

SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS, CHANNELS, BASINS, OR DITCHES IN ESTUARINE WATERS, PUBLIC TRUST WATERS, AND COASTAL SHORELINE AECs

15A NCAC 07H .1501 PURPOSE

This permit for excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters and coastal shoreline AECs shall allow excavation within existing canals, channels, basins, and ditches in estuarine and public trust waters for the purpose of maintaining water depths and creating new boat basins from non-wetland areas that will be used for private, non-commercial activities. This general permit is also subject to the procedures outlined in Subchapter 07J .1100.

*History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);
Eff. July 1, 1984;
Amended Eff. July 1, 2015; December 1, 1987.*

15A NCAC 07H .1502 APPROVAL PROCEDURES

(a) The applicant for a general permit for excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters and coastal shoreline areas of environmental concern shall contact the Division of Coastal Management and request approval for development. Applicants shall provide their name and address, the site location, and the dimensions of the project area.

(b) The applicant must provide:

- (1) A written statement signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) Certified mail return receipts (or copies thereof) indicating that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice should instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten days of receipt of the notice, and indicate that no response will be interpreted as no objection.

(c) DCM staff will review the permit request and comments and determine, based on the potential impacts of the proposed project, whether the proposed project complies with the requirements of this Section and can be approved by a General Permit. If DCM staff finds that the proposed project does not comply with the requirements of this Section, the applicant will be notified that they must submit an application for a major development permit in accordance with 15A NCAC 07J .0200.

(d) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative to inspect and mark the proposed area of excavation and spoil disposal. Written authorization to proceed with the proposed development may be issued during this site visit. All excavation shall be completed within 120 days of the date of permit issuance.

*History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);
Eff. July 1, 1984;
Amended Eff. July 1, 2015; January 1, 1990; December 1, 1987.*

15A NCAC 07H .1503 APPLICATION FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for maintenance excavation of 100 cubic yards or less or four hundred dollars (\$400.00) for maintenance excavation of 100 to 1,000 cubic yards. Permit fees shall be paid by check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. July 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1504 GENERAL CONDITIONS

- (a) Individuals shall allow representatives of the Division of Coastal Management to make periodic inspections at any time necessary to ensure that the activity being performed under authority of this general permit for excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters and coastal shoreline areas of environmental concern, is in accordance with the terms and conditions set forth in this Section.
- (b) This general permit shall not be applicable to proposed maintenance excavation when the Division determines that the proposed activity will adversely affect adjacent property.
- (c) This permit shall not be applicable to proposed construction where the Division has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.
- (d) No new basins shall be allowed that result in closure of shellfish waters according to the closure policy of the Division of Marine Fisheries, 15A NCAC 18A .0911.
- (e) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization, nor to abide by regulations adopted by any federal or other state agency.
- (f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local Land Use Plans current at the time of authorization.

*History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);
Eff. July 1, 1984;
Amended Eff. May 1, 1990; December 1, 1987;
RRC Objection due to ambiguity Eff. May 19, 1994;
Amended Eff. July 1, 2015; August 1, 1998; July 1, 1994.*

15A NCAC 07H .1505 SPECIFIC CONDITIONS

Proposed maintenance excavation shall meet each of the following specific conditions to be eligible for authorization by this general permit.

- (1) New basins shall be allowed only when they are located entirely in highground and join existing man-made canals or basins.
- (2) New basins shall be no larger than 50' in either length or width and no deeper than the waters they join.
- (3) New basins shall be for the private non-commercial use of the land owner.
- (4) Maintenance excavation shall involve the removal of no more than 1,000 cubic yards of material as part of a single and complete project.
- (5) All excavated material shall be placed entirely on high ground above the mean high tide or ordinary high water line, and above any marsh or other wetland.
- (6) All spoil material shall be stabilized or retained so as to prevent any excavated material from re-entering the surrounding waters, marsh or other wetlands.
- (7) The proposed project shall not involve the excavation of any marsh, submerged aquatic vegetation (as defined at 15A NCAC 03I .0101 by the Marine Fisheries Commission), or other wetlands.
- (8) Maintenance excavation shall not exceed the original dimensions of the canal, channel, basin or ditch and in no case be deeper than 6 feet below mean low water or ordinary low water, nor deeper than connecting channels.
- (9) Proposed excavation shall not promote or provide the opportunity for a change to a public or commercial use at the time of project review.
- (10) Maintenance excavation as well as excavation of new basins shall not be allowed within or with connections to primary nursery areas without prior approval from the Division of Marine Fisheries or Wildlife Resources Commission (whichever is applicable).
- (11) Bulkheads shall be allowed as a structural component on one or more sides of the permitted basin to stabilize the shoreline from erosion.
- (12) The bulkhead shall not exceed a distance of two feet waterward of the normal high water or normal water level at any point along its alignment.

- (13) Bulkheads shall be constructed of vinyl or steel sheet pile, concrete, stone, timber, or other suitable materials approved by the Division of Coastal Management. Approval of other suitable materials shall be based upon the potential environmental impacts of the proposed material.
- (14) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H .0208. The bulkhead shall be constructed prior to any backfilling activities and shall be structurally tight so as to prevent seepage of backfill materials through the structure.
- (15) Construction of bulkhead authorized by this general permit in conjunction with bulkhead authorized under 15A NCAC 07H .1100 shall be limited to a combined maximum shoreline length of 500 feet.

*History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);
Eff. July 1, 1984;
Amended Eff. July 1, 2015; September 1, 1988; December 1, 1987.*