

1 15A NCAC 07B .0803 IS AMENDED AS PUBLISHED IN 32:18 NCR 1753 **WITH CHANGES** AS FOLLOWS:

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

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

7 (1) The Division District Planner shall submit a written report to the CRC, or qualified employee of the
8 Department pursuant to G.S. 113A-124(c)(9), on the locally adopted plan or amendment and either
9 recommend certification or identify how the plan or amendment does not meet the procedures and
10 conditions for certification as set forth in Subparagraph (a)(3) of this Rule.

11 (2) The public shall have an opportunity to submit written objections or comments on the locally
12 adopted plan or amendment prior to ~~action by the CRC~~. certification pursuant to G.S. 113A-110(e).
13 Written objections or comments shall be received by the Division no more than 30 calendar days
14 after local adoption of the plan or amendment. Written objections shall be limited to the criteria for
15 certification as defined in Subparagraph (a)(3) of this Rule, and shall identify the specific plan
16 elements that are opposed. Written objections or comments shall be sent by the Division to the local
17 government submitting the plan or amendment. Written objections or comments shall be considered
18 ~~by the CRC~~ in the certification of the local plan or amendment.

19 (3) The CRC or qualified employee of the Department, pursuant to G.S. 113A-124(c)(9), shall certify
20 plans and amendments following the procedures and conditions specified in this ~~Rule~~. ~~The CRC~~
21 ~~shall certify plans and amendments which:~~ Rule, and [that:] that the plans and amendments meet the
22 following conditions:

23 (A) are consistent with the ~~current federally approved North Carolina Coastal Management~~
24 ~~Program;~~ Coastal Area Management Act G.S. 113A-110;

25 (B) are consistent with the rules of the CRC;

26 (C) do not violate ~~state~~ State or federal law; and

27 (D) contain policies that address each management topic as set forth in Rule .0702(d)(2) of this
28 Subchapter.

29 (4) If the plan or amendment does not meet certification requirements, ~~the CRC shall~~ the applicant shall
30 be informed by the Division of Coastal Management within 45 calendar days ~~inform the local~~
31 ~~government regarding~~ how the plan or amendment does not meet the procedures and conditions for
32 certification.

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

1 (c) Use of the Plan. Once certified, the plan shall be utilized in the review of the CAMA permits in accordance with
2 G.S. 113A-111. Local governments shall have the option to exercise their enforcement responsibility by choosing
3 from the following:

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

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

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

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

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

1 15A NCAC 07K .0103 IS AMENDED AS PUBLISHED IN 32:18 NCR 1764-1765 **WITH CHANGES** AS
2 **FOLLOWS:**
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4 **15A NCAC 07K .0103 MAINTENANCE AND REPAIR**

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

9 ~~Property may be considered to be imminently threatened for the purpose of the exclusion for maintenance and~~
10 ~~repairs when it meets the criteria for an imminently threatened structure as set out in 15A NCAC 7H .0308(a), which~~
11 ~~provides that a structure will be considered to be imminently threatened by erosion when the foundation, septic~~
12 ~~system or right of way in the case of roads is less than 20 feet from the erosion scarp. Buildings and roads located~~
13 ~~more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be~~
14 ~~imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, tend to increase the~~
15 ~~risk of imminent damage to the structure.~~

16 (b) Beach bulldozing, defined as the process of moving natural beach material from any point seaward of the first line
17 of stable vegetation, for the purpose of preventing damage to imminently threatened ~~structures, structures as defined~~
18 ~~in 15A NCAC 07H .0308(a),~~ by the creation of protective sand dunes shall qualify for an exclusion under G.S.
19 113A-103(5)(b)(5) subject to the following limitations:

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

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

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

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4 *History Note:* Authority G.S. 113A-103(5)(b)(5); 113A-118(a);
5 Eff. November 1, 1984;
6 Amended Eff. March 1, 1985;
7 RRC Objection Eff. January 18, 1996 due to ambiguity;
8 Amended Eff. February 1, 2019; March 1, 1996.