

1 15A NCAC 07H .0205 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1972-1973 AS
2 FOLLOWS:

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4 **15A NCAC 07H .0205 COASTAL WETLANDS**

5 (a) Description. Coastal wetlands are defined as any salt marsh or other marsh subject to regular or occasional
6 flooding by tides, including wind tides ~~(whether or not the tide waters reach the marshland areas through natural or~~
7 ~~artificial watercourses)~~, tides, that reach the marshland areas through natural or artificial watercourses, provided this
8 does not include hurricane or tropical storm tides. Regular or occasional flooding shall be established through field
9 [indicators] indicators, including the observation of tidal water on the site, changes in elevation, presence of periwinkle
10 (littoraria spp.), presence of crab burrows, staining, or wrack lines. Coastal wetlands may contain one or more of the
11 following marsh plant species:

- 12 (1) Cord Grass (*Spartina* ~~alterniflora~~); alterniflora);
- 13 (2) Black Needlerush (*Juncus* ~~roemerianus~~); roemerianus);
- 14 (3) Glasswort (*Salicornia* ~~spp.~~); spp.);
- 15 (4) Salt Grass (*Distichlis* ~~spicata~~); spicata);
- 16 (5) Sea Lavender (*Limonium* ~~spp.~~); spp.);
- 17 (6) Bulrush (*Scirpus* ~~spp.~~); spp.);
- 18 (7) Saw Grass (*Cladium* ~~jamaicense~~); jamaicense);
- 19 (8) Cat-tail (*Typha* ~~spp.~~); spp.);
- 20 (9) Salt Meadow Grass (*Spartina* ~~patens~~); patens); or
- 21 (10) Salt Reed Grass (*Spartina cynosuroides*).

22 The coastal wetlands AEC includes any contiguous lands designated by the Secretary of ~~DENR~~ DEQ pursuant to G.S.
23 113-230(a).

24 (b) Significance. The unique productivity of the estuarine and ocean system is supported by detritus (decayed plant
25 material) and nutrients that are exported from the coastal marshlands. ~~The amount of exportation and degree of~~
26 ~~importance appears to be variable from marsh to marsh, depending primarily upon its frequency of inundation and~~
27 ~~inherent characteristics of the various plant species.~~ wetlands. Without the marsh, wetlands, the high productivity
28 levels and complex food chains typically found in the estuaries could not be maintained. Additionally, coastal wetlands
29 serve as barriers against flood damage and control erosion between the estuary and the uplands.

30 ~~Man harvests various aspects of this productivity when he fishes, hunts, and gathers shellfish from the estuary.~~
31 ~~Estuarine dependent species of fish and shellfish such as menhaden, shrimp, flounder, oysters, and crabs make up~~
32 ~~over 90 percent of the total value of North Carolina's commercial catch. The marshlands, therefore, support an~~
33 ~~enormous amount of commercial and recreational businesses along the seacoast.~~

34 ~~The roots, rhizomes, stems, and seeds of coastal wetlands act as good quality waterfowl and wildlife feeding and~~
35 ~~nesting materials. In addition, coastal wetlands serve as the first line of defense in retarding estuarine shoreline~~
36 ~~erosion. The plant stems and leaves tend to dissipate wave action, while the vast network of roots and rhizomes resists~~

1 soil erosion. In this way, the coastal wetlands serve as barriers against flood damage and control erosion between the
2 estuary and the uplands.

3 Marshlands also act as nutrient and sediment traps by slowing the water which flows over them and causing suspended
4 organic and inorganic particles to settle out. In this manner, the nutrient storehouse is maintained, and sediment
5 harmful to marine organisms is removed. Also, pollutants and excessive nutrients are absorbed by the marsh plants,
6 thus providing an inexpensive water treatment service.

7 (c) Management Objective. It is the objective of the Coastal Resources Commission to conserve and manage coastal
8 wetlands so as to safeguard and perpetuate their biological, social, economic and aesthetic values, and to coordinate
9 and establish a management system capable of conserving and utilizing coastal wetlands as a natural resource ~~essential~~
10 ~~necessary~~ to the functioning of the entire estuarine system.

11 (d) Use Standards. Suitable land uses are those consistent with the management objective in this Rule. ~~Highest~~ ~~First~~
12 priority of use ~~is shall be~~ allocated to the conservation of existing coastal wetlands. ~~Second~~ ~~Secondary~~ priority of
13 coastal wetland use ~~is shall be~~ given to those types of development activities that require water access and cannot
14 function elsewhere.

15 ~~Examples of unacceptable~~ ~~Unacceptable~~ land uses include restaurants, businesses, residences, apartments, motels,
16 hotels, trailer parks, parking lots, private roads, ~~highways~~ ~~highways~~, and factories. ~~Examples of acceptable~~ ~~Acceptable~~
17 land uses include utility easements, fishing piers, docks, wildlife habitat management activities, and agricultural uses
18 such as farming and forestry drainage as permitted under North Carolina's Dredge and Fill ~~Law~~ ~~Law, G.S. 113-229,~~
19 or ~~other applicable~~ ~~applicable local, state, and federal~~ laws.

20 In every instance, the particular location, use, and design characteristics shall be in accord with the general use
21 standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.

22 (e) Alteration of Coastal Wetlands. Alteration of coastal wetlands includes mowing or cutting of coastal wetlands
23 vegetation whether by mechanized equipment or manual means. Alteration of coastal wetlands by federal or state
24 resource management agencies as a part of planned resource management activities is exempt from the requirements
25 of this Paragraph. ~~Mowing or cutting of coastal wetlands by academic institutions associated with research efforts is~~
26 ~~allowed subject to approval from the Division of Coastal Management.~~ Alteration of coastal wetlands ~~is shall be~~
27 governed according to the following provisions:

28 (1) Alteration of coastal wetlands ~~is shall be~~ exempt from the permit requirements of the Coastal Area
29 Management Act (CAMA) when conducted in accordance with the following criteria:

- 30 (A) Coastal wetlands may be mowed or cut to a height of no less than two feet, as measured
31 from the coastal wetland substrate, at any time and at any frequency throughout the year;
- 32 (B) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured
33 from the coastal wetland substrate, once between each December 1 and March 31;
- 34 (C) Alteration of the substrate is not allowed;
- 35 (D) All ~~cuttings/clippings~~ ~~cuttings or clippings~~ shall remain in place as they fall;

1 (E) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured
2 from the coastal wetland substrate, to create an access path four feet wide or less on
3 waterfront lots without a pier access; and

4 (F) Coastal wetlands may be mowed or cut by utility companies as necessary to maintain utility
5 easements.

6 (2) Coastal wetland alteration not meeting the exemption criteria of this Rule ~~requires~~ **shall require** a
7 CAMA permit. CAMA permit applications for coastal wetland alterations are subject to review by
8 the North Carolina Wildlife Commission, North Carolina Division of Marine Fisheries, U.S. Fish
9 and Wildlife Service, and National Marine Fisheries Service in order to determine whether or not
10 the proposed activity will have ~~an adverse impact~~ **a significant adverse impact** on the habitat or
11 fisheries resources.
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13 *History Note:* Authority G.S. ~~113A-107(a); 113A-107(b);~~ **113A-107;** 113A-113(b)(1); 113A-124;
14 Eff. September 9, 1977;
15 Amended Eff. September 1, 2016; November 1, 2009; August 1, 1998; October 1, 1993; May 1,
16 1990; January 24, 1978.

1 15A NCAC 07H .1801 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1974 AS
2 **FOLLOWS:**

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4 **SECTION .1800 - GENERAL PERMIT TO ALLOW BEACH BULLDOZING LANDWARD OF THE**
5 **MEAN HIGH WATER MARK IN THE OCEAN HAZARD AEC**

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8 **15A NCAC 07H .1801 PURPOSE**

9 This permit will allow beach bulldozing needed to reconstruct or repair ~~frontal and/or primary dune systems,~~ **systems,**
10 **as defined in 15A NCAC 07H .0305.** For the purpose of this general permit, ~~beach bulldozing~~ **“beach bulldozing”** is
11 defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation
12 to repair damage to frontal ~~and/or~~ **or** primary ~~dunes caused by a major storm event.~~ **dunes.** This general permit is
13 ~~being developed according~~ **subject** to the procedures outlined in Subchapter 7J .1100 and ~~will~~ **shall** apply only to the
14 Ocean Erodible AEC. This general permit shall not apply to the Inlet Hazard AEC.

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16 *History Note: Authority G.S. 113-229(c1); ~~113A-107(a)(b);~~ **113A-107;** 113A-113(b); 113A-118.1;*
17 *Eff. December 1, 1987;*
18 *Amended Eff. September 1, 2016.*

1 15A NCAC 07H .1802 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1974 AS FOLLOWS:
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3 **15A NCAC 07H .1802 APPROVAL PROCEDURES**

4 (a) The applicant ~~must~~ **shall** contact the Division of Coastal Management ~~or local permit officer (LPO)~~ **at the address**
5 **provided in 15A NCAC 07A .0101** and complete an application ~~form~~ requesting approval for development. The
6 applicant shall provide information on site location, dimensions of the project area, and ~~his~~ **their** name and address.

7 (b) The applicant ~~must~~ **shall** provide:

8 (1) confirmation that a written ~~statement has been obtained~~ **statement**, signed by the adjacent riparian
9 property ~~owners indicating~~ **owners, stating** that they have no objections to the proposed ~~work; or~~
10 **work, has been obtained; or**

11 (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the
12 proposed work. Such notice ~~should~~ **shall** instruct adjacent property owners to provide any comments
13 on the proposed development in writing for consideration by permitting officials to the **Division of**
14 **Coastal Management DCM** within ~~ten~~ **10** days of receipt of the notice, ~~and, indicate~~ **and state** that
15 no response ~~will~~ **shall** be interpreted as no objection. DCM staff ~~will~~ **shall** review all comments and
16 determine, based ~~on~~ **upon** their relevance to the potential impacts of the proposed project, if the
17 proposed project can be approved by a General Permit. If DCM staff ~~finds that the comments are~~
18 ~~worthy of more in-depth review, the applicant will be notified that he must submit an application~~
19 ~~for a major development permit. determines that the project exceeds the Rules established for the~~
20 ~~General Permit process, DCM shall notify the applicant that an application for a major permit shall~~
21 ~~be required.~~

22 (c) No work shall begin until an on-site meeting is held with the applicant and ~~appropriate LPO or~~ **Division of Coastal**
23 **Management** representative so that the existing first line of stable natural vegetation can be appropriately marked and
24 recorded on the application. ~~Written authorization to proceed with the proposed development may be issued during~~
25 ~~this visit. DCM representative.~~ All bulldozing ~~must~~ **shall** be completed within 30 days of the date of permit ~~issuance~~
26 ~~or the general authorization expires.~~ **issuance.**

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28 *History Note:* Authority G. S. 113-229(cl); ~~113A-107(a)(b);~~ **113A-107;** 113A-113(b); 113A-118.1;
29 *Eff. December 1, 1987;*
30 *Amended Eff. September 1, 2016; January 1, 1990.*

1 15A NCAC 07H .1804 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1974 AS FOLLOWS:

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3 **15A NCAC 07H .1804 GENERAL CONDITIONS**

4 (a) ~~Any future setback determinations which may be required shall be made using the first line of stable natural~~
5 ~~vegetation established prior to the bulldozing activity.~~

6 (b)(a) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources
7 [Environmental Quality] to make periodic inspections at any time deemed necessary to ensure that the activity being
8 performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

9 (c)(b)(a) This permit ~~will~~ **shall** not be applicable to proposed construction where the Department has determined,
10 based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because
11 there are unresolved questions concerning the proposed activity's impact on adjoining properties or on **water quality;**
12 **air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; water quality, air quality, coastal**
13 **wetlands, cultural or historic sites, wildlife, fisheries resources,** or public trust rights. If a shipwreck is unearthed, all
14 work shall stop and **both** the Division of Archives and History and Coastal Management **[Department of Natural and**
15 **Cultural Resources and the]** Division of Coastal Management shall be contacted immediately.

16 (d)(c)(b) This permit ~~does~~ **shall** not eliminate the need to obtain any other required state, local or federal
17 authorization.

18 (e)(d)(c) Development carried out under this permit ~~must~~ **shall** be consistent with all local requirements, AEC
19 Commission rules, and local Land Use Plans **current in effect** at the time of authorization.

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21 *History Note: Authority G.S. 113-229(c1); ~~113A-107(a)(b);~~ **113A-107;** 113A-113(b); 113A-118.1;*
22 *Eff. December 1, 1987;*
23 *Amended Eff. May 1, 1990;*
24 *RRC Objection due to ambiguity Eff. May 19, 1994;*
25 *Amended Eff. September 1, 2016; August 1, 1998; July 1, 1994.*

1 15A NCAC 07H .1805 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1794-1975 AS
2 FOLLOWS:

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4 **15A NCAC 07H .1805 SPECIFIC CONDITIONS**

5 (a) The area ~~in which~~ **where** this activity is being performed ~~must~~ **shall** maintain a slope of adequate grade so as to
6 ~~not endanger the public or the public's use of the beach and should follow that follows~~ the pre-emergency slopes as
7 closely as ~~possible~~. possible so as not to endanger the public or the public's use of the beach. The movement of
8 material by a bulldozer, front-end loader, backhoe, ~~scraper~~ **scraper**, or any type of earth moving or construction
9 equipment shall not exceed ~~± one~~ foot in depth measured from the pre-activity surface elevation.

10 (b) The activity ~~must~~ **shall** not exceed the lateral bounds of the applicant's property ~~unless he has the written~~
11 ~~permission of the adjoining landowner(s). [property owner(s) is obtained.]~~ without the written permission of the
12 adjoining landowner(s).

13 (c) ~~Movement~~ The permit shall not authorize movement of material from seaward of the mean ~~high~~ low water ~~line is~~
14 ~~not authorized. line.~~

15 (d) The activity ~~must~~ **shall** not ~~demonstratively~~ increase erosion on neighboring properties.

16 (e) Adding ~~sand~~ to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized.
17 The Upon completion of the project, the fill areas will be immediately shall be replanted ~~or temporarily stabilized until~~
18 ~~planting can be successfully completed.~~ with native vegetation, such as Sea Oats (Uniola paniculata), or if outside the
19 planting season, shall be stabilized with sand fencing until planting can occur.

20 (f) In order to minimize adverse impacts to nesting sea turtles, no ~~work~~ **bulldozing** shall occur within the period of
21 ~~May~~ April 1 through November 15 of any ~~year, year~~ without the ~~prior~~ approval of the Division of Coastal
22 Management, in coordination with the North Carolina Wildlife Resources Commission, the United States Fish and
23 Wildlife ~~Service~~ **Service**, and the United States Army Corps of Engineers, that the work can be accomplished without
24 ~~adversely impacting~~ significant adverse impact to sea turtle nests or suitable nesting habitat.

25 (g) If one contiguous acre or more of oceanfront property is to be excavated or filled, an erosion and sedimentation
26 control plan ~~must~~ **shall** be filed with the Division of Energy, Mineral, and Land Resources, or appropriate local
27 government having jurisdiction. This plan must be approved prior to commencing the land disturbing activity.

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29 *History Note:* Authority G.S. 113-229(c1); ~~113A-107(a)(b);~~ 113A-107; 113A-113(b); 113A-118.1;

30 *Eff. December 1, 1987;*

31 *Temporary Amendment Eff. September 2, 1998;*

32 *Amended Eff. September 1, 2016; August 1, 2012 (see S.L. 2012-143, s.1.(f)); August 1, 2000.*

1 15A NCAC 07H .2505 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1975 AS FOLLOWS:

3 15A NCAC 07H .2505 SPECIFIC CONDITIONS

4 (a) The replacement of a damaged or destroyed structure shall take place within the footprint and dimensions that
5 existed immediately prior to the damaging hurricane or tropical storm. No structural enlargement or additions shall
6 be allowed.

7 (b) Structure replacement, dune reconstruction, and maintenance excavation authorized by this permit shall conform
8 to the existing use standards and regulations for exemptions, minor development ~~permits~~ **permits**, and major
9 development permits, including general permits. These use standards include, but are not limited to:

- 10 (1) 15A NCAC 07H .0208(b)(6) for the replacement of docks and piers;
- 11 (2) 15A NCAC 07H .0208(b)(7) for the replacement of bulkheads and shoreline stabilization measures;
- 12 (3) 15A NCAC 07H .0208(b)(9) for the replacement of wooden and riprap groins;
- 13 (4) 15A NCAC 07H .1500 for maintenance excavation activities; and
- 14 (5) 15A NCAC 07H .1800 for beach bulldozing ~~landward of the mean high water mark.~~ **in the** Ocean
15 Hazard AEC.

16 (c) The replacement of an existing dock or pier facility, including associated structures, marsh enhancement
17 ~~breakwaters~~ **breakwaters**, or groins shall be set back 15 feet from the adjoining property lines and the riparian access
18 dividing line. The line of division of riparian access shall be established by drawing a line along the channel or deep
19 water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the
20 shore at the point the upland property line meets the water's edge. Application of this Rule may be aided by reference
21 to the approved diagram in 15A NCAC 07H ~~.1205(q).~~ **.1205**, illustrating the rule as applied to various shoreline
22 configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline
23 configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of
24 this Rule to the maximum extent practicable. The setback may be waived by written agreement of the adjacent riparian
25 owner(s) or when the two adjoining riparian owners are co-applicants. Should the adjacent property be sold before
26 replacement of the structure begins, the applicant shall obtain a written agreement with the new owner waiving the
27 minimum setback and submit it to the Division of Coastal Management prior to initiating any construction of the
28 structure.

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30 *History Note: Authority G.S. 113A-107; 113A-118.1;*
31 *Temporary Adoption Eff. October 2, 1999;*
32 *Temporary Adoption Expired on July 28, 2000;*
33 *Eff. April 1, 2001;*
34 *Amended Eff. September 1, 2016.*