



August 4, 2025

MEMORANDUM

CRC-25-26

TO: Coastal Resources Commission

FROM: Cameron Luck

SUBJECT: Consideration of Adoption of 15A NCAC 07H .0209(g) – General Use Standards for Urban Waterfronts

Urban Waterfronts are defined as areas within the Coastal Shorelines Area of Environmental Concern (AEC) that are located along waters not designated as Outstanding Resource Waters by the Environmental Management Commission, lie entirely within a municipality's corporate limits, and contain a central business district or comparable commercial zoning supported by public infrastructure and services. The current rule for urban waterfronts limits new non-water dependent structures to pile-supported, single-story decks and boardwalks that may extend up to 20 feet from the Normal High Water/Normal Water Level (NHW/NWL) and may be roofed but not enclosed. Existing structures over coastal wetlands, estuarine waters or public trust areas shall be limited to restaurants and retail services with residential uses, lodging and new parking areas prohibited. Existing enclosed structures over coastal wetlands, estuarine waters or public trust areas may be replaced or expanded vertically by one story within the existing footprint over the life of the structure, if the development is consistent with local requirements or limitations.

Following the August 2024 meeting where the CRC granted a variance (CRC-VR-24-02) for the use of removable plexiglass panels on a waterfront dining deck, staff were directed to develop rule language to allow for enclosures utilizing removable materials. At the November 2024 meeting, the Commission approved proposed rule amendments that would allow property owners to install “non-permanent” enclosures to decks and boardwalks occurring within the urban waterfront area and provide clarifying language to define requirements for an enclosure to be considered “non-permanent”. The approved amendments also prohibit permanent air conditioning of enclosed decks and align the term “significant adverse impacts” with current rule definitions.

The fiscal analysis accompanying the rule amendments concluded there would be no changes to permitting requirements or fees, and no direct cost impacts to NCDOT, local governments, private property owners, or the Division of Coastal Management. Additionally, the amendments are expected to result in positive but unquantifiable benefits, such as rule language clarity for regulatory staff and greater seasonal flexibility for property owners utilizing these areas for



commercial purposes such as retail and dining. The fiscal analysis was approved by the North Carolina Office of State Budget and Management on April 15th, 2025, and by the Commission at its April 2025 meeting.

The Division conducted a public hearing on July 8, 2025, at DCM's office in Morehead City. No comments were received during the hearing. A public comment period was also held from June 16 to August 15, 2025, but no written comments were received by DCM during this time. With the rule amendments developed, the fiscal analysis approved, and public commenting period complete without comment, staff are recommending adoption of the approved changes.

15A NCAC 07H .0209(g) Urban Waterfronts

(g) Urban Waterfronts.

- (1) **Definition.** Urban Waterfronts are waterfront areas, not adjacent to ORW, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state. In determining whether an area is an urban waterfront, the following criteria shall be met:
 - (A) the area lies wholly within the corporate limits of a municipality; and
 - (B) the area has a central business district or similar commercial zoning classification where there are mixed land uses, and urban level services, such as water, sewer, streets, solid waste management, roads, police and fire protection, or in an area with an industrial or similar zoning classification adjacent to a central business district.
- (2) **Significance.** Urban waterfronts are recognized as having cultural, historical and economic significance for many coastal municipalities. Maritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore. With proper planning and stormwater management, these areas may continue to preserve local historical and aesthetic values while enhancing the economy.
- (3) **Management Objectives.** To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. While recognizing that opportunities to preserve buffers are limited in highly developed urban areas, they are encouraged where practical.
- (4) **Use Standards:**
 - (A) The buffer requirement pursuant to Subparagraph (d)(10) of this Rule shall not apply to development within Urban Waterfronts that meets the following standards:
 - (i) The development shall be consistent with the locally adopted land



- use plan;
- (ii) Impervious surfaces shall not exceed 30 percent of the AEC area of the lot. Impervious surfaces may exceed 30 percent if the applicant can demonstrate, through a stormwater management system design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible; and
 - (iii) The development shall meet all state stormwater management requirements as required by the EMC;
- (B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands shall be allowed only within Urban Waterfronts as set out below.
- (i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependent purposes. Commercial, non- water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited.
 - (ii) For the purposes of this Rule, existing enclosed structures may be replaced or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the structure, and is consistent with local requirements or limitations.
 - (iii) New structures built for non-water dependent purposes are limited to pile- supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:
 - (I) shall provide for enhanced public access to the shoreline;
 - (II) may be roofed, ~~but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind;~~ but solid walls and permanent windows are prohibited. Non-permanent enclosures shall be limited to materials that are consistent with this rule and shall be non-permanent and attached to the structure in a manner that allows removal.
 - (III) the decks and boardwalks shall not have permanent or

attached heating or air conditioning.

~~(IV)(H)~~ shall require no filling of coastal wetlands, estuarine waters or public trust areas;

~~(V)(IV)~~ shall not extend more than 20 feet waterward of the normal high water level or normal water level;

~~(VI)(V)~~ shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;

~~(VII)(VI)~~ shall have no more than six feet of any dimension extending over coastal wetlands;

~~(VIII)(VII)~~ shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. 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 properties, 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. The minimum setback 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 of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;

~~(IX)(VIII)~~ shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;

~~(X)(IX)~~ shall have no significant adverse impacts, as defined in 15A NCAC 07H .0208(a)(7) and (a)(8). on fishery resources, water quality or adjacent wetlands and there shall be no alternative that would avoid wetlands. Significant adverse impacts include the development that would impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;

~~(XI)(X)~~ shall not degrade waters classified as SA or High Quality Waters or ORW as defined by the EMC;

~~(XII)(XI)~~ shall not degrade Critical Habitat Areas or Primary



Nursery Areas as defined by the NC Marine Fisheries Commission; and

~~(XIII)(XII)~~ shall not pose a threat to navigation.

*History Note: Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124;
Eff. September 1, 1977;
Amended Eff. April 1, 2001; August 1, 2000; August 3, 1992; December 1, 1991; May 1, 1990;
October 1, 1989;
Temporary Amendment Eff. October 15, 2001 (exempt from 270 day requirement-S.L. 2000-142);
Temporary Amendment Eff. February 15, 2002 (exempt from 270 day requirement-S.L. 2001-494);
Amended Eff. April 1, 2019; March 1, 2010; April 1, 2008; August 1, 2002;
Readopted Eff. July 1, 2020.*

