to act in his stead.

WATER BODY or WATER BODIES -- Any natural or artificial or permanent or intermittent public or private watercourse or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks or waterways, that are contained within or flow through the town.

WETLAND/FRESHWATER WETLAND [Amended 12-19-1991 by L.L. No. 5-1991]:

(1) Those geographic areas covered with shallow and sometimes temporary or intermittent waters commonly referred to as "swamps" or "bogs," to include all areas that comprise hydric soils and/or are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation as more particularly defined by the Federal Manual for Identifying the Delineating Jurisdictional Wetlands, United States Army Corps of Engineers, United States Environmental Protection Agency, United States Fish and Wildlife Service and United States Department of Agriculture Soil Conservation Service, Washington, D.C., Cooperative Technical Publication 1989, or any amendments thereto.

(2) The regulation of lands and water bodies of the state that meet the definition provided by the New York State Freshwater Wetlands Act (Article 24 of Title 23 of Article 71 of the Environmental Conservation Law)[EN(3)] are specifically included in this Article pursuant to § 24-0509 of the Act. The approximate boundaries of such lands and water bodies are indicated on the official Freshwater Wetlands Map promulgated by the Commissioner pursuant to § 24-0301, Subdivision 5, of the Act, or such a map that has been amended or adjusted pursuant to § 24-0301, Subdivision 6, of the Act.

§ 209-5. Prohibited and regulated acts.

A. Prohibited acts. It shall be unlawful to disturb, place, discharge or deposit pollutants or to introduce effluents of sufficiently high thermal content as to cause deleterious ecological effect in any wetland, water body, adjacent area or natural drainage system.

B. Regulated acts which require a wetlands permit. It shall be unlawful, in the absence of a specific written wetlands permit issued by the approval authority, to do any of the following activities in any wetland, water body, natural drainage system or adjacent area:

(1) Place or construct any structure.

(2) Conduct any form of draining, dredging, excavation or removal of material, either directly or indirectly.

(3) Conduct any form of dumping, filling or depositing of material either directly or indirectly.

(4) Install any service lines or cable conduits.

(5) Introduce any form of pollution, including but not limited to the installing of a septic tank, the running of a sewer outfall or the discharging of sewage treatment effluent or other liquid wastes into or so as to drain into a wetland.

(6) Alter or grade natural features and contours, alter drainage conditions or divert any flow of a wetland, adjacent area, natural drainage system or water body.

(7) Construct docks, dams, other water control devices, pilings or bridges, whether or not they change the natural drainage characteristics.

(8) Install any pipes or wells.

(9) Construct a driveway or road.

(10) Conduct any other activity that substantially impairs any of the functions that wetlands, water bodies, natural drainage systems or adjacent areas perform as described in § 209-3A(2) of this Article.

(11) Deposit or introduce harmful organic or inorganic chemicals.

(12) Discharge stormwater.

§ 209-6. Permit decisions.

A. Consideration. In granting, denying or conditioning any wetlands permit, the approval authority shall consider the following:

(1) All evidence offered at any public hearing.

(2) Any reports from the Conservation Board and/or other commissions and/or federal,

county, state or town agencies.

(3) Additional requested information by the approval authority, including but not limited to opinions from experts or consultants.

(4) All relevant facts and circumstances, including but not limited to the following:

(a) The environmental impact of the proposed action.

(b) The alternatives to the proposed action.

(c) Irreversible and irretrievable commitments of resources that would be involved in the proposed activity.

(d) The character and degree of injury to, or interference with, safety, health or the reasonable use of property that is caused or threatened.

(e) The suitability or unsuitability of such activity to the area for which it is proposed.

(f) The effect of the proposed activity with reference to the protection or enhancement of the several functions of wetlands, water bodies, adjacent areas or natural drainage systems and the benefits they provide which are set forth in § 209-2 of this Article and in § 24-0103 of the Environmental Conservation Law.

(5) The availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of the reasonable locations.

(6) The availability of further technical improvements or safeguards that could feasibly be added to the plan or action.

(7) The possibility of further avoiding reduction of the wetland's or a water body's natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage and provide recreation and open space.

(8) The extent to which the exercise of property rights and the public benefit derived from such use may or may not outweigh or justify the possible degradation of the wetland or water body, the interference with the exercise of other property rights and the impairment or endangerment of public health, safety or welfare.

(9) The extent to which cumulative impacts of the proposed action, when combined with other proposed and existing modifications or actions, may be detrimental to the wetlands, water body, natural drainage system or adjacent area involved.

B. Findings.

(1) Permits will be issued by the approval authority pursuant to this Article if the approval shall find that the proposed regulated activity is consistent with the policy of this Article to preserve, protect and conserve wetland functions and the benefits they provide, as set forth in § 209-3 of this Article, by preventing the despoliation and destruction of wetlands and regulating the development of such wetlands consistent with the general

welfare and development of the town.

(2) The applicant shall have the burden of proof with regard to the required findings set forth in this Article.

(3) The approval authority shall deny a permit if:

(a) The proposed activity may threaten public health and safety, result in fraud, cause nuisances, impair public rights to the enjoyment and use of public waters, threaten a rare or endangered plant or animal species, violate pollution control standards or violate other federal, state or local regulations.

(b) It finds that the detriment to the public measured by the factors listed in this section that would occur on issuance of the permit outweighs the nonmonetary public benefits associated with the activity.

§ 209-7. Wetlands permit procedure.

A. The Town Engineer shall retain a map entitled the "Environmental Map for the Town of North Castle" and make the same available to the public. This map is intended to be used as a reference source only and shall not be construed in any manner which would, in effect, limit a wetland area.

B. Application procedure.

(1) Application. The applicant shall file an application for a wetlands permit with the town in conformity with the rules and regulations for obtaining a wetlands permit. Such rules and regulations, as amended from time to time, shall be established by the Town Board. In adopting these rules and regulations, the Town Board may seek the advice of the Planning Board, the Conservation Board and the Town Engineer as it deems appropriate. [Amended 12-19-1991 by L.L No. 5-1991]

(2) Separate permits. For each regulated act or activities, as provided for in § 209-5B of this Article, the applicant shall be required to file a separate application with the town and obtain a separate wetlands permit for each distinct regulated act or activity.

(3) Fees. An application fee, in an amount specified in the rules and regulations for obtaining a wetlands permit, shall be paid by the applicant at the time he submits his application to the town. Such rules and regulations shall include one fee schedule for major projects and a separate fee schedule for minor projects. If additional submissions are required from the applicant by the approval authority, an additional fee, as specified in the rules and regulations, shall be paid by the applicant at the time he submits the additional information so required. [Amended 12-19-1991 by LL No. 5-1991]

(4) Charges. [Added 12-19-1991 by LL. No. 5-1991[EN(4)]]

(a) The approval authority, in the review of any application for a major project, may refer any such application presented to it to such engineering, planning, legal, technical or environmental consultant or professional(s) employed by the town as such approval authority shall deem reasonably necessary to enable it to properly

review such application. Charges made by such consultants shall be in accord with charges usually made for such services in the metropolitan New York region or pursuant to an existing contractual agreement between the town and such consultant. Charges made by the town shall be in accord with the hourly rates upon which the employee's actual salary is based and fringe benefits and reasonable overhead. All such charges shall be paid on submission of a town voucher. The applicant shall reimburse the town for the cost of such consultant services upon submission of a copy of the voucher.

(b) Applications involving minor projects shall be exempt from any charges under this § 209-7B(4).

(5) The approval authority shall submit the permit application to the Conservation Board for its report.

C. Rules for establishing wetland boundaries. The boundaries of a wetland, watercourse, natural drainage system or adjacent area ordinarily shall be determined by field investigation and flagging by a professional acceptable to the approval authority and subsequent survey by a licensed land surveyor unless the last is waived by the approval authority. The approval authority may consult or may require the applicant to consult with biologists, hydrologists, soil scientists, ecologists/botanists or other experts as may be deemed appropriate. More detailed requirements may be found in the Rules and Regulations for Obtaining a Wetlands Permit.

D. An application shall not be deemed complete until and unless an applicant has complied fully with the procedures of the State Environmental Quality Review Act (Article 8 of the State Environmental Conservation Law) and the North Castle Environmental Quality Review Law, Local Law No. 2-1981.[EN(5)]

§ 209-8. Public hearing; notice.

A. No sooner than 30 days and not later than 60 days after receipt of a complete application by the approval authority, the approval authority shall hold a public hearing on such application, except where the approval authority is the Town Engineer or his duly appointed representative, then no public hearing shall be required. Notice of such hearings shall be given in the same manner as prescribed for the approval of plats under § 276 of the Town Law, and, in addition, the applicant shall notice all abutting property owners of record. Such service shall be made by certified mail, return receipt requested. Such mailing shall be made at least five days before the date set for hearing. All applications, maps and documents relating thereto shall be open for public inspection at the offices of the Town Engineer. At such hearing any person or persons having an interest may appear and be heard. At the hearing, the applicant shall have the burden of demonstrating that the proposed activity will be in accord with the goals and policies of this Article.

B. The provisions of Subsection A above notwithstanding, to the greatest extent practicable, such hearing shall be incorporated with any other public hearing required or otherwise held pursuant to any other law, including the North Castle Environmental Quality Review Law, Local Law No. 2-1981.[EN(6)] The record of any hearing shall become part of the permanent

record of a permit application and shall be maintained on file in the offices of the Town Engineer.

§ 209-9. Action by the approval authority.

Unless an additional application, including but not limited to application for subdivision or site plan, is pending before the approval authority with regard to the proposed regulated activity, the approval authority shall, within 75 days after receipt of the report of the Conservation Board, or within 45 days of the date of the closing of any public hearing held pursuant to § 209-8, render a decision to approve, deny or approve with modifications the application. If additional applications are pending before the approval authority, the approval authority may render its decision at the same time as its decision on any additional application. A decision should be rendered no later than 45 days after the receipt by the approval authority of such requested information. The approval authority shall state upon the record the reasons for all approvals or denials taken.

§ 209-10. Conditional approval; performance bond; insurance.

A. In approving any application, the approval authority may impose such conditions or limitations as it determines necessary to insure compliance with the intent, purposes, standards and public policy of this Article.

B. The approval authority may require posting of a performance bond or collateral as a condition of approval, the amount and surety of such bond or collateral to be recommended by the Town Engineer and to be approved by the Town Board. Such bond is intended to insure the proper completion of the proposed activity in accordance with the approved plans, the restoration of the area to its natural condition as far as practicable and protection of adjoining property owners from damage resulting therefrom. It shall remain in effect until the Town Engineer certifies that the work has been completed in compliance with the terms of the permit and the bond is released by the Town Board or a substitute bond is provided and approved by the Town Board.

C. The applicant may be required to certify that he has insurance against liability which might result from the proposed operation or use covering any and all damages which might occur in an amount to be determined by the approval authority commensurate with the projected operation.

§ 209-10.1. Filing of decision; issuance.

A. Approval/conditional approval. Following action by the approval authority to approve or approve with conditions any application, the written decision of the approval authority shall be filed in the office of the Town Engineer and a wetlands permit shall be issued by the approval authority to the applicant as it was so decided and filed with the Town Engineer. Said wetlands permit shall record:

(1) The assigned application number.

(2) The name and address of the applicant.

(3) The name and address of the property owner, if different from applicant.

(4) The address and Tax Map designation of the property.

(5) The date of the approval authority's action on the application.

(6) All conditions placed on the regulated activity.

(7) The day by which the work is to be completed.

(8) The expiration date of the permit.

B. Denial. Following action by the approval authority to deny an application, the written decision of the approval authority shall be filed in the office of the Town Engineer.

§ 209-10.2. Expiration transferability and suspension or revocation of permit.

A. All permits, unless otherwise indicated, shall expire on completion of the acts specified and, unless otherwise indicated, shall be valid for a period of two years. Said two-year period shall begin running at the date upon which the permit issued.

B. Permits may be transferred to new legal owners of the affected property so long as the conditions and plans as approved remain unchanged. Notice of such transfer of permit must be filed with the Town Engineer within 30 days of the transfer.

C. The approval authority or the Town Engineer may suspend or revoke a permit in the form of a stop-work order if it finds that the applicant has not complied with any of the conditions or limitations set forth in the wetlands permit or has exceeded the scope of the activity as set forth in the application. The approval authority may revoke the permit if such approval authority finds and determines after a public hearing held in the manner provided for in this Article that the applicant has failed to comply with any of the terms and conditions set forth in the application and/or permit.

§ 209-10.3. Inspection.

Consideration of the application or the work conducted under a permit shall be open to inspection at any reasonable time, including weekends and holidays, by the Town Engineer, the Building Inspector or by members of the Town Board, Conservation Board, the approval authority or their designated representatives.

§ 209-10.4. Other permits.

Conformance to this Article does not eliminate the necessity of any applicant to obtain the approval or permits required by any other agencies prior to construction in accordance with the

permit. Obtaining such approval or permits is the responsibility of the applicant. No operations shall be initiated until such approvals or permits have been issued.

§ 209-10.5. Appeals; judicial review.

A. Appeals to Town Board.

(1) Any person or agency aggrieved by the decision of the Planning Board or Town Engineer may take an appeal to the Town Board within 30 days from the filing of said decision with the Town Engineer. Upon receipt of the notice of appeal, the Town Board shall refer a copy of the notice to the Town Engineer. The Planning Board or Town Engineer shall promptly file a copy of his file pertaining to the subject application with the Town Board. The Town Board shall set a time and date, not more than 45 days after receipt of the notice of appeal, when a hearing on the appeal shall be heard. At such hearing any interested person or agency, including but not limited to the appellant and the Planning Board or Town Engineer, may appear and give testimony.

(2) Within 30 days after the close of the hearing, the Town Board shall issue a decision providing for one of the following:

(a) Approval of the permit application if it is found to be in conformance with the provisions of this Article and issue the permit.

(b) Approval of the permit application subject to such reasonable conditions as may be necessary to secure substantially all the objectives of this Article and issue the permit subject to those conditions.

(c) Disapproval of the permit application indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(3) The filing of a notice of appeal pursuant to the provisions of this subsection shall automatically affect a stay in the decision of the Planning Board or Town Engineer, and such stay shall remain in effect until the appeal has been acted upon by the Town Board as provided for in Subsection A(2) above.

B. Any decision or order of the approval authority, except the Town Engineer, made pursuant to or within the scope of this Article may be appealed by any person aggrieved by such decision or order in accordance with the provisions of Article 78 of the New York State Civil Practice Law and Rules. Where the Town Engineer is the approval authority, any decision made by the Town Engineer may be appealed by any person aggrieved by such decision first to the Planning Board, second to the Town Board and thereafter as provided for by the New York State Civil Practice Law and Rules.

C. In the event that a court of competent jurisdiction finds the action reviewed constitutes a taking without just compensation and the land so regulated merits protection under this Article, the court may, at the election of the Town Board, either set aside the order or require the Town Board to proceed under the Eminent Domain Law to acquire the wetlands or such less than fee rights therein as have been taken.

D. An additional fee for an appeal and/or judicial review pursuant to this section shall be required in an amount determined by the town and as published in the Rules and Regulations for Obtaining a Wetlands Permit pursuant to § 209-7 of this Article.

§ 209-10.6. Penalties; enforcement; corrective action.

A. Enforcement officer. The Town Engineer or his representative shall be the official of the Town of North Castle responsible for enforcing this Article. The North Castle Police shall have the concurrent responsibility of assisting the Town Engineer in enforcing this Article.

B. Notice of violation. Any person found violating any provision of this Article or the terms and conditions of any permit granted hereunder shall be served with written notice at the direction of the Town Engineer stating the nature of the violation and providing a specific time for the satisfactory correction thereof, which time shall not be less than five working days nor more than 30 calendar days.

C. Criminal sanctions. Any person found to have violated or disobeyed any provision of this Article, any order of the approval authority or any condition duly imposed by the approval authority in a permit granted pursuant to this Article shall, for the first offense, be guilty of a violation punishable by a fine of not less than $500 nor more than $1,000. For each subsequent offense, such person shall be guilty of a violation punishable by a fine of not less than $1,000 nor more than $2,000 and/or a term of imprisonment of not more than 30 days. Each consecutive day of the violation may be considered a separate offense.

D. Injunctive relief. In addition to any method of enforcement provided above, the Town of North Castle is specifically empowered to seek injunctive relief restraining any violation or threatened violation of the provisions of this Article and/or compelling the restoration of the affected wetland, water body, adjacent area or natural drainage system to its condition prior to the violation of the provisions of this Article.

E. Other relief. The foregoing provisions for the enforcement of this Article are not exclusive but are in addition to any and all rights and remedies of the Town of North Castle, at law or in equity, to restrain violations or threatened violations of this Article and to obtain damages therefor.

§ 209-10.7. Severability.

If any clause, sentence, paragraph, section or part of this Article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 209-10.8. Conflicting laws.

If any provision of this Article shall be in conflict with any other local law or ordinance of the

Town of North Castle or any law of the State of New York or political subdivisions thereof, the provisions of the more restrictive law shall apply.

§ 209-10.9. Applicability.

A. New projects. This Article shall be applicable to any proposed regulated acts, as set forth in § 209-5, for which no application to conduct such regulated acts has been filed with the appropriate department of the Town of North Castle as of the effective date of this Article.

B. Current projects. Those proposed regulated acts for which applications have been so filed shall continue to be governed by the present Wetlands and Drainage Law of the Town of North Castle, Local Law No. 4-1981 of the Code of the Town of North Castle.[EN(7)] Notwithstanding the above, if an applicant or successor fails to commence construction of any regulated acts within two years after obtaining final approval for such project, any wetlands permit obtained in connection with said project shall expire, and the provisions of this Article shall be applied to the proposed regulated acts.

C. Grandfathered projects. Any land use, improvement or development physically completed ("physically completed" shall mean the actual completion of construction activities related to any regulated acts, including but not limited to filling, erection of structures or other improvement or development activities) prior to the effective date of this Article shall be governed by the present Wetlands and Drainage Law of the Town of North Castle, Local Law No. 4-1981 of the Code of the Town of North Castle.[EN(8)]

§ 209-10.10. Effective date.

This Article shall become effective August 1, 1990, upon filing in the office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.

ARTICLE II, Protection of Freshwater Wetlands [Adopted 8-26-1976 as L.L. No. 1-1976]

§ 209-11. Purpose.

The purpose of this Article is to provide for the continued protection of freshwater wetlands located within the bounds of the Town of North Castle, as provided for in Town of North Castle Wetlands and Drainage Law adopted in November 1973.[EN(9)]

§ 209-12. Title.

This Article shall hereafter be known and cited as "Freshwater Wetlands Protection Law."

§ 209-13. Definitions.

As used in this Article, definitions shall be as set forth in Article 24 of the Environmental Conservation Law and North Castle Wetlands and Drainage Law.

§ 209-14. Incorporation of statutory provisions by reference.

The provisions of Article 24 of the Environmental Conservation Law of the State of New York, entitled "Freshwater Wetlands," be and the same are hereby incorporated by reference as though fully set forth herein, as provided for and under the authority of § 24-0501, Subdivision 3, of the Environmental Conservation Law.

§ 209-15. Enforcement of other legislation.

If any provision of this Article shall be in conflict with the North Castle Wetlands and Drainage Law,[EN(10)] the provisions of the more restrictive law shall apply.

Endnotes

1 (Popup)
Editor's Note: Said Wetlands and Drainage Law comprised former Art I, General Regulations, adopted 10-22-1981 as L.L No. 4-1981.

2 (Popup)
Editor's Note: See Ch. 102, Excavations; Ch. 124, Landfills, Littering and Dumping; and Ch. 206, Watercourses, respectively.

3 (Popup)
Editor's Note: See Environmental Conservation Law § 24-0101 et seq.

4 (Popup)
Editor's Note: This local law also provided for the renumbering of former Subsection B(4) to B(5).

5 (Popup)
Editor's Note: See Ch. 99, Environmental Quality Review.

6 (Popup)
Editor's Note: See Ch. 99, Environmental Quality Review.

7 (Popup)
Editor's Note: Local Law No. 4-1981 comprised former Art. I, General Regulations, and can be found on file in the Town Clerk's office.

8 (Popup)
Editor's Note: Local Law No. 4-1981 comprised former Art. I, General Regulations, and can be found on file in the Town Clerk's office.

9 (Popup)
Editor's Note: See Article I of this chapter.

10 (Popup)
Editor's Note: See Article I of this chapter.