

NC Division of Coastal Management

NC Department of Environmental Quality
Division of Coastal Management

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

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Background



- Current rules limit new non-water dependent structures to pile-supported, single-story decks and boardwalks that may extend up to 20 feet from NHW/NWL and may be roofed but not enclosed.
- At the August 2024 CRC meeting, a variance was granted to allow removable plexiglass panels installed on a cover deck at an existing restaurant, located over public waters, in the urban waterfront.
- CRC requested rule language be proposed to allow installation of removable enclosures on decks and boardwalks in urban waterfront areas.

Rule Amendments – 15A NCAC 07H 0209(g)

- (A) 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.

Rule Amendments – 15A NCAC 07H 0209(g) cont.

(IV)~~(III)~~ 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;

Rule Amendments – 15A NCAC 07H 0209(g) cont.

~~(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.

Public Comment



- Public Hearing conducted on July 8, 2025
 - 1 written comment was received during the public comment period from the North Carolina Conservation Network expressing concerns allowing temporary structures to remain in place during storm events and recommended the below addition:

Non-permanent materials shall be temporarily removed and safely stored when the National Weather Service issues a tropical storm watch, hurricane watch, or storm surge watch for a geographic area covering the structure