

1 15A NCAC 07B .0702 is proposed for amendment as follows:

2
3 **15A NCAC 07B .0702 LAND USE PLAN ELEMENTS**

4 (a) Organization of the Plan. The land use plan or comprehensive plan, hereinafter referred to as "the plan", shall
5 include a matrix that shows the location of the required elements as set forth in this Rule.

6 (b) Community Concerns and Aspirations. The purpose of this element is to provide an understanding of the
7 underlying planning needs and desires of the community to support the land use and development policies included
8 in the plan. This element shall include:

9 (1) Significant existing and emerging conditions: The plan shall describe the dominant growth-related
10 conditions that influence land use, development, water quality, and other environmental concerns in
11 the planning area.

12 (2) Key issues: The plan shall describe the land use and development topics most important to the future
13 of the planning area. This description shall include public access, land use compatibility,
14 infrastructure carrying capacity, natural hazard areas, water quality, and may also include local areas
15 of concern as described in Subparagraph (d)(2) (Land Use Plan Management Topics) of this Rule.

16 (3) A community vision: The vision shall describe the general physical appearance and form that
17 represents the local government's plan for the future. It shall include objectives to be achieved by
18 the plan and identify changes that may be needed to achieve the planning vision as determined by
19 the local government.

20 (c) Existing and Emerging Conditions. The purpose of this element is to provide a sound factual basis necessary to
21 support the land use and development policies included in the plan. It shall describe the following:

22 (1) Population, Housing, and Economy. The plan shall include discussion of the following data and
23 trends:

24 (A) Population:

25 (i) Permanent population growth trends using data from the two most recent
26 decennial Censuses;

27 (ii) Current permanent and seasonal population estimates;

28 (iii) Key population characteristics, including age and income, and

29 (iv) Thirty year projections of permanent and seasonal population in five-year
30 increments.

31 (B) Housing stock: The plan shall include an estimate of current housing stock, including
32 permanent and seasonal units, tenure, and types of units (single-family, multifamily, and
33 manufactured).

34 (C) Local economy: The plan shall describe employment by major sectors and community
35 economic activity.

36 (2) Natural systems. The plan shall describe the natural features and discuss the environmental
37 conditions of the planning jurisdiction to include:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- (A) Natural features as follows.
 - (i) Areas of Environmental Concern (AECs) as set forth in 15A NCAC 07H;
 - (ii) Soil characteristics, including limitations for septic tanks, erodibility, and other factors related to development;
 - (iii) Environmental Management Commission (EMC) water quality classifications (SC, SB, SA, HQW, and ORW) and related use support designations located at <http://portal.ncdenr.org/web/q/ps/csu/classifications> and provided at no fee; and Division of Marine Fisheries (DMF) shellfish growing areas and water quality conditions located at <http://portal.ncdenr.org/web/mf/shellfish-sanitation-and-recreational-water-quality> and provided at no fee;
 - (iv) Flood and other natural hazard areas;
 - (v) Storm surge areas;
 - (vi) Non-coastal wetlands, including forested wetlands, shrub-scrub wetlands and freshwater marshes;
 - (vii) Water supply watersheds or wellhead protection areas;
 - (viii) Primary nursery areas;
 - (ix) Environmentally fragile areas, such as wetlands, natural heritage areas, areas containing endangered species, prime wildlife habitats, or maritime forests; and
 - (x) Additional natural features or conditions identified by the local government.
- (B) Environmental conditions. The plan shall provide an assessment of the following environmental conditions and features:
 - (i) Water quality:
 - (I) Status and changes of surface water quality, including impaired streams from the most recent N.C. Division of Water Resources Basin Planning Branch Reports, Clean Water Act 303(d) List, and other comparable data;
 - (II) Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation and Recreational Water Quality Section of the N.C. Division of Marine Fisheries;
 - (III) Areas experiencing chronic wastewater treatment system malfunctions; and
 - (IV) Areas with water quality or public health problems related to non-point source pollution.
 - (ii) Natural hazards:
 - (I) Areas subject to recurrent flooding, storm surges and high winds; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

- (II) Areas experiencing significant shoreline erosion as evidenced by the presence of threatened structures or public facilities.
- (iii) Natural resources:
 - (I) Environmentally fragile areas (as defined in Sub-Part (c)(2)(A)(ix) of this Rule) or areas where resource functions are impacted as a result of development; and
 - (II) Natural resource areas that are being impacted or lost as a result of incompatible development. These may include, but are not limited to the following: coastal wetlands, protected open space, and agricultural land.
- (3) Existing Land Use and Development. The plan shall include a map and descriptions of the following:
 - (A) Existing land use patterns, which may include the following categories: Residential, commercial, industrial, institutional, public, dedicated open space, vacant, agriculture, and forestry. Land use descriptions shall include estimates of the land area allocated to each land use and characteristics of each land use category.
 - (B) Historic, cultural, and scenic areas designated by a state or federal agency or by local government.
- (4) Community Facilities. The plan shall evaluate existing and planned capacity, location, and adequacy of community facilities that serve the community's existing and planned population and economic base; as well as those that protect important environmental factors such as water quality; and that guide land development in the coastal area. The evaluation shall include:
 - (A) Public and private water supply and wastewater systems. The plan shall describe existing public and private systems, including existing condition and capacity. It shall describe any documented overflows, bypasses, or other problems that may degrade water quality or constitute a threat to public health as documented by the Division of Water Resources (DWR). It shall indicate future needs based on population projections. The plan shall include a map of existing and planned service areas.
 - (B) Transportation systems. The plan shall include a map of the existing and planned multimodal systems and port and airport facilities. It shall describe any highway segments deemed by the North Carolina Department of Transportation (NCDOT) as having unacceptable service as documented in the most recent NCDOT Transportation and/or Thoroughfare Plan. It shall describe highway facilities on the current thoroughfare plan or facilities on the current transportation improvement plan. It shall describe the impact of existing facilities on land use patterns.
 - (C) Stormwater systems. The plan shall describe the existing public stormwater management system. It shall identify existing drainage problems and water quality issues related to point-source discharges of stormwater runoff.

1 (d) Future Land Use. This element of the plan is intended to guide the development and use of land in a manner that
2 achieves the goals of the Coastal Area Management Act through local government land use and development policies,
3 including a future land use map. This element shall include:

4 (1) Policies.

5 (A) Definitions:

6 (i) Policy: A specified policy statement and the future land use map and its
7 designation descriptions.

8 (ii) Exceeding Policy: A policy that is more stringent than the use standards and
9 permitting requirements found in Subchapter 07H, State Guidelines for Areas of
10 Environmental Concern, or that establishes a standard for development activity
11 no addressed within Subchapter 07H.

12 (iii) Enforceable Policy: A policy that is definitive and regulatory in its wording and
13 not open to broad interpretation.

14 ~~(A)~~ (B) Community Concerns and Aspirations and Existing and Emerging Conditions shall be
15 considered in the development of local government plan policies as required in Rule
16 .0702(b) and (c) of this Section.

17 ~~(B)~~ (C) Policies shall be consistent with the goals of the CAMA, shall address the Land Use Plan
18 Management Topics set forth in Subparagraph (d)(2) of this Rule, and comply with all state
19 and federal rules.

20 ~~(C)~~ (D) ~~Policies that exceed use standards and permitting requirements found in Subchapter 7H,~~
21 ~~State Guidelines for Areas of Environmental Concern,~~ Exceeding policies shall be
22 identified in the plan. For each policy that exceeds the use standards and permitting
23 requirements found in Subchapter 07H, a description that cites the rule being exceeded and
24 explains how the rule is exceeded shall be provided.

25 (E) Enforceable policies shall be identified in the plan.

26 (F) Local governments shall select from the list of exceeding and enforceable policies that will
27 be used in the review of CAMA permits.

28 (G) Local governments with plans certified prior to the effective date of this rule may amend
29 their plan to identify enforceable policies and select from the identified enforceable policies
30 those that will be used in the review of CAMA permits. In the absence of local government
31 selected enforceable policies, the Division and its Local Permit Officers shall use all
32 policies that meet the definition of enforceable in the review of CAMA permits.

33 (2) Land Use Plan Management Topics. The purposes of the CRC management topics are to ensure
34 that plans support the goals of the CAMA, define the CRC's expectations for land use policies, and
35 provide a basis for plan review and certification by the CRC. In addition to the management topics
36 outlined below, plans may also include policies to address local areas of concern. Each management
37 topic includes two components: a management goal and planning objectives.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- (A) Public Access:
 - (i) Management Goal: Maximize public access to the beaches and the public trust waters of the coastal region.
 - (ii) Planning Objectives: The plan shall include policies that address access needs and opportunities, with strategies to develop public access and provisions for all segments of the community, including persons with disabilities. Oceanfront communities shall establish access policies for beach areas targeted for nourishment.
- (B) Land Use Compatibility:
 - (i) Management Goal: Ensure that development and use of resources or preservation of land balance protection of natural resources and fragile areas with economic development, avoids risks to public health, safety, and welfare.
 - (ii) Planning Objectives: The plan shall include policies that characterize future land use development patterns and establish mitigation criteria and concepts to minimize conflicts.
- (C) Infrastructure Carrying Capacity:
 - (i) Management Goal: Ensure that public infrastructure systems are sized, located, and managed so the quality and productivity of AECs and other fragile areas are protected or restored.
 - (ii) Planning Objectives: The plan shall include policies that establish service criteria and ensure improvements minimize impacts to AECs and other fragile areas.
- (D) Natural Hazard Areas:
 - (i) Management Goal: Conserve and maintain barrier dunes, beaches, flood plains, and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues.
 - (ii) Planning Objectives: The plan shall include policies that establish mitigation and adaptation concepts and criteria for development and redevelopment, including public facilities, and that minimize threats to life, property, and natural resources resulting from erosion, high winds, storm surge, flooding, or other natural hazards.
- (E) Water Quality:
 - (i) Management Goal: Maintain, protect, and where possible enhance water quality in all coastal wetlands, rivers, streams, and estuaries.
 - (ii) Planning Objectives: The plan shall include policies that establish strategies and practices to prevent or control nonpoint source pollution and maintain or improve water quality.

1 (3) Future land use map. The plan shall include a map that depicts the policies for growth and
2 development, and the desired future patterns of land use and land development with consideration
3 given to natural system constraints and infrastructure. The plan shall include map designations with
4 descriptions of land uses and development.

5 (e) Tools for Managing Development. The purpose of this element is to describe the management tools and actions
6 the local government will use to implement the ~~plan~~. plan and, if applicable, how enforceable policies are used in the
7 CAMA permit reviews. This element shall include:

8 (1) Guide for land use decision-making. The plan shall describe the role of the plan policies, including
9 the future land use map, in local decisions regarding land use and development.

10 (2) Development program. The plan shall describe the community's development management
11 program, including local ordinances, codes, other plans and policies.

12 (3) Action plan and implementation schedule. The plan shall describe the actions that will be taken by
13 the local government to implement policies that meet the CRC's management topic goals and
14 objectives. It shall specify the fiscal year(s) in which each action is anticipated to start and finish.
15 It shall describe the specific steps the local government plans to take to implement the policies,
16 including the adoption and amendment of local ordinances, other plans, and special projects. The
17 action plan shall be used to prepare the implementation status report for the plan.

18 (4) The plan shall describe the role of any enforceable policies selected by the local government for use
19 in the review of CAMA permits in accordance with G.S. 113A-111.

20
21 *History Note: Authority G.S. 113A-102; 113A-107(a); 113A-110; 113A-111; 113A-124;*
22 *Eff. August 1, 2002;*
23 *Amended Eff. April 1, 2003;*
24 *Readopted Eff. February 1, 2016;*
25 *Amended Eff. July 1, 2023.*

1 15A NCAC 07B .0803 is proposed for amendment as follows:

2
3 **15A NCAC 07B .0803 CERTIFICATION AND USE OF THE PLAN**

4 (a) Certification of Plans and Amendments: This Rule outlines the certification procedures and conditions for locally
5 adopted land use plans or comprehensive plans, hereinafter referred to as "the plan," or plan amendments. The
6 procedures shall be as follows:

- 7 (1) The Division District Planner shall submit a written report to the CRC, or qualified employee of the
8 Department pursuant to G.S. 113A-124(c)(9), on the locally adopted plan or amendment and either
9 recommend certification or identify how the plan or amendment does not meet the procedures and
10 conditions for certification as set forth in Subparagraph (a)(3) of this Rule.
- 11 (2) The public shall have an opportunity to submit written objections or comments on the locally
12 adopted plan or amendment prior to certification pursuant to G.S. 113A-110(e). Written objections
13 or comments shall be received by the Division no more than 30 calendar days after local adoption
14 of the plan or amendment. Written objections shall be limited to the criteria for certification as
15 defined in Subparagraph (a)(3) of this Rule, and shall identify the specific plan elements that are
16 opposed. Written objections or comments shall be sent by the Division to the local government
17 submitting the plan or amendment. Written objections or comments shall be considered in the
18 certification of the local plan or amendment.
- 19 (3) The CRC or qualified employee of the Department, pursuant to G.S. 113A-124(c)(9), shall certify
20 plans and amendments following the procedures and conditions specified in this Rule, and that the
21 plans and amendments meet the following conditions:
- 22 (A) are consistent with the Coastal Area Management Act G.S. 113A-110;
 - 23 (B) are consistent with the rules of the CRC;
 - 24 (C) do not violate State or federal law; and
 - 25 (D) contain policies that address each management topic as set forth in Rule .0702(d)(2) of this
26 Subchapter.
- 27 (4) If the plan or amendment does not meet certification requirements, the applicant shall be informed
28 by the Division of Coastal Management within 45 calendar days regarding how the plan or
29 amendment does not meet the procedures and conditions for certification.

30 (b) Copies of the Plan. Within 90 calendar days of certification of the plan or an amendment, the local government
31 shall provide one printed and one digital copy of the plan to the Division. Amendments shall be incorporated in all
32 copies of the plan. The dates of local adoption, certification, and amendments shall be published on the cover.

33 (c) Use of the Plan. ~~Once certified, the plan shall be utilized in the review of the CAMA permits~~ Local governments
34 shall implement the plan in accordance with G.S. 113A-111. ~~Local governments shall have the option to exercise their~~
35 ~~enforcement responsibility by choosing from the following:~~ Once certified, any enforceable policies selected by the
36 local government shall be used by the Division and its Local Permit Officers in the review of CAMA permits in
37 accordance with G.S. 113A-111. For plans certified prior to the effective date of this rule, in the absence of clearly

1 identified enforceable policies the Division and its Local Permit Officers shall use all policies that meet the definition
2 of enforceable under 7B .0702(d)(1)(A) in the review of CAMA permits.

3 (1) Local administration: The local government reviews the CAMA permits for consistency with the
4 plan;

5 (2) Joint administration: The local government identifies enforceable policies, ~~including the future land~~
6 ~~use map and implementation actions~~ that will be used by the Division for the CAMA permit
7 consistency ~~reviews or~~; reviews.

8 ~~(3) Division administration: The Division reviews the CAMA permits for consistency with the plan~~
9 ~~policies, including the future land use map and implementation actions.~~

10 (d) Plan updates and Amendments. Local governments shall determine the scope, timing, and frequency of plan
11 updates and amendments.

12
13 *History Note: Authority G.S. 113A-107(a); 113A-110; 113-111; 113A-124;*
14 *Eff. August 1, 2002;*
15 *Amended Eff. April 1, 2008; September 1, 2006;*
16 *Readopted Eff. February 1, 2016;*
17 *Amended Eff. July 1, 2023; February 1, 2019.*