Fiscal Analysis

Proposed Changes to Structural Accessways to Include the Use of Beach Mats
15A NCAC 07H .0308
15A NCAC 07K .0207

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Summary

Agency	DEQ, Division of Coastal Management (DCM) Coastal Resources Commission (CRC)
Title of the Proposed Rules	Specific Use Standards for Ocean Hazard Areas- Structural Accessways - 15A NCAC 07H .0308(c) Structural Accessways Over Frontal Dunes Exempted 15A NCAC 07K .0207
Description of the Proposed Rules	7H .0308(c) contains the CRC's specific use standards for structural accessways, and as proposed, would include the allowance for beach mats in some cases. The 7K .0207 Rule establishes a permit exemption for structural beach accessways and would also be amended to allow for the use of limited beach access mats when crossing the frontal or primary dune.
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Authority	G.S. 113-229(cl); G.S. 113A-107; 113A-113; 113A-115; 113A-118; 113A-124
Necessity	The Coastal Resources Commission proposes to amend its administrative rules in order to provide greater flexibility to local governments and government agencies in constructing public accessways and enhanced handicap access to the beach by allowing the limited use of beach matting.
Impact Summary	State government: Minimal Local government: Yes Private citizens: Yes Substantial impact: No

Introduction and Purpose

Facilitating public access to our state's coastal shorelines while managing development to minimize impacts to the natural environment and our coastal resources are among the central tenets of the Coastal Area Management Act (CAMA) as well as an objective of the rules of NC Coastal Resources Commission.

The CAMA states, "In the implementation of the coastal area management plan, the public's opportunity to enjoy the physical, esthetic, cultural, and recreational qualities of the natural shorelines of the State shall be preserved to the greatest extent feasible; water resources shall be managed in order to preserve and enhance water quality and to provide optimum utilization of water resources; land resources shall be managed in order to guide growth and development and to minimize damage to the natural environment."

15A NCAC 07H .0303 states the management objective of the ocean hazard area is to "further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing

the public costs of inappropriately sited development. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to and use of the lands and waters of the coastal area."

In consideration of these objectives, the Coastal Resources Commission has established specific use standards for structural pedestrian accessways that essentially limit them to elevated, piled-supported structures terminating on the beach near the landward toe of the frontal dune to reduce potential impacts to the dune and the public's use of the beach. These structures can be costly, particularly when there is a long distance between their point of origin and the beach. Additional costs can be incurred when constructed to be handicap-accessible, due to maximum slope requirements that can further increase the structure length depending on the elevation changes needed to cross the dune system.

Synthetic or wooden material roll-out matting has increasingly been developed and used as a cost-effective and handicap-accessible alternative for beach access. Numerous local governments in North Carolina have expressed interest in using these types of mats for public beach access. However, as previously mentioned, current Commission rules do not acknowledge these types of mats.

Additionally, the NC Wildlife Resources Commission (NCWRC) and U.S. Fish & Wildlife Service (USFWS) have expressed concerns about the use of these mats on the beach, particularly when installed waterward of the frontal dune, in that they may adversely impact sea turtles during nesting season (May 1-November 15). Interactions between beach matting and nesting sea turtles raise concerns about potential violations of the federal Endangered Species Act (ESA).

This is a challenging issue given the parallel goals of enhancing handicap access and protecting threatened and endangered species. The Coastal Area Management Act and Commission's Rules are intended to balance these kinds of issues. In consideration of current rules and agency concerns, the Commission is proposing creating a specific permit exemption for the use of these mats in limited circumstances. Specifically, allowing only local, state, and federal governments to install 6' wide mats over frontal dunes at public accessways. Mats would need to terminate "no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach," which is consistent with the standards for structural accessways. This would require a modification of 15A 07K .0207 and 15A 07H .0308(c).

The group most financially affected by these changes will be local governments, who can benefit from the proposed rule changes by potentially reducing costs associated with providing public & handicap access to the beach. State & federal agencies that manage oceanfront parks and our state's federally designated National Seashores may also benefit from the rule changes to a limited extent. The rule changes are not expected to have a significant impact on state and federal agencies due to the limited number of accessways in these areas. Private land owners are not expected to be impacted as they will not be eligible to utilize these structures and the NC Department of Transportation is not expected to be impacted by the proposed rule changes as it does not typically construct such accessways. DCM estimates that there is a potential **cost savings** for local governments of up to $291 per linear ft for a typical structural accessway. These cost savings are derived from the cost difference between a traditional wooden accessway estimated at approximately $333 per linear foot (based on DCM Public Access Grant applications 2015-2019) vs. a mat accessway at $42 per linear foot (based on internet search). These proposed rule changes are in the public interest and conform to the principles of G.S. 150B-19.1 and Executive Order 70. The proposed rule changes also have the potential to benefit handicapped individuals in our communities, the value of which can also not be easily quantified.

DCM anticipates the effective date of these rule amendments to be September 1, 2020.

Description of the Proposed Rules

The proposed rules modify the use standards and the permit exemption criteria to allow greater flexibility to local governments and state and federal agencies wanting to construct public/handicap beach accessways. Current rules require that accessways be elevated on posts or pilings. The proposed rule language would allow for the use of matting material installed at grade rather than requiring construction of an elevated, pile-supported (typically wooden) accessway.

The CRC currently offers property owners the ability to install elevated structural accessways for pedestrians to cross over the frontal dune through a permit exemption if the structure is limited to 6' in width or less. Local governments and state and federal agencies can also install these elevated accessways subject to the same conditions. The majority of structural accessways are constructed under the exemption criteria. Alternatively, property owners may instead opt to leave the accessway to the beach natural with no improvements, which would not qualify as development, and therefore not require any approval from the Division of Coastal Management. DCM currently issues minor permits or exemptions for public accessways pursuant to use standards described in 15A NCAC 7H .0308(c) and 15A NCAC 7K .0207.

The CRC is proposing the following amendments:

- Allow for local governments, and state or federal agencies providing public access to the beach to use beach mats for a public accessway, rather than requiring the access to be elevated on pilings when installed at grade and no excavation or fill is required;
- Allow these mat accessways to be wider than 6', when appropriate, to better facilitate handicap access to the beach;
- Allow the permit exemption for structural beach accessways to also apply to the beach mats; and
- The overall requirements for access siting and all other use standards currently in place would still apply.

Figure 1. A typical wooden structural accessway.

Image source: DCM

Figure 2. A typical beach mat accessway.

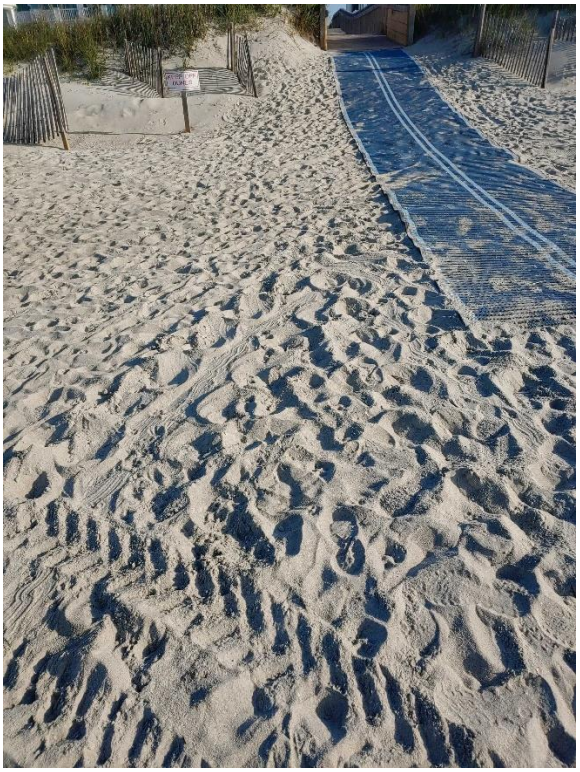

Image source- Ocean Isle Beach Sea Turtle Protection Organization.

Anticipated Impacts

Private Citizens and Natural Resources

Because the overall location of structural accessways will remain unchanged and will just allow an expanded use for local governments and government agencies and not private property owners, the proposed amendments should not result in any additional construction costs for private property owners or negatively impact public access to the beach. The proposed amendments are expected to only serve to enhance access, particularly handicap access.

Compared to elevated accessways, beach mats may adversely impact sea turtles during nesting season when installed waterward of the frontal dune, a potential violation of the Endangered Species Act. To balance public access and wildlife protection goals, the Commission is proposing creating a specific permit exemption for the use of these mats in limited circumstances. Specifically, allowing only local, state, and federal governments to install six foot wide mats over frontal dunes at public accessways, no more than six feet seaward of the frontal dune.

The requirement in 07K .0207(5) to remove damaged, non-functioning or non-compliant accessways is expected to result in minimal to no added cost to property owners and/or government entities, as removal would generally only be required after a storm and this work is often already voluntarily performed, even without a rule requirement. Any attempt to quantify would be speculative as it is dependent on the frequency and severity of storms and beach erosion as well as the intent of property owners.

Department of Transportation

Pursuant to G.S. 150B-21.4, the agency reports that the proposed amendments to 7H.0308(c) and 7K .0207 will not significantly affect environmental permitting for the NC Department of Transportation (NCDOT). No cost or benefit applicable to NCDOT is anticipated as a result of these rule amendments as NC DOT does not typically construct such facilities.

Local Government

Local governments are expected to benefit from the increased flexibility in allowing the use of beach mats for the construction of pedestrian beach accessways, particularly when installing handicap-accessible accessways. While the proposed amendments are not expected to affect local government revenues or expenditures significantly, the ability to provide public access at a reduced cost ($42 per linear foot vs $333 per linear foot) and should also reduce maintenance costs of these accessways in addition to potentially allowing them to install more handicap-accessible accessways. However, any attempt to quantify the benefit beyond construction/installation costs would be speculative since the action would be dependent upon the frequency of damaging storm events and the intentions of local governments.

Division of Coastal Management

DCM does not anticipate that the proposed action will significantly increase operating cost over what is currently required for permitting, inspecting, and ensuring compliance of structural accessways. The DCM does not anticipate any significant changes in permitting receipts due to the proposed action.

COST/BENEFIT SUMMARY

The proposed rule language would grant government entities the option to use matting material installed at grade for public beach accessways rather than requiring construction of an elevated, pile-supported (typically wooden) accessway.

Beach mats provide handicap access at a lower cost compared to wooden accessways. Cost savings to government entities, primarily local governments, are estimated at up to $291 per linear foot.

Compared to elevated accessways, beach mats may adversely impact sea turtles during nesting season and violate the Endangered Species Act. The Commission proposes to limit beach mat use to public accessways only and require that mats terminate no more than six feet seaward of the waterward toe of the frontal or primary dune.

Proposed amendments to NCAC 7H .0308 and 7K .0207 – Structural Accessways

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

(A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.

(B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, unless specifically authorized under the Coastal Area Management Act, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.

(C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.

(D) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(h) of this Section.

(E) Project construction shall be timed to minimize adverse effects on biological activity.

(F) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.

(G) Permanent erosion control structures that would otherwise be prohibited by these standards may be permitted on finding by the Division that:

(i) the erosion control structure is necessary to protect a bridge that provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in Part (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and

(iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.

(H) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in Part (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site;

(iii) the structure is limited in extent and scope to that necessary to protect the site; and

(iv) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of significant adverse impacts on adjoining properties and on public access to and use of the beach.

(I) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits;

(ii) dredging alone is not practicable to maintain safe access to the affected channel;

(iii) the structure is limited in extent and scope to that necessary to maintain the channel;

(iv) the structure shall not have significant adverse impacts on fisheries or other public trust resources; and

(v) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any significant adverse impacts on adjoining properties and on public access to and use of the beach.

(J) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:

(i) the structure will not be enlarged beyond the dimensions set out in the permit;

(ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and

(iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.

(K) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 07M .0200 and general and specific use standards within this Section.

(2) Temporary Erosion Control Structures:

(A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.

(B) Temporary erosion control structures as defined in Part (A) of this Subparagraph may be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

(C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under Rule .0309 of this Section as an exception to the erosion setback requirement.

(D) Temporary erosion control structures may be placed waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

(E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased risk of damage to the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet waterward of the structure to be protected, or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Part (A) of this Subparagraph.

(F) Temporary erosion control structures may remain in place for up to eight years for a building and its associated septic system, a bridge or a road. The property owner shall be responsible for removal of any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.

(G) An imminently threatened structure or property may be protected only once, regardless of ownership, unless the threatened structure or property is located in a community that is actively pursuing a beach nourishment project, or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. Existing temporary erosion control structures may be permitted for additional eight-year periods provided that the structure or property being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter, and the community in which it is located is actively pursuing a beach nourishment or an inlet relocation or

stabilization project in accordance with Part (H) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (H) of this Subparagraph shall begin at the time the initial erosion control structure was installed. For the purpose of this Rule:

(i) a building and its septic system shall be considered separate structures,

(ii) a road or highway may be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of temporary erosion control structure shall begin at the time that the initial section was installed, in accordance with Part (F) of this Subparagraph.

(H) For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with G.S. 113A-115.1 if it:

(i) has been issued an active CAMA permit, where necessary, approving such project; or

(ii) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or

(iii) has received a favorable economic evaluation report on a federal project; or

(iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project or the identification of the financial resources or funding bases necessary to fund the beach nourishment, inlet relocation or stabilization project.

If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.

(I) Once a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it shall be removed to the maximum extent practicable by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project, or an inlet relocation or stabilization project, any portion of the temporary erosion control structure exposed above grade shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(J) Removal of temporary erosion control structures is not required if they are covered by sand. Any portion of the temporary erosion control structure that becomes exposed above grade after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.

(K) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(L) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the temporary erosion control structure shall not exceed 20 feet, and the total height shall not exceed six feet, as measured from the bottom of the lowest bag.

(M) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.

(3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and in accordance with Rule .0312 of this Section.

(4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:

(A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;

(B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);

(C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;

(D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;

(E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Establishment and Stabilization.

(1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same configuration as adjacent natural dunes.

(2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.

(3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be replanted or temporarily stabilized until planting can be completed.

(4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.

(5) No new dunes shall be created in inlet hazard areas.

(6) Sand held in storage in any dune, other than the frontal or primary dune, shall remain on the lot or tract of land to the maximum extent practicable and may be redistributed within the Ocean Hazard AEC provided that it is not placed any farther oceanward than the crest of a primary dune, if present, or the crest of a frontal dune.

(7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid dune impacts.

(c) Structural Accessways:

(1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed and constructed in a manner that entails negligible alteration of the primary or frontal dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.

(2) An accessway shall be considered to entail negligible alteration of primary or frontal dunes provided that:

(A) The accessway is exclusively for pedestrian use;

(B) The accessway is a maximum of six feet in width;

(C) Except in the case of beach matting for a local, state or federal government's public access, the accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the dune. Where this is deemed by the Division of Coastal Management to be impossible due to any more restrictive local, state, and/or federal building requirements, the structure shall touch the dune only to the extent necessary. Beach matting for a local, state or federal government's public access shall be installed at grade and not involve any excavation or fill of the dune; and

(D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

(3) An accessway that does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers are not prohibited provided all other applicable standards of this Rule are met.

(4) In order to preserve the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") may be provided for off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 15 feet in width and may be constructed of wooden

sections fastened together, or other materials approved by the Division, over the length of the affected dune area. Installation of a Hatteras ramp shall be done in a manner that will preserve the dune's function as a protective barrier against flooding and erosion by not reducing the volume of the dune.

(5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach. Structural accessways are not restricted by the requirement to be landward of the FLSNV as described in .0309(a) of this Section.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) of this Section and 15A NCAC 07J .0210 shall comply with the following standards:

(1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.

(2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.

(3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.

(4) All foundations shall be designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet the requirements of this Part or shall be designed to break-away without structural damage to the main structure.

History Note: *Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124;*
Eff. June 1, 1979;
Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17, 1989;
Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989;
RRC Objection Eff. November 19, 1992 due to ambiguity;
RRC Objection Eff. January 21, 1993 due to ambiguity;
Amended Eff. March 1, 1993; December 28, 1992;
RRC Objection Eff. March 16, 1995 due to ambiguity;
Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. April 1, 2019; May 1, 2013; July 1, 2009; April 1, 2008; February 1, 2006; August 1, 2002;
Readopted Eff. December 1, 2020.

15A NCAC 07K .0207 STRUCTURAL ACCESSWAYS OVER FRONTAL DUNES EXEMPTED

(a) The N.C. Coastal Resources Commission hereby exempts from the CAMA permit requirement all structural pedestrian accessways, including beach matting installed by a local, state, or federal government to provide public access over primary and frontal dunes when such accessways ~~which~~ can be shown to meet the following criteria:

(1) The accessway ~~must~~ shall not exceed six feet in width and must be for private residential or for public access to an ocean beach. This exemption does not apply to accessways for commercial use or for motor-powered vehicular use.

(2) The accessway ~~must~~ shall be constructed so as to make no alterations to the frontal dunes that are not necessary to construct the accessway. This means that wherever possible the accessway ~~must~~ shall be constructed over the frontal dune without any alteration of the dunes. In no case shall the dune be altered so as to significantly diminish its capacity as a protective barrier against flooding and erosion. Driving of pilings into the dune or a local, state or federal government's use of beach matting for a public access that is installed at grade and involves no excavation or fill shall not be considered alteration of a frontal dune for the purposes of this Rule.

(3) The accessway shall conform with any applicable local or state building code standards.

(4) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach. Structural accessways are not restricted by the requirement to be landward of the FLSNV as described in 15A 07H .0309(a).

(5) Damaged, non-functioning, or portions of accessways that become non-compliant with Condition (4) above shall be removed by the property owner.

(b) Before beginning any work under this exemption the CAMA local permit officer or Department of ~~Environment, Health, and Natural Resources~~ Environmental Quality representative must be notified of the proposed activity to allow on-site review of the proposed accessway. Notification can be by telephone, in person, or in writing and must include:

(1) name, address, and telephone number of landowner and location of work including county and nearest community;

(2) the dimensions of the proposed structural accessway.

History Note: *Authority G.S. 113A-103(5) c;*
Eff. November 1, 1984;
Amended Eff. December 1, 1991; May 1, 1990.