

1 15A NCAC 12H .0103 is readopted with changes as published in 31: 03 NCR 141 as follows:

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3 **15A NCAC 12H .0103 DEFINITIONS AS USED IN THIS SUBCHAPTER**

4 In addition to the definitions in G.S. ~~113A-164.3; 143B-135.254; 143B-135.254~~, the following terms shall apply to  
5 this Subchapter:

6 (1) "Natural diversity" means the native range of plant and animal species, geological features, plant  
7 communities, ecosystem ~~types~~ types, and other Natural natural features.

8 (2) "Natural Heritage Areas List" means a list of those natural areas recommended by the Natural  
9 Heritage ~~Program~~ Program, pursuant to G.S. 143B-135.256(7), that are of special importance to the  
10 maintenance of the state's natural diversity and that may warrant protection by registration or  
11 dedication.

12 ~~(3) "Registry of Natural Heritage Areas" means a list of registered areas.~~

13 (3) A "Natural "natural community" means any area with a distinct recognizable and reoccurring  
14 assemblage of plants, animals, bacteria, and fungal species naturally associated with each other and  
15 their physical environment.

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17 *History Note: Authority G.S. ~~113-3; 113-8; 113A-164.3; 113A-164.4; 143B-135.252; 143B-135.254; 143B-~~*  
18 *135.256;*

19 *Eff. April 4, 1979;*

20 *Amended Eff. August 1, 1988; January 1, 1986; October 1, 1984; August 30, 1980;*

21 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0104 is repealed as published in 31:03 NCR 141 as follows:

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3 **15A NCAC 12H .0104 RESPONSIBILITIES AND DUTIES OF NATURAL HERITAGE PROGRAM**

4 ~~The Natural Heritage Program shall be responsible for conducting and maintaining the state's inventory of natural~~  
5 ~~areas and natural diversity resources including endangered and threatened species; for identifying the state's most~~  
6 ~~important natural areas; for data exchange with other public agencies; for arranging the registration of natural areas~~  
7 ~~and dedication of nature preserves; for maintaining a plan governing the system of registered and dedicated natural~~  
8 ~~areas; and for establishing means for the protection and management of the state's natural heritage resources, as further~~  
9 ~~described in the Division's administrative manual and the program's operations manual and public information~~  
10 ~~documents.~~

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12 *History Note: Authority G.S. 113-3; 113-8; 113A-164.4;*

13 *Eff. April 4, 1979;*

14 *Amended Eff. January 1, 1986; October 1, 1984; August 30, 1980;*

15 *Repealed Eff. March 1, 2017.*

1 15A NCAC 12H .0105 is readopted with changes as published in 31:03 NCR 141 as follows:

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3 **15A NCAC 12H .0105 NATURAL HERITAGE ADVISORY COMMITTEE**

4 (a) ~~There is a~~ The Natural Heritage Advisory Committee shall be composed of nine members appointed by the  
5 ~~secretary.~~ Secretary, in accordance with ~~The Nature Preserves Act~~ G.S. 143B-135.256(6).

6 (b) ~~Purpose. The purpose of the committee is to advise the secretary and department on matters concerning the~~  
7 ~~identification, selection, registration, dedication, protection, and management of natural areas and preservation of~~  
8 ~~North Carolina's natural diversity, and to coordinate and facilitate cooperative efforts among public, private, academic,~~  
9 ~~and scientific bodies engaged in natural heritage inventory and protection activities.~~

10 (e)(b) ~~Functions, Composition, Terms of Service.~~ The Natural Heritage Advisory Committee shall:

- 11 (1) advise and make recommendations to the Department on inventory and evaluation of natural areas;
- 12 (2) review and make recommendations for registration, acquisition, and dedication of ~~Natural natural~~  
13 areas and ~~Nature nature~~ preserves by the Department;
- 14 (3) review and make recommendations on Department priorities and plans for the selection of particular  
15 natural areas for ~~state State~~ acquisition and for designation of nature preserves;
- 16 (4) review and make recommendations on master plans, management plans, and other plans and  
17 proposals for development and use of ~~natural~~ lands administered by the Department;
- 18 (5) advise the Secretary on ~~policies, rules, and regulations~~ policies and rules governing management,  
19 protection, and use of ~~designated~~ registered ~~Natural natural~~ areas and dedicated ~~Nature nature~~  
20 preserves by the Department;
- 21 (6) advise and consult with the Secretary and Department staff on policies and programs relating to  
22 preservation of natural diversity and outstanding ~~Natural natural~~ areas in the state; and
- 23 (7) consult and coordinate with other public agencies, conservation organizations, and scientific bodies  
24 on matters concerning natural diversity inventory and ~~Natural natural~~ areas identification,  
25 acquisition, management, and dedication.

26 ~~Specific functions, committee composition, Terms of service, and operation are further described in the Division's~~  
27 ~~administrative manual.~~

28 (d)(c) ~~Travel Expenses. Members of the committee, except ex officio members, are entitled to per diem and necessary~~  
29 ~~travel and subsistence expenses in accordance with G.S. 143B-10(d).~~

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31 *History Note:* Authority G.S. ~~113A-164.4; 113-3; 113-8;~~ 143B-10; 143B-135.256;

32 Eff. April 4, 1979;

33 Amended Eff. January 1, 1986; October 1, 1984; March 1, 1983; August 30, 1980;

34 Repealed Eff. March 1, 2017.

1 15A NCAC 12H .0201 is readopted with changes as published in 31:03 NCR 142 but is now repealed as follows:

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3 **15A NCAC 12H .0201 OBJECTIVES OF REGISTRY**

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5 *History Note:* Authority ~~G.S. 113-3; 113-8; 113A-164.4;~~ 143B-135.254; 143B-135.256; 143-135.258;

6 Eff. April 4, 1979;

7 Repealed Eff. March 1, 2017.

1 15A NCAC 12H .0202 is readopted with changes as published in 31:03 NCR 142 as follows:

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3 **15A NCAC 12H .0202 CRITERIA FOR ELIGIBILITY**

4 (a) For an area to qualify as a Natural Heritage Area and be eligible for registration or dedication, the Natural Heritage  
5 Program staff shall determine that the area ~~the area shall possess~~ possesses one or more of the following natural values:

- 6 (1) a habitat for individual species of plants or animals that are in danger of or threatened by extirpation;
- 7 (2) ~~an exemplary or a rare~~ Natural natural terrestrial community;
- 8 (3) ~~an exemplary or a rare~~ aquatic community;
- 9 (4) ~~outstanding geologic or geomorphic~~ features that ~~illustrates~~ illustrate geologic processes or the  
10 history of the earth;
- 11 (5) a unique or unusual ~~natural ecological~~ features such as ~~old growth forest conditions or unusual~~  
12 ~~vegetation types; types; or~~
- 13 (6) ~~other biological or ecological phenomena of significance, such as a major bird rookery or bat colony.~~  
14 significance.

15 (b) In addition to the criteria stated in Paragraph (a) of this Rule, Upon meeting one of the criteria in Paragraph (a) of  
16 this Rule, the Natural Heritage Program staff shall evaluate an area ~~an area shall be evaluated~~ with respect to the  
17 following factors:

- 18 (1) ~~the presence of ecological natural~~ values ~~not adequately~~ represented in previously registered Natural  
19 Heritage Areas;
- 20 (2) ~~the~~ Natural natural diversity of the area; ~~diversity of natural types of flora and fauna;~~
- 21 (3) ~~the quality and viability of the natural environmental~~ features ~~(i.e., including, including~~ self-  
22 ~~sufficiency of the natural ecosystem when~~ properly managed; managed and degree of vulnerability  
23 ~~to disturbances and~~ intrusions); intrusions;
- 24 (4) ~~absence of damaging land uses, logging, grazing, erosion, intrusion by exotic species, etc., or the~~  
25 ~~extent to which past disturbances or land uses have altered natural features;~~ Natural natural  
26 communities. Considering that nearly all areas of the State have been altered by human intrusions  
27 to some extent and considering that certain natural elements require manipulative management, an  
28 area should not be denied recognition solely because of past disturbances; An area may be  
29 considered even if it shows evidence of past disturbance or land uses; use;
- 30 (5) ~~the capability of being~~ ability to be managed so as to protect and maintain ecological natural features  
31 in a natural condition, and a buffer area area, as set forth in Rule .0304 of this Subchapter, ~~zone is~~  
32 ~~desirable to ensure~~ assure protection. ~~(a A~~ buffer zone, where possible, ~~should shall~~ follow naturally  
33 defensible boundaries and ~~should~~ help protect the site against adverse effects from use and  
34 development of adjacent ~~land; land.~~ The buffer zone may be included in the designated area but  
35 need not itself possess ~~special natural values); any eligibility criteria as set forth in this Rule;~~
- 36 (6) compatibility of protective management practices with current use practices on adjacent lands; and  
37 (7) scientific and educational value.

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2 *History Note:* Authority G.S. ~~113-3; 113-8; 113A-164.4; 113A-164.5~~; 143B-135.256; 143B-135.258;

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*Eff. April 4, 1979;*

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*Amended Eff. January 1, 1986;*

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*Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0203 is readopted with changes as published in 31:03 NCR 142-143 as follows:

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3 **15A NCAC 12H .0203 REGISTRATION PROCESS**

4 (a) Nomination.

5 (1) Nominations for the Registry of Natural Heritage Areas may be made by the Natural Heritage  
6 Program staff, by other public agencies, by members of the Natural Heritage areas Advisory  
7 Committee, ~~or and~~ by any other resident or property owner of the State. Nominations shall be  
8 ~~submitted~~ submitted, in writing, to the North Carolina Natural Heritage ~~Program.~~ Program, 1651  
9 Mail Service Center, Raleigh, North Carolina 27699. Nominations shall include the name, address  
10 and phone number for both the nominator and the owner of the of the nominated area and the  
11 location where the area is located.

12 (2) ~~The Natural Heritage Areas Nomination Form or equivalent information shall be submitted in order~~  
13 ~~to provide the Natural Heritage Program with general information on location, owner or~~  
14 ~~administering agency, current use, and natural significance of proposed areas.~~ The Natural Heritage  
15 Program staff ~~shall, if necessary,~~ shall conduct an on-site evaluation of a nominated area in order to  
16 gather ~~additional~~ information ~~on which~~ to determine that the area meets eligibility criteria. ~~The~~  
17 ~~nomination form can be obtained at the address of the Natural Heritage Program.~~

18 (3) After reviewing sufficient information on a nominated area, the Natural Heritage Program staff shall  
19 determine if an area qualifies for the registry and shall document its findings in an evaluation report  
20 with recommendations for action. ~~For each nominated site worthy of registration worthy for~~  
21 ~~registration, the Natural Heritage Program staff coordinator shall prepare a statement of significance~~  
22 ~~and shall sign a statement of recommendation that the area is found eligible for the Registry of~~  
23 ~~Natural Heritage Areas. The Natural Heritage Program staff coordinator, in cases when a site is~~  
24 ~~found not to meet eligibility criteria, shall prepare a negative report explaining the decision. The~~  
25 ~~Natural Heritage Advisory Committee shall review both positive and negative recommendations.~~

26 (4) Nominations initiated by the public or other agencies shall be accepted or rejected (~~with a full~~  
27 ~~explanation accorded upon rejection~~) by the Department within one year ~~six months~~ of receipt.  
28 Rejections shall include an explanation. The nominator may request ~~petition for~~ consideration again  
29 by submitting information that was not previously considered ~~if significant new information is~~  
30 ~~forwarded~~ to the Natural Heritage Program.

31 (b) Notification of Landowner or Administrator. Once an area is nominated and is ~~appears potentially eligible for~~  
32 recommended for registration, the Natural Heritage Program staff shall notify the owner or administering agency.  
33 ~~This notification may not be necessary at this point if the owner nominated or knew about the nomination of the~~  
34 ~~property.~~ The owner may request that the property be or not be considered further for registration.

35 (c) Review Process. ~~All nominations and recommendation statements shall be submitted by the Natural Heritage~~  
36 Program to the Natural Heritage Advisory Committee for its review and approval. The Natural Heritage Advisory  
37 Committee shall receive and review nominations at its regularly scheduled meetings. The chairman or acting chairman

1 of the advisory committee, upon committee approval of the nomination, shall sign the statement of recommendation  
2 before approval by the Director of the Division of Parks and Recreation and submission to the Secretary or his  
3 designee. The Secretary or his designee shall solicit review and comment upon the nomination from all appropriate  
4 agencies. Recommendation statements and a report on the owner's willingness to accept registration shall then be  
5 forwarded to the Secretary for final decision on eligibility. All nominations and recommendation reports shall be  
6 submitted by the Natural Heritage Program to the Natural Heritage Advisory Committee ("Committee"). Upon  
7 approval of the nomination by the Committee, the chairman or acting chairman shall sign the statement of  
8 recommendation and submit it for review by the Division Director. If the Division Director approves the statement of  
9 recommendation, it shall be submitted to the Natural Heritage Program staff, Secretary or his or her designee. The  
10 Secretary or his or her designee Natural Heritage Program staff shall solicit comments about the nomination from the  
11 landowner or managing agency. Recommendation statements, comments, and a report of the owner's willingness to  
12 accept registration shall then be submitted to the Secretary by the Natural Heritage Program staff.

13 (d) Designation. Upon receipt of the recommendations from the Natural Heritage Program and Natural Heritage  
14 Advisory Committee and reviews by appropriate divisions and agencies, Upon review of the information submitted  
15 in Paragraph (c). The the Secretary shall decide whether the nominated area is eligible for listing in the Registry of  
16 Natural Heritage Areas. The registration of a site shall be the voluntary decision of the landowner or administering  
17 agency, pursuant to G.S. 143B-135.258, the Secretary shall have the option of approving or not approving an area as  
18 eligible for the registry. The registration of a site is ultimately the voluntary decision of the landowner or administering  
19 agency.

20 (e) The owner or a competent volunteer shall annually report to the Natural Heritage Program Director at least once  
21 a year on the condition of the Registered registered area. The Natural Heritage Program shall maintain a file that  
22 contains an annual status and management report of each registered area.

23  
24 *History Note:* Authority G.S. 113-3; 113-8; 113A-164.4; 113A-164.5; 143B-135.256; 143B-135.258;  
25 Eff. April 4, 1979;  
26 Amended Eff. January 1, 1986; October 1, 1984; August 30, 1980;  
27 Readopted Eff. March 1, 2017.

1 15A NCAC 12H .0204 is repealed as published in 31:03 NCR 143 as follows:

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3 **15A NCAC 12H .0204 REGISTRATION**

4 ~~(a) A natural area shall become officially registered when a voluntary agreement to protect the site for its specified~~  
5 ~~natural values has been signed by the owner and the Secretary, according to requirements of this Rule. The owner~~  
6 ~~shall be given a certificate signifying the inclusion of the area on the registry.~~

7 ~~(b) After the Secretary approves an area as eligible for registration, the Natural Heritage Program shall offer the owner~~  
8 ~~or administering agency the opportunity of placing the designated part of the property on the registry in return for~~  
9 ~~signing a non-binding agreement (promise of intent) to manage the site for the protection of the significant natural~~  
10 ~~elements. Natural Heritage Area Registry status for an area shall become effective upon the signing of the letter of~~  
11 ~~agreement by the Secretary and the landowner or administering agency.~~

12 ~~(c) In cases when an area recommended to the registry is administered by the Department, the Secretary shall have~~  
13 ~~the decision of registering or not registering the area, upon receiving the recommendation of the management agency.~~  
14 ~~In cases when another public agency other than the Department is the administrator or owner of an area which is~~  
15 ~~recommended to the registry, the registration will become effective upon the signing of the agreement by the Secretary~~  
16 ~~and the responsible executive of the administering agency.~~

17 ~~(d) Upon signing of the agreement, the Department shall present the owner or administering agency with a certificate~~  
18 ~~which indicates the area is a registered natural heritage area. The owner or a competent volunteer shall be requested~~  
19 ~~to report to the Natural Heritage Program at least once a year on the condition of the area. The Natural Heritage~~  
20 ~~Program shall maintain a file on each registered area that contains complete documentation, annual status report, and~~  
21 ~~management reports.~~

22 ~~(e) The owner must be advised that it is his option to publicize the registration.~~

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24 *History Note: Authority G.S. 113-3; 113-8; 113A-164.4; 113A-164.5;*

25 *Eff. April 4, 1979;*

26 *Amended Eff. January 1, 1986;*

27 *Repealed Eff. March 1, 2017.*

1 15A NCAC 12H .0205 is readopted with changes as published in 31:03 NCR 143-144 as follows:

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3 **15A NCAC 12H .0205 RESCISSION**

4 (a) The registration agreement may be terminated at any time upon notification by either party. Such termination shall  
5 remove the area from the Registry.

6 ~~(b) The Secretary may rescind recognition if the owner fails to carry out the promised protection practices. The written~~  
7 ~~agreement between the landowner and the Department shall request 30 days notification by either party before the~~  
8 ~~agreement is terminated. The secretary has the authority to rescind registry status for any area on department~~  
9 ~~administered property. Such action should occur only after it has been clearly shown that there is a higher, better and~~  
10 ~~more important use for an area. Rescission shall not affect existing statutory protection for an area.~~

11 ~~(c)(a)(b) Any person one may petition~~ submit, in writing, a request to submit a written request to the Department to  
12 remove an area from the Registry if he or she believes the site no longer ~~deserves recognition~~ meets the criteria for  
13 Registration registration as set forth in Rule .0202 of this Section. The ~~petition request~~ request for removal must shall explain  
14 the changes that have occurred to the area since the area was ~~registered.~~ registered and why the area no longer meets  
15 the criteria for in Rule .0202 of this Section. All requests made under this Section Rule must shall be submitted to the  
16 North Carolina Natural Heritage Program, 1651 Mail Service Center, Raleigh, North Carolina 27699. After  
17 considering the ~~petition~~ request, the Secretary, upon recommendation of the Natural Heritage Program staff and  
18 Natural Heritage Advisory Committee, may order removal ~~by signing a rescission order. from the Registry. Registry~~  
19 as set forth in G.S. 143B-135.258.

20 ~~(d)(b)(c) Rescission shall remove the area from the Registry of Natural Heritage Areas,~~ and the owner or administering  
21 agency shall be requested to return the certificate to the agency signifying the area's inclusion on the ~~Registry. Registry,~~  
22 as set forth in G.S. 143B-135.256.

23 ~~(e)(d) Any person~~ Anyone who is a person aggrieved by any of the steps in the process described in this Rule may  
24 seek an administrative hearing as set forth ~~provided by the Departmental administrative hearing rules as located in~~  
25 15A NCAC 1B .0200. G.S. 150B-23.

26

27 *History Note:* Authority G.S. 113-3; 113-8; 113A-164.4; 113A-164.5; 143B-135.256; 143B-135.258;

28 *Eff. April 4, 1979;*

29 *Amended Eff. August 1, 1988; January 1, 1986; October 1, 1984;*

30 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0206 is readopted with changes as published in 31:03 NCR 144 as follows:

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3 **15A NCAC 12H .0206 PUBLIC ACCESS**

4 Registration of a natural area ~~shall not~~ ~~does not provide or require rights~~ create a right of public access to **a Registered**  
5 **the registered** area. Any person visiting a Registered registered area ~~Visitors must~~ shall first obtain the permission of  
6 the ~~landowner~~ owner or managing agency before entering the property. The landowner or managing agency retains  
7 the option to restrict publicity and access to the property.

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9 *History Note: Authority G.S. ~~113-3; 113-8; 113A-164.4; 143B-135.256;~~*

10 *Eff. April 4, 1979;*

11 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0207 is readopted with changes as published in 31:03 NCR 144 but is now repealed as follows:

2

3 **15A NCAC 12H .0207 MANAGEMENT OF REGISTERED NATURAL AREAS**

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5 *History Note: Authority G.S. ~~113-3; 113-8; 113A-164.4~~; 143B-135.256; 143B-135.258;*

6 *Eff. April 4, 1979;*

7 *Repealed Eff. March 1, 2017.*

1 15A NCAC 12H .0208 is readopted with changes as published in 31:03 NCR 144-145 but is now repealed as  
2 follows:

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4 **15A NCAC 12H .0208 DESIGNATION OF NATURAL AREAS ON STATE LANDS**

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6 *History Note: Authority G.S. ~~113-3; 113-8; 113A-164.5; 113A-164.8; 143-341; 143-342; 143A-164.4;~~*

7 *143B-135.258; 143B-135.264;*

8 *Eff. March 1, 1983;*

9 *Amended Eff. October 1, 1984;*

10 *Repealed Eff. March 1, 2017.*

1 15A NCAC 12H .0301 is readopted with changes as published in 31:03 NCR 145 as follows:

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**15A NCAC 12H .0301 OBJECTIVES OF DEDICATION**

(a) The State may accept the dedication of ~~Nature nature~~ preserves on lands deemed by the Secretary to qualify as ~~outstanding natural areas; "outstanding natural areas," areas"~~, based on the criteria of eligibility as set forth in Rule .0202 of this Subchapter. ~~The owner of a qualified natural area may dedicate a nature preserve by transferring fee simple title or other interest, estate, or right in his land, or portion thereof, to the State. Dedicated nature preserves may be acquired by gift, grant, or purchase.~~ The Secretary ~~may shall~~ recommend to the Governor and Council of State, through the Director of the ~~Office of State Property~~ State Property Office in the Department of Administration, that an area be dedicated as a nature preserve. Dedication of a preserve becomes effective only upon acceptance of ~~articles of dedication~~ Articles of Dedication by the Governor and Council of State. Articles of ~~dedication~~ Dedication shall be recorded in the ~~county(ies)~~ county or counties ~~in which where~~ the nature preserve is located, in the ~~Office of State Property, State Property Office~~ and in the office of the Natural Heritage Program.

(b) ~~Preserves, Nature preserves created by dedication are declared to be at their highest and best use for public benefit if they by serving serve one or more of the following public purposes: purposes described in G.S. 143B-135.252;~~

- (1) ~~Contribute to the growth and development of public understanding of and empathy for natural systems, and the consequent development of public understanding for the interdependence of all forms of life and vital dependence of the health of the human community on the health of other natural communities.~~
- (2) ~~Provide sites for scientific research and examples for scientific comparison with more disturbed sites.~~
- (3) ~~Provide sites for educational activities and places where people may observe Natural biotic resources and environmental systems.~~
- (4) ~~Provide habitat for the survival of rare plants or animals or natural communities or other significant biological features.~~
- (5) ~~Provide opportunities for contemplation or outdoor recreation compatible with the protection of the natural area.~~
- (6) ~~Provide places for the preservation of natural beauty.~~

*History Note: Authority G.S. ~~113A-164.4; 113A-164.6; 143B-135.252; 143B-135.256; 143B-135.260; 146-26; 143B-135.270;~~  
Eff. August 30, 1980;  
Amended Eff. January 1, 1986; October 1, 1984;  
Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0302 is readopted with changes as published in 31:03 NCR 145-146 as follows:

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3 **15A NCAC 12H .0302 DEDICATION PROCESS**

4 ~~(a) Each area proposed for dedication as a Nature preserve shall be examined and reported on in writing to the~~  
5 ~~Secretary by the Natural Heritage Program or other person or persons designated by the Secretary.~~

6 ~~(b) The report on the proposed area shall include information on its location, legal description, ownership, provision~~  
7 ~~for custody and management, general character, natural types, environmental significance, degree of past disturbance,~~  
8 ~~relation to adjoining lands, potential as a nature preserve, and interest of the owner in dedication.~~

9 ~~(c)(a) Upon receipt of the report and recommendation~~ reports ~~from the Natural Heritage Program and~~ statements of  
10 ~~recommendation from the Natural Heritage Advisory Committee, the Secretary shall make a determination that the~~  
11 determine whether the ~~proposed area qualifies under criteria set forth~~ under in Rule .0202 of this Subchapter and  
12 ~~constitutes a an "outstanding natural area" area worthy of protection through dedication as a Nature nature preserve,~~  
13 ~~preserve. and if the whether the owner is willing to have the land or a portion thereof dedicated as a Nature~~ preserve,  
14 ~~preserve through the Office of State Property to the Governor and Council of State.~~

15 ~~(d)(b) A natural area shall become a nature preserve upon acceptance of articles of dedication by the Governor and~~  
16 ~~Council of State. Nature preserves are created when~~ Natural natural ~~areas are dedicated by:~~

- 17 (1) ~~a person or other the~~ owner who transfers to the State the title or other interest in the land with  
18 Articles of ~~dedication~~ Dedication agreed to by the owner and the ~~State. State; The Articles of~~  
19 ~~dedication shall include a statement of the public purposes served by the dedication and declare that~~  
20 ~~the State shall hold such title or interests in trust for the public as a dedicated preserve under terms~~  
21 ~~and authority of the Nature Preserves Act, G.S. 113A 164.7. 143B 135.262; or~~
- 22 (2) any local unit of government that transfers fee simple title or other interest in land to the State  
23 through Articles of ~~dedication~~ Dedication agreed to by the local government agency and the ~~State.~~  
24 ~~State; The Articles of Dedication shall include a statement of the public purposes served by the~~  
25 ~~dedication and name the State as trustee for the dedication. or~~
- 26 (3) the State itself for State-owned lands through Articles of ~~dedication, Dedication,~~ and declaring the  
27 State as trustee for the dedication, subject to allocation pursuant to the provisions of G.S. 143-  
28 341(4)g. The Secretary and Director of the ~~Office of State Property~~ State Property Office shall  
29 make recommendations to the Governor and Council of State for dedicating State-owned lands as  
30 Nature nature preserves.

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32 *History Note: Authority G.S. 113A 164.4; 113A 164.6 through 164.10; 143B-135.256; 143B-135.260; 143B-*  
33 *135.262; 143B-135.264; 143B-135.266; 143B-135.268;*  
34 *Eff. August 30, 1980;*  
35 *Amended Eff. August 1, 1988; January 1, 1986;*  
36 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0303 is readopted with changes as published in 31:03 NCR 146 as follows:

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3 **15A NCAC 12H .0303 ARTICLES OF DEDICATION**

4 (a) Articles of ~~dedication~~ Dedication shall ~~include include:~~ be developed and accepted as follows:

5 (1) ~~A a statement indicating of~~ A a statement indicating of the public purposes served by the dedication and ~~declaring declare a~~  
6 declaration that the State shall hold such title or interest to the area in trust for the public as a  
7 dedicated Nature nature preserve under the terms and authority set forth in G.S. ~~143B-135.262;~~  
8 143B-135-262, and describe the Articles of dedication must consist of such rights and restrictions  
9 as: as will adequately protect: protect the dedicated area consistent with the criteria set forth in Rule  
10 .0202 of this Subchapter.

11 (A) ~~will adequately protect the~~ qualifying natural features ~~values of the~~ dedicated area  
12 consistent with the criteria set forth in of the land under Rule .0202 of this Subchapter; and

13 (B) ~~will provide and protect the public purposes~~ set forth in the statement, described in the  
14 Articles of Dedication and complying with as set forth in Rule .0301(b) of this Section.

15 (2) ~~Articles of dedication shall contain provisions relating to the management, use, development,~~  
16 ~~transfer, and public access, and may contain any other restrictions and provisions as may be necessary or~~  
17 ~~advisable to protect the public purposes described in the articles.~~

18 (3)(2) ~~Articles of dedication shall specify the primary custodian who will be responsible for managing the~~  
19 Nature nature preserve in accordance with the Articles of dedication Dedication and these  
20 regulations. rules;

21 (4) ~~Articles of dedication may define, consistently with the public purposes of the dedication, the~~  
22 ~~respective rights and duties of the owner and of the State, and provide procedures to be followed in~~  
23 ~~case of violations of the restrictions.~~

24 (5) ~~Articles of dedication may recognize and create reversionary rights, transfers upon conditions or~~  
25 ~~with limitations, and gifts over, as provided by G.S. 113A-164.6(b)(3) and (c).~~

26 (6) ~~Articles of dedication shall be filed by the State with the county register(s) of deeds in the~~  
27 ~~county(ies) where the land lies and shall become and remain part of the deed until and unless~~  
28 ~~extinguished by the State under provisions in G.S. 113A-164.6(e).~~

29 (7) ~~Articles of dedication may be acquired by purchase, gift, or grant, or may be established by the State~~  
30 ~~on lands or interests in lands that it holds, however acquired.~~

31 (8) ~~Articles of dedication may not be accepted and recorded without express approval of the Governor~~  
32 ~~and Council of State.~~

33 (9)(3) ~~Articles of dedication shall include the right of the State or its agents to enter the dedicated lands at~~  
34 ~~reasonable times to inspect its condition and to enforce the Articles of~~ dedication Dedication, ~~as~~  
35 ~~needed.~~ This right of inspection shall not in and of itself ~~constitute~~ create an automatic right of  
36 public access. access; and

1 (10) ~~Articles of dedication may provide public access. Such access is preferred where it will not interfere~~  
2 ~~with the qualities of the natural area or subvert the value of the public purposes served by dedication.~~

3 (11) ~~Articles of dedication may vary in provisions from one nature preserve to another in accordance~~  
4 ~~with differences in the characteristics and conditions of the area involved, or for other reasons found~~  
5 ~~necessary by the State and the landowner, grantor, deviser, or donor.~~

6 (4) any other provision necessary to carry out the purpose of this Subchapter.

7 (b) Articles of ~~dedication~~ Dedication on land remaining in private ownership shall contain a provision notifying the  
8 State before any sale or transfer by deed or lease of the land or other interests therein. The State ~~will~~ shall not regulate  
9 or prohibit such sale or transfer, but shall ensure that the grantee or lessee is familiar with the Articles of ~~dedication~~  
10 Dedication, ~~and understands their meaning and that they are binding on him. The Articles of~~ dedication Dedication  
11 shall contain a provision indicating that any transfer of any interest in the dedicated nature preserve shall be subject  
12 to the conditions set forth in the Articles of dedication Dedication. ~~The county register(s) of deeds should notify the~~  
13 ~~State whenever dedicated lands are transferred by will or as part of an estate. Local government agencies holding~~  
14 ~~dedicated lands shall notify the State at least 30 days before sale or transfer of the lands or interests therein, and such~~  
15 ~~sale or transfer shall not subvert the purposes of G.S. 113A-164. Sale or transfer of dedicated preserves in State~~  
16 ~~ownership shall not subvert the purposes of G.S. 113A-164.7.~~

17  
18 *History Note:* Authority G.S. 113A-164.6 through 113A-164.10; 143B-135.260; 143B-135.262; 143B-135.264;  
19 143B-135.266; 143B-135.268;  
20 Eff. January 1, 1986;  
21 Amended Eff. August 1, 1988;  
22 Readopted Eff. March 1, 2017.

1 15A NCAC 12H .0304 is readopted with changes as published in 31:03 NCR 146-147 as follows:

2

3 **15A NCAC 12H .0304 BUFFER AREAS**

4 (a) For the purpose of protecting a **Nature nature** preserve, adjoining land that is not otherwise suitable for dedication  
5 as a **Nature nature** preserve may be dedicated as a buffer area in the same manner as a **Nature nature** preserve under  
6 this Section. A buffer area, where possible, ~~should~~ shall help protect the site against adverse effects from use and  
7 development of adjacent land. The buffer area may be included in the designated area but need not itself possess  
8 eligibility criteria.

9 ~~The articles of dedication may contain provisions for the management, use, development, and public access of the~~  
10 ~~buffer area that differ from those for the adjacent nature preserve. Provisions in the Articles of **dedication** **Dedication**~~  
11 ~~for the management, use, development, and public access of the buffer area may differ from those used for the adjacent~~  
12 ~~**Nature nature** preserve.~~

13

14 *History Note: Authority G.S. ~~113A-164.4; 113A-164.6; 143B-135.256; 143B-135.260;~~*  
15 *Eff. January 1, 1986;*  
16 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0305 is readopted with changes as published in 31:03 NCR 147 as follows:

2

3 **15A NCAC 12H .0305 PUBLIC TRUST**

4 ~~The State holds dedicated lands in trust on behalf of the people of North Carolina.~~

5 (1) ~~The State shall have authority to promulgate such rules, regulations, and policies as are necessary~~  
6 ~~to ensure its ability to protect the public purposes served by dedicated preserves.~~

7 (2)(a) Members of the public may bring notice to the Secretary or his or her agents of suspected violations of terms  
8 of dedications. Notice shall be made by U.S. Mail to 4601 Mail Service Center, Raleigh, North Carolina 27699. The  
9 Natural Heritage Program ~~shall~~ will respond promptly to investigate notices of violations and shall maintain ongoing  
10 monitoring of all dedicated preserves. ~~Subsequent to~~ After investigation of a notice of violation, the Natural Heritage  
11 Program shall ~~respond~~ respond, via U.S. Mail, to the notifying party and recommend appropriate action to the  
12 Secretary. Notice shall be sent via U.S. Mail. ~~The Attorney General may, on his initiative or at the request of the~~  
13 ~~Secretary, Governor, or Council of State, initiate actions in equity which may include requests for punitive damages~~  
14 ~~and/or for injunctive relief against violators of the articles of dedication on any land so dedicated.~~

15 (3)(b) The Natural Heritage Program shall maintain administrative records for dedicated areas. These shall be  
16 available for public review online at www.ncnhp.org. or at 121 West Jones Street, Raleigh North Carolina 27603, at  
17 reasonable times, and copies ~~will~~ shall be available at actual cost.

18 (4)(c) The State may enter into contracts and agreements with other agencies and persons to manage ~~and/or~~ and  
19 monitor dedicated preserves, but the State ~~may~~ shall not abdicate its trusteeship for dedicated lands through  
20 such contracts or agreements.

21

22 *History Note:* Authority G.S. 113A-164.4; 113A-164.7; 143B-135.256; 143B-135.262;

23 *Eff. January 1, 1986;*

24 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0306 is readopted with changes as published in 31:03 NCR 147 as follows:

2

3 **15A NCAC 12H .0306 AMENDMENTS**

4 (a) ~~Articles of dedication may be amended by the State, subject to the approval of the Governor and Council of State~~  
5 ~~and with the written concurrence of the owner (if not the State), upon finding that such amendment will not permit an~~  
6 ~~impairment, disturbance, use, or development of the area inconsistent with the purposes of G.S. 113A-164.7.~~  
7 Amendments that remove some portion of the existing Articles of Dedication shall not ~~may~~ be approved until only  
8 after a public hearing in the ~~county(ies)~~ county or counties where the dedicated preserve lies. The State shall provide  
9 not less than 30 days ~~30-day~~ notice of such the hearing in the ~~newspaper(s)~~ newspaper of largest circulation in the  
10 county or counties where the land lies. The State shall provide not less than 30 days ~~30-day~~ notice to the chief county  
11 ~~and/or~~ and municipal administrative officials in the ~~jurisdiction(s)~~ jurisdiction where the land lies.

12 (b) ~~Where purposes of G.S. 113A-164.7 or the purposes of the original dedication will be violated by a proposed~~  
13 ~~amendment, the Governor and Council of State must find that the amendment serves a clear and unavoidable public~~  
14 ~~necessity and no prudent alternative exists, and but only then only after a public hearing with notice provided in Rule~~  
15 ~~.0306(a) of this Section and then only with the concurrence of the Governor and Council of State. Notwithstanding~~  
16 ~~the provisions of Paragraph (a) of this Rule, Articles of~~ dedication Dedication ~~may be amended~~ as they affect use or  
17 disposition of land, even if the purposes of G.S. 143B-135.262 or the original dedication will be violated under the  
18 following circumstances:

- 19 (1) the Governor and Council of State find that an amendment serves a clear and unavoidable public  
20 necessity the best interest of the State and no prudent alternative exists;  
21 (2) after a public hearing with notice provided in Paragraph (a) of this Rule; and  
22 (3) with the concurrence of the Governor and Council of State.

23 (c) After the public hearing and finding by the Governor and Council of State, the State shall publish a statement of  
24 its findings in the ~~newspaper(s)~~ newspaper of largest circulation in the ~~count(ies)~~ county or counties where the land  
25 lies at least 30 days before the amended Articles of Dedication amendment is final.

26

27 *History Note: Authority G.S. 113A-164.6 through 113A-164.10; 143B-135.256; 143B-135.260; 143B-135.262;*  
28 *143B-135.268;*  
29 *Eff. January 1, 1986;*  
30 *Amended Eff. August 1, 1988;*  
31 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0307 is readopted with changes as published in 31:03 NCR 147-148 as follows:

2

3 **15A NCAC 12H .0307 EXTINGUISHMENT BY THE STATE**

4 ~~(a) Articles of dedication may be extinguished by amendment and the dedication abandoned when the qualifying~~  
5 ~~features of the land have been destroyed or irretrievably damaged and the public purposes of the dedication have been~~  
6 ~~utterly frustrated and then only after a public hearing with notice provided as described in Rule .0306(a) of this Section~~  
7 ~~and only then with the concurrence of the Governor and Council of State. Articles of dedication Dedication may be~~  
8 ~~extinguished by amendment and the dedication abandoned only under the following circumstances; if~~

- 9 (1) the Secretary finds that qualifying features of the land have been destroyed or irretrievably damaged;
- 10 (2) the Secretary finds that the public purposes of the dedication have been frustrated;
- 11 (3) after a public hearing with notice provided as described in Rule .0306(a) of this Section; and
- 12 (4) with the concurrence approval of the Governor and Council of State.

13 ~~(b) Where articles of dedication are proposed to be extinguished for other reasons, the State must find that the~~  
14 ~~extinguishment and abandonment serves an imperative and unavoidable public necessity and that no prudent~~  
15 ~~alternative exists, and then only after a public hearing with notice provided as described in Rule .0306(a) and only~~  
16 ~~then with the concurrence of the Governor and Council of State. Notwithstanding the provisions of Paragraph (a) of~~  
17 ~~this Rule, Articles of dedication Dedication may be extinguished by amendment and the dedication abandoned if:~~

- 18 (1) the State Secretary finds that the extinguishment and abandonment serves a an imperative and  
19 unavoidable public necessity and that no prudent alternative exists;
- 20 (2) after a public hearing with notice provided as described in Rule .0306(a) of this Section; and
- 21 (3) with the approval of the Governor and Council of State.

22 (c) After the public hearing, the State shall publish a statement of its findings in the newspaper(s) newspaper of largest  
23 circulation in the ~~count (ies)~~ county or counties where the land lies at least 30 days before the extinguishment is final.

24

25 *History Note: Authority G.S. 113A-164.4; 113A-164.6(e); 143B-135.256; 143B-135.260(c);*  
26 *Eff. January 1, 1986;*  
27 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0308 is readopted with changes as published in 31:03 NCR 148 as follows:

2

3 **15A NCAC 12H .0308 MUTUAL TERMINATION**

4 ~~(a) Articles of dedication~~ Dedication may terminate shall terminate only under the following circumstances:

5 (1) in accordance with the terms of the Articles of ~~dedication~~ Dedication itself; ~~or~~

6 (2) in accordance with the nature and duration of the underlying legal interest in the property being  
7 placed under the Articles of ~~dedication;~~ Dedication; ~~or~~

8 (3) upon mutual written consent executed by and between the owner, its successors or assigns, and the  
9 ~~State. State,~~ and approved by the Governor and Council of State.

10 ~~(b) Articles of dedication may be terminated upon mutual written consent executed by and between the owner, its~~  
11 ~~successors or assigns, and the State.~~

12

13 *History Note: Authority G.S. 143B-135.256; 143B-135.260(c);*

14 *Eff. January 1, 1986;*

15 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0401 is readopted with changes as published in 31:03 NCR 148 as follows:

2

3 **15A NCAC 12H .0401 MANAGEMENT PLAN**

4 **(a)** A management plan shall be prepared for each dedicated ~~Nature nature~~ preserve. The Articles of ~~dedication~~  
5 ~~Dedication~~ shall assign responsibility for the preparation of the management plan.

6 **(b)** The Secretary of the Department of Natural and Cultural Resources ~~and Community Development~~ or his ~~or her~~  
7 ~~designee~~ shall ~~have the responsibility for approval of review~~ all management plans and their ~~revisions, revisions, and~~  
8 ~~shall approve those plans that implement the principles set forth in Rule .0402 of this Section.~~

9 **(c)** The Secretary or his ~~or her~~ designee shall monitor all dedicated preserves ~~as set forth in Rule .0305 of this~~  
10 ~~Subchapter~~ and report violations of the approved plan, ~~or other situations that may violate the Articles of dedication~~  
11 ~~Dedication, or which may be actions harmful to the natural resources of the preserve.~~

12 **(d)** In the event that the owner or the ~~agency~~ State agency managing the dedicated preserve does not adopt an approved  
13 management plan or does not adhere to the provisions of the plan, the Secretary ~~may shall~~ request the Department of  
14 Administration to take ~~appropriate action, which may include but is not limited to, an action such as~~ mediation,  
15 ~~reallocation, reallocation of the land to another agency,~~ or referral to the Office of the Attorney General.

16

17 *History Note:* Authority G.S. ~~113-3; 113-8; 113A-164; 113A-164.4; 113A-164.7; 143-341; 143-342; 143B-~~  
18 ~~135.256; 143B-135.262;~~

19 *Eff. January 1, 1986;*

20 *Readopted Eff. March 1, 2017.*

1 15A NCAC 12H .0402 is readopted with changes as published in 31:03 NCR 148-149 as follows:

2  
3 **15A NCAC 12H .0402 MANAGEMENT PRINCIPLES**

4 The following management principles shall apply ~~for~~ to all dedicated preserves, unless exceptions are expressly  
5 provided in the Articles of ~~dedication.~~ Dedication:

- 6 (1) the essential natural character of the property shall be ~~maintained.~~ maintained;
- 7 (2) improvements, including building of all types, trails, parking areas, vehicular roadways, signs,  
8 fences, steps, and bridges, shall only be constructed when approved by the Secretary or his or her  
9 designee as necessary for the security, safety, ~~information,~~ or access of the public or ~~and those~~  
10 ~~improvements necessary~~ for the maintenance and management of the ~~preserve.~~ preserve;
- 11 (3) destruction of flora and fauna shall not be permitted except for the purpose of preserving ~~or~~  
12 ~~regenerating~~ species and Natural natural communities of concern, or for the purpose of establishing  
13 and maintaining public access facilities. In case of either exception, and upon approval of the  
14 exception by the Secretary or his or her designee, manipulation of the flora and fauna shall be  
15 consistent and compatible with the ecological natural character of the area and shall not be ~~seriously~~  
16 ~~damaging or detrimental to the natural quality of the preserve.~~ preserve;
- 17 (4) no motorized vehicles shall be permitted on the dedicated property other than those utilized by the  
18 owner or the owner's agents in management and protection of the property or used by the general  
19 public for ingress and egress to the property in compliance with the management plan for the  
20 ~~preserve.~~ preserve;
- 21 (5) no signs, billboards, or other advertising of any kind shall be erected, with the exception ~~for~~ of  
22 informational and directional signs signs, designed by the Secretary, owner owner, or State agency,  
23 related to the designation of the area as a preserve and or for public access to the ~~preserve.~~ preserve;
- 24 (6) no change shall be made in the ~~natural~~ topography of the preserve except as approved by the  
25 Secretary or his or her designee for those minimal alterations ~~which~~ that may be necessary to provide  
26 on-foot access to the public for visitation or ~~observation;~~ this shall be done observation, if the change  
27 is ~~wholly~~ compatible and consistent with the character of the property, and where no detrimental  
28 effect ~~shall result.~~ will result;
- 29 (7) no activity shall be allowed ~~which might~~ that may pollute any stream or body of water in the  
30 ~~preserve.~~ preserve;
- 31 (8) no stream in the preserve shall be dammed, impounded, or have its course ~~altered.~~ altered as a result  
32 of human activity;
- 33 (9) visitor activities shall be controlled to prevent ~~significant~~ disturbance and environmental  
34 degradation ~~to~~ of the ~~preserve.~~ preserve;
- 35 (10) prescribed fire and necessary fire lines may be used as management tools ~~in such areas or situations~~  
36 ~~where needed~~ to maintain or protect the natural community ~~type.~~ type;

- 1 (11) the cutting or removal of trees, dead or alive, ~~is shall be~~ prohibited, except ~~that which~~ when it is  
2 ~~expressly permitted by an approved management plan or is~~ necessary for public safety. safety, as  
3 determined by the Secretary, owner, or State agency;
- 4 (12) persons wishing to engage in scientific research or collection of natural materials within a preserve  
5 shall first secure written permission from the owner ~~or and the management agency.~~ the State  
6 agency;
- 7 (13) when ~~necessary~~ necessary, as determined by the Secretary, owner, or State agency, ~~and feasible,~~  
8 boundaries of a preserve shall be made ~~clearly~~ evident by placing markers or boundary signs at  
9 corners ~~and/or and~~ other strategic ~~locations.~~ locations;
- 10 (14) control of exotic (non-native) species may be undertaken where eradication ~~can~~ may be  
11 accomplished without ~~undue~~ disturbance of the area's natural ~~conditions~~ conditions; ~~or without~~  
12 ~~requiring relatively long periods of time for natural restoration;~~ and
- 13 (15) no other acts or uses ~~which that~~ are detrimental to the maintenance of the property in its natural  
14 condition shall be ~~allowed~~ allowed, including ~~but not limited to~~ disturbance of the soil, mining,  
15 commercial or industrial uses, timber harvesting, ditching and draining, or depositing waste  
16 materials.

17  
18 *History Note:* Authority G.S. 113A-164; 113A-164.4; 113A-164.7; 143B-135.256; 143B-135.262;  
19 Eff. January 1, 1986;  
20 Readopted Eff. March 1, 2017.

1 15A NCAC 12H .0403 is readopted with changes as published in 31:03 NCR 149 as follows:

2

3 **15A NCAC 12H .0403 MANAGEMENT RULES FOR PRESERVES**

4 Additional management ~~rules~~ principles consistent ~~and compatible~~ with the general management principles ~~rules~~ for  
5 ~~all~~ dedicated preserves, as set forth in Rule .0402 of this Section, may be adopted through an amendment to the Articles  
6 of ~~dedication~~ Dedication by those divisions of the Department of Natural Resources and Community Development to  
7 ~~which dedicated preserves are allocated for management~~ the owner or managing State agency, in accordance with  
8 Rule .0306 of this Subchapter. ~~Such additional management rules shall be contained in the Division's administrative~~  
9 ~~manual.~~

10

11 *History Note:* Authority G.S. 113-3; 113-8; 113A-164; 113A-164.4; 113A-164.7; 143B-135.256; 143B-135.262;

12 *Eff. January 1, 1986;*

13 *Readopted Eff. March 1, 2017.*