

# NC COASTAL RESOURCES COMMISSION

July 11-12, 2017

Holiday Inn

Greenville, NC

The State Government Ethics Act mandates that at the beginning of any meeting the Chair remind all the members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or potential conflict, please state so at this time.

## Tuesday, July 11<sup>th</sup>

- 10:00 COASTAL RESOURCES ADVISORY COUNCIL MEETING (Director's Room)** Greg "rudi" Rudolph, Chair
- 1:00 COMMISSION CALL TO ORDER\* (Salon)** Renee Cahoon, Chair
- Roll Call
  - Chair's Comments
- 1:15 COASTAL ISSUES**
- Flood Insurance Rate Maps Development  
John Dorman, Assistant State Emergency Mgmt Director for Risk Management.
  - Commission Discussion
- 3:15 BREAK**
- 3:30 COASTAL ISSUES CONT.**
- Resilience Evaluation and Needs Assessment Project  
Monica Gregory  
NOAA Coastal Mgmt Fellow
  - Commission Discussion
- 4:00 ACTION ITEMS**
- Periodic Review of Existing Rules – Public Comments, Approval of Final Report (*CRC-17-15*)  
Mike Lopazanski
  - Town of Boiling Spring Lakes LUP Certification (*CRC-17-16*)  
Mike Christenbury
  - Town of Beaufort LUP Amendment (*CRC-17-17*)  
Rachel Love-Adrick
- 4:15 CRC RULE DEVELOPMENT**
- CRC Dune Protection, Restoration & Repair (*CRC-17-18*)  
Frank Jennings
  - Commission Discussion
- 5:00 LEGAL UPDATE**
- Update on Litigation of Interest to the Commission  
Shawn Maier

RECESS

## Wednesday, July 12<sup>th</sup>

- 9:00 COMMISSION CALL TO ORDER\* (Salon)** Renee Cahoon, Chair
- Roll Call
  - Chair's Comments
  - Approval of April 26-27, 2017 Meeting Minutes  
Renee Cahoon, Chair
  - Executive Secretary's Report  
Braxton Davis
  - CRAC Report  
Greg "rudi" Rudolph, Chair
- 9:30 BEACH AND INLET MANAGEMENT**

- Development Line Approval Process Criteria
- Town of Kure Beach Development Line Approval (*CRC-17-19*)

Shawn Maier  
John Batson, Bldg. Inspector

**10:00 ACTION ITEMS**

- Adoption of 15A NCAC 7H .0306; 7J .1301 Development Line Procedures Amendments

Ken Richardson

**10:15 CRC RULE DEVELOPMENT**

- Amendments to 7H .0306; 7J .1301 Development Line (*CRC-17-20*)  
CRC Discussion
- Amendments to 7J .0409 Civil Penalties (*CRC-17-21*)
- Amendments to 7H .0308(a)(2) Temporary Erosion Control Structures (*CRC-17-22*)

Ken Richardson

Roy Brownlow  
Mike Lopazanski

**11:45 PUBLIC INPUT AND COMMENT**

Renee Cahoon, Chair

**12:00 OLD/NEW BUSINESS**

Renee Cahoon, Chair

**12:15 LUNCH**

**1:30 PUBLIC HEARING**

- 15A NCAC 7H .2200 Free Standing Moorings - Osprey Poles

Renee Cahoon, Chair  
Jonathan Howell

**1:45 ADJOURN**

Executive Order 34 mandates that in transacting Commission business, each person appointed by the governor shall act always in the best interest of the public without regard for his or her financial interests. To this end, each appointee must recuse himself or herself from voting on any matter on which the appointee has a financial interest. Commissioners having a question about a conflict of interest or potential conflict should consult with the Chairman or legal counsel.

*\* Times indicated are only for guidance and will change. The Commission will proceed through the agenda until completed.*



N.C. Division of Coastal Management  
[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

Next Meeting: September 27-28, 2017; Wilmington



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON C. DAVIS  
*Director*

**CRC-17-15**

June 28, 2017

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Mike Lopazanski

**SUBJECT:** Periodic Review of Existing Rules – 15A NCAC 7A,7H, 7I,7J, 7K, 7L, 7M

In compliance with the General Assembly's mandate for the "Periodic Review and Expiration of Existing Rules" section to the APA (G.S. § 150B-21.3A), the Division has completed the public comment phase of the review. The 60-day public comment period was open from February 20 – April 20, 2017 for 15A NCAC 7A, 7H, 7I, 7J, 7K, 7L and 7M as to their classification as necessary with substantive public interest, necessary without substantive public interest or unnecessary. The Division received six public comments (attached) all supportive of the classification of the rule.

At this point, the APA allows agencies to amend the final classifications based on public comments, and send an approved final report and public comments received to the Rules Review Commission (RRC). Staff recommends that the CRC accept the draft report (attached) as final for submission to the RRC.

The RRC will review the final report and public comments to determine if it agrees with the agency classification of its rules. The RRC may change a classification of a rule to "necessary with substantive public interest" but does not have the authority to declare a rule as "unnecessary." The RRC sends a final report to the Joint Legislative Administrative Procedure Oversight Committee (APOC) for consultation. The final determination on an agency's rules becomes effective when the APOC reviews the report or on the 61<sup>st</sup> day after having received the report from the RRC if the APOC does not meet. The APOC may disagree with the Commission's determination and recommend to the General Assembly that the agency conduct a review of the rule the following year.

**Effect of Final Determination**

Rules designated as "necessary without substantive public interest" will remain in the NC Administrative Code and rules designated as "unnecessary" will be removed. Rules

designated as “necessary with substantive public interest” must be re-adopted as if they were new rules following the usual rulemaking procedures. If the rules are not re-adopted, they will be removed from the Administrative Code.

### **Schedule for Review of CRC Rules**

The remaining schedule for the review of the your rules is as follows:

- Respond to comments and adopt the final determinations at the July 2017 meeting.
- File with OAH before the December 15, 2017 deadline for January 2018 RRC review.
- Negotiate re-adoption schedule with RRC - 2018

Provided the APOC approves the report, the CRC will be able to publish the amended rules for public comment and begin the re-adoption process according to a schedule negotiated with the RRC. Re-adoption will take place sometime during 2018.

As a reminder, the draft report includes 18 rules designated as unnecessary. These rules are old, no longer applicable due to other changes, contain only introductory language, reiterate statute or are generally superfluous. The majority of the rules (207 of 267) are designated as *Necessary With Substantive Public Interest* as they contain a directive, requirement or impose a standard. The remainder (42) have been designated as *Necessary Without Substantive Public Interest* as they contain management objectives, significance statement, are minor procedures and contact information. If the Commission agrees with these determinations, the report and public comments will be forwarded to the RRC for review.

I will review the details of this process at our upcoming meeting in Greenville.

**15A NCAC 07J .0201 PERMIT REQUIRED**

**Commenter Name:**

Company/Organization:

*Comments received on website:*

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? No

My comment type on this rule is: undefined

Do I want to enter a comment, or submit a file? undefined

**Agency response: Agree.**

**15A NCAC 07J .0202 PERMIT APPLICATIONS**

**Commenter Name:**

Company/Organization:

*Comments received on website:*

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? No

My comment type on this rule is: undefined

Do I want to enter a comment, or submit a file? undefined

**Agency response: Agree.**

**15A NCAC 07J .0203 PREPARATION OF WORK PLATS**

**Commenter Name: Theron Jackson**

Company/Organization: Guilford County

Agency: Coastal Resources Commission G.S. 150B-21.3A  
Report for 15A NCAC Subchapter 07J PROCEDURES FOR PROCESSING AND ENFORCEMENT OF MAJOR  
AND MONOR DEVELOPMENT PERMITS, VARIANCE REQUESTS, APPEALS FROM PERMIT DECISIONS,  
DECLARATORY RULINGS, AND STATIC LINE EXCEPTIONS

*Comments received on website:*

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? No

My comment type on this rule is: undefined

Do I want to enter a comment, or submit a file? undefined

**Agency response: Agree.**

**15A NCAC 07K .0101      STATUTORY EXCEPTIONS FROM THE DEFINITION OF  
DEVELOPMENT**

**Commenter Name: ANONYMOUS**

Company/Organization:

*Comments received from website:*

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? No

My comment type on this rule is: undefined

Do I want to enter a comment, or submit a file? undefined

**Agency response: Agree.**

**15A NCAC 07K .0103      MAINTENANCE AND REPAIR**

**Commenter Name: ANONYMOUS**

Company/Organization:

*Comments received from website:*

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? No

My comment type on this rule is: undefined

Do I want to enter a comment, or submit a file? undefined

**Agency response: Agree.**

**15A NCAC 07K .0206      SMALL DITCHES EXEMPTED**

**Commenter Name: Tom Gerow, Jr**

Company/Organization: NC Forest Service

Agency: Coastal Resources Commission G.S. 150B-21.3A  
Report for 15A NCAC Subchapter 07K ACTIVITIES IN AREAS OF ENVIRONMENTAL CONCERN WHICH DO  
NOT REQUIRE A COASTAL AREA MANAGEMENT ACT PERMIT

Email: [tom.a.gerow@ncagr.gov](mailto:tom.a.gerow@ncagr.gov)

Zip: 27699

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Enter a comment

My Comment Text: I encourage the Department to retain the exemptions as currently written intact, with no further limitations. The exemption of minor drainage ditches for forestry is vital to assure regeneration of timber stands in wet-natured soils.

**Agency response: Agree.**



**G.S. 150B-21.3A Report for 15A NCAC 07A, ORGANIZATION AND DUTIES**

Agency - Coastal Resources Commission

Comment Period - February 20-April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SUBCHAPTER 07A - ORGANIZATION AND DUTIES		15A NCAC 07A .0101	DIVISION OF COASTAL MANAGEMENT	Amended Eff. June 1, 2005	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
					Select One	Select One		Select One	Select One	Select One	Select One	Select One
					Select One	Select One		Select One	Select One	Select One	Select One	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - INTRODUCTION AND GENERAL COMMENTS	15A NCAC 07H .0101	INTRODUCTION	Eff. September 9, 1977	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		15A NCAC 07H .0102	CAMA PROVISIONS FOR AECS	Amended Eff. December 1, 1985	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		15A NCAC 07H .0103	SELECTION OF PROPOSED AREAS FOR AEC DESIGNATION	Eff. September 9, 1977	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		15A NCAC 07H .0104	APPLICATION OF EROSION RATE SETBACK FACTORS	Amended Eff. August 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		15A NCAC 07H .0105	EFFECTIVE DATE OF RULE AMENDMENTS	Eff. December 1, 1982	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0106	GENERAL DEFINITIONS	Amended Eff. February 1, 2011	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0200 - THE ESTUARINE AND OCEAN SYSTEMS	15A NCAC 07H .0201	ESTUARINE AND OCEAN SYSTEM CATEGORIES	Amended Eff August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0202	SIGNIFICANCE OF THE SYSTEMS APPROACH IN ESTUARIES	Amended Eff. August 1, 1998	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		15A NCAC 07H .0203	MANAGEMENT OBJECTIVE OF THE ESTUARINE AND OCEAN SYSTEM	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0204	AECS WITHIN THE ESTUARINE AND OCEAN SYSTEM	Amended Eff. August 1, 1998	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		15A NCAC 07H .0205	COASTAL WETLANDS	Amended Eff. September 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0206	ESTUARINE WATERS	Amended Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0207	PUBLIC TRUST AREAS	Amended Eff. February 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0208	USE STANDARDS	Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f))	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0209	COASTAL SHORELINES	Amended Eff. March 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0300 - OCEAN HAZARD AREAS	15A NCAC 07H .0301	OCEAN HAZARD CATEGORIES	Eff. September 9, 1977	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0302	SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY	Amended Eff. October 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0303	MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS	Amended Eff. October 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0304	AECS WITHIN OCEAN HAZARD AREAS	Amended Eff. July 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0305	GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS	Amended Eff. April 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0306	GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS	Amended Eff. February 1, 2017	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0308	SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS	Amended Eff. May 1, 2013	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0309	USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS	Amended Eff. June 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 07H .0310	USE STANDARDS FOR INLET HAZARD AREAS	Amended Eff. April 1, 1999	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0311	INSTALLATION AND MAINTENANCE OF SAND FENCING	Eff. August 1, 2002	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0312	TECHNICAL STANDARDS FOR BEACH FILL PROJECTS	Amended Eff. August 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0400 - PUBLIC WATER SUPPLIES	15A NCAC 07H .0401	PUBLIC WATER SUPPLY CATEGORIES	Eff. September 9, 1977	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0402	SIGNIFICANCE	Eff. September 9, 1977	Necessary without substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0403	MANAGEMENT OBJECTIVE FOR PUBLIC WATER SUPPLIES	Eff. September 9, 1977	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07H .0404	AECs WITHIN PUBLIC WATER SUPPLIES	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0405	SMALL SURFACE WATER SUPPLY WATERSHEDS	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0406	PUBLIC WATER SUPPLY WELL FIELDS	Amended Eff. December 1, 1997	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0500 - NATURAL AND CULTURAL RESOURCE AREAS	15A NCAC 07H .0501	GENERAL	Amended Eff. June 1, 1979	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0502	SIGNIFICANCE	Amended Eff. June 1, 1979	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0503	NOMINATION AND DESIGNATION PROCEDURES	Amended Eff. June 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0504	AECs WITHIN CATEGORY	Amended Eff. December 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0505	COASTAL AREAS THAT SUSTAIN REMNANT SPECIES	Eff. September 9, 1977	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0506	COASTAL COMPLEX NATURAL AREAS	Amended Eff. October 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0507	UNIQUE COASTAL GEOLOGIC FORMATIONS	Amended Eff. March 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0508	USE STANDARDS	Amended Eff. February 1, 1982	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0509	SIGNIFICANT COASTAL ARCHAEOLOGICAL RESOURCES	Amended Eff. October 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0510	SIGNIFICANT COASTAL HISTORIC ARCHITECTURAL RESOURCES	Eff. June 1, 1979	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0600 - DEVELOPMENT STANDARDS APPLICABLE TO ALL AECs	15A NCAC 07H .0601	NO VIOLATION OF ANY RULE	Eff. September 9, 1977	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0602	POLLUTION OF WATERS	Amended Eff. July 1, 1987	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 07H .0603	MINIMUM ALTITUDES	Eff. March 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .0604	NOISE POLLUTION	Eff. March 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND RIPRAP REVETMENTS FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS	15A NCAC 07H .1101	PURPOSE	Amended Eff. July 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1102	APPROVAL PROCEDURES	Amended Eff. July 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1103	PERMIT FEE	Amended Eff. October 5, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1104	GENERAL CONDITIONS	Amended Eff. July 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1105	SPECIFIC CONDITIONS	Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f))	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1200 - GENERAL PERMIT FOR CONSTRUCTION OF PIERS AND DOCKING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS	15A NCAC 07H .1201	PURPOSE	Amended Eff. July 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1202	APPROVAL PROCEDURES	Amended Eff. October 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1203	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1204	GENERAL CONDITIONS	Amended Eff. August 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1205	SPECIFIC CONDITIONS	Amended Eff. August 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1300 - GENERAL PERMIT TO CONSTRUCT BOAT RAMPS ALONG ESTUARINE AND PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC TRUST	15A NCAC 07H .1301	PURPOSE	Amended Eff. April 1, 2003	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1302	APPROVAL PROCEDURES	Amended Eff. August 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1303	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 07H .1304	GENERAL CONDITIONS	Amended Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1305	SPECIFIC CONDITIONS	Amended Eff. August 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF GROINS IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS	15A NCAC 07H .1401	PURPOSE	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1402	APPROVAL PROCEDURES	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1403	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1404	GENERAL CONDITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1405	SPECIFIC CONDITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	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	Amended Eff. July 1, 2015	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1502	APPROVAL PROCEDURES	Amended Eff. July 1, 2015	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1503	APPLICATION FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1504	GENERAL CONDITIONS	Amended Eff. July 1, 2015	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1505	SPECIFIC CONDITIONS	Amended Eff. July 1, 2015	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1600 - GENERAL PERMIT FOR THE INSTALLATION OF AERIAL AND SUBAQUEOUS UTILITY LINES WITH ATTENDANT STRUCTURES IN COASTAL WETLANDS: ESTUARINE WATERS: PUBLIC TRUST WATERS AND ESTUARINE	15A NCAC 07H .1601	PURPOSE	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1602	APPROVAL PROCEDURES	Amended Eff. January 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1603	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 07H .1604	GENERAL CONDITIONS	Amended Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1605	SPECIFIC CONDITIONS	Amended Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1700 - GENERAL PERMIT FOR EMERGENCY WORK REQUIRING A CAMA AND/OR A DREDGE AND FILL PERMIT	15A NCAC 07H .1701	PURPOSE	Eff. November 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1702	APPROVAL PROCEDURES	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1703	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1704	GENERAL CONDITIONS	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1705	SPECIFIC CONDITIONS	Amended Eff. May 1, 2013	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1800 - GENERAL PERMIT TO ALLOW BEACH BULLDOZING IN THE OCEAN HAZARD AEC	15A NCAC 07H .1801	PURPOSE	Amended Eff. September 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1802	APPROVAL PROCEDURES	Amended Eff. September 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1803	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1804	GENERAL CONDITIONS	Amended Eff. September 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1805	SPECIFIC CONDITIONS	Amended Eff. September 1, 2016	Necessary with substantive public interest	Select One		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1900 - GENERAL PERMIT TO ALLOW FOR TEMPORARY STRUCTURES WITHIN COASTAL SHORELINES AND OCEAN HAZARD AEC	15A NCAC 07H .1901	PURPOSE	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1902	APPROVAL PROCEDURES	Amended Eff. January 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1903	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1904	GENERAL CONDITIONS	Amended Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .1905	SPECIFIC CONDITIONS	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .2000 - GENERAL PERMIT FOR AUTHORIZING MINOR MODIFICATIONS AND REPAIR TO EXISTING PIER/MOORING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD	15A NCAC 07H .2001	PURPOSE	Amended Eff. April 1, 2003	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2002	APPROVAL PROCEDURES	Amended Eff. August 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2003	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2004	GENERAL CONDITIONS	Amended Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2005	SPECIFIC CONDITIONS	Eff. October 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF SHEETPILE SILL FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS	15A NCAC 07H .2101	PURPOSE	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2102	APPROVAL PROCEDURES	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2103	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2104	GENERAL CONDITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2105	SPECIFIC CONDITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .2200 - GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN HAZARD AREAS	15A NCAC 07H .2201	PURPOSE	Amended Eff. April 1, 2003	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2202	APPROVAL PROCEDURES	Amended Eff. August 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2203	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2204	GENERAL CONDITIONS	Eff. February 1, 1996	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 07H .2205	SPECIFIC CONDITIONS	Eff. February 1, 1996	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .2300 - GENERAL PERMIT FOR REPLACEMENT OF EXISTING BRIDGES AND CULVERTS IN ESTUARINE WATERS, ESTUARINE AND PUBLIC TRUST SHORELINES, PUBLIC TRUST AREAS, AND COASTAL WETLANDS	15A NCAC 07H .2301	PURPOSE	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2302	APPROVAL PROCEDURES	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2303	PERMIT FEE	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2304	GENERAL CONDITIONS	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2305	SPECIFIC CONDITIONS	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .2400 - GENERAL PERMIT FOR PLACEMENT OF RIPRAP REVETMENTS FOR WETLAND PROTECTION IN ESTUARINE AND PUBLIC TRUST	15A NCAC 07H .2401	PURPOSE	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2402	APPROVAL PROCEDURES	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2403	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2404	GENERAL CONDITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2405	SPECIFIC CONDITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One



**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .2500 - EMERGENCY GENERAL PERMIT, TO BE INITIATED AT THE DISCRETION OF THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FOR REPLACEMENTS OF STRUCTURES, THE RECONSTRUCTION OF PRIMARY OR FRONTAL DUNE SYSTEMS, AND THE MAINTENANCE EXCAVATION OF EXISTING CANALS, BASINS, CHANNELS, OR DITCHES, DAMAGED, DESTROYED, OR FILLED IN BY HURRICANES OR TROPICAL STORMS, PROVIDED ALL REPLACEMENT, RECONSTRUCTION AND MAINTENANCE	15A NCAC 07H .2501	PURPOSE	Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2502	APPROVAL PROCEDURES	Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2503	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2504	GENERAL CONDITIONS	Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2505	SPECIFIC CONDITIONS	Amended Eff. September 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .2600 - GENERAL PERMIT FOR CONSTRUCTION OF MITIGATION BANKS AND IN-LIEU FEE MITIGATION PROJECTS	15A NCAC 07H .2601	PURPOSE	Amended Eff. October 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2602	APPROVAL PROCEDURES	Amended Eff. October 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2603	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2604	GENERAL CONDITIONS	Amended Eff. October 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2605	SPECIFIC CONDITIONS	Amended Eff. October 1, 2014	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07H, STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT IN ESTUARINE AND PUBLIC TRUST	15A NCAC 07H .2701	PURPOSE	Eff. April 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2702	APPROVAL PROCEDURES	Amended Eff. October 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2703	PERMIT FEE	Amended Eff. September 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2704	GENERAL CONDITIONS	Eff. April 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07H .2705	SPECIFIC CONDITIONS	Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f))	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07I, SECRETARY'S GRANT CRITERIA AND PROCEDURES FOR LOCAL IMPLEMENTATION AND ENFORCEMENT PROGRAMS UNDER THE COASTAL AREA MANAGEMENT ACT**

Agency - Coastal Resources Commission  
 Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	<b>SECTION .0100 - PURPOSE</b>	15A NCAC 07I .0101	AUTHORITY	Amended Eff. June 1, 2006	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following	Select One
		15A NCAC 07I .0102	POLICY	Amended Eff. August 1, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Select One	Select One
	<b>SECTION .0200 - POLICY AND STANDARDS</b>	15A NCAC 07I .0201	VALUE OF COASTAL RESOURCES	ARRC Objection Lodged March 15, 1990	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		15A NCAC 07I .0202	MULTI-UNIT PROGRAMS	Eff. December 10, 1977	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		15A NCAC 07I .0204	LOCAL ORDINANCE REQUIRED	Eff. December 10, 1977	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0205	ACCOUNTABILITY	Amended Eff. May 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07I .0206	FUTURE FUNDING	Amended Eff. June 1, 2006	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
	<b>SECTION .0300 - APPLICATION PROCEDURES</b>	15A NCAC 07I .0302	APPLICATION PROCESS	Amended Eff. June 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0305	GRANT ADMINISTRATION	Amended Eff. June 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0306	GRANT CONDITIONS	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	<b>SECTION .0400 - GENERALLY APPLICABLE STANDARDS</b>	15A NCAC 07I .0401	PROGRAM COSTS	Amended Eff. July 1, 2013	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0402	INELIGIBLE ACTIVITIES	Amended Eff. August 1, 1978	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0406	APPLICATION FEES	Amended Eff. July 1, 2013	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0407	GRANT CONSISTENCY	Eff. December 10, 1977	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
	<b>SECTION .0500 - LOCAL IMPLEMENTATION AND ENFORCEMENT PLANS</b>	15A NCAC 07I .0501	PURPOSE	Amended Eff. December 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07I .0502	DEFINITIONS	Amended Eff. June 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07I .0503	ADOPTION	Eff. November 1, 1984	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07I .0504	RECORD OF HEARINGS AND COMMENTS	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0505	CONTENT OF PLAN	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0506	ALLOCATION OF AUTHORITY	Amended Eff. June 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07I .0507	LOCAL PERMIT OFFICER	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 071, SECRETARY'S GRANT CRITERIA AND PROCEDURES FOR LOCAL IMPLEMENTATION AND ENFORCEMENT PROGRAMS UNDER THE COASTAL AREA MANAGEMENT ACT**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 071 .0508	CONSIDERATION OF APPLICATION BY PERMIT OFFICER	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 071 .0509	NOTICE OF CIVIL ACTION	Amended Eff. June 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 071 .0510	COMMISSION REVIEW AND ACCEPTANCE OF THE LOCAL PLAN	Amended Eff. October 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 071 .0511	COMMITMENT TO ADOPT LOCAL MANAGEMENT PLAN AS ORDINANCE	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0600 - AMENDMENT OF LOCAL MANAGEMENT PLAN	15A NCAC 071 .0601	NOTICE AND PUBLIC HEARING REQUIREMENT	Amended Eff. December 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 071 .0602	COASTAL RESOURCES COMMISSION APPROVAL	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0700 - FAILURE TO ENFORCE AND ADMINISTER PLAN	15A NCAC 071 .0701	SANCTION FOR VIOLATIONS BY THE LOCAL PERMIT-LETTING AGENCY	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 071 .0702	WHEN AN ACTION EXCEEDS THE LOCAL AUTHORITY	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07J, PROCEDURES FOR PROCESSING AND ENFORCEMENT OF MAJOR AND MINOR DEVELOPMENT PERMITS, VARIANCE REQUESTS, APPEALS FROM PERMIT DECISIONS, DECLARATORY RULINGS, AND STATIC LINE EXCEPTIONS**

Agency - Coastal Resources Commission  
 Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - DEFINITIONS	15A NCAC 07J .0101	STATUTORY DEFINITIONS	Amended Eff. November 1, 1984	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in	Select One
		15A NCAC 07J .0102	GENERAL DEFINITIONS	Amended Eff. June 1, 2006	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
	SECTION .0200 - APPLICATION PROCESS	15A NCAC 07J .0201	PERMIT REQUIRED	Amended Eff. November 1, 1984	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	Select One	Select One	Select One
		15A NCAC 07J .0202	PERMIT APPLICATIONS	Amended Eff. December 1, 1985	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest	Select One	Select One	Select One
		15A NCAC 07J .0203	PREPARATION OF WORK PLATS	Amended Eff. July 1, 1989	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0204	PROCESSING THE APPLICATION	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0206	PUBLIC NOTICE OF THE PROPOSED DEVELOPMENT	Amended Eff. January 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0207	AGENCY REVIEW/COMMENTS: MAJOR DEVELOPMENT/DREDGE AND FILL	Amended Eff. July 1, 1989	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0208	PERMIT CONDITIONS	Amended Eff. March 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0209	ISSUANCE OF PERMITS	Amended Eff. October 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0210	REPLACEMENT OF EXISTING STRUCTURES	Amended Eff. August 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0211	NON-CONFORMING DEVELOPMENT	Amended Eff. December 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0300 - HEARING PROCEDURE	15A NCAC 07J .0301	WHO IS ENTITLED TO A CONTESTED CASE HEARING	Amended Eff. June 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0302	PETITION FOR CONTESTED CASE HEARING	Amended Eff. June 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0303	CONTESTED CASE HEARING PROCEDURES	Amended Eff. January 1, 1989	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in	Select One
		15A NCAC 07J .0305	BURDEN OF PROOF	Amended Eff. October 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in	Select One
		15A NCAC 07J .0306	ACTION PENDING FINAL DISPOSITION	Amended Eff. July 1, 1989	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in	Select One
		15A NCAC 07J .0312	SETTLEMENT	Amended Eff. July 1, 1989	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		SECTION .0400 - FINAL APPROVAL AND ENFORCEMENT	15A NCAC 07J .0401	FINAL DECISION	Amended Eff. October 1, 1988	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation
	15A NCAC 07J .0402		CRITERIA FOR GRANT OR DENIAL OF PERMIT APPLICATIONS	Amended Eff. January 1, 1992	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
	15A NCAC 07J .0403		DEVELOPMENT PERIOD/COMMENCEMENT/CONTINUATION	Amended Eff. August 1, 2002	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	15A NCAC 07J .0404		DEVELOPMENT PERIOD EXTENSION	Amended Eff. August 1, 2002	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	15A NCAC 07J .0405	PERMIT MODIFICATION	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One	
	15A NCAC 07J .0406	PERMIT ISSUANCE AND TRANSFER	Amended Eff. August 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One	
	15A NCAC 07J .0407	PROJECT MAINTENANCE: MAJOR DEVELOPMENT/DREDGE AND FILL	Amended Eff. June 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One	
	15A NCAC 07J .0409	CIVIL PENALTIES	Amended Eff. February 1, 2008	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One	
	15A NCAC 07J .0410	RESTORATION/MITIGATION	Eff. July 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One	
	SECTION .0500 - GENERAL PERMITS	15A NCAC 07J .0501	DEVELOPMENT INITIATED PRIOR TO MARCH 1, 1978	Amended Eff. December 1, 1991	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following	Select One
	SECTION .0600 - DECLARATORY RULINGS AND PETITIONS FOR RULEMAKING	15A NCAC 07J .0601	DECLARATORY RULINGS: GENERALLY	Amended Eff. October 1, 1992	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07J, PROCEDURES FOR PROCESSING AND ENFORCEMENT OF MAJOR AND MINOR DEVELOPMENT PERMITS, VARIANCE REQUESTS, APPEALS FROM PERMIT DECISIONS, DECLARATORY RULINGS, AND STATIC LINE EXCEPTIONS**

Agency - Coastal Resources Commission  
 Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		15A NCAC 07J .0602	PROCEDURE FOR REQUESTING DECLARATORY RULINGS	Amended Eff. June 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0603	PROCEDURES: CONSIDERING REQUESTS FOR DECLARATORY RULINGS	Amended Eff. October 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0604	FEDERAL ACTIVITIES	Eff. November 30, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0605	PETITIONS FOR RULEMAKING	Amended Eff. October 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0700 – PROCEDURES FOR CONSIDERING VARIANCE PETITIONS	15 NCAC 07J .0701	VARIANCE PETITIONS	Amended Eff. March 1, 2009	Necessary with substantive public interest	Select One		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0702	STAFF REVIEW OF VARIANCE PETITIONS	Amended Eff. July 3, 2008	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .0703	PROCEDURES FOR DECIDING VARIANCE PETITIONS	Amended Eff. March 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1100 – GENERAL PERMIT PROCEDURE	15A NCAC 07J .1101	PURPOSE	Amended Eff. December 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07J .1102	CATEGORIES OF DEVELOPMENT	Eff. September 1, 1983	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07J .1103	DESIGNATION PROCEDURES	Eff. September 1, 1983	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07J .1104	PERMIT MODIFICATION	Eff. September 1, 1983	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07J .1105	APPLICATION PROCEDURES	Eff. September 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1106	PERMIT CONDITIONS	Eff. September 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1107	PERMIT COMPLIANCE	Amended Eff. March 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1108	GENERAL PERMIT REVIEW	Amended Eff. December 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
	SECTION .1200 – STATIC AND VEGETATION LINE EXCEPTION PROCEDURES	15A NCAC 07J .1201	REQUESTING THE STATIC LINE EXCEPTION	Amended Eff. April 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1202	REVIEW OF THE STATIC LINE EXCEPTION REQUEST	Eff. March 23, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1203	PROCEDURES FOR APPROVING THE STATIC LINE EXCEPTION	Eff. March 23, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1204	REVIEW OF THE LARGE-SCALE BEACH-FILL PROJECT AND APPROVED STATIC LINE EXCEPTIONS	Eff. March 23, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1205	REVOCAION AND EXPIRATION OF THE STATIC LINE EXCEPTION	Eff. March 23, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1206	LOCAL GOVERNMENTS AND COMMUNITIES WITH STATIC VEGETATION LINES AND STATIC LINE EXCEPTIONS	Eff. March 23, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1300 – DEVELOPMENT LINE PROCEDURES	15A NCAC 07J .1301	REQUESTING THE DEVELOPMENT LINE	Eff. April 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1302	PROCEDURES FOR APPROVING THE DEVELOPMENT LINE	Eff. April 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07J .1303	LOCAL GOVERNMENTS AND COMMUNITIES WITH DEVELOPMENT LINES	Eff. April 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07K, ACTIVITIES IN AREAS OF ENVIRONMENTAL CONCERN WHICH DO NOT REQUIRE A COASTAL AREA MANAGEMENT ACT PERMIT**

Agency - Coastal Resources Commission  
 Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - ACTIVITIES NOT CONSIDERED DEVELOPMENT	15A NCAC 07K .0101	STATUTORY EXCEPTIONS FROM THE DEFINITION OF DEVELOPMENT	Amended Eff. November 1, 1984	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0103	MAINTENANCE AND REPAIR	Amended Eff. March 1, 1996	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	Select One	Select One	Select One
	SECTION .0200 - CLASSES OF MINOR MAINTENANCE AND IMPROVEMENTS WHICH SHALL BE EXEMPTED FROM THE CAMA MAJOR DEVELOPMENT PERMIT REQUIREMENT	15A NCAC 07K .0201	GENERAL GUIDELINES	Amended Eff. November 1, 1984	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		15A NCAC 07K .0202	EXEMPTION: PROJECTS REQUIRING DREDGE: FILL: STATE EASEMENT	Amended Eff. July 1, 1981	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		15A NCAC 07K .0204	EXEMPTIONS FOR PROJECTS REQUIRING AIR QUALITY PERMIT	Eff. March 29, 1978	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0205	EXEMPTIONS FOR PROJECTS REQUIRING THE NPDES	Eff. March 29, 1978	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0206	SMALL DITCHES EXEMPTED	Eff. November 1, 1984	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0207	STRUCTURAL ACCESSWAYS OVER FRONTAL DUNES EXEMPTED	Amended Eff. December 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0208	SINGLE FAMILY RESIDENCES EXEMPTED	Amended Eff. May 1, 2015	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0209	EXEMPTION / ACCESSORY USES / MAINTENANCE REPAIR / REPLACEMENT	Amended Eff. August 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0210	NOMINATION CATEGORIES EXCLUDED: MINOR PERMIT EXEMPTION	Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0211	JOCKEY'S RIDGE AEC	Eff. March 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0212	INSTALLATION AND MAINTENANCE OF SAND FENCING	Eff. August 1, 2002	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0400 - CLASSES OF FEDERAL AGENCY ACTIVITIES EXEMPTED FROM THE PERMIT REQUIREMENT	15A NCAC 07K .0401	MAINTENANCE OF FEDERAL NAVIGATION CHANNELS	Amended Eff. September 6, 1979	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07K .0402	FEDERAL AGENCY ACTIVITIES EXEMPTED	Amended Eff. April 22, 1980	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07L, LOCAL PLANNING AND MANAGEMENT GRANTS**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Date Submitted: 03/08/2017 10:39:57 AM

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - PURPOSE AND AUTHORITY	15A NCAC 07L .0101	AUTHORITY	Amended Eff. August 1, 2002	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		15A NCAC 07L .0102	PURPOSE	Amended Eff. March 1, 2016	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
	SECTION .0500 - GENERAL STANDARDS	15A NCAC 07L .0501	ELIGIBLE APPLICANTS	Eff. August 1, 2002	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Select One	Select One
		15A NCAC 07L .0503	PRIORITIES FOR FUNDING LAND USE PLANS AND IMPLEMENTATION PROJECTS	Amended Eff. March 1, 2016	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One



G.S. 150B-21.3A Report for 15A NCAC 07M, GENERAL POLICY GUIDELINES FOR THE COASTAL AREA

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Date Submitted: 02/20/2017 11:53:00 AM

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - PURPOSE AND AUTHORITY	15A NCAC 07M .0102	PURPOSE	Eff. March 1, 1979	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
	SECTION .0200 - SHORELINE EROSION POLICIES	15A NCAC 07M .0201	DECLARATION OF GENERAL POLICY	Amended Eff. March 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		15A NCAC 07M .0202	POLICY STATEMENTS	Amended Eff. May 4, 1995	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
	SECTION .0300 - SHOREFRONT ACCESS POLICIES	15A NCAC 07M .0301	DECLARATION OF GENERAL POLICY	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		15A NCAC 07M .0302	DEFINITIONS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0303	STANDARDS FOR PUBLIC ACCESS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0306	LOCAL GOVERNMENT AND STATE INVOLVEMENT IN ACCESS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0307	ELIGIBILITY, SELECTION CRITERIA AND MATCHING REQUIREMENTS	Amended Eff. February 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0308	PUBLIC INVOLVEMENT/NOTICE	Eff. January 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0309	COMPLIANCE WITH THE NORTH CAROLINA ENVIRONMENTAL POLICY ACT	Amended Eff. January 1, 1998	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
	SECTION .0400 - COASTAL ENERGY POLICIES	15A NCAC 07M .0401	DECLARATION OF GENERAL POLICY	Amended Eff. February 1, 2011	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0402	DEFINITIONS	Amended Eff. March 1, 2011	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0403	POLICY STATEMENTS	Amended Eff. February 1, 2011	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0500 - POST - DISASTER POLICIES	15A NCAC 07M .0501	DECLARATION OF GENERAL POLICY	Eff. October 1, 1982	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Necessary without substantive public interest and should remain in effect without further action	Select One
		15A NCAC 07M .0502	DEFINITIONS	Eff. October 1, 1982	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		15A NCAC 07M .0503	POLICY STATEMENTS	Amended Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0600 - FLOATING STRUCTURE POLICIES	15A NCAC 07M .0601	DECLARATION OF GENERAL POLICY	Eff. July 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0602	DEFINITIONS	Eff. July 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0603	POLICY STATEMENTS	Eff. July 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0700 - MITIGATION POLICY	15A NCAC 07M .0701	DECLARATION OF GENERAL POLICY	Amended Eff. September 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0702	DEFINITIONS	Eff. January 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0703	MITIGATION CANDIDACY	Amended Eff. September 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0704	POLICY STATEMENTS	Eff. January 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0705	REVIEW PROCEDURES	Amended Eff. November 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0800 - COASTAL WATER QUALITY POLICIES	15A NCAC 07M .0801	DECLARATION OF GENERAL POLICIES	Eff. November 1, 1985	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .0802	POLICY STATEMENTS	Amended Eff. October 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0900 - POLICIES ON USE OF COASTAL AIRSPACE	15A NCAC 07M .0901	DECLARATION OF GENERAL POLICY	Amended Eff. March 1, 1992	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		15A NCAC 07M .0902	POLICY STATEMENTS	Eff. March 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

**G.S. 150B-21.3A Report for 15A NCAC 07M, GENERAL POLICY GUIDELINES FOR THE COASTAL AREA**

Agency - Coastal Resources Commission

Comment Period - February 20 - April 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .1000 - POLICIES ON WATER AND WETLAND BASED TARGET AREAS FOR MILITARY TRAINING ACTIVITIES	15A NCAC 07M .1001	DECLARATION OF GENERAL POLICY	Eff. March 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .1002	POLICY STATEMENTS	Eff. March 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1100 - POLICIES ON BENEFICIAL USE AND AVAILABILITY OF MATERIALS RESULTING FROM THE EXCAVATION OR MAINTENANCE OF NAVIGATIONAL CHANNELS	15A NCAC 07M .1101	DECLARATION OF GENERAL POLICY	Eff. October 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .1102	POLICY STATEMENTS	Eff. October 1, 1992	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .1200 - POLICIES ON OCEAN MINING	15A NCAC 07M .1201	DECLARATION OF GENERAL POLICY	Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		15A NCAC 07M .1202	POLICY STATEMENTS	Eff. August 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One



ROY COOPER  
*Governor*

MICHAEL REGAN  
*Secretary*

BRAXTON DAVIS  
*Director*

**MEMORANDUM**

**CRC- 17-16**

**To: Coastal Resources Commission**

**From: Michael Christenbury, Wilmington District Planner**

**Date: June 27, 2017**

**Subject: Certification of the 2017 Boiling Spring Lakes Comprehensive Land Use Plan**

**Recommendation:**

Certification of the 2017 Boiling Spring Lakes Comprehensive Land Use Plan with the determination that the City has met the substantive requirements outlined in the 15 NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program.

**Overview**

The City of Boiling Spring Lakes is located within Brunswick County to the south of Leland and to the north of Southport. The City encompasses approximately 23 square miles with a population of just over 6,000. Boiling Spring Lakes, as well as Brunswick County, has experienced tremendous growth within the past 20 years. The City is expected to increase its population by almost 98% in the next 30 years.

In 2016, the City began the process to update and create a new comprehensive plan. As part of the planning process, past policy documents, capital improvement plans, and land use plans were reviewed for significant findings related to the future of the City. Many public meetings were held with citizens, stakeholders and key decision makers to understand the issues facing the City.

Boiling Spring Lakes held duly advertised public hearings on April 4, 2017 and on May 2, 2017 and voted unanimously by resolution to adopt the 2017 Comprehensive Land Use Plan. DCM Staff reviewed the plan and has determined that the City has met the substantive requirements outlined in the CRC's 15A NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program. DCM did not receive any comments from the public, written or otherwise regarding the plan. Staff recommends Certification of the 2017 Boiling Spring Lakes Comprehensive Land Use Plan.

The 2017 Boiling Spring Lakes Comprehensive Land Use Plan may be viewed at:

<http://www.cityofbsl.org/draft-land-use-plan-2017>

Attachment: Boiling Spring Lakes Resolution of Adoption

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
BOILING SPRING LAKES, NORTH CAROLINA, ADOPTING THE 2016 CITY  
OF BOILING SPRING LAKES LAND USE PLAN**

**WHEREAS**, from November 2015 through May 2017, the City drafted a Land Use Plan with the assistance of its consultant Cape Fear Council of Governments, and conducted a series of public workshops and meetings as part of a comprehensive public participation program; and

**WHEREAS**, the 2016 Land Use Plan was unanimously recommended for approval by the City's Planning Board on July 12, 2016; and

**WHEREAS**, the Division of Coastal Management's (DCM) Wilmington District Planner found the 2016 Land Use Plan to be consistent with the rules of the Coastal Resources Commission ; and

**WHEREAS**, at a duly advertised meeting on April 4, 2017 and May 2, 2017 the City Board of Commissioners held a public hearing on the draft 2016 Land Use Plan; and

**WHEREAS**, at a Special Workshop held on February 17, 2017 the City Board of Commissioners reviewed the draft Land Use Plan in detail and found it to be consistent with the City's desired vision for the future; and

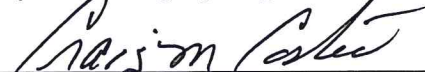
**WHEREAS**, the adopted Plan will be sent to the Coastal Resources Commission for review and certification.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Board of Commissioners of the City of Boiling Spring Lakes have adopted the draft 2016 Boiling Spring Lakes Land Use Plan; and

**BE IT FURTHER RESOLVED** that the City Manager of Boiling Spring Lakes is hereby authorized to submit the adopted 2016 Land Use Plan to the State for certification as described above.

Adopted this 2nd day of May 2017.

City of Boiling Spring Lakes

  
\_\_\_\_\_  
Craig Caster, Mayor

Attest:

  
\_\_\_\_\_  
Jane McMinn, City Clerk





ROY COOPER  
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MICHAEL S. REGAN  
*Secretary*

BRAXTON C. DAVIS  
*Director*

**MEMORADUM**

**CRC-17-17**

To: Coastal Resources Commission

From: Rachel Love-Adrick, Morehead City District Planner

Subject: Certification of Amendments to the 2007 Town of Beaufort CAMA Core Land Use Plan

Date: June 26, 2017

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**Recommendation**

**Certification of an Amendment to the 2007 Town of Beaufort CAMA Core Land Use Plan based on the determination that the Town has met the substantive requirements outlined in the 15 NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program.**

**Overview**

The Town of Beaufort is seeking certification of text amendments to update the referenced zoning districts in the plan to coincide with the Town's updated Land Development Ordinance. The adopted changes and text amendments to the LUP are attached (see pages 89 to 96). The Town of Beaufort Board of Commissioners held a duly advertised public hearing on the amendment at their March 13, 2017 regular meeting, the board voted unanimously by resolution to adopt the Land Use Plan Amendment.

The public was provided the opportunity to submit written comments on the LUP amendment up to 30 days after the local adoption (April 12, 2017). No written comments or objections were received.

Attachments: LUP Text Amendments  
Towns Staff Report  
Resolution Amending Land Use Plan  
Affidavit of Publication

Beaufort's policies support the implementation of the *Wastewater Facilities Plan* recommended improvements which will vastly improve the Town's ability to provide effective and reliable wastewater collection, treatment, and disposal systems that assist in protecting water quality. Beaufort's policies also support the development of a stormwater management plan and ordinance. The Town's policies have a positive impact on the CRC water quality goals and objectives.

#### **4.3.6 Local Areas of Concern**

Beaufort's policies regarding local areas of concern support and have a positive impact on the CRC public water access, land use compatibility, and infrastructure carrying capacity goals and objectives. The Town's policies encourage increased public access, compatible development, and the preservation of the historic district and waterfront area. Town policies also promote tourism-related economic development.

Appendix M provides a further evaluation of each individual town policy's impact on the CRC land use plan management topics.

#### **4.4 Statement of Local Support Regarding Areas of Environmental Concern**

The Town of Beaufort supports state and federal law regarding land use and development in Areas of Environmental Concern (AECs). Specific policy statements have been developed that support the general use standards of the North Carolina Administrative Code (15 NCAC 7H) for development within the estuarine system (see Section 4.2.6). No policy statements have been developed which exceed the requirements of CAMA regarding land use and development within AECs.

#### **4.5 Future Land Use Map**

The purpose of the Future Land Use Map is to graphically depict Beaufort's policies for growth and land development and the projected patterns of future land use. The Future Land Use Map has been prepared with consideration given to land development objectives and policies, natural constraints and limitations, overall land suitability, and the ability to provide the infrastructure to support growth and development.

The Future Land Use Map for the Beaufort planning jurisdiction encompasses the Beaufort corporate limits and the Town's extraterritorial planning and zoning jurisdiction. The Town's Future Land Use Map classifications include the following categories and subcategories:

- Residential
  - Low Density Residential
  - Medium Density Residential
  - High Density Residential
- Commercial
  - General Commercial
  - Downtown Commercial
- Mixed Use
- Public and Institutional
- Industrial
- Conservation/Open Space

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Generally, growth and land development is anticipated to occur in all future land use categories except for the Conservation/Open Space classification. The type and intensity of projected development varies within each future land use map classification. Future Land Use projections are delineated in Figure 8, Future Land Use Map. The Future Land Use Map classifications are considered part of the Land Use Plan's policy.

**A. Residential Classification**

The Residential classification is subdivided into three subcategories: Low Density, Medium Density, and High Density.

**Low Density Residential Classification.** The Low Density Residential classification encompasses approximately 3.19 square miles (2,041 acres) or about 43 percent of the total planning jurisdiction. The majority of the lands classified as Low Density Residential are located ~~on~~ primarily in the northern, northeastern, and eastern portions of the Town's planning jurisdiction.

The Low Density Residential classification is intended to delineate lands where the predominant land use is low density detached residences. The residential density within this classification is generally 2 or less dwelling units per acre. The Mminimum lot sizes ~~vary from 15,000 to~~ is 20,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Single-family detached residences are the predominant types of dwellings within these areas. Manufactured homes on individual lots are also dwelling types found within this classification. Land uses within Low Density Residential-designated areas are generally compatible with the R-20 ~~and R-15~~, Single-Family Residential ~~z~~Zoning ~~classifications~~District. Public water service is widely available throughout the Low Density Residential-classified areas. Public sewer service is generally not available within this classification.

The Town's goals and policies support the continued use of land in Low Density-classified areas for low density dwellings and for public and institutional land uses that support and that are compatible with this type of residential development. Future development is projected to be no more than 2 dwelling units per acre. Some Low Density Residential areas that are located on the immediate fringe of the intensively-developed urban core may evolve into higher density areas over time, particularly where public utilities and other infrastructure will be available to support increases in residential density.

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DCM- MHD CITY

Figure 8: Future Land Use Map

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DCM- MHD CITY



**Medium Density Residential Classification.** The Medium/High Density Residential classification encompasses approximately 0.8 square miles (483 acres) or about 10 percent of the total planning jurisdiction. The majority of the properties classified as Medium Density Residential are generally located immediately surrounding the Beaufort downtown area as well as north and east of the downtown area.

The Medium Density Residential classification is intended to delineate lands where the predominant land use is higher density single-family residential developments and/or two-family developments. The residential density within this classification is generally 3 to 5 dwelling units per acre. ~~The M~~minimum lot sizes vary from ~~is~~ 8,000 to 10,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Land uses within Medium Density Residential-designated areas are generally compatible with the ~~R-10, One or Two-family Residential; R-10MH, Single-family Residential and Manufactured Home; R-8, Medium Density Residential; and R-8A Single-family Medium Density Residential Waterfront; R8-MH Residential Manufactured Home Park/Recreational Vehicle Park; and H-BD, Historic Business z~~Zoning ~~e~~Districts. Public water is widely available and sewer service is required to support the higher residential densities in this classification. Streets with the capacity to accommodate higher traffic volumes are also necessary to support Medium Density Residential development.

The Town's goals and policies support the use of land in Medium Density-classified areas for single-family and two-family dwellings where adequate public utilities and streets are available or can be upgraded to support the higher residential densities encouraged in this classification.

**High Density Residential Classification.** The High Density Residential classification encompasses approximately 0.05 square miles (32.6 acres) or about 0.7 percent of the total planning jurisdiction. The properties classified as High Density Residential are located in the northeastern portion of the Town's planning jurisdiction along the US Highway 70 North corridor.

The High Density Residential classification is intended to delineate lands where the predominant land use is higher density single-family residential developments and/or multifamily developments. The residential density within this classification is generally 6 to 16 dwelling units per acre. The minimum lot size is 2,750 square feet per unit unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Land uses within High Density Residential-designated areas are generally compatible with the ~~RC-5, Residential Cluster Development and the RS-5, Residential Single-Family 5 Development Zoning Districts RMF, Multi-Family High Density Residential and the R-5, Residential Cluster zoning~~ classifications. Public water and sewer service is required to support the residential densities in this classification. Streets with the capacity to accommodate higher traffic volumes are also necessary to support High Density Residential development.

The Town's goals and policies support the use of land in High Density-classified areas for single-family and multifamily dwellings where adequate public utilities and streets are available or can be upgraded to support the higher residential densities encouraged in this classification. The higher density residential developments anticipated to occur during the planning period are encouraged within the High Density-classified areas.

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**B.B. Commercial Classification**

The Commercial classification is subdivided into two subcategories: General Commercial and Downtown Commercial.

**General Commercial Classification.** The General Commercial classification encompasses approximately 0.24 square miles (154 acres) or about 3.3 percent of the planning jurisdiction. The properties classified as General Commercial are located along the Town's major road corridor—US Highway 70.

The General Commercial classification is intended to delineate lands that can accommodate a wide range of retail, wholesale, office, business services, and personal services. Areas classified as General Commercial may also include some heavy commercial uses as well as intensive public and institutional land uses. Minimum lot sizes typically range from 5,000 to 8,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Maximum floor area ratios (the total building floor area divided by the total lot area) range from 0.57 to 0.83. Land uses within General Commercial-designated areas are generally compatible with the B-1, General Business; ~~B-2, Highway Business; B-3, Marina Business B-W, Business Waterfront;~~ and the ~~O & I, Office and Institutional TR, Transitional zZoning dDistricts.~~ Public water service is needed to support the land uses characteristic of this classification. Public sewer service is needed to support the most intensive commercial uses. Streets with the capacity to accommodate higher traffic volumes are necessary to support commercial development.

General Commercial-classified areas are anticipated to accommodate some of the most intensive land uses found in the Town's planning jurisdiction. The Town's goals and policies support the use of land in General Commercial-classified areas for a wide variety of retail and commercial services uses where adequate public utilities and streets are available or can be upgraded to support the intensity of development encouraged in this classification. Public and institutional land uses that support and that are compatible with this type of commercial development are also encouraged.

**Downtown Commercial Classification.** The Downtown Commercial classification encompasses approximately 0.03 square miles (18 acres) or about 0.4 percent of the planning jurisdiction. The properties classified as Downtown Commercial are located in the Front Street commercial district and the downtown waterfront area. The core of the Downtown Commercial area is generally bounded by Taylor's Creek on the south, Orange Street on the west, and Pollock Street on the east.

The Downtown Commercial classification is intended to delineate properties that can accommodate a variety of retail, office, business services, and personal services. Areas classified as Downtown Commercial may also include some public and institutional, and waterfront tourist-oriented land uses. ~~The Downtown Mixed Use classification specifically includes waterfront tourist-oriented land uses.~~ The minimum lot size is 3,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Maximum floor area ratios range from 1.73 to 2.13. Land uses within the Downtown Commercial-designated areas are generally compatible with the ~~G-D, Central Downtown Business H-BD, Historic~~

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Business and the W-C, Waterfront Commercial H-WBD, Historic Waterfront Business Zoning Districts.

Public water and sewer service is needed to support the land uses characteristic of this classification. Streets with the capacity to accommodate higher traffic volumes are also necessary to support the intensive land uses within this classification.

The Town's goals and policies support the use of land in Downtown Commercial-classified areas for a wide variety of retail and commercial services uses where adequate public utilities and streets are available or can be upgraded to support the intensity of development encouraged in this classification. Redevelopment of the downtown waterfront area for tourist-oriented mixed uses consisting of retail shops, places of entertainment, restaurants, boating services, and overnight lodging is promoted by the Town's goals and policies.

**C. Mixed Use Classification**

The Mixed Use classification encompasses approximately 1.3 square miles (826 acres) or 17.4 percent of the total land area. The properties classified as Mixed Use are located adjacent to Town Creek (2 sites), at the former Beaufort Elementary School site, adjacent to the Cedar Street-Carteret Avenue area, and along Lennoxville Road at the site of the Atlantic Veneer Corporation and Beaufort Fisheries Industries.

The Mixed Use classification is intended to delineate areas where there is potential to redevelop the existing properties and adjoining vacant land, particularly for multiple land uses. The North Carolina Maritime Museum has proposed expanding the Maritime Museum to a portion of the Mixed Use-designated area located on the north side of Town Creek. An associated maritime village has also been proposed for this site. Mixed residential and commercial uses, including marine uses along waterfront areas, have potential at the other Mixed Use-designated sites.

The Cedar Street corridor is anticipated, with the proposed relocation of US Highway 70, to redevelop from a general commercial area into more of an office, light retail, professional services, institutional, and residential area.

The anticipated residential density within this classification ranges from medium to high density. Multifamily densities are consistent with the current requirements of the Town's zoning ordinance which allows a density range of up to 16 dwellings per acre for planned developments. Residential building types encouraged within this classification include single-family attached dwellings, condominiums, cluster developments, and multifamily dwellings. Commercial uses include a variety of retail, office, business services, and personal services. Minimum lot sizes are generally dependent upon the specific nature and characteristics of the land use but typically range from 2,750 to 20,000 square feet for residential land uses and 3,000 to 8,000 square feet for nonresidential land uses. Maximum floor area ratios for nonresidential land uses range from 0.57 to 2.13. Land uses within the Mixed Use-designated areas are generally compatible with B-1, General Business; ~~B-3, Marina Business~~ B-W, Business Waterfront; ~~O & I, Office and Institutional~~ TR, Transitional; ~~RMF, Multi-family Residential~~ TCA, Townhomes, Condominiums, Apartments; and PUD, Planned Unit Development Zoning Districts. Public water and sewer service is needed to support the land uses characteristic of this classification. Streets with the capacity to

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accommodate higher traffic volume are necessary to support the intensity of development expected within the Mixed Use Classification.

The Town's goals and policies support the use of land in Mixed Use-classified areas for a range of uses where adequate public utilities and streets are available or can be upgraded to support the intensity of development encouraged in this classification. Public and institutional land uses that support and that are compatible with this type of mixed development are also encouraged.

While the Mixed Use areas are expected to accommodate future growth and development, they may or may not actually be developed during the planning period. Critical factors that will determine the development potential of these areas include market demand and the provision of the necessary support infrastructure (particularly public water and sewer utilities). Consequently, the development potential of some of the lands within the Mixed Use areas may be more long-term than short-term.

In order to permit the type of mixed use development envisioned in this classification, the Town of Beaufort may have to prepare amendments to its existing zoning ordinance and subdivision ordinance to establish specific conditions and standards for such mixed use development.

#### **D. Public and Institutional Classification**

The Public and Institutional classification encompasses approximately 0.9 square miles (576 acres) or about 12 percent of the total planning jurisdictional area. The properties classified as Public and Institutional are scattered throughout the Town's planning jurisdiction. The largest individual property within the Public and Institutional classification includes the Michael J. Smith Field and airport facilities located in the western section of Beaufort.

The Public and Institutional classification is intended to delineate large land areas that are used for intensive public and educational purposes. Land uses within this classification include primarily government buildings and service facilities, public recreational facilities, and public educational facilities. Some private office and institutional facilities may also be included within this classification. Minimum lot sizes are generally dependent upon the specific nature and characteristics of the land use but typically range from 5,000 to 40,000 square feet for low intensity uses to multiple acres for more intensive land uses. Maximum floor area ratios range from 0.59 to 0.83. Land uses within the Public and Institutional-designated areas are generally compatible with B-1, General Business; ~~O & I, Office and Institutional TR, Transitional;~~ ~~and R-8, Medium Density Residential; R-8A, Residential Single-Family Waterfront;~~ ~~and R-8MH, Residential Manufactured Home Park/Recreational Vehicle Park~~ ~~z~~ Zoning ~~d~~ Districts. Generally, public water service is needed to support the land uses characteristic of this classification. Public sewer is needed to support the most intensive public and institutional uses. Streets with the capacity to accommodate higher traffic volumes are necessary to support the intensity of development expected within the Public and Institutional Classification.

#### **E. Industrial Classification**

The Industrial classification encompasses approximately 0.2 square miles (135 acres) or about 2.8 percent of the planning jurisdiction. The properties classified as Industrial

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are along Lennoxville Road at Carteret Avenue in south central Beaufort and along the east side of NC Highway 101 directly across from the airport property.

The Industrial classification is intended to delineate lands that can accommodate industrial and manufacturing establishments. Some heavy commercial uses as well as services and businesses which support industrial land uses are also appropriate land uses within the Industrial classification. The minimum lot size typically is 8,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Maximum floor area ratios range from 0.36 to 0.57. Land uses within the Industrial-designated areas are generally compatible with the L-1, Light Industrial and the I-W, Industrial Warehouse zoning districts. Public water and sewer service is needed to support the land uses characteristic of this classification. Streets with the capacity ~~streets~~ to accommodate higher traffic volumes are necessary to support the intensity of development expected within the Industrial Classification.

The Industrial areas are expected to accommodate the majority of the future industrial growth projected for the planning period. Critical factors that will determine the development potential of these Industrial-classified areas include market demand and the provision of the necessary support infrastructure (particularly public water and sewer utilities). Consequently, the development potential of the majority of the lands within the Industrial areas may be more long-term than short-term.

The Town's goals and policies support the use of land in Industrial-classified areas for a wide variety of manufacturing and heavy commercial services uses where adequate public utilities and streets are available or can be upgraded to support the intensity of development encouraged in this classification. Public and institutional land uses as well as commercial services that support and that are compatible with this type of industrial development are also encouraged. Industrial-classified areas may include certain land uses which, due to their nature and characteristics, have potential adverse impacts on surrounding land use types. Consequently, the Town's objective is to ensure the compatible location of industrial land uses and to require the necessary measures to mitigate any adverse impacts.

#### **F. Conservation/Open Space Classification**

Conservation/Open Space areas are scattered throughout the Beaufort jurisdiction and include coastal wetlands, estuarine waters, estuarine shoreline, public trust areas, and '404' wetlands. Due to the small size of such areas, they are not individually identified on the Future Land Use Map. Generally, the precise location of such areas must be determined by field investigation. Conservation/Open Space areas that are delineated on the Future Land Use Map include Town Marsh, Carrot Island (including the portion of the Rachel Carson Estuarine Reserve lands within the Beaufort planning jurisdiction), marshland in Davis Bay, and the county-owned Town Creek wetlands area. These Conservation/Open Space-designated areas encompass approximately 0.7 square miles (472 acres) or approximately 10 percent of the planning jurisdictional area.

The Conservation/Open Space classification is intended to delineate areas where traditional land uses are not desirable or expected to develop. Land development may, however, include public buildings and facilities necessary to support existing land uses within the areas classified as Conservation/Open Space. Land uses within the Conservation/Open Space-designated areas are generally compatible with the O-S,

Open Space Zoning District. ~~zoning district.~~ Public water or sewer utilities are not needed to support the types and intensities of land uses in these areas. Extensions of water and sewer utilities into these areas are not expected or encouraged.

The Town's goals and policies support the continued use of land in Conservation/Open Space-classified areas for appropriate uses that are compatible with the fragile nature of the Conservation/Open Space areas. Traditional urban growth and development in such areas is discouraged. Conservation/Open Space areas are expected to retain their existing character over time.

#### **4.6 Cost Estimates for Planned Community Facility Improvements**

- Water system improvements: \$10.6 million (See section 3.4.1 for a description of proposed improvements)
- Wastewater collection, treatment, and disposal systems improvements: \$15.6 million (See section 3.4.2 for a description of the proposed improvements).
- Water Access and recreational facilities improvements: \$372,000 (See section 3.4.8 for a description of proposed improvements)

#### **4.7 Consistency With Natural Systems and Land Suitability Analyses**

The land use patterns depicted on the Future Land Use Map are consistent with the analysis of natural systems and the analysis of land suitability. The Future Land Use Map depicts very generalized patterns of projected land use. The intent of the map is to illustrate a typical pattern of use for a general area and not the specific use of an individual parcel. The Future Land Use Map is not intended for site-specific land planning or for regulatory purposes.

The north central portion of the Town's planning jurisdiction and the areas adjacent to the Newport River, North River and Taylor's Creek shorelines contain the greatest concentrations of natural constraints, primarily floodplains and wetlands. Major undeveloped areas with significant natural constraints and low suitability ratings within the Beaufort jurisdiction are designated as Conservation/Open Space on the Future Land Use Map. The majority of developed areas with significant natural constraints and low suitability ratings are designated on the Future Land Use Map for low density residential use.

Other Conservation/Open Space areas are scattered throughout Beaufort and include coastal wetlands, estuarine waters, estuarine shoreline, public trust areas, and '404' wetlands. Due to the small size of such areas, they are not specifically identified on the Future Land Use Map. Other areas with significant natural constraints and low suitability ratings are designated on the Future Land Use Map for low intensity land uses such as those anticipated to occur in the Low Density Residential classification.

The table below illustrates the amount of land area within the Beaufort planning jurisdiction by land suitability rating.

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## Town of Beaufort NC

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252-728-2141 • 252-728-3982 fax • [www.beaufortnc.org](http://www.beaufortnc.org)

Town Of Beaufort Board of Commissioners Regular Meeting  
6 p.m. Monday, March 13, 2017 • Train Depot, 614 Broad St., Beaufort, NC

AGENDA CATEGORY: Public Hearing

SUBJECT: CAMA Land Use Plan update/text amendment

BRIEF SUMMARY: To update the zoning districts in the CAMA Land Use Plan to agree with the zoning districts in the Land Development Ordinance

REQUESTED ACTION: Conduct a public hearing, discussion on proposed text amendment and a decision on proposed text amendment to modify the text as presented or to change the modification to other language or deny changing the text

EXPECTED LENGTH OF PRESENTATION: Five (5) minutes

SUBMITTED BY: Stacy Allen, Town Planner

BUDGET AMENDMENT REQUIRED: N/A

ATTACHMENTS: Staff Report with text amendment, resolution, public notice

TOWN MANAGER'S RECOMMENDATION/COMMENTS:

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**DCM- MHD CITY**

# BOARD STAFF REPORT

BOARD ACTION REQUEST

AGENDA ITEM:

**TO:** Honorable Mayor and Board of Commissioners  
**FROM:** Stacy Allen, Town Planner  
**DATE:** February 23, 2017  
**RE:** CAMA Land Use Plan Update/Text Amendment

## Background Information

After consultation with the Town's CAMA representative, it was recommended that a text amendment be made to the CAMA Land Use Plan to update the zoning districts in the CAMA Land Use Plan to coincide with the zoning districts in the Town's Land Development Ordinance. The proposed text amendment has been reviewed by our CAMA representative and is compliant with their rules and regulations.

The proposed text amendment in the CAMA Land Use Plan, Section 4.5 A. through F., is for the sole purpose of incorporating the new zoning districts and deleting the old zoning districts from the CAMA Land Use Plan. This update is needed so that the zoning districts in the Land Development Ordinance and the CAMA Land Use Plan coincide with each other. The proposed text amendment affects only pages 89 through 96 of the CAMA Land Use Plan. The proposed text amendment does not affect the Future Land Use Map.

At their February meeting the Planning Board voted unanimously to support the text amendment.

Staff has included "Draft" text language which shows text to be added as underlined and text to be removed as ~~strikethrough~~.

## Consistency Statement

The text amendment is consistent with:

- The Town's 2007 CAMA Core Land Use Plan in that it has been evaluated for its consistency with other existing policies and no internal inconsistencies exist;
- The currently approved North Carolina Coastal Management Program and the rules of the Coastal Resources Commission;
- The Town's ordinances and the Town's Land Use Plan;
- State and federal law.

Action Needed: Conduct public hearing  
Decision on proposed text amendment

Attachments: Proposed text amendment  
Public Notice

Agenda Item Prepared By:  
Stacy Allen, Town Planner

Board Action: Motion by \_\_\_\_\_ 2nd by \_\_\_\_\_

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Town of Beaufort NC

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**RESOLUTION OF BEAUFORT, NORTH CAROLINA,  
AUTHORIZING AN AMENDMENT TO THE CAMA CORE LAND USE PLAN**

**WHEREAS**, the Town desires to amend its 2007 CAMA Core Land Use Plan, specifically the text, to amend the text to update the zoning districts in the Land Use Plan to coincide with the zoning district in the Town's Land Development Ordinance, and

**WHEREAS**, on February 20, 2017 the Planning Board unanimously recommended adoption of the draft amendment to the CAMA Core Land Use Plan; and

**WHEREAS**, the Town conducted a duly advertised public hearing on the draft amendment to the CAMA Core Land Use Plan at the Regular Meeting of the Board of Commissioners on March 13, 2017; and

**WHEREAS**, the amendment to the 2007 CAMA Core Land Use Plan has been evaluated for its consistency with other existing policies and no internal inconsistencies exist; and

**WHEREAS**, the amendment is consistent with the currently approved North Carolina Coastal Management Program and the rules of the Coastal Resources Commission; and

**WHEREAS**, the amendment is consistent with the Town's ordinances and the Town's Land Use Plan; and

**WHEREAS**, the amendment does not violate any state or federal laws,

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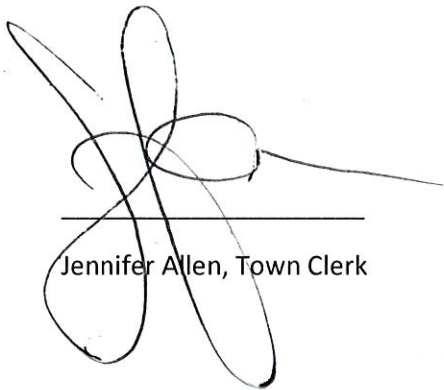
DCM-MHD CITY

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of Beaufort, North Carolina, has unanimously adopted the draft CAMA Core Land Use Plan amendment; and

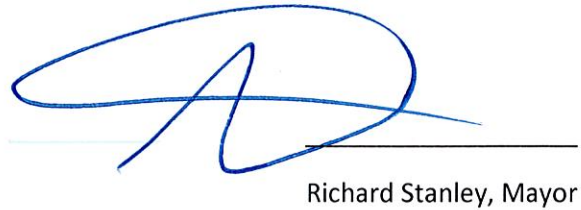
**BE IT FURTHER RESOLVED** that the Town Manager of Beaufort is hereby authorized to submit the adopted CAMA Core Land Use Plan amendment to the State for certification as described above.

Adopted this 13<sup>th</sup> day of March 2017.

Attest:



Jennifer Allen, Town Clerk



Richard Stanley, Mayor



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**AFFIDAVIT OF PUBLICATION**

Before the undersigned, a notary public of said County and State, duly commissioned, qualified, and authorized by law to administer oaths, personally appeared

Judy F. Allred who being

first duly sworn, deposes and says that he (she) is Clerk

(Owner, partner, publisher or other officer or employee authorized to make this affidavit)

of THE CARTERET PUBLISHING CO., INC., engaged in the publication of a newspaper known as CARTERET COUNTY NEWS-TIMES, published, issued, and entered as second class mail in the Town of Morehead City, in said County and State; that he (she) is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in CARTERET COUNTY NEWS-TIMES on the following

dates: 02/10/2017

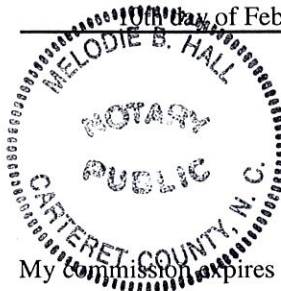
and that the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 10th day of February, 2017

Judy F. Allred  
(Signature of person making affidavit)

Sworn and subscribed before me, this:

10th day of February, 2017



Melodie B Hall  
Notary Public

April 25, 2019

Notice of Public Hearing

Update of the Town of  
Beaufort CAMA Land Use Plan

Notice is hereby given that the Town of Beaufort Board of Commissioners will conduct a public hearing at 6 p.m. Monday, March 13, 2017, to review the update of the Town's Coastal Area Management Act (CAMA) Land Use Plan. The meeting will be held at the Train Depot, 614 Broad Street, Beaufort NC 28516. All interested citizens are encouraged to attend.

Following the public hearing, the Board of Commissioners will consider adoption of the Land Use Plan. Once adopted, the Plan will be submitted to the Coastal Resources Commission for certification.

Written objections, comments, or statements of support shall be submitted to the DCM District Planner, Rachel Love-Adrick, 400 Commerce Avenue, Morehead City NC 28557 no less than 15 business days prior to the CRC meeting the land use plan is scheduled. Further information can be obtained by contacting the District Planner at 252-808-2808.

Copies of the Land Use Plan Update are available for review by the public at Beaufort Town Hall, 701 Front Street, Beaufort NC 28516 during normal office hours. The public is encouraged to review the document and to attend the public hearing. For additional information, please contact Stacy Allen at 252-728-2141 ext. 235.

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**Notice of Public Hearing  
Update of the Town of Beaufort CAMA Land Use Plan**

Notice is hereby given that the Board of Commissioners of the Town of Beaufort will conduct a public hearing on Monday, March 13, 2017 at 6:00 P.M. to review the update of the Town's Coastal Area Management Act (CAMA) Land Use Plan. The meeting will be held at the Train Depot, 614 Broad Street, Beaufort NC 28516. All interested citizens are encouraged to attend.

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***Publication Date: February 10, 2017***

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ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON C. DAVIS  
*Director*

June 29, 2017

**MEMORANDUM**

**CRC-17-18**

**TO:** Coastal Resources Commission

**FROM:** Frank Jennings, District Manager, Northeastern District  
Division of Coastal Management

**SUBJECT:** Amendments to CRC Dune Protection, Restoration and Repair Rules

At the April 2017 CRC meeting, Staff provided an overview of your rules related to sand dunes (15A NCAC 7H .0305, 7H. 0308 and 7K .0103) which define various land forms associated with the Ocean Hazard Area including Ocean Beaches, Nearshore, Primary Dunes, and Frontal Dunes. One of the goals of the CAMA is to provide a management system capable of preserving and managing the natural ecological conditions of the barrier dune system (and the beaches) to safeguard and perpetuate their natural productivity.

Staff also noted how shifting sand blown by storms and general prevailing winds has been covering decks, driveways, swimming pools, houses and buildings, both on the oceanfront as well as landward of the oceanfront area. The situation has created some problems for property owners trying to remove sand from around their structures while staying compliance with your dune protection rules. At the same time, property owners are looking for ways to enhance the barrier dune system while being able to utilize and enjoy their property including the redistribution of sand on individual lots. Additionally, Commissioners have expressed an interest in ensuring that sand, particularly in areas associated with beach nourishment projects, remains within the beach and dune systems.

At the direction of the Commission, Staff has drafted amendments (attached) to the dune protection rules to address these issues. The amendments;

- Require sand to remain on the lot to the maximum extent practicable.
- Allow redistribution of sand to the crest of the primary or frontal dune.
- Allow redistribution of sand from around structures provided it remains in the Ocean Hazard AEC.
- Clarify dune reconstruction.

The amendments also address implementation issues associated with beach accessways. The amendments:

- Allow accessways to cross frontal dunes.
- Allow accessways to extend six feet past vegetation line.
- Preserve the volume of dunes while allowing access.
- Expand materials allowed for Hatteras Ramps.

I will review these amendments in detail at the upcoming Commission meeting in Greenville. In addition to the proposed rule language, I've attached my previous memo that details the history and rationale of your dune protection rules.

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

(b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:

- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general 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 immediately replanted or temporarily stabilized until planting can be successfully 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 landward toe the crest of a frontal dune. Frontal dunes may be restored in the same configuration as adjacent frontal dunes, or to the original dimensions in the case of dune scarp.
- (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 unnecessary 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 ~~on~~ 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 conclusively presumed considered to entail negligible alteration of a primary or frontal dune provided that:
  - (A) The accessway is exclusively for pedestrian use;
  - (B) The accessway is less than a maximum of six feet in width;
  - (C) 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 frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and
  - (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
- (3) An accessway which 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 shall are not be deemed to be prohibited by this Rule, provided all other applicable standards are met.
- (4) In order to avoid weakening preserve the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall may be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 15 feet in width and shall 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) 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 07H.0309(a).

### 15A NCAC 07K .0103 MAINTENANCE AND REPAIR

(a) “Maintenance” and “repairs” are specifically excluded from the definition of development under the conditions and in the circumstances set out in G.S. 113A-103(5)(b)(5). Individuals required to take such measures within an AEC shall contact the local CAMA representative for consultation and advice before beginning work.

Property may be considered to be imminently threatened for the purpose of the exclusion for maintenance and repairs when it meets the criteria for an imminently threatened structure as set out in 15A NCAC 7H .0308(a), which provides that a structure will be considered to be imminently threatened by erosion when the foundation, septic system or right of way in the case of roads is less than 20 feet 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, tend to increase the risk of imminent damage to the structure.

(b) Beach bulldozing, defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation, for the purpose of preventing damage to imminently threatened structures as defined in 15A NCAC 7H .0308(a), by the creation of protective sand dunes shall qualify for an exclusion under G.S. 113A-103(5)(b)(5) subject to the following limitations:

- (1) The area on which this activity is being performed must maintain a slope of adequate grade so as not to endanger the public or the public's use of the beach and should follow that follows the natural pre-emergency slope as closely as possible so as not to endanger the public or hinder the public's use of the beach. All mechanically disturbed areas must be graded smooth of ruts and spoil berms that are perpendicular to the shoreline. The movement of material utilizing a bulldozer, front-end loader, back hoe, scraper or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
- (2) The activity must not exceed the lateral bounds of the applicant's property unless he has without written permission of adjoining landowners;
- (3) Movement of material from seaward of the mean low water line will not be permitted under this exemption;
- (4) The activity must not significantly increase erosion on neighboring properties and must not have a significant adverse effect on important natural or cultural resources;
- (5) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(c) Redistribution of sand that results from storm overwash or aeolian transport around buildings, pools, roads, parking areas and associated structures is considered maintenance so long as the sand remains within the Ocean Hazard AEC.

(d) Individuals proposing ~~other~~ such activities must consult with the Division of Coastal Management or the local permit officer to determine whether the proposed activity qualifies for the exclusion under G.S. 113A-103(5)(b)(5).

*History Note:* Authority G.S. 113A-103(5)(b)(5); 113A-118(a);  
Eff. November 1, 1984;  
Amended Eff. March 1, 1985;  
RRC Objection Eff. January 18, 1996 due to ambiguity;  
Amended Eff. March 1, 1996.





ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON C. DAVIS  
*Director*

April 11, 2017

**MEMORANDUM**

**CRC-17-14**

**TO:** Coastal Resources Commission

**FROM:** Frank Jennings, District Manager, Northeastern District  
Division of Coastal Management

**SUBJECT:** CRC Dune Protection, Restoration and Repair

The oceanfront dunes provide protection from storms and are a vital part of the Ocean Hazard Area of Environmental Concern. One of the goals of the CAMA is to provide a management system capable of preserving and managing the natural ecological conditions of the barrier dune system (and the beaches) to safeguard and perpetuate their natural productivity.

For management purposes, your rules (15A NCAC 7H .0305) include definitions of various land forms associated with the Ocean Hazard Area including Ocean Beaches, Nearshore, Primary Dunes, and Frontal Dunes. Frontal Dunes are defined as the first mound of sand located landward of the ocean beach that has stable and natural vegetation present. Primary Dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. Primary Dunes extend landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the "dune trough").

If a Primary Dune exists in the AEC on or landward of the lot where the development is proposed the development is required to be landward of the crest of the primary dune, the ocean hazard setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots (platted by June 1, 1979), however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback but is not be located on or oceanward of a frontal dune or the development line. If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development is to be set landward of the frontal dune, ocean hazard setback, or development line, whichever is farthest from the vegetation line, static vegetation line, or measurement line, whichever is applicable. If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development is proposed, the structure is to sited landward of the ocean hazard setback or development line, whichever is more restrictive.

To avoid weakening the protective nature of Ocean Beaches and Primary and Frontal dunes, no development is permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area are not to be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these other dunes is allowed only to the extent permitted by 15A NCAC 07H .0308(b).

Under 15A NCAC 07H .0308(b) for Dune Establishment and Stabilization, the creation or alteration of dunes is allowed so long as the following conditions are met:

- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general 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 immediately replanted or temporarily stabilized until planting can be successfully 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, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe 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 unnecessary dune impacts.

Based on review of meeting minutes and CRC documents, the original intent of the CRC's dune rules (1981) was to address the practice of dune creation and set standards to require following natural dune alignment and configuration as much as possible, and also to avoid "steep pushed-up dikes" on the oceanfront. The Commission also intended to prevent the creation of artificial dunes out on the "storm beach" that would "not last very long" and create a false sense of security. The Commission intended to restrict the building of primary and frontal dunes on the beachfront. From reviewing the CRC meeting minutes and materials in the early days of the coastal program, it seems there was concern by the Commission that allowing the pushing of dunes out on the beach (past the frontal dune) would lead to an abuse of the setback rules and create a "false sense of permanence" particularly in inlet areas. The Commission also did not want other dunes within the AEC to be destroyed by being used as a sand supply for additional dunes.

In 1992, staff realized that strict application of the rules restricting the pushing of sand oceanward was impractical as some degree of this activity was "necessary to accommodate normal development of oceanfront lots" and some degree of land leveling should be allowed. To address these issues, the rule was amended to allow redistributing sand "held in storage" in other dunes within the AEC, but no farther oceanward than the crest of the primary dune or landward toe of the frontal dune.

More recently, Staff has noted shifting sand blown by hurricanes, tropical storms and northeasters has been covering decks, driveways, swimming pools, houses and buildings, both on the oceanfront as well as landward of the oceanfront area. Property owners are at times conflicted with current rules in trying to maintain their properties by removing storm driven sand.

Additionally, property owners are looking for ways to enhance the barrier dune system while being able to utilize and enjoy their property including the redistribution of sand on individual lots.

At our upcoming meeting in Manteo, I will review your current rules on dune protection, restoration and repair as well as present examples of local barrier dune issues.

**15A NCAC 07H .0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS**

(a) This Paragraph describes natural and man-made features that are found within the ocean hazard area of environmental concern.

- (1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:
  - (A) the growth of vegetation occurs; or
  - (B) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.
- (2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized by dynamic changes both in space and time as a result of storms.
- (3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the “dune trough.”)
- (4) Frontal Dunes. The frontal dune is the first mound of sand located landward of the ocean beach that has stable and natural vegetation present.
- (5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable and natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on-ground observations or by aerial photographic interpretation.
- (6) Static Vegetation Line. In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of project construction shall be defined as the “static vegetation line.” The “onset of project construction” shall be defined as the date sediment placement begins, with the exception of projects completed prior to the effective date of this Rule, in which case the award of the contract date will be considered the onset of construction. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd (September 1999) caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the static line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000,

shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

- (7) Beach Fill. Beach fill refers to the placement of sediment along the oceanfront shoreline. Sediment used solely to establish or strengthen dunes shall not be considered a beach fill project under this Rule. A “large-scale beach fill project” shall be defined as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of Engineers.
- (8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm tide erosion.
- (9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(3) of this Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(3) of this Section shall be adopted by the Commission for each area where such a line is designated pursuant to the provisions of G.S. 150B. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(3)(b) of this Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by:
  - (A) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and
  - (B) locating the line of stable and natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (a)(1) of this Rule.

The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

- (10) Development Line. The line established in accordance with 15A NCAC 07J .1300 by local governments representing the seaward-most allowable location of oceanfront development. In areas that have development lines approved by the CRC, the vegetation line or measurement line shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line, subject to the provisions of Rule 07H .0306(a)(2) of this Section.

(b) For the purpose of public and administrative notice and convenience, each designated minor development permit-letting agency with ocean hazard areas may designate, subject to CRC approval in accordance with the local implementation and enforcement plan as defined in 15A NCAC 07I .0500, an identifiable land area within which the ocean hazard areas occur. This designated notice area must include all of the land areas defined in Rule .0304 of this Section. Natural or man-made landmarks may be considered in delineating this area.

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

(b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:

- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general 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 immediately replanted or temporarily stabilized until planting can be successfully 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, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe 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 unnecessary dune impacts.

(c) Structural Accessways:

- (1) Structural accessways shall be permitted across primary dunes so long as they are designed and constructed in a manner that entails negligible alteration on the primary dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
- (2) An accessway shall be conclusively presumed to entail negligible alteration of a primary dune provided that:
  - (A) The accessway is exclusively for pedestrian use;
  - (B) The accessway is less than six feet in width;
  - (C) 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 frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and
  - (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
- (3) An accessway which 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 shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.
- (4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) and 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 adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

**NC COASTAL RESOURCES COMMISSION (CRC)**

**April 26-27, 2017**

**Dare County Government Center  
Manteo, NC**

**Present CRC Members**

Renee Cahoon, Chair

Neal Andrew, Second Vice-Chair

Larry Baldwin

Rick Catlin

Denise Gibbs

Phil Norris

Russell Rhodes

Jamin Simmons

Bill White

**Present CRAC Members**

Greg Rudolph, Chair

Spencer Rogers, co-Vice Chair

Bobby Outten, co-Vice Chair

Beth Midgett

David Moye

Debbie Smith

Dave Weaver

**Present from the Office of the Attorney General**

Mary L. Lucasse

**Present from the Department of Environmental Quality, Office of the General Counsel**

Christine A. Goebel

**CALL TO ORDER/ROLL CALL**

Renee Cahoon called the meeting to order at 1:05 p.m. on April 26, 2017 reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Marc Hairston and Greg Lewis were absent. No conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum.

**CHAIR COMMENTS**

Chair Cahoon stated there is a Celebration of Life for the late Bill Morrison, former member and Chair of the Coastal Resources Advisory Council on Saturday, May 13 in Topsail Beach. Ms. Cahoon further stated that the Commission has prepared a resolution thanking former Chair Frank Gorham for his service on this Commission on behalf of the State of North Carolina.



## **VARIANCES**

### **Sanitary Restaurant (CRC VR 17-02), Morehead City, Urban Waterfront**

**Christine Goebel, Esq. represented DCM; Meredith Jo Alcoke, Esq. represented Petitioner**

Roy Brownlow, DCM District Manager, presented a PowerPoint of the site location. Christy Goebel, NCDEQ Assistant General Counsel reviewed the stipulated facts with the Commission. Specifically, Petitioner is The Sanitary Fish Market & Restaurant, Inc., through Jeff Garner, Secretary and Registered Agent, which leases a portion of a lot owned by the Vernon Jackson Garner Jr. Trust located at 501 East Evans Street in Morehead City, Carteret County. Most of the site is located over the navigable waters of Harbor Channel, part of Bogue Sound in the urban waterfront area of Morehead City. The Sanitary takes up approximately half the lot. It includes a large building which houses the restaurant and the deli, dock platforms around the building which provide outdoor seating, an electrical vault, a new roof over part of the outdoor dock platform area, and boat docks. Through a January 2017 CAMA Minor Permit application, Petitioner sought authorization to build a new set of stairs to the top of the roof to provide more seating for deli customers. On February 13, 2017, the Morehead City LPO denied Petitioner's CAMA Minor Permit application as the proposed development does not comply with 15A NCAC 7H .0209(g)(4)(B)(iii) which limits new structures built for non-water dependent purposes to single-story, unenclosed decks and boardwalks. Petitioner now seeks a variance to develop the access stairs and to convert the roof into a second-story use. Ms. Goebel then explained staff's position on all four statutory criteria and explained why Staff recommended the request be denied. Ms. Alcoke reviewed the stipulated facts which petitioner contends supports the granting of the variance request.

**Russell Rhodes made a motion that strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioner an unnecessary hardship. Phil Norris seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

**Russell Rhodes made a motion that hardships result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed with eight votes in favor (Norris, Baldwin, White, Simmons, Andrew, Catlin, Gibbs, Rhodes) and one opposed (Cahoon).**

**Russell Rhodes made a motion that hardships do not result from actions taken by the petitioner. Bill White seconded the motion. The motion passed with eight votes in favor (Norris, Baldwin, White, Simmons, Andrew, Catlin, Gibbs, Rhodes) and one opposed (Cahoon).**

**Russell Rhodes made a motion that the variance request will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and will preserve substantial justice. Denise Gibbs seconded the motion. The motion passed with eight votes in favor (Norris, Baldwin, White, Simmons, Andrew, Catlin, Gibbs, Rhodes) and one opposed (Cahoon).**

This variance request was granted.

## **COASTAL RESERVES**

### **NC National Estuarine Research Reserve Management Plan (CRC 17-08)**

#### **Rebecca Ellin**

Rebecca Ellin stated the Coastal Area Management Act requires the Department to consult with the Coastal Resources Commission and seek the advice of the Commission in its administration of the Reserve program. Ms. Ellin stated she was before the Commission requesting support for the draft Management Plan (“Plan”). She explained that the NC National Estuarine Research Reserve is part of the National Estuarine Research Reserves system managed by our federal partner, NOAA. NOAA requires that we have an up-to-date plan to guide implementation of the Reserve program. This Plan will provide a framework to continue, enhance and expand our research, education, training and stewardship programs and operations to support the four sites within the program from 2017 through 2022. We are required to have NOAA’s approval on the Management Plan and adhere to guidelines set by NOAA. The Plan includes goals, objectives and actions for each program area, a summary of management issues, and plans for public access and visitor use, land acquisition and facilities. Our initial Plan was established in 1983 just before the Reserve was designated. It has been updated three times.

NOAA requires a public input at the end of the update process. However, we elected to embark on a robust public input process. The first phase was an information gathering and feedback phase using a variety of mechanisms. From this input, four themes emerged. The first was the need to enhance the program visibility. The second was a need for increased awareness of the research that we and our partners do on site. Visitor use also emerged as a theme and there was a wide variety of perspectives including concern about the increased use of the sites as well as concerns that the ability of visitors to use the sites is maintained. Coastal Management themes were also identified and those have been incorporated into the topical areas. The second phase of our input process was a request for comment on the actual draft Plan by local advisory Committees. The Reserves Education Advisory Committee and other partners also had the opportunity to review the draft Plan. Feedback on the Plan has been very positive with no major concerns identified.

Ms. Ellin provided the Commissioners with an overview of the draft Management Plan including the introduction, information regarding the Reserve Sites, and the Plan’s objectives. The education objectives include working to train educators about coastal and estuarine resources. We host educator workshops and develop curricular activities for use by teachers and educators. Through this program, we leverage partnerships and capitalize on the vast environmental education resources within the State. In the needs assessment, we identified a couple of areas for which our audience would like more information including changing coastal conditions, the human impact on ecosystems, and the use of estuaries as nurseries. Our work includes providing hands on experiences for students at our Reserve sites through school and summer programs and providing community education and outreach program for the general public. Our coastal training program delivers science-based information to coastal decision makers and provides workshops and training to professionals. Our needs assessment identified stormwater, wetlands, shoreline development, living shorelines, community resilience preparedness, sea level rise adaptation and sustainable growth as areas on which to provide additional information. Our research and monitoring program is done with a variety of partners available in the research community. We take advantage of those partnerships to conduct work on priority issues and leverage the expertise we have within our program. The research priorities include estuarine shoreline stabilization, habitat status and trends, and water quality. The stewardship program is tasked with maintaining the natural integrity of our Reserve sites for research, education and compatible, traditional uses. In addition to the standard goals and objectives, NOAA requires that we include an access and visitor use plan, land

acquisition plan, and resource protection plan within this chapter. Our resource protection plan includes a table summarizing the allowable and prohibited uses at each of the four sites. The Plan also discusses approaches to managing and monitoring species of interest as well as invasive species and habitat management. The Plan describes how and when to access the sites, the types of users and uses that take place at the sites, general challenges related to public access and use, and the use of site infrastructure to guide site access to protect the resources and ensure positive visitor experiences. The land acquisition plan provides short and long-term priorities for Reserve acquisitions and criteria by which we evaluate acquisitions. An additional feature of this chapter is the stewardship policies that have been in place for a long time and are largely unchanged. These policies address site specific conditions and uses and include recreation, off-road vehicle use, fishing and hunting, dredge material placement, habitat restoration, feral horses, and enforcement. The stewardship staff are located on site to monitor conditions and address issues. The bulk of our volunteers come from the stewardship program. The administration plan seeks to advance the operation, infrastructure and stature of the Reserve to support and enable implementation of the program and meet the mission. We have identified topical areas that enhance the alignment of our work with the NERR's strategic plan. The first topical area is water quality. This is a national concern and is a threat and stressor for all four of our sites. We conduct a lot of studies in the water quality monitoring arena. The second topical area is coastal and estuarine ecosystem protection. This focuses on the enormous ecological and economic value that North Carolina's coast and estuarine area provide. We are leveraging the vast amount of monitoring we do on both the physical, biological and species side to ensure we are addressing ecosystem service research needs. The third topical area is coastal hazards resilience. This is a threat and stressor for all four of our sites and the entire coast of North Carolina. We are working to continue to monitor the conditions, but also beginning to look at the vulnerability of our sites. The last section of the management plan is the facility development and improvement plan. This section provides an overview by reserve site and describes our existing capabilities and needs. After this meeting, we will take feedback from the Commission to the Department. After the Department review, the Plan will go back to NOAA for technical and content review. The public comment period will begin after NOAA's review and will be advertised in the Federal Register. We will host three public meetings in each region of the coast to coincide with the comment period to provide an update to stakeholders on the Plan.

Commissioner Andrew asked if the Plan included any new restrictions that impact compatible, tradition, or recreational uses of the reserves sites. Ms. Ellin confirmed there are no new restrictions in the Plan. Commissioner Andrew recommended the reserve staff have more coordination with the New Hanover County Engineering staff and adjacent municipalities to Masonboro Island regarding sand placement activities and to consider using some of the dredge material already placed on the other sand storage sites within the Reserve boundary for use in beach nourishment on Masonboro Island. Director Davis commented that a federal consistency finding made by the Division required the Corps to place a certain volume of sand on Masonboro Island. The Corps has done this subject to the availability of funding. Additional coordination with the County would be great moving forward. Commissioner Simmons asked about impacts to the Reserves because of potential cutbacks to NOAA and additional federal cuts. Ms. Ellin stated the potential cuts are being watched and we are being cautious with the Reserve budget for next year. The bulk of the Reserve budget funding and staffing are supported by our federal grant. If there are cuts there will be impacts. Specific numbers will be needed to analyze direct impacts. Director Davis stated the President's budget has zeroed out the CZMA grants which accounts for over half of the Division's operating budget. The analysis and initial response to the federal budget is being worked on by the Department.

**Neal Andrew made a motion to support the 2017-2022 NCNERR Management Plan. Phil Norris seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

*At this time, Chair Cahoon recognized DEQ Assistant Secretary for the Environment, Sheila Holman. Ms. Holman thanked the Commission for their service to the State and dedication to the issues of coastal North Carolina. Ms. Holman stated she has been with the Department for 24 years and DCM has excellent staff.*

### **ACTION ITEMS**

#### **Perquimans County LUP Amendment (CRC 17-10)**

##### **Charlan Owens**

Charlan Owens stated Perquimans County is seeking certification of a policy text amendment to exclude the County from the shoreline setback within waterfront subdivisions which had previously been included in the joint land use plan with the Town of Hertford and the Town of Winfall. The County intends to rely on its local zoning ordinance to establish the waterfront setback. The County held a duly advertised public hearing on the proposed amendment. The public was provided the opportunity to submit comments. No comments were received. After determining the County has met the substantive requirements outlined in the Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law or the State's coastal management program, staff recommends approval.

**Neal Andrew made a motion to certify the Perquimans County Land Use Plan amendment. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

#### **Adoption of 15A NCAC 7L Planning and Management Grants**

##### **Rachel Love-Adrick**

Rachel Love-Adrick stated staff requests adoption of amendments to the planning and management grants program. Over the past few years the planning staff has undertaken a comprehensive review of the CAMA planning program. This review has focused on updating and separating the land use planning program provisions from the grant program. 7L establishes criteria for funding grants to local governments for planning and management projects within the twenty coastal counties. The amendments shift the primary focus of grant funding from local land use plans to a broad variety of local projects that address coastal issues and allows DCM to fund specific issues or areas based on the Commission's interest. This year's grant funding has focused on natural hazards and storm recovery projects. No public comments have been received on these proposed amendments. Following adoption and approval by RRC, the amendments will become effective July 1, 2017.

**Phil Norris made a motion to adopt the proposed amendments to 15A NCAC Subchapter 7L. Neal Andrew seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

### **ESTUARINE SHORELINE MANAGEMENT**

#### **Living Shoreline (Marsh Sill) General Permit Update (CRC 17-11)**

##### **Daniel Govoni**

Braxton Davis opened the discussion and stated this an important issue for the Division. The focus of living shorelines is to maintain an intertidal area. This initiative has involved marine contractors, a variety of designs, a comparison of cost to the property owner, and a review of how marsh sills

perform during storms. The Division has developed a strategy to address all regulatory and non-regulatory components and implementation of the strategy is guided by an internal workgroup. In the past couple of years, we have held numerous workshops for realtors, marine contractors, and the public. An estuarine shoreline map of North Carolina has been completed that includes shoreline. There is also quite a bit of research looking at interactions between bulkheads and the marsh. We have also been working on the regulatory side of the General Permit for marsh sills. General Permits are for routine projects that have predicted impacts. Marsh sills are more complex since there isn't a standard design and we don't have a good feel for how multiple sites will react to sills. The goal is to get to a point where the federal and other state agencies are comfortable knowing DCM will do an extensive review. This will streamline the permitting process for these structures.

Daniel Govoni stated House Bill 1028 established a General Permit for construction of riprap sills. During its original development, there were concerns expressed by multiple agencies about these structures including the distance sill structures could be built for shore, the impact of trading one type of habitat for another, navigation and public trust concerns, the suitability of these structures in certain areas, and permitting requirements of other agencies. Original General Permit .2700 had 29 specific conditions and required coordination with DMF, DWR and the Corps. This coordination requirement is not consistent with other General Permits. DCM has held numerous meetings with federal and state agencies to streamline the General Permit. Last year we were able to remove some unnecessary or redundant conditions and DMF and DWR's coordination requirement. At that time, we came to the CRC with an amended GP .2700. Just before these amendments were to be adopted, DCM staff became aware that the Corps had created a Nationwide Permit. This Nationwide permit had a pre-construction notification requirement. This puts the burden on the applicant to file the notification and send it to the Corps. Given this development, Staff did not request adoption of the amendments to the General Permit. To get a better understanding of the issue, DCM held additional stakeholder meetings with the Corps, the marine science community, DWR, DMF, the Coastal Federation, Sea Grant, and the National Marine Fisheries Service. These stakeholder meetings are now complete. The next steps include adding permit conditions. A positive outcome of these meetings was the Corps' willingness to consider creating a regional general permit removing the pre-construction notification requirement. DCM staff will develop a guidance document and if the Corps can create a regional general permit, then it was agreed to by all regulatory parties that the rulemaking process would begin again concurrently both at the State and Federal level.

### **CLOSED SESSION**

**Neal Andrew made a motion that the Commission enter closed session pursuant to North Carolina General Statute 143-318.11(a)(3) to consult with its attorney regarding the case of Nies v. The Town of Emerald Isle which was filed in the North Carolina Supreme Court under file number 409PA15. Denise Gibbs seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

Following discussion, the Commission returned to Open Session and recessed until the next day April 27, 2017 at 9:00 a.m.

### **MINUTES**

**Neal Andrew made a motion to approve the minutes of the February 2017 Coastal Resources Commission meeting. Denise Gibbs seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

## **EXECUTIVE SECRETARY'S REPORT**

Braxton Davis, DCM Director, gave the following report:

### **Legislative Update**

DCM has been tracking several bills introduced during the current legislative session.

**S131** – An Act to Amend Certain Environmental, Natural Resources and Other Laws

**Section 2.1:** Eliminate Outdated Provision of CAMA (113A -109). This action would eliminate the provision for the CRC to develop the initial Land Use Plan (LUP) for a County if they have not already done so. All CAMA counties currently have LUPs.

**Section 2.5:** CRC Rules on Temporary Erosion Control Structures

Allows the Commission to adopt an emergency rule for the use of sandbags consistent with the amendments in CRC Memo #16-23. The Commission is also directed to adopt temporary and permanent rules to implement this section.

**Section 2.6:** CRC to Amend Sediment Criteria Rule. Directs the CRC to exempt any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal system from the permitting requirements of the Sediment Criteria rule (15A NCAC 7H .0312). This provision would be effective immediately upon passage of the bill until the Commission completes permanent rule making.

**Section 2.7:** DCM to Study Long-term Erosion Rates Adjacent to Terminal Groins. Directs DCM to study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine if current erosion rates should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groin.

**Section 3.19:** Reporting Frequency on Terminal Groin pilot Projects by the CRC. Reduces the frequency of reports from once a year to once every five years.

**S434:** An Act to Amend Certain Environmental and Natural Resources Laws

**Section 6.(a)** – State Participation in AIWW Dredged Material Disposal Easements. Directs DCM, DEQ and the State Property Office to negotiate with the federal government for the state to assume responsibility for acquiring dredged material easement sites for dredging the AIWW between Beaufort Inlet and the VA border in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government.

**H507:** Act to Make Changes to the Land Use Regulatory Laws of the State

**Section 1.** - If a permit applicant submits a permit application for any type of development and a rule or ordinance changes, including an amendment to a zoning map or text of any applicable land development regulation as defined in G.S. 160A-400.21 or a change to a State agency regulation affecting the development of property, between the time the permit application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance will apply to the permit. The permit applicant shall not be required to wait for a pending rule or ordinance to be adopted to choose which version of the rule or ordinance applies to the permit.

**H56:** An Act to Amend Various Environmental Laws

**Section 8.(a)** – CAMA Modifications

G.S. 113A-124(c) To delegate the power to approve land-use plan for a county in accordance with G.S. 113A-110(f) to any qualified employee of the Department." This is the provision the Commission has requested to delegate authority to the Division to certify CAMA land use plans G.S. 113A-119. Exempt Minor Permit applications from the requirement that a public notice be posted at the location of the proposed development in order to expedite permitting for minor development activities. The proposed legislative amendment would eliminate the requirement that

notices of minor permit applications be physically posted at the site of the intended development. Other legislative and regulatory requirements provide notice of proposed development to adjacent property owners and other interested parties. This legislative change would speed the CAMA minor permitting process by a week or more.

### **Regulatory**

On the regulatory side, we are seeing equal if not greater permit activity in the first quarter of 2017 compared to the same period in 2016. For example, during the first 3 months of 2017, the Division issued 41 Major Permits, which is on par with the number of major permits issued during the same period in 2016. Additionally, the Division issued 498 general permits during the first three months of 2017, which represent an increase of over 100 actions relative to the same period in 2016.

During the first quarter of 2017 we are still issuing a good number of general permits (78) under emergency General Permits .2500, which was enacted on October 10th following Hurricane Matthew. The most notable permit action since your last meeting involves the issuance of a permit to Carteret County, authorizing excavation of Wainwright Slough in eastern Carteret County.

Wainwright Slough is an important navigational route that allows vessels from eastern Carteret County to access Pamlico Sound, as well as allowing commercial fishing vessels working in the Pamlico Sound to access fish houses and other offloading sites within the County. We understand that the County finished this dredging effort within the last week. More recently, on April 23rd, the Division issued an emergency consistency determination to the U.S. Army Corp of Engineers, authorizing the emergency dredging of a portion of Big Foot Slough leading into Silver Lake on Ocracoke Island. A portion of the slough has shoaled in to the point that the NCDOT Ferry Division has had to suspend the use of their highest capacity ferry using the Ocracoke Ferry facility, and the Corps requested emergency approvals to carry out emergency dredging for this shoaled portion. The Corps estimates approximately 14 days to complete work once the sidecast dredge is on site.

### **Coastal Reserves**

The Reserve is wrapping up its spring local advisory committee meetings this week with the final meeting to be held for the Buxton Woods Coastal Reserve on April 27 in Buxton. The Reserve and the N.C. Wildlife Resources Commission are seeking volunteers to help estimate the population of diamondback terrapins at the Masonboro Island Reserve through the annual Terrapin Tally count. Participants are required to attend a training session and paddle a defined route collecting data on terrapin sightings using a smart phone device. Count dates are scheduled for April 29, May 6 and 13. The Coastal Training Program is hosting “Low Impact Development Basics for Water Quality Protection” - a workshop for real estate professionals - in Beaufort on May 24. The next day, “Watershed Planning: Strategies and Tools to Protect and Restore Coastal Water Quality” will be held for those interested in learning more about how watershed planning can protect and restore coastal water quality; stormwater volume reduction; the steps involved in creating a Watershed Restoration Plan; and touring the stormwater control measures installed on Pivers Island. The Reserve is offering several summer programs in the coming months including summer camps for children and field trips to Rachel Carson Reserve. More information for these offerings is available on the Reserve’s website.

### **Policy & Planning**

#### **Resiliency Project**

Our NOAA Coastal Management Fellow, Monica Gregory is making excellent progress on her Resilience Evaluation and Needs Assessment project. Monica is working directly with the Towns of Pine Knoll Shores, Oriental, Edenton, and Duck, and Dare County, to identify and map their biggest structural and social vulnerabilities to flooding and other coastal hazards. Once the preliminary

mapping is complete in early summer, Monica will organize a series of public workshops to get resident feedback on the maps and invite additional input. Monica will also be meeting with local government staff, residents, and partners such as Sea Grant, the Department of Public Safety, and The Nature Conservancy to identify needs, strategies, and specific projects that can help build hazards resilience. DCM received NOAA approval last week to reallocate \$75,000 in unspent funds to support local government work under this project. Monica could not be at this meeting today, but we plan to have her present this work at your July meeting.

### **Access Grants**

DCM has received 22 applications from 20 local governments requesting \$3.2M in funding from the Public Beach and Coastal Waterfront Access Program. Due to a special appropriation from the Legislature, DCM's allocation from the Parks and Recreation Trust Fund this year was substantially higher allowing us to make \$2M available for access projects during this fiscal year. Local governments whose proposals are selected will be notified by Wednesday, May 10, 2017 to submit a Final Application with more detailed project information following a public hearing to discuss its proposal and consider comments. Final Applications are anticipated to be due by Monday, Aug. 14, 2017. All final applicants will be notified in September whether their project has been selected for funding.

### **Planning & Management Grants**

DCM has received 8 applications from local governments requesting over \$130,000 in funding from the CAMA Planning and Management Grant Program for the 2017-18 fiscal year. DCM has made \$100,000 in federal funds available for grants up to \$20,000. The priority for this year's grants are projects that address natural hazards and storm recovery. DCM will make funding announcements shortly. Projects are anticipated to begin July 1, 2017 and be completed by June 30, 2018.

### **Staffing News**

Curt Weychert has recently come on board as one of DCM's fisheries resource specialists. Curt has moved into the position vacated when Gregg Bodnar moved into a new role within the Division. Curt comes to us highly recommended from the Division of Marine Fisheries, where he ran much of DMF's oyster sanctuary program. Curt will be in the Division's Morehead City office. Elise Gilchrist, the Communications and Project Management Specialist with the Coastal Reserve will be leaving DCM in June to pursue a Masters of Environmental Management degree at Yale. We appreciate all Elsie has done for the Reserve Program and Division and wish her well.

### **CRAC REPORT**

Spencer Rogers reported that new members are given a guidebook on the duties and charge of the Advisory Council. This guidebook is outdated. DCM staff and counsel have revised and updated the guidebook. The CRAC is requesting the CRC review, comment and request revisions as needed to the revised guidebook. The CRAC has identified a problem with the beach bulldozing permit as it applies to beach nourishment projects. The CRAC also recommends taking a look at the development line performance in the locations that have received approved.

*At this time, Webb Fuller was recognized by the Commission for 31 years of service on the Coastal Resources Advisory Council. Ray Sturza was recognized by the Commission for 32 years of service on the Coastal Resources Advisory Council.*



## **BEACH AND INLET MANAGEMENT**

### **Sediment Criteria – Sampling Methodology (CRC 16-44)**

#### **Ken Richardson**

Ken Richardson stated the CRC adopted technical standards for beach fill projects in 2007 to ensure that sand used for beach nourishment closely matches the sand on the existing beach based on grain size and composition within defined ranges of similarity. There is a four-step process to define compatibility. The CRC's rules contain requirements on how transects are established during sampling and the spacing of each sample. The CRC's rules also establish the protocol for seafloor surveys of potential borrow sites. Percentages of weight dictate compatibility and the CRC rules define what percentage of weight above the native beach can be to be classified as compatible. In 2014, the CRC amended the sediment criteria rules in an attempt to balance the risk of putting incompatible material on the beach with the sampling burden placed on permit applicants. Currently we are looking at ways to make these rules more efficient by allowing the applicant more flexibility in designing the sampling protocol. The current sampling protocol limits flexibility in sampling design and can limit the opportunities for communities to pursue small projects or respond to nourishment opportunities in a short amount of time. The current protocol can also limit the applicant's ability to use existing data. Without the stringent protocol, an applicant can still satisfy the criteria. The current sampling protocol may also eliminate the ability of communities to take advantage of beneficial use projects that present themselves late in the planning process. DCM staff has been discussing eliminating the rigid protocol in favor of a simpler process where the project's consultant or engineer designs a sampling protocol that ensures sediment compatibility between the beach and the borrow site. DCM is proposing the CRC keep existing standards for the grain sizes in the rules, which would require the applicant's engineer to attest to the sediment compatibility. This will allow DCM staff to devote more time to the environmental review components of each project and decrease the time for permit issuance. If the CRC approves this approach, DCM staff will meet with stakeholders and sand managers on the coast to refine amendments with the intention of having a proposed rule for CRC consideration.

### **Figure Eight Island Development Line Approval (CRC 17-13)**

#### **Bill Raney, Wessell & Raney, L.L.P.**

Ken Richardson stated Figure Eight Island submitted a request for development line approval on March 1, 2017. A development line request applies to the entire large scale project area as defined in the CRC's rules. The Petitioner's request may be extended to include areas not in front of the static vegetation line. Figure Eight Island does not currently have a static vegetation line. However, the Figure Eight Island Homeowners Association is requesting a development line from the Commission before a static vegetation line has been put into place. In the event that the HOA decides that they would like to construct a large-scale beach project, they would automatically receive a static vegetation line, but would have the development line as well. The Petitioner is required to utilize the adjacent neighbor sightline approach resulting in an average line of structures. In areas where the seaward edge of the development is not linear, the Petitioner may propose an average line of sight on a case by case basis. Any existing structures that are oceanward of the development line would be permanently nonconforming and would not be allowed to be rebuilt if destroyed. Figure Eight Island does not have any structures that are seaward of the development line proposal. DCM staff has verified that Figure Eight Island has met the requirements defined in the CRC's rules.

Bill Raney, Counsel for Figure Eight Homeowners Association, stated David Kellum, Administrator for the Figure Eight HOA, is also present on behalf of the HOA. Mr. Raney requested that Figure Eight HOA's request for a development line be approved.

**Rick Catlin made a motion to approve the development line request submitted by Figure Eight HOA. Neal Andrew seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

Braxton Davis stated that the development line is a new concept for staff. The current development line rules require certain technical elements and there are some concerns about the current rules. While the static line can be complex the general idea is that the ocean has been at that location before and can return to that point and any setbacks should not be measured from newly created vegetation unless there is a long-term plan to maintain the beach over time. The static line exception ensures that a long-term plan is in place for funding and sand sources which allows measurement of setbacks from the existing vegetation line rather than the static. There is still a oceanward development limit associated with the Static Line Exception based on the landward most adjacent neighbor. The development line rules however, do not require that properties be tied to the landward most adjacent neighbor. If a new line of vegetation is created by a nourishment project, then there is an opportunity for substantial encroachment seaward associated with the development line. Chair Cahoon stated that during the Commission's discussions during the process of writing the development line rules, it was the Commission's intention that seaward development not be allowed or encouraged. Phil Norris stated staff should use judgment when reviewing the development line proposals. Mike Lopazanski stated the way the rule is written, there is not a requirement that staff provide the Commission with a recommendation on whether to approve the line. Up to this point, Staff has simply reviewed the materials submitted for completeness and presented them to the CRC. After discussion, the CRC asked staff to bring back recommendations to tighten up the rules and not encourage or allow seaward development.

## **OCEAN SHORELINE MANAGEMENT**

### **CRC Dune Protection, Restoration & Repair (CRC 17-14)**

#### **Frank Jennings**

Frank Jennings stated in 1928 the citizens of Dare County paid for a causeway road and bridge to connect Manteo with Nags Head. In 1930, a group of developers from Elizabeth City who owned land in Kitty Hawk built a bridge across Currituck Sound. The State then paved a road between these two bridges to connect with Manteo, which was the County Seat. This was the "beach road" and the first section of what is now NC-12. The next year, two hurricanes did a great deal of damage to the beach road. After the storms, state and federal officials determined there needed to be some type of protection along the Outer Banks to diminish the erosion problem and try to stabilize the area. In 1934, the Civilian Conservation Corps came to the Outer Banks and started building dunes by constructing sand fences and planting vegetation up and down the beach area. By 1940, the Parks Service reported that the dunes had been constructed and created a strong dune system. Unfortunately, World War II came along and ended the program. After the war, the Parks Service continued a program of dune construction. In 1962, the storm of Ash Wednesday knocked down virtually all of the dunes. Currently, sand fences and Christmas trees are used to build up the dunes. Beach bulldozing is also allowed to repair dunes. When a dune fails it creates flooding, overwash, and structure damage. The current CRC rules say that no fill shall be allowed oceanward of the landward toe of the frontal dune. A primary dune is at least as high as the base flood area plus six feet. CRC rules allow fill up to the crest of the primary dune. With the Nags Head beach nourishment, we learned a lot about sand migration. After the beach nourishment project, we saw sand come off the beach and go over the dune into the area behind the dune. When there is no beach nourishment, over the years newer cottages have been built that meet the current setback. The older cottages get inundated with sand and the Commission's rules do not allow placement of the sand in

front of the primary dune. There is also an issue with the current rules and the technology, such as beach mats, that are not addressed by the CRC's rules for beach access. The dune rules have not changed since the inception of CAMA and need to be updated. There are also differences in dunes located in the north and dunes in the south. The Commission should consider allowing fill to be placed on the frontal dune similar to the current fill placement on a primary dune. Another consideration would be to define by rule dune disturbance by volume or height. CRC rules allow for cottages to be built at a setback line and then allow exceptions to the setback. The CRC could also consider allowing by rule excess sand from lots displaced by storm overwash or wind erosion to be returned to the beach as repair and maintenance. Lastly, the CRC could consider beach mats or other techniques to provide access. DCM staff will come back to the Commission with rule language to consider to incorporate some of these needed updates.

### **PUBLIC INPUT AND COMMENT**

Willo Kelly, Outer Banks Home Builders Association, requested that the CRC allow homeowners to push sand as a matter of safety and to keep sand in the system. (Written comments provided.)

Brian Newman, individual property owner and homebuilder, requested that the CRC allow material from oceanfront lots to be placed back on the beach.

### **PUBLIC HEARING**

#### **15A NCAC 7H .0306 and 7J .1301 Development Line Procedures Amendments**

Chair Cahoon delegated Ken Richardson as hearing officer for this public hearing. Ken gave an overview the rule amendments and the fiscal analysis.

*No public comments were received.*

### **OLD/NEW BUSINESS**

Chair Cahoon stated a letter was received from the Topsail Island Shoreline Protection Commission requesting review and suggesting changes to some CRC rules. This letter was forwarded to the Advisory Council for review. The CRAC can bring any suggest changes to the CRC. The Chair further stated that after the two vacancies on the Commission are filled, an official orientation session should be scheduled for the entire Commission. The next meeting of the Coastal Resources Commission will take place in Greenville on July 11-12, 2017.

**Bill White made a motion to nominate Neal Andrew as Vice-chair to the CRC. Jamin Simmons seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

**Jamin Simmons made a motion to nominate Greg Lewis as Second Vice-chair to the CRC. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

**Phil Norris made a motion that a Resolution of Thanks be issued by the Commission to former Chairman Frank Gorham, III for his service to the State and leadership to the CRC from 2013-2017. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).**

Commissioner Simmons advised the Commission that Hyde County has hired a Water and Flood Control Coordinator for Hyde County. This is in response to meetings that David Moye and Braxton Davis coordinated for Hyde County residents regarding drainage. Following Hurricane

Matthew, a FEMA representative came to Hyde County and advised the County that it could not qualify for certain things as an individual county or municipality, but if other counties joined the County's requests, then it could qualify for FEMA funds following disasters. A good point of contact for coordinating multiple counties for FEMA requests is Kris Noble, CRAC representative from Hyde County.

With no further business, the CRC adjourned.  
Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON DAVIS  
*Director*

June 28, 2017

**MEMORANDUM**

**CRC-17-19**

**TO:** Coastal Resources Commission  
**FROM:** Ken Richardson, *Shoreline Management Specialist*  
**SUBJECT:** Town of Kure Beach Development Line Approval Request

On April 1, 2016, the Commission rules to allow oceanfront communities with large-scale beach nourishment to establish a “Development Line” as an alternative to the static vegetation line exception became effective. A static vegetation line represents the vegetation line that existed just prior to a large-scale ( $\geq 300,000$  cubic yards) beach nourishment and must be used for measuring construction setbacks. The development line is established by a local government to represent the seaward-most allowable location of oceanfront development, provided the development can meet the setback measured from the first line of stable and natural vegetation rather than the static vegetation line. Under your Development Line Rule, buildings and accessory structures could move seaward up to the approved development line provided minimum setbacks are met. Local governments are required to request approval for a development line from the Commission according to the procedures outlined in 15A NCAC 7J. 1300.

In order to receive the CRC’s approval for a Development Line, the petitioner shall establish the Development Line using on-ground observation and survey, or aerial imagery along the oceanfront jurisdiction or legal boundary. The proposed development line must be applied to the entire large-scale beach nourishment project area (length of static vegetation line) and can extend beyond the boundaries of the large-scale project to include the entire oceanfront jurisdiction or legal boundary of the petitioner. In establishing the Development Line, an adjacent neighbor sight-line approach is to be utilized, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the Development Line may be determined on a case-by-case basis. In no case shall the development line be established seaward of the most seaward structure within the petitioner’s oceanfront jurisdiction. In addition, a Development Line must not be sited on state owned lands, or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.

Once adopted at the local level, the petitioner shall then submit the following to the Director of the Division Coastal Management in accordance with CRC’s rules (15A NCAC 07J. 1300):

1. A detailed survey of the Development Line; to also include the static vegetation line
2. A copy of local regulations/ordinances associated with the Development Line
3. A record of local adoption of the Development Line by the petitioner

On March 21, 2017, the Town of Kure Beach adopted the town's Development Line into their ordinances, and is now requesting the Commission's approval. Staff has reviewed all information submitted by the petitioner, and has determined that all required supporting information and documentation have been submitted and attached for the Commission's consideration at the upcoming meeting in Wilmington,

**Attachment A:** Town of Kure Beach Letter Requesting the CRC's Approval of the Town's Development Line.

**Attachment B:** Town of Kure Beach Resolution to Adopt Development Line Map.

**Attachment C:** Town of Kure Beach Adoption of Development Line Ordinance.

**Attachment D:** Kure Beach Town Council Meeting Minutes.

**Attachment E:** Town of Kure Beach Development Line Map.

**Attachment A:** Town of Kure Beach Letter Requesting the CRC's Approval of the Town's Development Line

**Emilie Swearingen**  
*Mayor*  
**David Heglar**  
*Commissioner*  
**Jim Dugan**  
*Commissioner*



**Craig Bloszinsky**  
*Mayor Pro Tem*  
**Joseph Whitley**  
*Commissioner*  
**Nancy Avery**  
*Town Clerk*

***Town of Kure Beach***

117 Settlers Lane • Kure Beach, NC 28449  
(910) 458-8216 • (910) 458-7421 Fax  
[www.townofkurebeach.org](http://www.townofkurebeach.org)

To: Braxton Davis, Director NCDCM

From: John Batson

Re: Development Line Request

Date: March 22, 2017

Director Davis,

Last night, at the Kure Beach Town Council regularly scheduled meeting, I was directed to move forward with seeking approval for establishing and using a Development Line in Kure Beach.

Since 1997, the Town has had a Coastal Storm Damage Reduction Project. This project required the Town to procure perpetual easements along the entire coastline. In this request, the Town wishes to utilize the perpetual easements already restricting seaward development as its Development Line.

Please consider this letter to be a formal request for placement on the April CRC meeting agenda, and for the Town of Kure Beach to be granted permission to use a Development Line.

Thank you for your time and consideration!

Sincerely, John Batson, LPO/Bldg. Inspector

Cc: Ken Richardson  
Debbie Wilson

**Attachment B: Town of Kure Beach Resolution to Adopt Development Line Map**



**KURE BEACH TOWN COUNCIL  
TOWN OF KURE BEACH, NC**

**R**ESOLUTION R17-13

**A RESOLUTION PETITIONING THE NORTH CAROLINA  
COASTAL RESOURCE COMMISSION FOR ADOPTION OF A  
DEVELOPMENT LINE FOR THE TOWN OF KURE BEACH**

**WHEREAS**, the Town of Kure Beach utilizes what is known as the Static Vegetation Line, originally drawn by the Coastal Resource Commission (CRC); and

**WHEREAS**, this Static Vegetation Line is the point from which setbacks are measured to delineate where a property owner may build; and

**WHEREAS**, on April 1, 2016, the CRC's Development Line Procedures rules became effective, giving oceanfront communities an alternative to the Static Vegetation Line Exception; and

**WHEREAS**, the Development Line allows a community with a static vegetation line to measure construction setbacks from the first line of stable and natural vegetation, and site development no further ocean ward than the development line; and

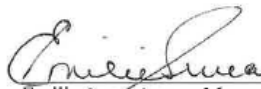
**WHEREAS**, Kure Beach Town Council believes adoption and use of a Development Line will be a benefit to property owners, particularly for development in the commercial district; and

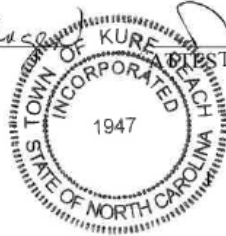
**WHEREAS**, Kure Beach Town Council took the following actions during legally-advertised meetings:

- On March 21, 2017 the Code of Ordinances, Chapter 5 (Buildings and Building Regulations), Article II (Administration) Division 4 (Permits), Section 5-61 (Prerequisite to construction, demolition, remodeling, and impervious surfaces, etc.) was amended to define both development and development line (certified copy of amendments and minutes attached).
- On June 20, 2017, the May 16, 2017 proposed Kure Beach Development Line Map was approved. This document maps out and details the location of the Development Line from the town's northern limits at Alabama Avenue to the town's southern limits at the end of The Riggings complex. Authorization was also given to the Town's Building Inspector to present the map to the CRC at its July meeting in Greenville, NC. (certified copy of minutes attached).

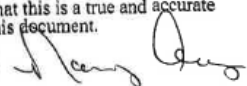
**NOW, THEREFORE BE IT BE RESOLVED THAT** Kure Beach Town Council hereby submits this official petition to the North Carolina Coastal Resource Commission to adopt a Development Line for oceanfront construction for the town, as presented and documented.

Adopted by the Kure Beach Town Council this 26th day of June, 2017.

  
Emilie Swearingen, Mayor



  
Nancy Avery, Town Clerk

I certify that this is a true and accurate copy of this document.	
6/26/17	
Date	Town Clerk



## Attachment C: Town of Kure Beach Adoption of Development Line Ordinance



### NEW ORDINANCE

That the following Section of Chapter 5 *Buildings and Building Regulations*, Article II *Administration*, Division 4 *Permits* is hereby amended as follows:

**Sec. 5-61. Prerequisite to construction, repair, replacement, demolition, remodeling, and development.**

(1) Definitions.

*Development:* Any activity within a duly designated area of environmental concern, as defined in 15A NCAC 7H, involving, requiring, or consisting of: the construction, repair, or replacement of structures, decks, swimming pools, and walkways; the excavation, dredging, filling, dumping, or removal of clay, silt, sand, gravel, or minerals; the bulkheading, driving of pilings, and clearing or installing land as an adjunct of any such construction, repair, or replacement; and the alteration or removal of sand dunes, the shore, bank, or the bottom of the Atlantic Ocean or any bay, sound, river, creek, stream, lake, or canal.

*Development Line:* The line established by the Town in accordance with 15A NCAC 07J.1300 representing the seaward-most allowable location of oceanfront development whereby the vegetation line or measurement line shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line subject to the provisions of 15A NCAC 07H.0306(a)(2); “vegetation line,” “measurement line,” and “static vegetation line” being defined under 15A NCAC 07H.0305

(2) Except as provided in Section 5-62, no building construction, repairs, replacement, or remodeling; installation of driveways, parking lots, or other ground covering impervious surfaces, other construction, development, or demolition shall begin in the Town until a permit has been obtained from the Building Inspector. This section shall be applicable to all development on or abutting ocean beaches within the Town.

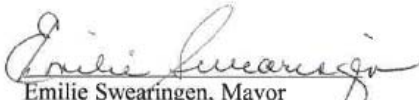
(3) No permit shall be issued if the total square footage of the buildings and impervious ground covering surface will exceed sixty-five (65) per cent of the lot; excepting therefrom, those structures located in the B-1 District or deemed commercial and within the established fire district of the Town.


(4) Any commercial construction requiring review by the New Hanover County Building Safety Department pertaining to mechanical, electrical, plumbing, or fire permits shall be obtained in conjunction with a building permit being issued by the Town’s Building Inspector.

(5) Any type of impervious surface across any Town right-of-way shall be limited to twenty-four (24) feet total.

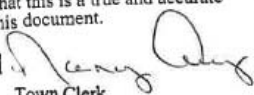
(6) No development shall occur seaward of the Town's Development Line except as allowed under 15A NCAC 07H.0309.

Ordinance adopted by Kure Beach Town Council on March 21, 2017.

  
Emilie Swearingen, Mayor

ATTEST:   
Nancy Hewitt, CMC, NCCMC  
Deputy Clerk



I certify that this is a true and accurate copy of this document.  
6/26/17   
Date Town Clerk

**Attachment D: Kure Beach Town Council Meeting Minutes**



**TOWN COUNCIL MINUTES**

**REGULAR MEETING**

**March 21, 2017**

The Kure Beach Town Council held their regular meeting on Tuesday, March 21, 2017 at 6:30 p.m. The Town Attorney was present and there was a quorum of council members.

**COUNCIL MEMBERS PRESENT**

Mayor Emilie Swearingen  
Mayor Pro Tem (MPT) Craig Bloszinsky  
Commissioner David Heglar  
Commissioner Joseph Whitley  
Commissioner Jim Dugan

**STAFF PRESENT**

Building Inspector – John Batson  
Finance Officer – Arlen Copenhaver  
Fire Chief – Harold Heglar  
Town Clerk – Nancy Avery  
Deputy Clerk – Nancy Hewitt

**CALL TO ORDER**

Mayor Swearingen called the meeting to order at 6:30 p.m., and Pastor Dan Keck from Kure Memorial Lutheran Church delivered the opening invocation and led everyone in the Pledge of Allegiance.

**AWARDS AND RECOGNITION**

Mayor Swearingen awarded Certificates of Appreciation to Johnathan Lanier, a part-time employee with the Kure Beach Fire Department, and Taylor Jones, a volunteer with the department, for their participation in a rescue that occurred on March 6, 2017. The certificates acknowledged that they both acted in a manner that reflected the finest tradition of the firefighting profession and the Kure Beach Fire Department by rendering outstanding service to their fellow man as they attempted the rescue of one person and successfully rescued another; all the while, swimming in frigid Atlantic waters.

**APPROVAL OF CONSENT AGENDA ITEMS**

1. Approve contract with Engineering Services in the amount of \$116,000 for surveying and engineering services for the replacement of pump station No.1
2. Approve travel to NCBIWA annual meeting in Nags Head, NC, from 4/2-4/4/17 for Mayor Swearingen and MPT Bloszinsky, at a cost of approximately \$1,450 from the Council Travel and Training Budget
3. Renew three-year term for Harry Humphries on Board of Adjustment
4. Accept Dennis Moore's resignation from the Cape Fear Disability Commission
5. Appoint Pat Triplett to the SLABPP committee as per committee's recommendation



## TOWN COUNCIL MINUTES

### REGULAR MEETING

March 21, 2017

6. Building Inspections Report – February 2017
7. Fire Department Report – February 2017
8. YTD Finance Report Meeting
9. Minutes:
  - February 21, 2017 regular meeting
  - March 10, 2017 public hearing
10. Appoint Sarah Barham as an alternate member on the Community Center Committee

MOTION – MPT Bloszinsky moved to approve adding the appointment of Sarah Barham as an alternate member on the Community Center Committee as Item 10 under Consent Agenda Items.

SECOND – Commissioner Heglar

VOTE – Unanimous

MOTION – Commissioner Heglar moved to approve the Consent Agenda Items, as amended.

SECOND – Commissioner Whitley

VOTE – Unanimous

### ADOPTION OF THE AGENDA

Mayor Swearingen asked to move Item 4 under Old Business to Item 1.

MOTION – Commissioner Heglar moved to approve the meeting agenda, as amended by Mayor Swearingen.

SECOND – MPT Bloszinsky

VOTE – Unanimous

### DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

#### 1. Community Center Committee

David Sack, co-Chair, said the committee is having a plaque made in memory of Ron Griffin who conducted the weekly line dance classes for years at the center; he passed away last year. He said, with people working full time and trying to balance work and family life, it's hard to find volunteers. He said, in trying to boost volunteerism, the committee is suggesting that council occasionally recognize its current volunteers by putting articles about the committees in the Island Gazette. He said the articles could include committee mission statements and a list of the volunteers. He also suggested that some committees may want to think about moving their meeting times to accommodate people who want to volunteer but have daytime jobs.

Mayor Swearingen said the Island Gazette charges \$250 for advertisements. She said she likes the idea of the first ad being half a page listing all the committees, their mission statements and their volunteers; then, putting subsequent ads in the paper for one committee at a time.



## TOWN COUNCIL MINUTES

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MPT Bloszinsky said council should look at this idea because the town's volunteers are important and should be recognized.

Mr. Sack updated council that the weeds around the town's welcome sign on Fort Fisher Boulevard have been cleaned up by them to make the area look nicer.

Mayor Swearingen stated that public works should now be able to paint the welcome sign to make the entrance even nicer looking.

Commissioner Heglar said that the request to have council put ads in the newspaper should be considered during the budget process.

#### 2. Parks & Recreation Advisory Board

Mayor Swearingen said there are only three people on the board, currently, and two of them have work that occasionally keeps them from attending meetings, so they haven't been able to get a quorum to meet which has kept them from accomplishing their mission statement. She said there was no quorum at the last meeting, but the two members that came discussed disbanding the board and agreed it would be okay and seemed relieved. She said Nikki Keely, Recreation Manager, has taken over the board's responsibilities, a separate committee is planning the 70<sup>th</sup> Anniversary, and the board's chairman is also head of the Disc Golf Association and can update council every quarter, if they'd like.

MOTION – Commissioner Heglar moved to disband the Parks and Recreation Advisory Board.

SECOND – Commissioner Whitley

VOTE – Unanimous

#### 3. Shoreline Access, Beach Protection and Parking Committee

Chairman Panicali said Spencer Rogers, with NC Sea Grant, inspected the sand dunes and said the town is in good shape, and he didn't see a need to plant sea oats this year. He said there are suggestions about putting up rope fences to protect the dunes from people skirting around the crossover stairs and access points. He said there was a question about the Hatteras ramp at Davis Road; they may recommend building the ramp up so it's not a low point through the dunes.

Inspector Batson said Mr. Rogers has mentioned in the past that the elevation of some of the crossovers is withholding the dune from growing larger at Davis Road and at the lifeguard shack. He suggested building the dune up and then building the ramp over the dune to enable the surrounding dunes to continue to grow.

Mayor Swearingen asked Mr. Panicali to have his committee look into having the work done.



## TOWN COUNCIL MINUTES

**REGULAR MEETING**

**March 21, 2017**

Commissioner Whitley asked Mr. Panicali if it was still the committee's desire to not do parking, to which Mr. Panicali acknowledged this desire.

MOTION – Commissioner Whitley moved to remove parking responsibilities and the word “parking” from the committee's name, to be named the Shoreline Access and Beach Protection Committee, since they will no longer be in charge of parking.

SECOND – MPT Bloszinsky

VOTE – Unanimous

Commissioner Heglar said 471 surveys were completed, but about 80 of them may be duplicates; so they are still collating the surveys to make sure there aren't repeats. He asked that the subject be added to the April council meeting agenda, at which time the survey results will be ready for review.

#### 4. Non-town Committee Reports

##### a. Cape Fear Disability Commission January 2017 Meeting Minutes

Mayor Swearingen confirmed that the town's representative was still active on the commission and said she may have someone interested in taking the alternate spot, asking that the clerk remind her about this.

#### DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

##### 1. Finance Department

Finance Officer Copenhaver asked council to approve a budget amendment related to storm water that goes along with what was discussed at the council retreat to not finance part of the big project that is going on right now. He said this will take additional funds out of the town's fund balance and reallocate funds that had been designated to be transferred to the capital outlay improvements account.

MOTION – Commissioner Heglar moved to approve Budget Amendment 17-05 to appropriate additional fund balance for the storm water pipe lining project, as well as reallocate amounts originally designated as a transfer to the capital outlay-improvements account; total amount being amended is \$650,000.

SECOND – Commissioner Dugan

VOTE – Unanimous

Said budget amendment is herein incorporated as part of these minutes.

##### 2. Building Department

Inspector Batson said the county sent out an RFQ for permitting and building software services, and they found a company that has great reviews; Energov. He said the county invited him to hear more about it to see if he was interested in participating, which he is. He said he was assured there is no



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cost to the town and the plan is to implement the software in July 2018. He said Energov would network with the town's IT group to figure everything out. He explained that one of the main goals of the software is to create an online portal for the public to use in order to streamline the process and deliver better customer service.

### 3. Public Works Department

Commissioner Heglar said he sent a memo to council to make them aware that Public Works is down by two people and Director Beeker is going to hire one person now. He said it won't impact the budget this year since there are two people out on disability. He said they will talk about hiring a second person during the budget planning process.

### DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Consideration of project manager for town facility expansion and new fire station project

#### CLOSED SESSION

MOTION – Commissioner Heglar moved to go into Closed Session for the purpose of consulting with an attorney, per N.C.G.S. 143-318.11(a)(3) at 7:05 p.m.

SECOND – Commissioner Dugan

VOTE – Unanimous

#### RETURN TO OPEN SESSION

MOTION –MPT Bloszinsky moved to return to open session at 8:03 p.m.

SECOND – Commissioner Whitley

VOTE – Unanimous

2. Request approval for amendments to Code of Ordinance Chapter 5 Buildings and Building Regulations, Article II Administration, Division 4 Permits, Section 5-61 Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.; for Development Line  
Inspector Batson said, if council wants him to go to the Coastal Resources Commission (CRC) to ask for enactment of a Development Line (DL) for the town, he needs council to approve the proposed ordinance language. He reviewed the map of the coastline showing the existing easement, the existing Static Line, and the proposed DL. He said, if this goes through, he doesn't think there will be a lot of extra development except maybe from people who want to put a pool in. He said 95 percent of the people who buy oceanfront property want to rent it out weekly, and they can rent it out for more money if they have a pool. He said that an important piece of changing to a DL is the business (B-1) district will benefit. He said that the corner lot adjacent to the pier that is currently not buildable would become buildable if the DL is approved. He added that the B-1's oceanfront hotels, south of K Avenue, could have a larger footprint to build within, or they could build vertically and use the extra footprint for providing the required parking for their patrons. He said council can make the DL part of the ordinance and, if they don't like it, they can revert it back to how it is now. He said, if any pools get washed away in the DL, property owners would have to ask





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council for special permission to rebuild them; they can't rebuild the pools automatically. Going back to the map, he said he needs to physically draw in the DL near the end of Ocean Dunes and The Riggings because the town's easements don't go down that far; that is the end of the town's project jurisdiction. He said he will have Mr. Richardson, a specialist with the CRC, propose a DL for that area, and he will decide whether or not he likes it.

Commissioner Heglar said, it is good that there is land to build across from The Riggings since, if 50 percent or more of a building at The Riggings gets damaged by the surf, CAMA won't let them rebuild on the same spot.

MPT Bloszinsky said the proposed DL helps everyone except the people who can't be helped to begin with, and he doesn't see anyone getting harmed by the DL.

Commissioner Dugan said that the town's ongoing problem is where to get the money to support the town, year after year. He said the only thing that is left is the possibility of our commercial district improving, and this allows for that.

Commissioner Heglar said he thinks this is a good change and will make it easier for councils to deny property owners the ability to build beyond the DL.

MOTION – Commissioner Heglar moved to have the Building Inspector go to the Coastal Resources Commission (CRC) to ask for the approval of his recommendation to switch to a Development Line model for the town.

SECOND – MPT Bloszinsky

VOTE – Unanimous

When asked if a public hearing was necessary to amend an ordinance that isn't a zoning ordinance, Attorney Canoutas said that a public hearing isn't required, but it would benefit town residents to give them a chance to give council their input.

Discussion ensued on the best way to handle public notice of this amendment.

Town Clerk Avery suggested adopting the amendment and then holding a public meeting to explain it; then, if there's too much controversy, council can pull it before it goes to the CRC.

Commissioner Heglar reviewed the proposed amendments to the ordinance and said, if a public hearing isn't required, he agrees with the town clerk's suggestion.

MOTION – Commissioner Heglar moved to adopt the amendments to Code of Ordinance Chapter 5 Buildings and Building Regulations, Article II Administration, Division 4 Permits, Section 5-61 "Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.," as presented.





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Town staff is to advertise about the change so that concerned citizens can give their input at the April council meeting, as the first item of business.

SECOND – MPT Bloszinsky

VOTE – Unanimous

Said adopted ordinance is herein incorporated as part of these minutes.

3. Approve CAMA contract No. 7136 in the amount of \$53,827 for paving of the parking area and installation of solar lighting on the beach crossover at the E Avenue access with work to occur in the fall of 2017, and authorize the finance officer to include a cash match of \$11,257 in the proposed FY17-18 budget. (voted upon together with Item 4)
4. Approve CAMA contract No. 7135 in the amount of \$65,283 for paving of the parking area and installation of solar lighting on the beach crossover at the I Avenue access with work to occur in the fall of 2017, and authorize the finance officer to include a cash match of \$14,121 in the proposed FY17-18 budget.

Town Clerk Avery said CAMA awarded the grants with its contracts to become effective April 1<sup>st</sup>. She said the mayor wanted to have the solar lights put in before summer, but public works would prefer to do all the work in the fall, which keeps the work within the same budget year.

MOTION – Commissioner Heglar moved to approve CAMA contract numbers 7135 and 7136, as presented, with the work occurring in the fall of 2017, and to authorize the finance officer to include the cash matches in the proposed FY17-18 budget.

SECOND – Commissioner Whitley

VOTE – Unanimous

Said approved CAMA contracts are herein incorporated as part of these minutes.

### NEW BUSINESS

None

### MAYOR UPDATES

Mayor Swearingen said the Special Olympics Committee would like to hold their annual Polar Plunge in Kure Beach from now on. She said they are a non-profit and the police and public works departments are fine with it, and only some parking issues need to be worked out.

### COMMISSIONER ITEMS

MPT Bloszinsky said the last storm damage construction project went quite a few days beyond the original schedule, with significant costs associated with that, but the Corps of Engineers was able to negotiate with the contractor to recover \$1.1 million of it. He said half of the money will go to the



# TOWN COUNCIL MINUTES

**REGULAR MEETING**

**March 21, 2017**

state and half will go back to ROT. He also asked council to start thinking if they want to contract for use of the downtown parking area again so he can notify the property owner.

Mayor Swearingen asked that Downtown Parking Lot Rental be added to the April council meeting agenda for further discussion and consideration.

Finance Officer Copenhaver said it needs to be included in the first budget workshop numbers.

Mayor Swearingen suggested having a teenager monitor the parking lot and collect money from people who use it instead of using tax payer money, to which MPT Bloszinsky said the main contributors of the parking lot expense are the business owners.

The finance officer said the town lost some of its business participation last year, to which MPT Bloszinsky said this is true, but the property owner took less money for the lease last year.

Commissioner Dugan commended the Police Department for their actions during the water rescue incident on March 6<sup>th</sup>. He said that, besides handling the investigation, they also handled all of the family matters.

The mayor said she met with the family of the man who died, and they were very complimentary about the town's police officers.

Commissioner Dugan commended the mayor and staff on doing a great job on the Beach Towns breakfast.

Mayor Swearingen said Mayor Saffo with the City of Wilmington said he would like the city to sponsor one of the next breakfasts.

**ADJOURNMENT**

MOTION – Commissioner Heglar moved to adjourn,

SECOND – MPT Bloszinsky

VOTE – Unanimous

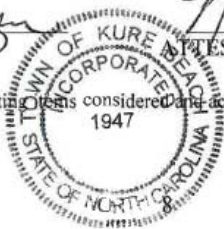
I certify that this is a true and accurate copy of this document.	
6/26/17	<i>Nancy Hewitt</i>
Date	Town Clerk

The meeting adjourned at 8:43 p.m.

*Emilie Swearingen*  
Emilie Swearingen, Mayor

*Nancy Hewitt*  
Nancy Hewitt, CMC, NCCMC  
Deputy Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting.





## TOWN COUNCIL MINUTES

**REGULAR MEETING**

**June 20, 2017**

The Kure Beach Town Council held their regular meeting on Tuesday, June 20, 2017 at 6:30 p.m. The town attorney was present and there was a quorum of council members.

### COUNCIL MEMBERS PRESENT

Mayor Emilie Swearingen  
Mayor Pro Tem (MPT) Craig Bloszinsky  
Commissioner David Heglar  
Commissioner Joseph Whitley  
Commissioner Jim Dugan

### STAFF PRESENT

Building Inspector – John Batson  
Finance Officer – Arlen Copenhaver  
Police Chief – Mike Bowden  
Public Works Director – Sonny Beeker  
Town Clerk – Nancy Avcry  
Deputy Clerk – Nancy Hewitt

### CALL TO ORDER

Mayor Swearingen called the meeting to order at 6:30 p.m., and MPT Bloszinsky delivered the opening invocation and led everyone in the Pledge of Allegiance.

### RECOGNITION & AWARDS

Mayor Swearingen called Kure Beach Adopt-A-Beach Volunteers to the front of the room and presented them with certificates from the town in grateful appreciation of their dedication and support to keep our beaches clean and safe through their participation in the Adopt-A-Beach program.

### APPROVAL OF CONSENT AGENDA ITEMS

1. Adopt Resolution 17-09, to authorize the KB Police Chief to temporarily provide assistance to other law enforcement agencies pursuant to N.C.G.S. 160A-288 and 160A-288.2
2. Adopt Resolution 17-10, to authorize the KB Fire Chief to provide temporary assistance to other fire protection and ocean rescue agencies pursuant to N.C.G.S. 160A-293
3. Approve Budget Amendment 17-11 to increase the Public Works budget in the General Fund by \$28,000 and the Water/Sewer Fund by \$52,500 for additional expenses incurred relating to Hurricane Matthew
4. Approve Budget Amendment 17-12 to increase the Administration budget by \$2,000 for additional expenses incurred due to a lightning strike at Town Hall
5. Approve Application for TDA Funding totaling \$4,341.56 for the 2016 Christmas Show
6. Approve Application for TDA Funding totaling \$22,575 for 2016 Ocean Front Park activities and entertainment



## TOWN COUNCIL MINUTES

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7. Appoint Bill Moore as a regular member of the Shoreline Access & Beach Protection (SLABP) Committee
8. Appoint Edward White as an alternate member of the SLABP Committee
9. Building Inspections Report – May 2017
10. Fire Department Report – May 2017
11. YTD Finance Report Meeting
12. Minutes:
  - May 16, 2017 regular meeting
  - May 30, 2017 special meeting
  - June 6, 2017 public hearing, budget

MOTION – Commissioner Dugan moved to approve the Consent Agenda Items, as presented.

SECOND – Commissioner Heglar

VOTE – Unanimous

Said resolutions, budget amendments and funding applications are herein incorporated as part of these minutes.

### ADOPTION OF THE AGENDA

Commissioner Heglar said Director Becker would address Kure Beach's water supply during his department report as Item B.

MOTION – Commissioner Heglar moved to adopt the meeting agenda, as amended.

SECOND – Commissioner Dugan

VOTE – Unanimous

### DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. Gilbert Alphin, 309 N. Fort Fisher Blvd

Mr. Alphin said he heard that council had approved a new building project for Town Hall and a new fire station, capping it at \$5 million. He said he didn't know anything about it, and he also talked with four business owners and six citizens who didn't know anything about it.

When asked by a council member if he had signed up to receive emails from the town's Notify Me system, he said he is a business owner, so he has tight SPAM controls on his email. He said he isn't blaming council for him not receiving email communications about the project, but he just wanted to ask council if they would put up a sign in the corral that announces the project for the public to see.

Mayor Swearingen said a construction company hasn't been hired for the project yet, but she likes his idea of having a sign erected to announce the project and will ask for one before construction begins.



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### DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Community Center Committee  
MPT Bloszinsky said the committee is looking for volunteers to help with the Annual Community Center Barbecue.
2. Planning & Zoning Commission  
Chairman Ellen said the commission voted to cancel their July meeting.
3. Non-town Committee Reports
  - a. Cape Fear Disability Commission  
As Deborah McKenna did not attend the meeting to give a report on the commission, as requested by Mayor Swearingen, the clerk was asked to try again to ask her to attend a council meeting.

### DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Public Works Department
  - a. Pump Station Project update and request to approve Budget Amendment 17-10 to transfer \$106,000 from the Water/Sewer Fund for additional expenses for the Pump Station #1 project.

Director Beeker said the 12-inch main running into the lift station has some cracks and the whole length of the pipe will have to be lined, which will cost an extra \$57,217 for the lining and another \$34,662.25 for additional pump work. He said the equipment is already out there and work will start tomorrow.

Mayor Swearingen asked if there were any other pipes in that part of town that had similar problems, to which Director Beeker responded they will be looking into that, and will be doing other work that has already been budgeted.

MOTION – Commissioner Heglar moved to approve Budget Amendment 17-10 to transfer \$106,000 from the Water/Sewer Fund to the Kure Beach Pump Station #1 Capital Project budget to cover additional expenses.

SECOND – Commissioner Whitley

VOTE – Unanimous

Said budget amendment is herein incorporated as part of these minutes.

- b. Kure Beach Drinking Water

Director Beeker explained that Gen-X is a Teflon-based toxin that has been detected in the drinking water, which is being pulled from the Cape Fear River by the Cape Fear Public Utility Authority. He said, in all reports he has read, there has been no Gen-X detected in the deep well system that Kure Beach uses. He said he will have Kure Beach's water tested for toxins and will



## TOWN COUNCIL MINUTES

### REGULAR MEETING

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update council on the results. He gave council the 2016 Kure Beach water quality report and said the town follows all state and federal regulations.

Discussion ensued about doing a press release about Kure Beach's drinking water.

Director Becker said the public could be told the water is going to be tested, but he'd rather wait until he receives the results of the water analysis before sharing any more than that.

Commissioner Heglar said, if we want to do a press release, the best thing to say is council and water specialists feel it's highly unlikely that there is Gen-X in the drinking water from the deep wells/aquifers used by Kure Beach, but we will be testing the water anyway.

MPT Bloszinsky said he understands that Gen-X is a surface pollutant that goes through the water quickly, and the only reason it remains in the water is because they keep dumping it there.

A member of the public spoke up to say that it was just reported the Chemours has announced they will no longer dump the toxin into the river.

Commissioner Whitley said he spoke to two people who didn't know that the town didn't use the water from the river and, it would be good to say that in a press release to calm their fears.

Commissioner Heglar said he and Director Becker will work on a press release, to go to the Island Gazette and town website/email, informing citizens that Kure Beach will request a water test but stating that the town doesn't get its water from the Cape Fear River.

Mayor Swearingen said she spoke with someone from the Department of Natural Resources and she was told that the state is not planning to run any test on the aquifer. She asked them how someone could request a test, and they having gotten back to her with an answer.

#### 2. Administration and Recreation

a. Personnel Policy amendments for approval as discussed at January council retreat  
Town Clerk Avery said council consensus during this year's council retreat was to amend the personnel policies presented to them. She said she would like an official vote from council on the amendments, as she reviewed each of the policies to make sure council didn't have any other changes. The motions and votes were, as follows:

MOTION – Commissioner Heglar moved to eliminate all of the benefits currently listed in the town's personnel policy for part time employees, except those that are required by federal or state law, and to authorize the Town Clerk and attorney to make required changes to policy.

SECOND – MPT Bloszinsky



## TOWN COUNCIL MINUTES

**REGULAR MEETING**

**June 20, 2017**

VOTE – PASSED four to one, as follows: Mayor Swearingen, MPT Bloszinsky and Commissioners Heglar and Whitley FOR, and Commissioner Dugan AGAINST.

MOTION – Commissioner Heglar moved to allow all accumulated vacation, over 30 days, to be converted to sick time that may be used as extra service credit towards an employee's retirement, and to authorize the Town's Clerk and attorney to make required changes to policy.

SECOND – MPT Bloszinsky

VOTE – Unanimous

MOTION – Commissioner Dugan moved to allow an employee to use sick leave to care for healthy children, and to authorize the Town Clerk and attorney to make required changes to policy.

SECOND – Commissioner Whitley

VOTE – Unanimous

MOTION – Commissioner Heglar moved to authorize the Town Clerk and attorney to make required changes to the personnel policy to clarify that the town pays 100 percent of continued health (medical, dental and vision) insurance coverage for retirees that meet certain retirement conditions, if the insurance vendor allows it. If the vendor requires a portion of the premium to be paid by the participant, then the retiree is responsible for this cost. The policy will also clarify that the town does not pay any costs associated with Medicare eligibility, such as Part B.

SECOND – Commissioner Dugan

VOTE – Unanimous

MOTION – Commissioner Heglar moved to allow the transfer of sick time for new hires from other NC governmental agencies, to be used for reporting to the NC State Retirement System upon retirement, for use towards additional service credits, and to authorize the Town Clerk and attorney to make required changes to policy.

SECOND – Commissioner Dugan

VOTE – Unanimous

### 3. Building Department

#### a. Development Line update

Inspector Batson showed council the map of the proposed Development Line that they saw at their May 16<sup>th</sup> council meeting. He said council approved it, except for a small section along The Riggings complex, which council gave him direction to draw with the help of Division of Coastal Management staff. He said the line was drawn and he was put on the agenda to present the map during the April Coastal Resources Commission (CRC) meeting; but, at the last minute, they discovered that part of the line was removed in the last PDF created by the surveyor. He said he's bringing the map back to council one more time so they can review it, in its entirety, and direct him to take it back to the CRC for approval at their July or September meeting. He



## TOWN COUNCIL MINUTES

### REGULAR MEETING

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said he will present the map to them and, if the CRC wants to change anything, he will bring it back to council for further review.

MOTION – Mayor Swearingen moved to approve the May 16, 2017 map, as seen by Kure Beach Town Council, mapped out and detailed from Alabama Avenue to the end of The Riggings complex, which is the end of Kure Beach’s jurisdictional line; and to direct the Building Inspector to present the map to the Coastal Resources Commission at their July meeting.

SECOND – Commissioner Heglar

VOTE – Unanimous

#### b. Vacant Lots

Inspector Batson said his assistant, Kathleen Zielinski, researched and found that there are 277 lots available in Kure Beach, and 175 of those lots are duplex buildable or located in zoning areas that allow duplexes. He said that could either mean there could be 277 new houses built in Kure Beach, or there could be 102 new single-family houses and 350 duplex townhouse units built. He said the town could be built out in about ten years, if it keeps growing at its current rate.

#### 4. Police Department (PD)

##### a. Parking fine and penalty-type revision

Commissioner Whitley said the town charges \$50 for a parking ticket, which is higher than what other nearby municipalities charge. He said the PD would like to lower the fine to \$25 and have it become an administrative civil penalty so the revenue can go back to the town. He explained the reasoning behind lowering the fine.

Mayor Swearingen said she always thought that fines had to go towards education, to which Attorney Canoutas said, if council makes it as a civil penalty violation, the town can keep the revenue.

Commissioner Heglar asked Chief Bowden what the civil penalties are for golf carts, other than parking-related penalties.

Chief Bowden said golf carts violations are a state citation and a golf cart has to be insured, street-legal and have tags, and the driver has to be licensed.

MOTION – Commissioner Whitley moved to revise the parking fine from \$50 to \$25 and make it an administrative civil penalty.

SECOND – MPT Bloszinsky

VOTE – Unanimous

### DISCUSSION AND CONSIDERATION OF OLD BUSINESS

#### 1. Adoption of the FY17-18 Proposed Budget Ordinance and Fee Schedule





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### REGULAR MEETING

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Finance Officer Copenhaver said that the fee schedule will need to be revised with the reduced parking penalty, but no other changes have been made to the proposed budget since the May council meeting.

MOTION – Commissioner Heglar moved to adopt the FY17-18 Budget Ordinance and Fee Schedule, as presented.

SECOND – Commissioner Whitley

VOTE – Unanimous

Said budget ordinance and fee schedule are herein incorporated as part of these minutes.

2. Resolution 17-12 to adopt a pilot paid parking program and authorization for enforcement to a third party vendor

Town Clerk Avery said the leases have been signed with the lot owners, and the contract with the third party vendor has been signed. She said the vendor asked for a resolution from council to give them the authority to enforce parking violations. She reviewed the details of the program.

MPT Bloszinsky said there are 120 parking spaces provided in the three, private-owned lots. He said that the town will split the proceeds with the lot owners, after all expenses are paid.

MOTION – Commissioner Heglar moved to approve Resolution 17-12 to adopt a pilot paid parking program and to authorize enforcement by a third party vendor.

SECOND – MPT Bloszinsky

VOTE – PASSED four to one, as follows: Mayor Swearingen, MPT Bloszinsky and Commissioners Heglar and Dugan FOR, and Commissioner Whitley AGAINST.

Said resolution is herein incorporated as part of these minutes.

### DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Amend the code by revising the language in Sections 1-15 Administrative Civil Penalties, 10-237 Penalty (Motor Vehicles), 10-308 Penalty (Bicycles) and 10-234 (Time Limit Parking).

Town Clerk Avery asked council to adopt the ordinances pertaining to the parking regulations that were discussed earlier. She said one thing that wasn't mentioned in the earlier discussion was there is a reference to the Shoreline Access and Parking Committee in the ordinance that needs to be removed.

MOTION – Commissioner Heglar moved to amend the town code by revising the language in Sections 1-15 Administrative Civil Penalties, 10-237 Penalty (Motor Vehicles), 10-308 Penalty (Bicycles) and 10-234 (Time Limit Parking) to lower parking fines from \$50 to \$25, allow the



## TOWN COUNCIL MINUTES

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revenue to stay with the town and remove a reference to the Shoreline Access and Parking Committee, as presented.

SECOND – Commissioner Whitley

VOTE – Unanimous

Said code amendments are herein incorporated as part of these minutes.

#### 2. Request to reschedule August Council meeting

Mayor Swearingen said she will be away on the date of the August council meeting and asked council if they wanted to reschedule the meeting or have it without her.

MOTION – Commissioner Heglar moved to reschedule the regular August council meeting from Tuesday, August 15, 2017 to Thursday, August 17, 2017.

SECOND – Commissioner Dugan

VOTE – Unanimous

#### 3. Consideration of use of Port-A-Lets at seven beach accesses from July 1 through Labor Day

Town Clerk Avery said she decided to suggest installing port-a-lets at the beach accesses because she received complains about people urinating in public. She asked council if they wanted to consider putting in port-a-lets at seven public beach accesses that she listed. She presented the rental cost of the port-a-lets and the cleaning fees, adding that they would be handicapped accessible and would be cleaned twice a week.

Mayor Swearingen said this has been considered by council in past years and one of the big concerns for people whose homes are near the accesses is the foul odor coming from the port-a-lets, especially when they are being cleaned.

Commissioner Heglar said Public Works would be contacted about the port-a-lets every time someone has a complaint, even though they won't be responsible for them. He recommended only putting them at accesses where complaints were made.

Discussion ensued about reporting public urination to the PD, and about the high cost of the seven port-a-lets.

Consensus – Council agreed to take no action on this item.

### COMMISSIONER ITEMS

#### a. MPT Bloszinsky

He asked council how they felt about having orange cones put up to reserve parking for events at the Community Center or at the Ocean Front Park. He said he will talk to the Chief Bowden and Director Beeker for their thoughts on this.



# TOWN COUNCIL MINUTES

**REGULAR MEETING**

**June 20, 2017**

Mayor Swearingen suggested the Community Center Committee come up with a proposal and present it at a council meeting.

Town Clerk Avery said they've tried doing this in the past and no one pays attention to the cones. She said it would require staff to monitor the parking.

b. Commissioner Heglar

He thanked council and staff for helping him out while he has been on travel for work.

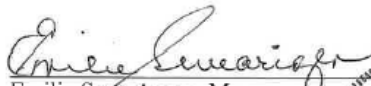
ADJOURNMENT

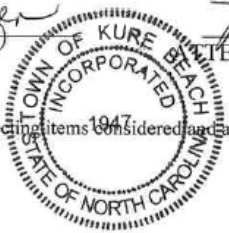
MOTION – Commissioner Whitley moved to adjourn the meeting.

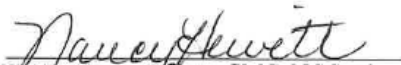
SECOND – Commissioner Heglar

VOTE – Unanimous

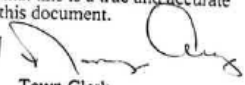
The meeting adjourned at 8:02 p.m.

  
Emilie Swearingen, Mayor

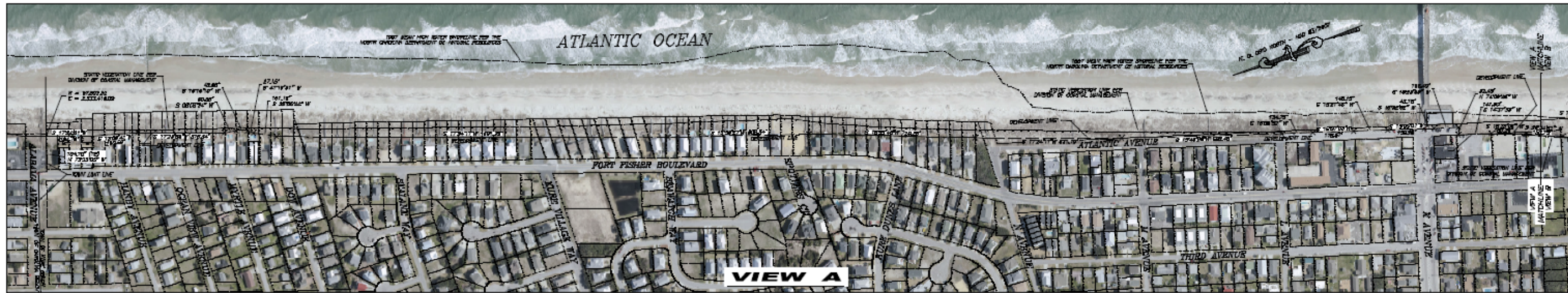


  
TEST: Nancy Hewitt, CMC, NCCMC  
Deputy Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting.

I certify that this is a true and accurate copy of this document.  
6/20/17   
Date Town Clerk

**Attachment E:** Town of Kure Beach Development Line Map



STATE OF NORTH CAROLINA  
 COUNTY OF NEW HANCOCK  
 I, \_\_\_\_\_, Clerk of said County, do hereby certify that the map on file in this office is a true and correct copy of the original map on file in this office.

Recorder of Deeds  
 \_\_\_\_\_  
 of \_\_\_\_\_

STATE OF NORTH CAROLINA  
 COUNTY OF NEW HANCOCK  
 I, \_\_\_\_\_, Clerk of said County, do hereby certify that the map on file in this office is a true and correct copy of the original map on file in this office.

Recorder of Deeds  
 \_\_\_\_\_  
 of \_\_\_\_\_

**SURVEY REFERENCES:**

- MAP BOOK 5, PAGE 21
- MAP BOOK 5, PAGE 22
- MAP BOOK 5, PAGE 23
- MAP OF STATE TERRITORY & BOUNDARY
- STATE OF NORTH CAROLINA
- STATE OF NORTH CAROLINA

**NOTES:**

1. CORNERS ARE MARKED AS NOTED ON MAP.
2. DIMENSIONS SHOWN HEREON ARE AS SHOWN ON MAP.
3. DIMENSIONS SHOWN HEREON ARE AS SHOWN ON MAP.

**LEGEND:**

- PROPERTY LINE
- EASEMENT LINE
- - - - - FENCE LINE
- BOUNDARY MARK
- AREA LIGHT
- POWER POLE
- SIGN
- BULLET
- SPOT

FINAL PLAT  
 FOR  
**TOWN OF KURE BEACH  
 DEVELOPMENT LINE**  
 TOWN OF KURE BEACH - FEDERAL POINT TOWNSHIP  
 NEW HANCOCK COUNTY - NORTH CAROLINA  
 SCALED 1" = 200' DATED NOVEMBER 3, 2016  
 REVISION MAY 16, 2017 TO CLARIFY DEVELOPMENT LINE AND TO ADD 100' BEACH LINE

200' 0' 200' 400' 600'  
 1 INCH = 200 FEET

STATE OF NORTH CAROLINA  
 COUNTY OF NEW HANCOCK  
 I, \_\_\_\_\_, Clerk of said County, do hereby certify that the map on file in this office is a true and correct copy of the original map on file in this office.

Recorder of Deeds  
 \_\_\_\_\_  
 of \_\_\_\_\_

THIS DOCUMENT GENERALLY ISSUED, DRAFTED AND SCALED BY JOHN W. JONES, JR., P.E., L-1877  
 ON MAY 10, 2017. THIS DOCUMENTARY INSTRUMENT SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

JOHN W. JONES, JR.  
 PROFESSIONAL LAND SURVEYOR  
 122 CHURCH ST., L-1877

JOHN W. JONES, JR.  
 PROFESSIONAL LAND SURVEYOR  
 122 CHURCH ST., L-1877

JOHN W. JONES, JR.  
 PROFESSIONAL LAND SURVEYOR  
 122 CHURCH ST., L-1877

JOHN W. JONES, JR.  
 PROFESSIONAL LAND SURVEYOR  
 122 CHURCH ST., L-1877





ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON C. DAVIS  
*Director*

June 29, 2017

**MEMORANDUM**

**CRC-17-20**

**TO:** Coastal Resources Commission  
**FROM:** Ken Richardson, *Shoreline Management Specialist*  
**SUBJECT:** 15A NCAC 7J.1301 Development Line Procedures Amendments

On April 1, 2016, the CRC's Development Line Procedures rules became effective, giving oceanfront communities an alternative to the Static Vegetation Line Exception. Once approved by the CRC, a development line allows a community with a static vegetation line to then measure construction setbacks from first line of stable and natural vegetation, and site development no further oceanward than the development line.

At the April 27, 2017 CRC meeting, staff briefly discussed with the Commission a few recurring issues with the Development Line Procedures based on experience implementing this rule over the past year. As requested by the Commission, staff has summarized those issues and offers the following ideas should the Commission wish to pursue additional amendments to the rules.

Drawing the Development Line

The rule directs communities to "utilize an adjacent neighbor sight-line approach, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the petitioner may determine an average line of construction on a case-by-case basis." As we have seen with the communities that have requested Development Lines so far, the seaward edge of existing development is not usually linear, and may vary by tens of feet between adjacent structures. This variation has resulted in approved Development Lines that may allow large numbers of structures to be moved oceanward, sometimes significantly. Staff's understanding is that the Commission did not intend to facilitate large-scale oceanward redevelopment under the Development Line rules. For comparison, rebuilding under the Static Line Exception rule is limited to being no farther oceanward than the landward-most adjacent neighbor. Under the current rules, Staff has had challenges assisting local governments when asked about mapping Development Lines, and how to interpret a "sight-line approach." Staff has developed a few alternative methods (Attachment A) for drawing a Development Line for the Commission to consider.

CRC Approval

The current Development Line rules focus more on procedures than on criteria and standards. As discussed above, the standard for how closely a Development Line must follow the actual line of structures is vague, and the guidance for drawing the line is subject to interpretation. While proposed Development Lines might diverge significantly from the actual alignment of structures,

the Commission has little basis to decline approval since the “adjacent neighbor sight-line approach” and “average line of structures” standards are subjective. Establishing more objective standards for drawing Development Lines will help convey the Commission’s intent to communities.

### Staff Involvement

The current rules do not include a role for Staff other than receiving Development Line requests, confirming receipt, verifying that requests are complete, and maintaining a list of approved Development Lines. By comparison, the Static Line Exception rules (15A NCAC 7J .1200) include these and other substantive roles for Staff, including a presentation regarding the request and a recommendation to grant or deny the request based on the standards in the rules. Staff has made presentations at town council and staff meetings, and participated in a series of town planning committee meetings to better assist with understanding Development Line rules and mapping. However, Staff’s role only verifies that the petitioner is submitting required documentation and maps, and does not have the authority to request modifications when proposed development lines do not meet the intent of the sight-line definition. Staff believes that specific amendments to include the DCM in the Development Line review process would allow Staff to better assist local governments achieve the intent of the CRC, and assist the Commission’s review and approval process. At the Commission’s direction, Staff can include language in the Development Line rules to mirror Staff’s supporting role in the Static Line Exception rules.

### **Attachments:**

(A) Maps Illustrating Development Line Concepts



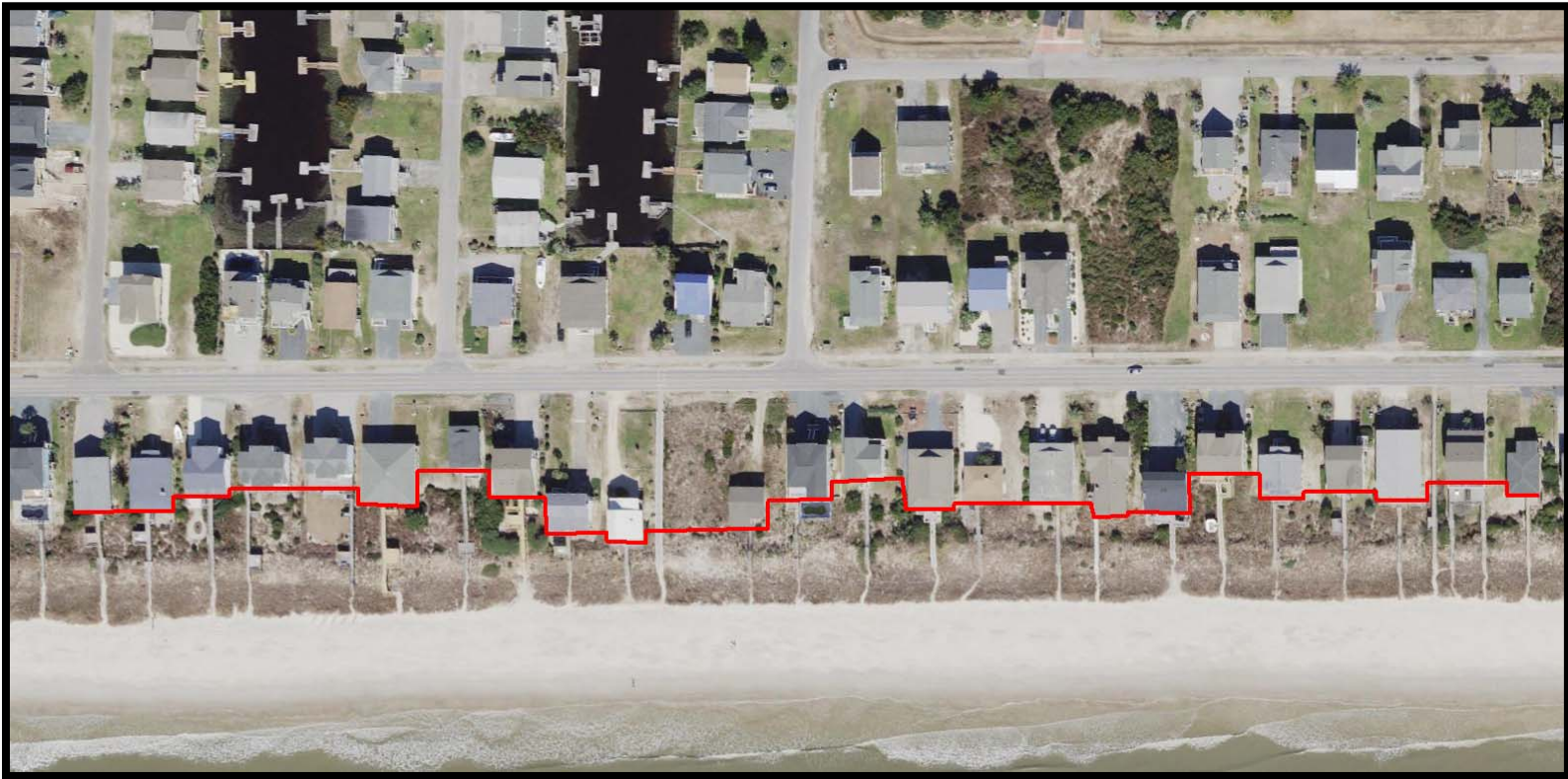
## Attachment (A)

### Development Line: How to define “adjacent neighbor” or “line of construction”

1. **Possibility under current rule language (7J.1301(c)):** “Petitioner shall use an adjacent neighbor sight-line approach resulting in an average line of structures.” The line illustrated on the map below does not meet the intent of that standard, and could be challenged/denied on that basis. However, if approved, this scenario could potentially allow oceanward placement of new construction.



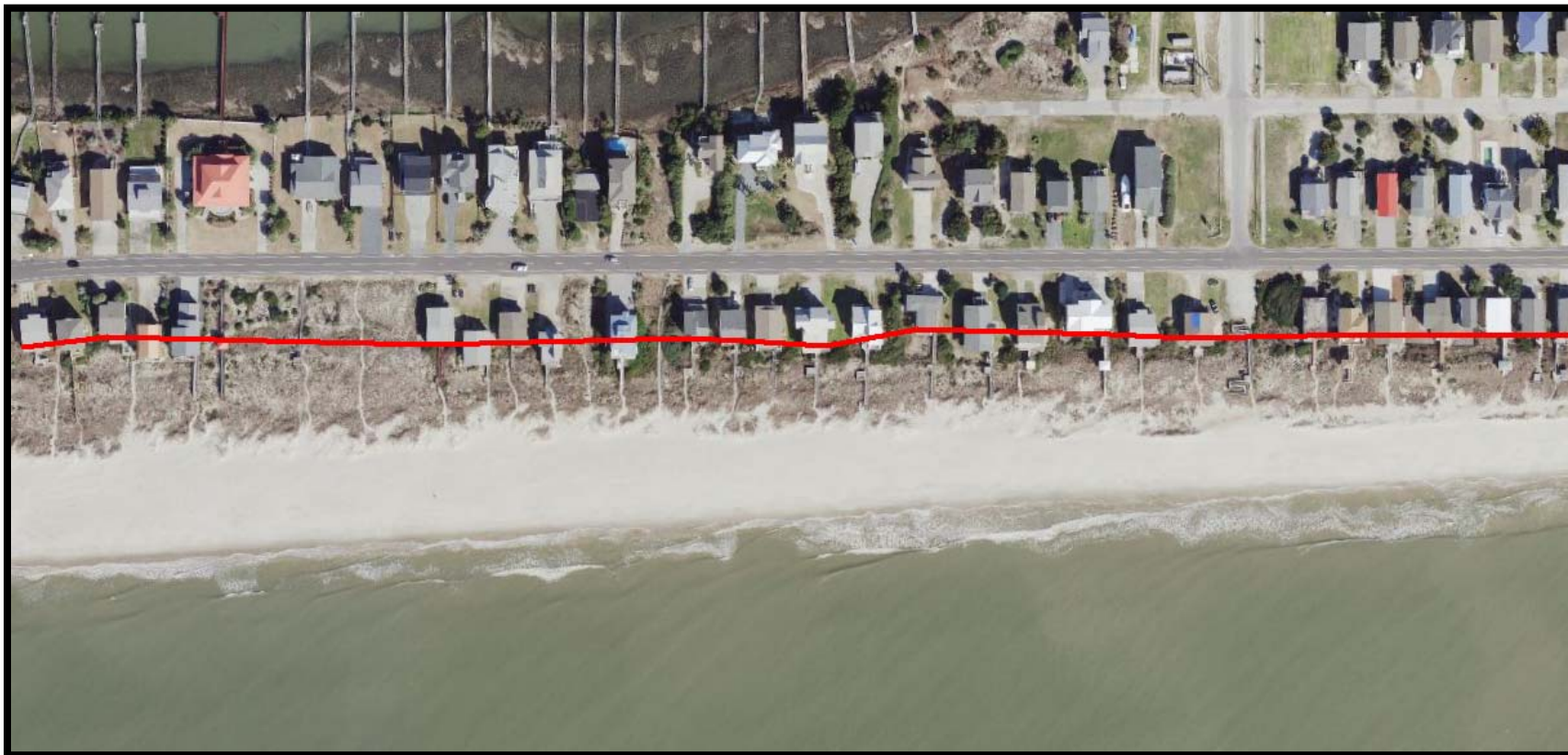
2. **Method #1: House-to-house or “stepwise”** – follow the oceanfront side of each structure (not decks or pools). Homes rebuilt would have to meet the line as initially mapped (previous structure/existing footprint).



3. **Method #2: Use a “Distance from Structure Rule”** – When adjacent neighbors include a more landward structure, this example illustrates a measurement of 10 feet from the most landward adjacent structure, and interpolate the DVL from corner of oceanward structure to the 10 feet point in front of more landward structure. The distance of 10’ is used as an example, not a recommendation. The idea is help with “smoothing” the stepwise approach. One concern with this method is choosing “the measurement distance,” so as not to promote oceanward encroachment.



4. **Method #3: “Landward Most Adjacent Neighbor”** – this method is applied the same in Static Vegetation Line Exception.



5. **Method #4: “Line of Sight”** – The closest to the initial intent of the Commission. Where structure placement is not linear in relation to the shoreline, the DVL is mapped using a smoothing method to interpolate an “average line of sight.” Additional amendments to rule language could better define mapping methodology.

6. **Method #5: “Distance measured from street-side reference feature (street center line, edge, or setback)”** – Method used by Oak Island. This method does not technically follow “average line of sight.”

If rebuilt, these structures would be required to be sited landward of DVL

DVL oceanward of adjacent neighbors



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON DAVIS  
*Director*

**CRC-17-21**

June 27, 2017

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Roy Brownlow, DCM Compliance Coordinator

**SUBJECT:** 15A NCAC 07J .0409 Civil Penalties - Rule Changes and Updates

As with any regulatory program, rules and relevant statutes describe DCM's jurisdiction for permitting and enforcement activities. Updating the rules on a regular basis is necessary to ensure consistency with changes made to relevant statutes and to improve the enforcement process.

Division of Coastal Management (DCM) staff recently reviewed 15A NCAC 07J .0409 Civil Penalties and have identified the following areas for updating:

- **07J .0409(e)** states that **Notices of Violation** issued by the Division "*...shall be delivered personally or by registered mail, return receipt requested.*"

**Staff Recommendation:** Staff recommends changing this language to include the only two methods allowed for delivering Notices of Violation (which is an early step in the Notice of Assessment process) under NCGS §113A-126, which are registered or certified mail, return receipt requested.

**Proposed:** ...shall be delivered personally, by registered or certified mail, return receipt requested.

- **07J .0409(f)(2)** states that "*The Director shall issue a notice of assessment [NOA] within 30 days after the Division determines that restoration of the adversely impacted resources is complete.*" This rule can conflict with NCGS §143B 279.16 (Effective July 1, 2011), which mandates ten (10) days be added between the time the violator is sent a Notice of Violation (NOV) of an environmental statute or an environmental rule and the subsequent date the violator is sent a NOA for the civil penalty.

The stated intent of NCGS §143B 279.16 is to provide extra time for a violator and the state to work together to resolve the violation, while the Commission's current rule mandates a quick time period between restoration and the NOA. Taken together, the recent legislation and CRC rule create a narrow timeline to assemble the necessary paperwork, which can be somewhat problematic for the Division. The Commission's current rule also does not specify what happens to violators who are not required to restore resources (for example, contractors who are not also the property owner). Finally, the Commission's current rule uses the mandatory term "shall," which is inconsistent with the discretionary term "may" in NCGS § 113A-126.

**Staff Recommendation:** Staff recommends increasing the period of time before an NOA is sent, adding language to distinguish cases where restoration is required from those where it is not required, and changing "shall" to "may."

**Proposed:** If restoration of affected resources is not required, the Director shall may issue a notice of assessment within 30 90 days from the date of the Notice of Violation. If restoration of affected resources is required, the Director may issue a notice of assessment within 60 days after the Division determines that restoration of the adversely impacted resources is complete or the due date of restoration completion.

- 07J .0409(f)(3) under **Civil Penalty Assessment**: states that the notice [of civil penalty assessment] "... shall be delivered personally or by registered mail, return receipt requested."

**Staff Recommendation:** Staff recommends changing this language to include the two methods allowed for delivering Notices of Assessment under NCGS §113A-126, which are registered or certified mail, return receipt requested. The use of certified mail is more commonly used today than registered mail.

**Proposed:** shall be delivered personally, by registered mail, or certified mail, return receipt requested.

- **Schedule A Major Development Violations** (penalty matrix), note (4) lists the "High Hazard Flood Area." The HHFA AEC was repealed in September 2015.

**Staff Recommendation:** Staff recommends deleting the words "High Hazard Flood Area" from note (5) as the HHFA is no longer an AEC.

(4) Includes the Ocean Erodible, High Hazard Flood Area, Inlet Hazard Area, and Unvegetated Beach Area.

- **Schedule B Minor Development Violations** (penalty matrix), note (1) lists the "High Hazard Flood Area." The HHFA AEC was repealed in September 2015.

**Staff Recommendation:** Staff recommends deleting the words "High Hazard Flood Area" from note (1) as the HHFA is no longer an AEC.

(1) Includes the Ocean Erodible, High Hazard Flood Area, Inlet Hazard Area, and Unvegetated Beach Area.

I look forward to discussing these amendments with the Commission at the upcoming meeting in Greenville.



## Attachment A

### NC Coastal Area Management Act - NCGS 113A-126(d)

#### § 113A-126. Injunctive relief and penalties.

(a) Upon violation of any of the provisions of this Article or of any rule or order adopted under the authority of this Article the Secretary may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the State upon the relation of the Secretary for injunctive relief to restrain the violation and for a preliminary and permanent mandatory injunction to restore the resources consistent with this Article and rules of the Commission. If the court finds that a violation is threatened or has occurred, the court shall, at a minimum, order the relief necessary to prevent the threatened violation or to abate the violation consistent with this Article and rules of the Commission. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(b) Upon violation of any of the provisions of this Article relating to permits for minor developments issued by a local government, or of any rule or order adopted under the authority of this Article relating to such permits, the designated local official may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the affected local government upon the relation of the designated local official for injunctive relief to restrain the violation and for a preliminary and permanent mandatory injunction to restore the resources consistent with this Article and rules of the Commission. If the court finds that a violation is threatened or has occurred, the court shall, at a minimum, order the relief necessary to prevent the threatened violation or to abate the violation consistent with this Article and rules of the Commission. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(c) Any person who shall be adjudged to have knowingly or willfully violated any provision of this Article, or any rule or order adopted pursuant to this Article, shall be guilty of a Class 2 misdemeanor. In addition, if any person continues to violate or further violates, any such provision, rule or order after written notice from the Secretary or (in the case of a permit for a minor development issued by a local government) written notice from the designated local official, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.

- (d) (1) A civil penalty of not more than one thousand dollars (\$1,000) for a minor development violation and ten thousand dollars (\$10,000) for a major development violation may be assessed by the Commission against any person who:
- a. Is required but fails to apply for or to secure a permit required by G.S. 113A-118, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.
  - b. Fails to file, submit, or make available, as the case may be, any documents, data or reports required by the Commission pursuant to this Article.
  - c. Refuses access to the Commission or its duly designated representative, who has sufficiently identified himself by displaying official credentials, to any premises, not including any occupied dwelling house or curtilage, for the purpose of conducting any investigations provided for in this Article.
  - d. Violates a rule of the Commission implementing this Article.
- (2) For each willful action or failure to act for which a penalty may be assessed under this subsection, the Commission may consider each day the action or inaction continues after notice is given of the violation as a separate violation; a separate penalty may be assessed for each such separate violation.
- (3) The Commission shall notify a person who is assessed a penalty or investigative costs by registered or certified mail. The notice shall state the reasons for the penalty. A person may contest the assessment of a penalty or investigative costs by filing a petition for a contested case under G.S. 150B-23 within 20 days after receiving the notice of assessment. If a person fails to pay any civil penalty or investigative cost assessed under this subsection, the Commission shall refer the matter to the Attorney General for collection. An action to collect a penalty must be filed within three years after the date the final decision was served on the violator.
- (4) In determining the amount of the civil penalty, the Commission shall consider the following factors:

- a. The degree and extent of harm, including, but not limited to, harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
  - b. The duration and gravity of the violation;
  - c. The effect on water quality, coastal resources, or public trust uses;
  - d. The cost of rectifying the damage;
  - e. The amount of money saved by noncompliance;
  - f. Whether the violation was committed willfully or intentionally;
  - g. The prior record of the violator in complying or failing to comply with programs over which the Commission has regulatory authority; and
  - h. The cost to the State of the enforcement procedures.
- (4a) The Commission may also assess a person who is assessed a civil penalty under this subsection the reasonable costs of any investigation, inspection, or monitoring that results in the assessment of the civil penalty. For a minor development violation, the amount of an assessment of investigative costs shall not exceed one-half of the amount of the civil penalty assessed or one thousand dollars (\$1,000), whichever is less. For a major development violation, the amount of an assessment of investigative costs shall not exceed one-half of the amount of the civil penalty assessed or two thousand five hundred dollars (\$2,500), whichever is less.
- (5) The clear proceeds of penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1973, c. 1284, s. 1; 1975, c. 452, s. 5; 1977, c. 771, s. 4; 1981, c. 932, s. 2.1; 1983, c. 485, ss. 1-3; c. 518, s. 6; 1987, c. 827, ss. 11, 143; 1991, c. 725, s. 6; 1991 (Reg. Sess., 1992), c. 839, s. 3; c. 890, s. 8; 1993, c. 539, s. 874; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 53(a); 2006-229, s. 1; 2011-398, s. 38.)

## **Civil penalty assessments - NCGS 143B-279.16**

### **§ 143B-279.16. Civil penalty assessments.**

(a) The purpose of this section is to provide to the person receiving a notice of violation of an environmental statute or an environmental rule a greater opportunity to understand what corrective action is needed, receive technical assistance from the Department of Environmental Quality, and to take the needed corrective action. It is also the purpose of this section to provide to the person receiving the notice of violation a greater opportunity for informally resolving matters involving any such violation.

(b) In order to fulfill the purpose set forth in subsection (a) of this section, the Department of Environmental Quality shall, effective July 1, 2011, extend the period of time by 10 days between the time the violator is sent a notice of violation of an environmental statute or an environmental rule and the subsequent date the violator is sent an assessment of the civil penalty for the violation. (2011-145, s. 13.6; 2015-241, s. 14.30(u).)

## Attachment B Proposed Rule Amendment

### 15A NCAC 07J .0409 CIVIL PENALTIES

(a) Purpose and Scope. These Rules provide the procedures and standards governing the assessment, remission, settlement and appeal of civil penalties assessed by the Coastal Resources Commission and the Director pursuant to G.S. 113A-126(d).

(b) Definitions. The terms used herein shall be as defined in G.S. 113A-103 and as follows:

- (1) "Act" means the Coastal Area Management Act of 1974, G.S. 113A-100 through 134, plus amendments.
- (2) "Delegate" means the Director or other employees of the Division of Coastal Management, or local permit officers to whom the Commission has delegated authority to act in its stead pursuant to this Rule.
- (3) "Director" means the Director, Division of Coastal Management.
- (4) "Respondent" means the person to whom a notice of violation has been issued or against whom a penalty has been assessed.
- (5) "Person" is defined in the Coastal Area Management Act, G.S. 113A-103(9).

(c) Civil penalties may be assessed against any person who commits a violation as provided for in G.S. 113A-126(d)(1) and (2).

(d) Investigative costs. Pursuant to G.S. 113A-126(d)(4a) the Commission or Director may also assess a respondent for the costs incurred by the Division for investigation, inspection, and monitoring associated with assessment the civil penalty. Investigative costs shall be in addition to any civil penalty assessed. For a minor development violation, investigative costs shall not exceed one-half of the amount of the civil penalty assessed or one thousand dollars (\$1,000), whichever is less. For a major development violation, investigative costs shall not exceed one-half of the amount of the civil penalty assessed or two thousand five hundred dollars (\$2,500), whichever is less. The Division shall determine the amount of investigative costs to assess based upon factors including the amount of staff time required for site visits, investigation, enforcement action, interagency coordination, and for monitoring restoration of the site.

(e) Notice of Violation. The Commission hereby authorizes employees of the Division of Coastal Management to issue in the name of the Commission notices of violation to any person engaged in an activity which constitutes a violation for which a civil penalty may be assessed. Such notices shall set forth the nature of the alleged violation, shall order that the illegal activity be ceased and affected resources be restored in accordance with 15A NCAC 07J .0410. The notice shall specify the time by which the restoration shall be completed as ordered by the Division. The notice shall be delivered ~~personally or~~ by registered ~~or certified~~ mail, return receipt ~~requested~~.

(f) Civil Penalty Assessment.

- (1) The Commission hereby delegates to the Director the authority to assess civil penalties according to the procedures set forth in Paragraph (g) of this Rule.
- (2) ~~If restoration of affected resources is not required, the~~ The Director ~~shall~~ ~~may~~ issue a notice of assessment within ~~30~~ ~~90~~ days from the date of the Notice of Violation. ~~If restoration of affected resources is required, the Director may issue a notice of assessment within 60 days after the Division determines that restoration of the adversely impacted resources is complete.~~ ~~complete or due date of restoration completion.~~
- (3) The notice of assessment shall specify the reason for assessment, how the assessment was calculated, when and where payment shall be made, and shall inform the respondent of the right to appeal the assessment by filing a petition for a contested case hearing with the Office of Administrative Hearings pursuant to G.S. 150B-23. The notice shall be delivered ~~personally or~~ by registered ~~or certified~~ mail, return receipt requested.

(g) Amount of Assessment.

- (1) Civil penalties shall not exceed the maximum amounts established by G.S. 113A-126(d).
- (2) If any respondent willfully continues to violate by action or inaction any rule or order of the Commission after the date specified in a notice of violation, each day the violation continues or is repeated shall be considered a separate violation as provided in G.S. 113A-126(d)(2).
- (3) In determining the amount of the penalty, the Commission or Director shall consider the factors contained in G.S. 113A-126(d)(4).
- (4) Pursuant to Subparagraph (g)(3) of this Rule, penalties for major development violations, including violations of permit conditions, shall be assessed in accordance with the following criteria.
  - (A) Major development which could have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed a penalty equal to two times the relevant CAMA permit application fee, plus investigative costs.

- (B) Major development which could not have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed an amount equal to the relevant CAMA permit application fee, plus a penalty pursuant to Schedule A of this Rule, plus investigative costs. If a violation affects more than one area of environmental concern (AEC) or coastal resource as listed within Schedule A of this Rule, the penalties for each affected AEC shall be combined. Any structure or part of a structure that is constructed in violation of existing Commission rules shall be removed or modified as necessary to bring the structure into compliance with the Commission's rules.

SCHEDULE A  
 Major Development Violations

Size of Violation (sq. ft.)

AREA OF ENVIRONMENTAL CONCERN AFFECTED	≤ 100	101-500	501-1,000	1001-3000	3001-5000	5001-8000	8001-11,000	11,001-15,000	15,001-20,000	20,001-25,000	>25,000
<b>ESTUARINE WATERS OR PUBLIC TRUST AREAS (1)</b>	\$250	\$375	\$500	\$1,500	\$2,000	\$3,500	\$5,000	\$7,000	\$9,000	\$10,000	\$10,000
Primary Nursery Areas	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Mudflats and Shell Bottom	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Submerged Aquatic Vegetation	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
<b>COASTAL WETLANDS</b>	\$250	\$375	\$500	\$1,500	\$2,000	\$3,500	\$5,000	\$7,000	\$9,000	\$10,000	\$10,000
<b>COASTAL SHORELINES</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Wetlands (2)	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
ORW- Adjacent Areas	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
<b>OCEAN HAZARD SYSTEM (3)(4)</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Primary or Frontal Dune	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
<b>PUBLIC WATER SUPPLIES (5)</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
<b>NATURAL AND CULTURAL RESOURCE AREAS (6)</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000

- (1) Includes the Atlantic Ocean from the normal high water mark to three miles offshore.  
 (2) Wetlands that are jurisdictional by the Federal Clean Water Act.  
 (3) If the AEC physically overlaps another AEC, use the greater penalty schedule.  
 (4) Includes the Ocean Erodible, High Hazard Flood Area, Inlet Hazard Area, and Unvegetated Beach Area.  
 (5) Includes Small Surface Water Supply, Watershed and Public Water Supply Well Fields.  
 (6) Includes Coastal Complex Natural Areas, Coastal Areas Sustaining Remnant Species, Unique Geological Formations, Significant Coastal Archaeological Resources, and Significant Coastal Historical Architectural Resources.

SCHEDULE B

Minor Development Violations

AREA OF ENVIRONMENTAL CONCERN AFFECTED	Size of Violation (sq. ft.)										
	≤ 100	101-500	501-1,000	1001-3000	3001-5000	5001-8000	8001-11,000	11,001-15,000	15,001-20,000	20,001-25,000	>25,000
<b>COASTAL SHORELINES</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
ORW- Adjacent Areas	\$125	\$150	\$175	\$225	\$275	\$350	\$425	\$375	\$250	\$125	n/a
<b>OCEAN HAZARD SYSTEM (1)(2)</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
Primary or Frontal Dune	\$125	\$150	\$175	\$225	\$275	\$350	\$425	\$375	\$250	\$125	n/a
<b>PUBLIC WATER SUPPLIES (3)</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
<b>NATURAL AND CULTURAL RESOURCE AREAS (4)</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000

- (1) Includes the Ocean Erodible, ~~High Hazard Flood Area~~, Inlet Hazard Area, and Unvegetated Beach Area.
  - (2) If the AEC physically overlaps another AEC, use the greater penalty schedule.
  - (3) Includes Small Surface Water Supply, Watershed and Public Water Supply Well Fields.
  - (4) Includes Coastal Complex Natural Areas, Coastal Areas Sustaining Remnant Species, Unique Geological Formations, Significant Coastal Archaeological Resources, and Significant Coastal Historical Architectural Resources.
- (C) Violations by public agencies (e.g. towns, counties and state agencies) shall be handled by the local permit officer or one of the Commission's delegates within their respective jurisdictions except that in no case shall a local permit officer handle a violation committed by the local government they represent. Penalties shall be assessed in accordance with Parts (g)(5)(A) and (B) of this Rule.



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

BRAXTON C. DAVIS  
*Director*

**CRC-17-22**

June 28, 2017

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Mike Lopazanski

**SUBJECT:** Amendments to CRC Temporary Erosion Control Structures Rules

During 2016, the Commission and Advisory Council spent a significant amount of time considering amendments to your rules governing the use of sandbags as temporary erosion control structures (15A NCAC 7H .0308; 7H .1704 and 7H .1705). Amendments were based on the Commission's continued refinement of policies to address the management of sandbags as well as the Legislative directive contained in S.L. 2015-241. The proposed amendments considered also address the time limits for permitted sandbag structures, provisions for removal when no longer necessary, and the allowance for structures to remain beyond permitted time limits when "covered and vegetated."

During the recent legislative session, the General Assembly enacted S.L. 2017-10 (Senate Bill 131) which contained further directives for the Commission regarding temporary erosion control structures.

SECTION 3.14.(a) of S.L. 2017-10 **repeals** Sections 14.6(p) and 14.6(q) of S.L. 2015-241 which directed the CRC to adopt rules that:

- (1) Allow the placement of temporary erosion control structures on a property that is experiencing coastal erosion even if there are no imminently threatened structures on the property if the property is adjacent to a property where temporary erosion control structures have been placed.
- (2) Allow the placement of contiguous temporary erosion control structures from one shoreline boundary of a property to the other shoreline boundary, regardless of proximity to an imminently threatened structure.
- (3) The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date for any of the permits.
- (4) The replacement, repair, or modification of damaged temporary erosion control structures that are either legally placed with a current permit or legally placed with an expired permit, but the status of the permit is being litigated by the property owner.

S.L. 2017-10 Section 3.14.(b) further states "*Notwithstanding G.S. 150B-21.1A(a), the Coastal Resources Commission may adopt an emergency rule for the use of temporary erosion control structures consistent with the amendments to the temporary erosion control structure rules adopted by the Commission as agenda item CRC-16-23 on May 11, 2016, with any further modifications in the Commission's discretion. The Commission shall also adopt temporary and permanent rules to implement this section.*"

At the time of the bill's introduction, Staff was in the process of developing a fiscal analysis related to these and other amendments approved by the Commission at the May 2016 CRC meeting. Given that the new legislation repeals the directives of S.L. 2015-241 while also allowing the CRC to consider any further modifications in the Commission's discretion, Staff will once again present the proposed amendments to the sandbag rules for discussion.

The attached draft rule language includes the 2015 legislative provisions (**highlighted**) and other amendments (**bold**) approved by the CRC at the May 2016 meeting. As a reminder, the amendments:

- Remove the distinction between structures greater or less than 5,000 square feet, setting the time limit at eight years for all structures;
- Remove the "vegetated" requirement for sandbag structures to remain beyond their permitted time when covered by sand;
- Require that only sandbags exposed above grade be removed at the expiration of the permit;
- Modify the "no longer necessary" provisions to require the removal of sandbags that are exposed above grade upon completion of a beach nourishment or inlet relocation/stabilization project.
- Clarifies that structures determined by the Division of Coastal Management to be imminently threatened upon the expiration date of permitted temporary erosion control structures may be permitted to remain in place for an additional eight years if they are located in a community pursuing beach nourishment, inlet relocation or stabilization.

In summary, the revised language manages sandbags in the following manner:

#### Sandbags Permitted

- On properties with an imminently threatened structure or accelerated erosion.
- On properties with no imminently threatened structure, but adjacent to a property with an existing sandbag structure that is in compliance with the Commission's rules.

#### Time Limits

- Sandbag permits will be valid for eight years for all structures.
- Sandbag structures placed incrementally will have time limits corresponding to the latest installation.
- Sandbag structures may remain if they are being litigated in court.

#### Removal

- If the structure is demolished or relocated, all sandbags must be removed.
- Upon completion of beach fill/inlet relocation or stabilization project, sandbags exposed above grade must be removed.
- Upon expiration of the eight-year permit, sandbags exposed above grade must be removed.
- Sandbags covered by sand do not need to be removed.

We look forward to discussing these proposed amendments and further guidance at your upcoming meeting in Greenville.

June 28, 2017

### 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)~~ **All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.**
- ~~(E)~~**(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(i)~~ **.0306(h)** of this Section.
- ~~(F)~~**(E)** Project construction shall be timed to minimize adverse effects on biological activity.
- ~~(G)~~**(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.
- ~~(H)~~**(G)** **Erosion 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 which 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 ~~provision Part~~ **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.
- ~~(I)~~**(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 provision (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) ~~any A~~ **any A** permit for a structure under this Part ~~(I)~~ may be issued only to a sponsoring public agency for projects where the public benefits outweigh the ~~short or long range significant~~ **short or long range significant** adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of ~~any unavoidable significant~~ **any unavoidable significant** adverse impacts on adjoining properties and on public access to and use of the beach.
- ~~(J)~~**(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 ~~adversely impact~~ **have significant adverse impacts on** fisheries or other public trust resources; and
  - (v) any permit for a structure under this Part ~~(J)~~ may be issued only to a sponsoring public agency for projects where the public benefits outweigh the ~~short or long range significant~~ **short or long range significant** adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.



- ~~(K)~~(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.
- ~~(L)~~(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 7M .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 ~~(2)~~(A) of this Subparagraph **shall 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. **Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and shall be no further waterward than the most landward adjacent temporary erosion control structure.**
  - (C) **Temporary Notwithstanding Part (B) of this Subparagraph, 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 15A NCAC 07H .0309** as an exception to the erosion setback requirement.
  - (D) Temporary erosion control structures may be placed **seaward 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.** The landward side of such temporary erosion control structures shall not be located more than 20 feet **seaward waterward** of the structure to be **protected 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 **seaward 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 **their the Director's** designee in accordance with Part ~~(2)~~(A) of this Subparagraph.
  - (F) Temporary erosion control structures may remain in place for up **to two years after the date of approval if they are protecting a building with a total floor area of 5000 sq. ft. or less and its associated septic system, or, for up to five eight** years for a building with a total floor area of more than 5000 sq. ft. and its associated septic system, system. **Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The termination date of all contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permitted temporary erosion control structures.** The property owner shall be responsible for removal of **any portion of the temporary erosion control structure exposed above grade the temporary structure** 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 most recent 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 most recent section was installed, in accordance with Part (F) of this Subparagraph.**

~~**(G)**~~**(H)** ~~**Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project in accordance with G.S. 113A-115.1**~~ For purposes of this Rule, a community is considered to be actively pursuing a beach ~~nourishment,~~ **nourishment or an** inlet relocation or stabilization project in accordance with G.S. 113A-115.1 if it ~~has:~~

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

**(ii)** **been** identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction ~~Study 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 **and or** the identification of the financial resources or funding bases necessary to fund the beach nourishment or the inlet relocation or stabilization project.

If beach nourishment or 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. **The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits.**

~~**(H)**~~**(I)** Once ~~the 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, project,~~ **or** an inlet relocation or stabilization project, **any portion of the temporary erosion control structure exposed above grade** ~~it~~ shall be removed by the property owner within 30 days of official notification from the Division of Coastal ~~Management Management~~ **Management** regardless of the time limit placed on the temporary erosion control structure.

~~**(H)**~~**(J)** Removal of temporary erosion control structures is not required if they are covered by ~~dunes sand, with stable and natural vegetation.~~ **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.

- ~~(J)~~**(K)** The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- ~~(K)~~**(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.**
- ~~(L)~~**(M)** Soldier pilings and other types of devices to anchor sandbags shall not be allowed. **An imminently threatened structure may be protected only once, regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, or in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation or stabilization project in accordance with Part (G)(H) of this Subparagraph. Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional eight year permit extension provided that the structure 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, inlet relocation or stabilization project in accordance with Part (G) 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 (G) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:**
- (i) a building and septic system shall be considered as separate structures.**
- (ii) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) or (G) of this Subparagraph.**
- (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. **Existing sandbag structures that were legally placed pursuant to permits that have since expired may be replaced, repaired, or modified within their permit dimensions if the status of the permit is being litigated by the property owner in state, federal or administrative court.**

#### 15A NCAC 07H .1704 GENERAL CONDITIONS

- (a) Work permitted by means of an emergency general permit shall be subject to the following limitations:
- (1) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative so that the proposed emergency work can be delineated. Written authorization to proceed with the proposed development may be issued during this visit.
  - (2) No work shall be permitted other than that which is necessary to **reasonably** protect against or reduce the imminent danger caused by the emergency, to restore the damaged property to its condition immediately before the emergency, or to re-establish necessary public facilities or transportation corridors.
  - (3) Any permitted **temporary** erosion control projects shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of way in the case of **roads, roads, except as provided under 15A NCAC 07H .0308.** If a building or road is found to be imminently threatened and at 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 **seaward 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.
  - (4) Fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
  - (5) Structural work shall meet sound engineering practices.

- (6) This permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.
- (b) Individuals shall allow authorized representatives of the Department of ~~Environment and Natural Resources~~ **Environmental Quality** to make inspections ~~at any time deemed necessary~~ to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions in these Rules.
- (c) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.
- (d) This permit shall not be applicable to proposed construction where the Department 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.
- (e) This permit does not eliminate the need to obtain any other state, local, or federal authorization.
- (f) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.

*History Note:* Authority G.S. 113-229(c1); 113A-107(a),(b); 113A-113(b); 113A-118.1;  
Eff. November 1, 1985;  
Amended Eff. December 1, 1991; May 1, 1990;  
RRC Objection due to ambiguity Eff. May 19, 1994;  
Amended Eff. May 1, 2010; August 1, 1998; July 1, 1994;

#### 15A NCAC 07H .1705 SPECIFIC CONDITIONS

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

- (1) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.
- (2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph **shall 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, or~~ right-of-way in the case of ~~roads, 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 the Division determines that site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure. **Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and shall be no farther waterward than the most landward adjacent temporary erosion control structure.**
- (3) **Temporary Notwithstanding Part (a)(2) of this Subparagraph, 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 15A NCAC 07H .0309** as an exception to the erosion setback requirement.
- (4) Temporary erosion control structures may be placed **seaward 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.
- (5) ~~Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected.~~ The landward side of such temporary erosion control structures shall not be located more than 20 feet **seaward-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 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 **seaward-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 Subparagraph (1) of this Paragraph.
- (6) Temporary erosion control structures may remain in place for up to **two years after the date of approval if they are protecting a building with a total floor area of 5,000 square feet or less and its associated septic system, or for up to five eight** years for a building **with a total floor area of more**

~~than 5,000 square feet~~ and its associated septic ~~system. system.~~ **Temporary erosion control structures may remain in place for up to five eight years if they are protecting** a bridge or a road. **The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits.** The property owner shall be responsible for removal of **any portion of the temporary erosion control structure exposed above grade** ~~the temporary structure~~ within 30 days of the end of the allowable time period.

- (7) ~~Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project in accordance with G.S. 113A-115.1. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment, nourishment or an inlet relocation or stabilization project if it has:~~
- (A) **has** an active CAMA permit, where necessary, approving such project; or
  - (B) **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
  - (C) **has** received a favorable economic evaluation report on a federal project; or
  - (D) 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 **and or** the identification of the financial resources or funding bases necessary to fund the beach **nourishment, nourishment or** 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 Subparagraph (6) of this Paragraph. **The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits.**

- (8) Once ~~the 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 by the property owner to maximum extent practicable 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** ~~it~~ shall be removed by the permittee within 30 days of official notification by the Division of Coastal Management, regardless of the time limit placed on the temporary erosion control structure.
- (9) Removal of temporary erosion control structures is not required if they are covered by ~~dunes sand with stable and natural vegetation.~~ **Any portion of a temporary erosion control structure that becomes exposed 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.**
- (10) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (11) Sandbags used to construct temporary erosion control structures shall be tan in color and 3 to 5 feet wide and 7 to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the **total** height shall not exceed ~~6-feet.~~ **feet, as measured from the bottom of the lowest bag.**
- (12) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (13) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
- (14) An imminently threatened structure may be protected only once regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, ~~or in an Inlet Hazard Area and in a community that is actively pursuing~~ an inlet relocation or stabilization project in accordance with Subparagraph (7). Existing temporary erosion control structures may be **permitted eligible** for an additional eight-year **permit extension** provided that the structure

being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this **Subparagraph Subparagraph**, and the community in which it is located is actively pursuing a beach ~~nourishment~~, **nourishment or an inlet relocation or stabilization project** in accordance with Subparagraph (7) of this Paragraph.- 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 Subparagraph (6) or (7) shall begin at the time the **initial most recent** erosion control structure is installed. For the purpose of this Rule:

(A) a building and **its associated** septic system shall be considered as separate structures.

(B) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each **contiguous** section of sandbags shall begin at the time that **the most recent** section is installed in accordance with Subparagraph (6) or (7) of this Rule.

- (15) Existing **sandbag temporary erosion control** structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Subparagraph (6) or (7) of this **Rule. Paragraph.** **Existing sandbag structures that were legally placed pursuant to permits that have since expired may be replaced, repaired, or modified within their permit dimensions if the status of the permit is being litigated by the property owner in state, federal or administrative court.**

(b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this general permit shall be subject to the following limitations:

(1) No work shall be permitted other than that which is necessary **to reasonably** protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;

(2) The erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet **seaward 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. **Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and be no further waterward than the most landward adjacent temporary erosion control structure.**

(3) Fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.

(c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors.

(1) Work permitted by this general permit shall be subject to the following limitations:

(A) no work shall be permitted other than that which is necessary to protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;

(B) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of-way in the case of roads. If a public facility or transportation corridor is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet **seaward waterward** of the facility or corridor 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 Subparagraph (a)(1) of this Rule. **Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and be no further waterward than the most landward adjacent temporary erosion control structure;**

*Proposed Amendments to 15 NCAC 7H .0308; 7H .1704; 7H .1705 Temporary Erosion Control Structures*

*\*2015 Legislatively Directed Amendments Highlighted in **Yellow***

*\*\*Proposed Amendments in **Bold***

*June 28, 2017*

- (C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public facilities or transportation corridors shall be considered in accordance with standards in 15A NCAC ~~7H .0208~~; **7H .0208**; and
  - (D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.
- (2) This permit authorizes only the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

History Note: Authority G.S. 113-229(c); 113A-107(a),(b); 113A-113(b); 113A-115.1; 113A-118.1;  
Eff. November 1, 1985;  
Amended Eff. April 1, 1999; February 1, 1996; June 1, 1995;  
Temporary Amendment Eff. July 3, 2000; May 22, 2000;  
Amended Eff. May 1, 2013; May 1, 2010; August 1, 2002. Temporary Amendment Eff. July 3, 2000; May 22, 2000





PROPOSED RULES

(d) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies of notices to those who have submitted a request.

(e) The Director may satisfy the requirements in Paragraphs (b) and (c) of this Rule by issuing a notice that complies with both Paragraphs.

(f) Any Consent Order may be amended by the Director to incorporate minor modifications, such as modification of standard conditions to reflect updated versions, correction of typographical errors, or interim date extensions, in a consent order without public notice provided that the modifications do not extend the final compliance date by more than four months.

Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110.

15A NCAC 02D .2204 FINAL ACTION ON CONSENT ORDERS

(a) The Director shall take final action for the Commission on Consent Orders for which a public hearing has not been held as provided in ~~Rule .2203 of this Section.~~ 15A NCAC 02D .2203. The final action on the proposed order shall be taken no later than 60 days following publication of the notice.

(b) The Commission shall take final action on Consent Orders for which a public hearing has been held as provided in ~~Rule .2203 of this Section.~~ 15A NCAC 02D .2203. The final action on the proposed order shall be taken no later than 90 days following the hearing.

Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4); 143-215.110.

15A NCAC 02D .2205 NOTIFICATION OF RIGHT TO CONTEST SPECIAL ORDERS ISSUED WITHOUT CONSENT

For any Special Orders other than Consent Orders, the Commission shall notify the person subject to the order of the procedure set out in G.S. 150B-23 to contest the Special Order.

Authority G.S. 143-215.2(b); 143-215.3(a)(1); 143-215.110(b).

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .2201, .2202, .2204, and .2205.

Link to agency website pursuant to G.S. 150B-19.1(c): http://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules

Proposed Effective Date: December 1, 2017

Public Hearing:

Date: July 12, 2017

Time: 1:30 p.m.

Location: Holiday Inn, 203 SW Greenville Blvd., Greenville, NC 27834

Reason for Proposed Action: Section 07H .2200 defines specific development requirements for the construction of Freestanding Moorings. The Coastal Resources Commission is proposing to amend its administrative rules to expand this General Permit to include bird nesting poles as well as make this General Permit consistent with General Permit 07H .1200.

Comments may be submitted to: Braxton Davis, 400 Commerce Avenue, Morehead City, NC 28557; phone (252) 808-2808

Comment period ends: August 14, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
Local funds affected
Substantial economic impact (>=\$1,000,000)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4

CHAPTER 07 - COASTAL MANAGEMENT

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .2200 - GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS AND BIRD NESTING POLES IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN HAZARD AREAS

15A NCAC 07H .2201 PURPOSE

A general permit pursuant to this Section shall allow the construction of freestanding moorings and bird nesting poles in the estuarine waters and public trust areas AECs according to the procedures provided in 15A NCAC 07J .1100 and according to the rules in this Section. This permit shall not apply to waters adjacent to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation,

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**PROPOSED RULES**

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lower wave energy, and lower erosion rates than the adjacent Ocean Erodible Area.

*Authority G.S. 113A-107; 113A-118.1.*

**15A NCAC 07H .2202 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development.

(b) The applicant shall provide:

- (1) information on site location, dimensions of the project area, and his/her name and address;
- (2) a dated plat(s) showing existing and proposed development; and
- (3) confirmation evidence that:
  - (A) a written statement has been obtained and signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
  - (B) the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall 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 10 days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. DCM staff shall review all comments. If DCM determines that:
    - (i) the comments are relevant to the potential impacts of the proposed project; and
    - (ii) the permitting issues raised by the comments are worthy of more detailed review; the Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If the Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit process, DCM shall notify the applicant that he must submit an application for a major development permit. permit shall be required.

(c) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the applicant shall be provided a copy of this Section. Construction authorized by this permit shall be completed within 120 days of permit issuance or the general authorization expires and a new permit shall be required to begin or continue construction.

*Authority G.S. 113A-107; 113A-118.1.*

**15A NCAC 07H .2204 GENERAL CONDITIONS**

(a) A "freestanding mooring" is any means to attach a ship, boat, vessel, floating structure or other water craft to a stationary underwater device, mooring buoy, buoyed anchor, or piling (as long as the piling is not associated with an existing or proposed pier, dock, or boathouse).

~~(b) A "bird nesting pole" is any pole or piling erected, with a platform on top, specifically with the purpose of attracting birds for nesting.~~

~~(b)(c) Freestanding moorings and bird nesting poles authorized by this permit shall be for the exclusive use of the riparian landowner(s) in whose name the permit is issued, and shall not provide either leased or rented moorings or any other commercial services.~~

~~(e)(d) There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of freestanding moorings authorized by this permit.~~

~~(d)(e) This general permit may not be applicable to proposed construction when the Department determines that the proposal might significantly affect the quality of the human environment or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project shall be required according to 15A NCAC 07J.~~

~~(e)(f) Development carried out under this permit must be consistent with all local requirements, AEC Guidelines in 7H .0100 et. seq. and local land use plans current at the time of authorization.~~

~~(f)(g) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources Environmental Quality to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under the authority of this general permit is in accordance with the terms and conditions prescribed herein.~~

~~(g) Freestanding mooring(s) shall not be transferable or assignable. Upon transfer of riparian property ownership, the mooring(s) must be removed by the original permittee unless a new permit is issued to the new riparian owner.~~

*Authority G.S. 113A-107; 113A-118.1.*

**15A NCAC 07H .2205 SPECIFIC CONDITIONS**

(a) Freestanding moorings and bird nesting poles may be located up to a maximum of 400 feet from the mean high water line, or the normal water line, whichever is applicable.

(b) Freestanding moorings and bird nesting poles along federally maintained channels must meet US Army Corps of Engineers guidelines.

(c) Freestanding moorings in no case shall extend more than ~~4/3~~ 1/4 the width of a natural water body or man-made canal or basin.

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## PROPOSED RULES

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(d) Freestanding mooring buoys and piles shall be evaluated based upon the arc of the swing including the vessel to be moored. Moorings and the attached vessel shall not interfere with the access to any riparian property, and shall have a minimum setback of 15 feet from the adjacent property lines extended into the water at the points that they intersect the shoreline. The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of freestanding moorings. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge.

(e) The total number of ~~docking/mooring~~ docking or mooring facilities to be authorized via a CAMA General permit, a Certificate of Exemption or any combination of the two ~~may permit~~ shall not exceed ~~four~~ two per property.

(f) Bird nesting poles shall be limited to one per property. Any proposal to change the location of a previously permitted bird nesting pole shall require additional authorization from the Division of Coastal Management.

(~~f~~)(g) Freestanding moorings and bird nesting poles shall not significantly interfere with shellfish franchises or leases. Applicants for authorization to construct freestanding moorings and bird nesting poles shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed installation would extend.

(h) Freestanding moorings shall not be constructed in a designated Primary Nursery Area with less than two feet of water at normal low water level or normal water level under the General Permit set forth in this Section without prior approval from the Division of Marine Fisheries or the Wildlife Resources Commission.

(i) Freestanding moorings located over shellfish beds or submerged aquatic vegetation (as defined by the Marine Fisheries Commission) may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission if the following two conditions are met:

- (1) Water depth at the freestanding mooring location is equal to or greater than two feet of water at normal low water level or normal water level; and
- (2) The freestanding mooring is located to minimize the area of submerged aquatic vegetation or shellfish beds impacted under the structure as determined by the Division of Coastal Management.

(~~g~~)(j) Freestanding moorings and bird nesting poles shall not be established in submerged ~~cable/pipe~~ utility crossing areas or in a manner which interferes with the operation of an access through any bridge.

(~~h~~)(k) Freestanding moorings and bird nesting poles shall be marked or colored in compliance with U.S. Coast Guard and N.C. Wildlife Resource Commission requirements and the required

marking maintained for the life of the mooring(s). At minimum, permanent reflectors shall be attached to the structure in order to make it more visible during hours of darkness or inclement weather.

(~~i~~)(l) Freestanding moorings must bear owner's name, vessel State registration numbers or U.S. Customs Documentation numbers. Required identification must be legible for the life of the mooring(s).

(~~j~~)(m) The type of material used to anchor a proposed mooring buoy(s) must be non-polluting and of sufficient weight and design to safely anchor the buoy and vessel.

(~~k~~) If use of any freestanding mooring authorized by this General permit is discontinued for a period of 12 months or more, it must be removed by the permittee.

(~~h~~)(n) Moorings buoys authorized by this General permit must be a minimum 12" in diameter or otherwise be designed to be easily recognized and not present a hazard to navigation.

(~~m~~) Existing freestanding moorings (i.e. buoys/pilings) may be maintained in place for two years. However, if the mooring(s) deteriorate or are damaged such that replacement is necessary during the two year period, the mooring(s) then must comply with those guidelines of the Division in place at that time. In any event, existing moorings must comply with these Rules within two years.

(o) The platform located at the apex of the bird nesting pole shall not exceed 3'x 3' and shall not have sides.

(~~n~~)(p) This permit does not relieve the permit holder of the responsibility to ensure that all other State and Federal permit requirements are met prior to implementation of the project.

*Authority G.S. 113A-107; 113A-118.1.*

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## TITLE 20 – DEPARTMENT OF STATE TREASURER

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Local Government Commission intends to adopt the rules cited as 20 NCAC 03 .0409 and .0410.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.nctreasurer.com/inside-the-department/-OpenGovernment/proposed-rules/Pages/default.aspx>

**Proposed Effective Date:** *October 1, 2017*

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Submit a written request for public hearing within 15 days after publication of the Notice of Text to: Dept of State Treasurer, Attn: Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604 or [dst.ncac@nctreasurer.com](mailto:dst.ncac@nctreasurer.com)*

**Reason for Proposed Action:** *Proposed rules are in accordance with statutory mandate at 159-28(f)(3) and 115C-441(f)(3) for the Local Government Commission to adopt rules that set forth when preaudit and disbursement certifications are not required for electronic transactions by local governments, public authorities or local school administrative units.*

**MEMORANDUM**

**CRC – Information Item**

**TO:** Coastal Resources Commission  
**FROM:** Charlan Owens, AICP, DCM Elizabeth City District Planner  
**SUBJECT:** Town of Duck Land Use Plan (LUP) - Implementation Status Report  
**DATE:** June 27, 2017

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**Background**

Local governments submit an implementation status report every two (2) years following the date of LUP initial certification per the following:

**15A NCAC 07B .0804 REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS**

Jurisdictions with a locally adopted and certified land use plan shall submit an Implementation Status Report to the Division of Coastal Management every two years from the date of initial certification by the CRC. This report shall be based on implementation actions that meet the CRC's Management Topic goals and objectives, as indicated in the action plan pursuant to Rule 07B .0702(e)(3) of this Subchapter. The Implementation Status Report shall also identify:

- (1) All local, state, federal, and joint actions that have been undertaken successfully to implement its certified land use plan;
- (2) Any actions that have been delayed and the reasons for the delays;
- (3) Any unforeseen land use issues that have arisen since certification of the land use plan; and
- (4) Consistency of existing land use and development ordinances with current land use plan policies.

The Town of Duck implementation status report is available on DCM's Land Use Planning web page at:

<https://deq.nc.gov/about/divisions/coastal-management/coastal-management-land-use-planning/certified-lups/dare-county>

It is not provided in the CRC packet.

**Discussion**

The implementation status report does not require approval by the CRC. The report is based on the LUP Action Plan and identifies activities that the local government has undertaken in support of the LUP's policies and implementation actions. Staff has reviewed the submitted report and finds that the community has met the minimum requirements.

**MEMORANDUM**

**CRC – Information Item**

**TO:** Coastal Resources Commission

**FROM:** Charlan Owens, AICP, DCM Elizabeth City District Planner

**SUBJECT:** Currituck County Land Use Plan (LUP) - Implementation Status Report

**DATE:** June 27, 2017

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**Background**

Local governments submit an implementation status report every two (2) years following the date of LUP initial certification per the following:

**15A NCAC 07B .0804 REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS**

Jurisdictions with a locally adopted and certified land use plan shall submit an Implementation Status Report to the Division of Coastal Management every two years from the date of initial certification by the CRC. This report shall be based on implementation actions that meet the CRC's Management Topic goals and objectives, as indicated in the action plan pursuant to Rule 07B .0702(e)(3) of this Subchapter. The Implementation Status Report shall also identify:

- (1) All local, state, federal, and joint actions that have been undertaken successfully to implement its certified land use plan;
- (2) Any actions that have been delayed and the reasons for the delays;
- (3) Any unforeseen land use issues that have arisen since certification of the land use plan; and
- (4) Consistency of existing land use and development ordinances with current land use plan policies.

The Currituck County implementation status report is available on DCM's Land Use Planning web page at:

<https://deq.nc.gov/about/divisions/coastal-management/coastal-management-land-use-planning/certified-lups/currituck-county>

It is not provided in the CRC packet.

**Discussion**

The implementation status report does not require approval by the CRC. The report is based on the LUP Action Plan and identifies activities that the local government has undertaken in support of the LUP's policies and implementation actions. Staff has reviewed the submitted report and finds that the community has met the minimum requirements.