

1 15A NCAC 07M .0301 is proposed for repeal as follows:

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SECTION .0300 - SHOREFRONT ACCESS POLICIES

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15A NCAC 07M .0301 DECLARATION OF GENERAL POLICY

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7 *History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3;*

8 *Eff. March 1, 1979;*

9 *Amended Eff. February 1, 2009; January 1, 1998; March 1, 1988; March 1, 1985; July 1, 1982;*

10 *Readopted Eff. September 1, 2021;*

11 *Repealed Eff. July 1, 2022.*

1 15A NCAC 07M .0302 is proposed for amendment as follows:

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3 **15A NCAC 07M .0302 DEFINITIONS**

4 As used in this Section, the Public Beach and Coastal Waterfront Access Program is to provide public access to the
5 public trust beaches and waters as defined in 15A NCAC 07H .0305(a)(1) and 15A NCAC 07H .0207(a) in the 20
6 coastal counties described in G.S. 113A-103(2).

7 (1) "Beach" is defined as described in 15A NCAC 07H .0305(a)(1).

8 (2) "Coastal Waterfront Access" includes the acquisition and improvement of properties located in the
9 20-county area under the Coastal Area Management Act (CAMA) jurisdiction as described in G.S.
10 113A-103(2) that are adjacent or proximate to coastal waterways to which the public has rights of
11 access or public trust rights.

12 ~~(3) "Handicapped Accessible" is defined as meeting the standards of the State Building Code for~~
13 ~~handicapped accessibility.~~

14 ~~(4) "Improvements" are facilities that are added to promote public access at an access site. Common~~
15 ~~improvements include dune crossovers, piers, boardwalks, litter receptacles, parking areas,~~
16 ~~restrooms, gazebos, boat ramps, canoe/kayak launches, bicycle racks, and foot showers.~~

17 ~~(5) "Inlet Beach Access" includes the acquisition and improvement of properties located within Inlet~~
18 ~~Hazard Areas as defined in 15A NCAC 07H .0304(2).~~

19 ~~(6) "Local Access Sites" include those public access points that offer no facilities. These accessways~~
20 ~~provide only a dune crossover or pier, if needed, litter receptacles, and public access signs. Vehicle~~
21 ~~parking is not available at these access sites. However, bicycle racks may be provided by local~~
22 ~~governments.~~

23 ~~(7) "Maintenance" is the upkeep and repair of public access sites and their facilities in such a manner~~
24 ~~that public health and safety is ensured. Where the local government uses or has used access funds~~
25 ~~administered by the Division of Coastal Management (DCM), the local government shall provide~~
26 ~~operation and maintenance of the facility for the useful life of that facility as set forth in the~~
27 ~~individual grant contract.~~

28 ~~(8) "Multi regional Access Sites" are larger than regional accessways but smaller than State parks. Such~~
29 ~~facilities may be undertaken and constructed with the involvement and support of State and local~~
30 ~~government agencies. Multi regional accessways provide parking for a minimum of 80 vehicles,~~
31 ~~restrooms with indoor showers and changing rooms, and concession stands.~~

32 ~~(9) "Neighborhood Access Sites" includes those public access areas offering parking for 5 to 25~~
33 ~~vehicles, a dune crossover or pier, litter receptacles, and public access signs. Restroom facilities~~
34 ~~may be installed.~~

35 ~~(10)~~ (3) "Ocean Beach Access" includes the acquisition and improvement of properties adjacent or
36 proximate to the Atlantic Ocean for parking and public passage to the oceanfront.

37 ~~(11)~~(4) "Public Trust Areas" is defined in 15A NCAC 07H .0207(a).

1 ~~(12) "Regional Access Sites" are of such size and offer such facilities that they serve the public from~~
2 ~~throughout an island or community including day visitors. These sites provide parking for 25 to 80~~
3 ~~vehicles, restrooms, a dune crossover, pier, foot showers, litter receptacles, and public access signs.~~

4 ~~(13) "Urban Waterfront Access Projects" improve public access to deteriorating urban waterfronts. Such~~
5 ~~projects include the establishment or rehabilitation of boardwalk areas, shoreline stabilization~~
6 ~~measures such as the installation or rehabilitation of bulkheads, and the placement or removal of~~
7 ~~pilings for the purpose of public safety and increased access and use of the urban waterfront.~~

8 (5) A "Local Waterfront Access Plan" identifies access needs and opportunities for public access,
9 determines access and facility requirements, establishes standards, develops project design plans or
10 guidelines, establishes priorities, considers financial resource availability (such as grants, impact
11 fees, or occupancy taxes) and construction timing, and provides a system for evaluation of the plan.

12 (6) "Certified CAMA Land Use Plan" is defined in 15A NCAC 07B. A local government may identify
13 access needs, develop a local waterfront access plan, and develop local policies to pursue access
14 funding through its land use plan.

15 (7) "Tier 1 communities" include Tier 1 counties as determined annually by the North Carolina
16 Department of Commerce as outlined in G.S. 143B-437.08, and the counties respective
17 municipalities. The Division shall use the Tier 1 designation to encourage economic activity in
18 economically distressed communities.

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20 *History Note: Authority G.S. 113A-124; 113A-134.3;*

21 *Eff. March 1, 1979;*

22 *Amended Eff. February 1, 2009; January 1, 1998; March 1, 1988; March 1, 1985; July 1, 1982;*

23 *Readopted Eff. September 1, 2021;*

24 *Amended Eff. July 1, 2022.*

1 15A NCAC 07M .0303 is proposed for repeal as follows:

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3 **15A NCAC 07M .0303 STANDARDS FOR PUBLIC ACCESS**

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5 *History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3; 153A-277(a); 160A-314(a);*

6 *Eff. March 1, 1979;*

7 *Amended Eff. March 1, 1988; March 1, 1985; July 1, 1982;*

8 *RRC Objection due to lack of necessity and unclear language Eff. October 17, 1991;*

9 *Amended Eff. February 1, 2009; August 1, 2007; January 1, 1998; March 1, 1992;*

10 *Readopted Eff. September 1, 2021;*

11 *Repealed Eff. July 1, 2022.*

1 15A NCAC 07M .0306 is proposed for repeal as follows:

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3 **15A NCAC 07M .0306 LOCAL GOVERNMENT AND STATE INVOLVEMENT IN ACCESS**

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5 *History Note: Authority G.S. 113A-124; 113A-134.3;*

6 *Eff. January 1, 1998;*

7 *Amended Eff. February 1, 2009; August 1, 2007;*

8 *Readopted Eff. September 1, 2021;*

9 *Repealed Eff. July 1, 2022.*

1 15A NCAC 07M .0307 is proposed for amendment as follows:

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3 **15A NCAC 07M .0307 ~~ELIGIBILITY, SELECTION CRITERIA AND MATCHING REQUIREMENTS~~**
4 **PUBLIC BEACH AND COASTAL WATERFRONT ACCESS PROGRAM**

5 (a) The Division of Coastal Management (DCM) has primary responsibility for administering the Public Beach and
6 Coastal Waterfront Access Program. Subject to the availability of funds, the DCM shall annually solicit pre-
7 application proposals from local governments and shall select competitive projects for final application submittal.
8 Projects from these final applications shall be selected for funding based on criteria in Paragraph (h) of this Rule.

9 (b) The DCM may use available funds on a non-competitive basis to plan for and provide public access through
10 acquisition and improvements. Prior to expending the funds, the DCM shall hold a public meeting or hearing at a
11 regularly scheduled meeting of the Commission to discuss its proposal. Members of the public shall be invited to
12 comment to the Coastal Resources Commission (CRC) for 60 days prior to the expenditure of non-competitive money
13 by the DCM.

14 ~~(c)~~ (c) Local governments have responsibility for the selection of public access sites within their jurisdiction. Any
15 local government in the 20-county coastal region having ocean beaches or estuarine or public trust waters within its
16 jurisdiction may apply for access funds for the ~~development of beach or coastal waterfront access facilities with~~
17 ~~associated improvements. Boat ramps, or canoe/kayak launch areas may also be developed provided that the access~~
18 ~~facilities incorporate pedestrian access to coastal waters.~~ acquisition and development of beach or coastal waterfront
19 access facilities.

20 (d) Prior to submitting its final application for a Public Beach and Coastal Waterfront Access grant in accordance
21 with Paragraph (a) of this Rule from the DCM, the local government shall hold a public meeting or hearing at a
22 regularly scheduled meeting of the Commission to discuss its proposal. The local government shall consider public
23 comments prior to its decision to apply for funds from the State.

24 ~~(b)(c)~~ (e) Eligible projects include:

- 25 (1) Land acquisition, including acquisition of unbuildable lots as described in G.S. 113A-134.3(a);
26 (2) ~~Local access sites;~~ Development of improvements at new or existing sites that provide public access,
27 such as dune crossovers, piers, boardwalks, parking areas, restrooms, showers, benches, litter
28 receptacles, and bicycle racks;
29 (3) ~~Neighborhood access sites or improvements;~~ Development of improvements to public access at
30 deteriorating urban waterfronts. Such projects include the establishment or rehabilitation of
31 boardwalk areas, shoreline stabilization measures such as the installation or rehabilitation of
32 bulkheads, and the placement or removal of pilings for the purpose of public safety and increased
33 access and use of the urban waterfront;
34 (4) ~~Regional access sites or improvements;~~
35 (5) ~~Multi regional access sites or improvements;~~
36 (6) ~~Urban waterfront development access projects;~~
37 (7) (4) ~~Reconstruction~~ Reconstruction, replacement or relocation of existing, damaged facilities;

1 ~~(8) Reconstruction or replacement of facilities; and~~

2 ~~(9) (5) Offsite parking areas servicing access sites within the local government's jurisdiction.~~ jurisdiction;

3 ~~(6) Boat ramps and canoe/kayak launch areas provided that the public access facility incorporates~~
4 ~~pedestrian access to coastal waters; or~~

5 ~~(7) Maintenance of previously funded access sites. This project category is available only to Tier 1~~
6 ~~communities. Such projects include repair and maintenance of access site facilities and amenities to~~
7 ~~ensure public health and safety. Repair and maintenance does not include activities such as trash~~
8 ~~removal, grounds keeping, or custodial services, nor can it be used to pay local government staff~~
9 ~~salaries.~~

10 (f) All projects must meet the standards of handicapped accessibility for individuals with disabilities according to the
11 North Carolina Building Code. Exceptions may be granted where site characteristics impede accessibility
12 improvements.

13 ~~(e)~~ (g) The following criteria shall be used to select projects that may receive financial assistance:

14 (1) The applicant demonstrates a need for the project due to a high demand for public access and limited
15 availability within the local government ~~jurisdiction.~~ jurisdiction;

16 (2) The project is identified in the ~~local land use plan~~ certified CAMA Land Use Plan or local access
17 plan;

18 (3) The applicant has not received previous assistance from the Public Beach and Coastal Waterfront
19 Access Program grant program or the applicant has received assistance and demonstrated its ability
20 to complete previous projects with funds from the grant program;

21 (4) The applicant's commitment of matching funds exceeds the required local share of the total project
22 cost provided in ~~Paragraphs (d) and (e)~~ Paragraph (h) of this Rule;

23 (5) The project proposal includes multiple funding sources; ~~and~~

24 (6) The project location includes donated land with physical limitations, or it has been deemed
25 unbuildable as described in G.S. 113A-134.3(a).

26 ~~(7)~~ Priority shall be given to the acquisition of lands that meet G.S. 113A-134.3(a);

27 ~~(8)~~ The project acquires land for future access improvements;

28 ~~(9)~~ The project creates handicapped accessible facilities at new access sites, adds handicapped
29 accessible facilities to existing sites, or replaces deteriorating facilities; and

30 ~~(10)~~ The project's location is within a Tier 1 community.

31 ~~(d) The North Carolina Department of Commerce's Tier designations, as outlined by G.S. 143B-437.08 shall be used~~
32 ~~to determine the economic status of counties. Land acquisition, including acquisition of unbuildable lots, shall include~~
33 ~~a local government contribution of at least 15 percent of the acquisition cost, except for Tier 1 and Tier 2 counties as~~
34 ~~designated by the N.C. Department of Commerce, and their respective municipalities, which shall have a contribution~~
35 ~~of at least 10 percent. At least one half of the local contribution shall be cash match, the remainder may be in kind~~
36 ~~match.~~

1 ~~(e) Local government contributions for access site improvements shall be at least 25 percent of the project costs,~~
2 ~~except for Tier 1 and Tier 2 designated counties and their respective municipalities, which shall have a local~~
3 ~~government contribution of at least 10 percent of the project costs. At least one half of the local contribution shall be~~
4 ~~cash match; the remainder may be in-kind match.~~

5 (h) The applicant's matching requirements are based on project type and their designations as a Tier 1 community.
6 March requirements are as follows:

7 (1) Local government contributions for land acquisition shall be at least 15 percent of the acquisition
8 cost, except for Tier 1 communities which shall have a local government contribution of at least 10
9 percent of the project cost. At least one-half of the local contribution shall be cash match, the
10 remainder may be in-kind match.

11 (2) Local government contributions for access site improvements shall be at least 25 percent of the
12 project costs, except for Tier 1 communities which shall have a local government contribution of at
13 least 10 percent of the project costs. At least one-half of the local contribution shall be cash match,
14 the remainder may be in-kind match.

15 (3) Local government contributions for maintenance of previously funded access sites shall be at least
16 10 percent of the maintenance project costs. At least one-half of the local government contribution
17 shall be cash match, the remainder may be in-kind match. This project type is only available to Tier
18 1 communities.

19 ~~(i)~~ Federal and other State funds may be used as the local government cash contribution, provided such funds are
20 not already being used as matching funds for other State programs.

21 ~~(j)~~ Multi-phase projects shall be considered on their own merits within the pool of applications being reviewed in
22 any year.

23 (k) Projects selected for funding may not begin until the Department of Environmental Quality and grant recipient
24 sign a contract. An exception may be granted for land acquisition projects when a waiver has been requested by the
25 applicant in writing and approved by the Division of Coastal Management. A waiver shall be in effect for 18 months
26 from the date of approval. A project receiving a waiver shall not receive preferential treatment in funding decisions.

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28 *History Note: Authority G.S. 113A-124; 113A-134.3;*
29 *Eff. January 1, 1998;*
30 *Amended Eff. February 1, 2009; September 1, 2007; August 1, 2000;*
31 *Readopted Eff. September 1, 2021;*
32 *Amended Eff. July 1, 2022.*

1 15A NCAC 07M .0308 is proposed for repeal as follows:

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3 **15A NCAC 07M .0308 PUBLIC INVOLVEMENT/NOTICE**

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5 *History Note: Authority G.S. 113A-124; 113A-134.3;*

6 *Eff. January 1, 1998;*

7 *Readopted Eff. September 1, 2021;*

8 *Repealed Eff. July 1, 2022.*

1 15A NCAC 07M .0310 is proposed for adoption as follows:
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3 **15A NCAC 07M .0310 STANDARDS FOR PUBLIC ACCESS**

4 (a) Public access projects funded through the Public Beach and Coastal Waterfront Access program shall be
5 consistent with public access policies contained in the local government's land use plan as required under 15A
6 NCAC 07B .0702(d)(2)(A), its local waterfront access plan, or a local recreation plan that addresses public access.

7 (b) Land acquired with Public Beach and Coastal Waterfront Access program funds shall be dedicated in perpetuity
8 for public access and benefit of the general public, and the dedication shall be recorded in the local Register of
9 Deeds by the grantee. Any lease or easement agreement shall extend at least 25 years. If land acquired or improved
10 with Public Beach and Coastal Waterfront Access Program grant funds is sold or otherwise disposed of, the local
11 government shall reimburse the State at a percentage equal to the percentage of grant funds provided for the original
12 purchase or improvement, at current market value at the time of the sale or disposition.

13 (c) Local governments that receive or have received funding through this grant program shall operate and maintain
14 the public access sites and their facilities in such a manner that public health and safety is ensured for the useful life
15 of that facility as set forth in the individual grant contract.

16 (d) Local governments with public access sites funded by the Division of Coastal Management pursuant to G.S.
17 113A-134.3 may charge user fees as long as those fees are used exclusively for the operation, maintenance, and
18 enhancement of existing public access sites, including trash removal, law enforcement and public safety, beach
19 nourishment projects or the provision of new public access sites through acquisition or easement. Local
20 governments shall prepare annual accounting reports for fees generated by Public Beach and Coastal Waterfront
21 Access Program funded access sites and shall make the report available upon request. Any local government that has
22 not made the most recent required accounting report available shall not receive further funding under this program
23 until the inconsistency is corrected.

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25 *History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3; 153A-277(a); 160A-314(a);*

26 *Eff. July 1, 2022.*