

1 SECTION .0300 - SHOREFRONT ACCESS POLICIES

2
3 15A NCAC 07M .0301 DECLARATION OF GENERAL POLICY

4 (a) The public has traditionally and customarily had access to enjoy and freely use the ocean beaches and estuarine
5 and public trust waters of the coastal region for recreational purposes and the State has a responsibility to provide
6 continuous access to these resources. It is the policy of the State to foster, improve, ~~enhance~~ **enhance**, and ensure
7 ~~optimum~~ access to the public beaches and waters of the ~~20-county~~ **20-county** coastal ~~region~~ **region as described in**
8 **G.S. 113A-103(2)**. ~~Access~~ **The Coastal Resources Commission** shall ~~ensure that access is~~ **be consistent** with rights of
9 private property owners and the concurrent need to protect important coastal natural resources such as sand dunes and
10 coastal marsh vegetation.

11 (b) The State has created ~~an access program~~ **the Public Beach and Coastal Waterfront Access Program** for the purpose
12 of acquiring, ~~improving~~ **improving**, and maintaining waterfront recreational property at ~~frequent~~ intervals throughout
13 the coastal region for public access to these ~~important~~ public trust ~~resources~~ **resources as described in G.S. 113A-**
14 **134.1**.

15 (c) In addition, some properties, due to their location, are subject to severe erosion so that development is not possible
16 or ~~feasible~~ **due to the requirements of 15A NCAC 7H .0306**. In these cases, a ~~valid~~ public purpose **as described in**
17 **G.S. 113A-134.1(b)** may be served by the donation or acquisition of these properties for public access.

18 (d) The primary purpose of the public access program is to provide funds to ~~acquire or develop~~ **acquire, develop, or**
19 **maintain** land for public access, including parking as authorized by G.S. 113A-134.3(c). Boating and fishing facilities
20 are eligible for funding under the Public Beach and Coastal Waterfront Access Program provided that pedestrian
21 access is also incorporated in the design of the facility.

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23 *History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3;*
24 *Eff. March 1, 1979;*
25 *Amended Eff. February 1, 2009; January 1, 1998; March 1, 1988; March 1, 1985; July 1, 1982.*
26 ***Readopted Eff. September 1, 2021***
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1 **15A NCAC 07M .0302 DEFINITIONS**

2 As used in this ~~Section:~~ Section, the Public Beach and Coastal Waterfront Access ~~program~~ Program is to provide
3 public access to the public trust beaches and waters as defined in 15A NCAC 7H .0305(a)(1) and 15A NCAC 07H
4 .0207(a) in the 20 coastal ~~counties~~ counties, described in G.S. 113A-103(2).

- 5 (1) ~~"Ocean Beach Access" includes the acquisition and improvement of properties adjacent or~~
6 ~~proximate to the Atlantic Ocean for parking and public passage to the oceanfront.~~ "Beach" is defined
7 as described in 15A NCAC 7H .0305(a)(1).
- 8 (2) "Coastal Waterfront Access" includes the acquisition and improvement of properties located in the
9 ~~20-county~~ 20-county area under the Coastal Area Management Act (CAMA) jurisdiction as
10 described in G.S. 113A-103(2) that are adjacent or proximate to coastal waterways to which the
11 public has rights of access or public trust rights.
- 12 (3) ~~"Inlet Beach Access" includes the acquisition and improvement of properties located within Inlet~~
13 ~~Hazard Areas as defined in 15A NCAC 07H .0304(3).~~ "Handicapped Accessible" is defined as
14 meeting the standards of the State Building Code for handicapped accessibility.
- 15 (4) ~~"Public Trust Waters" is defined in 15A NCAC 07H .0207(a).~~ "Improvements" are facilities that are
16 added to promote public access at a ~~designated~~ an access site. ~~The most common~~ Common
17 improvements include dune crossovers, piers, boardwalks, litter receptacles, parking areas,
18 restrooms, gazebos, boat ramps, canoe/kayak launches, bicycle ~~racks~~ racks, and foot showers.
- 19 (5) ~~"Beach" is defined as an area adjacent to the ocean extending landward from the mean low water~~
20 ~~line to a point where either the growth of vegetation occurs or a distinct change in slope or elevation~~
21 ~~alters the configuration of the landform, whichever is farther landward, or riparian owners have~~
22 ~~specifically and legally restricted access above the mean high water line. This definition is intended~~
23 ~~to describe those shoreline areas customarily freely used by the public.~~ "Inlet Beach Access"
24 includes the acquisition and improvement of properties located within Inlet Hazard Areas as defined
25 in 15A NCAC 07H ~~.0304(3).~~ .0304(2).
- 26 (6) "Local Access Sites" include those public access points ~~which that~~ offer ~~minimal~~ or no facilities.
27 ~~Generally, these~~ These accessways provide only a dune crossover or pier, if needed, litter ~~receptacles~~
28 ~~receptacles~~, and public access signs. Vehicle parking is ~~generally~~ not available at these access sites.
29 However, bicycle racks may be ~~provided.~~ provided by local governments.
- 30 (7) ~~"Neighborhood Access Sites" includes those public access areas offering parking, usually for 5 to~~
31 ~~25 vehicles, a dune crossover or pier, litter receptacles and public access signs. Restroom facilities~~
32 ~~may be installed.~~ "Maintenance" is the upkeep and repair of public access sites and their facilities
33 in such a manner that public health and safety is ensured. Where the local government uses or has
34 used access funds administered by the North Carolina Coastal Management Program (NCCMP),
35 Division of Coastal Management (DCM), the local government shall provide operation and
36 maintenance of the facility for the useful life of that ~~facility,~~ facility ~~The useful life of a facility~~
37 ~~shall be defined as set forth~~ shall be defined as set forth in the individual grant contract.

- 1 (8) ~~"Regional Access Sites" are of such size and offer such facilities that they serve the public from~~
2 ~~throughout an island or community including day visitors. These sites normally provide parking for~~
3 ~~25 to 80 vehicles, restrooms, a dune crossover, pier, foot showers, litter receptacles and public access~~
4 ~~signs. "Multi-regional Access Sites" are generally larger than regional accessways but smaller than~~
5 ~~state State parks. Such facilities may be undertaken and constructed with the involvement and~~
6 ~~support of state State and local government agencies. Multi-regional accessways provide parking~~
7 ~~for a minimum of 80 vehicles, restrooms with indoor showers and changing rooms, and concession~~
8 ~~stands.~~
- 9 (9) ~~"Multi regional Access Sites" are generally larger than regional accessways but smaller than state~~
10 ~~State parks. Such facilities may be undertaken and constructed with the involvement and support~~
11 ~~of state State and local government agencies. Multi regional accessways provide parking for a~~
12 ~~minimum of 80 vehicles, restrooms with indoor showers and changing rooms, and concession~~
13 ~~stands. "Neighborhood Access Sites" includes those public access areas offering parking parking,~~
14 ~~usually for 5 to 25 vehicles, a dune crossover or pier, litter receptacles receptacles, and public access~~
15 ~~signs. Restroom facilities may be installed.~~
- 16 (10) ~~"Urban Waterfront Access Projects" improve public access to deteriorating or under utilized urban~~
17 ~~waterfronts. Such projects include the establishment or rehabilitation of boardwalk areas, shoreline~~
18 ~~stabilization measures such as the installation or rehabilitation of bulkheads, and the placement or~~
19 ~~removal of pilings for the purpose of public safety and increased access and use of the urban~~
20 ~~waterfront. "Ocean Beach Access" includes the acquisition and improvement of properties adjacent~~
21 ~~or proximate to the Atlantic Ocean for parking and public passage to the oceanfront.~~
- 22 (11) ~~"Improvements" are facilities that are added to promote public access at a designated access site.~~
23 ~~The most common Common improvements include dune crossovers, piers, boardwalks, litter~~
24 ~~receptacles, parking areas, restrooms, gazebos, boat ramps, canoe/kayak launches, bicycle racks~~
25 ~~racks, and foot showers. "Public Trust Waters" Arcas? is defined in 15A NCAC 07H .0207(a).~~
- 26 (12) ~~"Maintenance" is the upkeep and repair of public access sites and their facilities in such a manner~~
27 ~~that public health and safety is ensured. Where the local government uses or has used access funds~~
28 ~~administered by the North Carolina Coastal Management Program (NCCMP), the local government~~
29 ~~shall provide operation and maintenance of the facility for the useful life of that facility. The useful~~
30 ~~life of a facility shall be defined in the individual grant contract. "Regional Access Sites" are of such~~
31 ~~size and offer such facilities that they serve the public from throughout an island or community~~
32 ~~including day visitors. These sites normally provide parking for 25 to 80 vehicles, restrooms, a dune~~
33 ~~crossover, pier, foot showers, litter receptacles receptacles, and public access signs.~~
- 34 (13) ~~"Handicapped Accessible" is defined as meeting the standards of the State Building Code for~~
35 ~~handicapped accessibility. "Urban Waterfront Access Projects" improve public access to~~
36 ~~deteriorating or under utilized urban waterfronts. Such projects include the establishment or~~
37 ~~rehabilitation of boardwalk areas, shoreline stabilization measures such as the installation or~~

1 rehabilitation of bulkheads, and the placement or removal of pilings for the purpose of public safety
2 and increased access and use of the urban waterfront.

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4 *History Note: Authority G.S. 113A-124; 113A-134.3;*

5 *Eff. March 1, 1979;*

6 *Amended Eff. February 1, 2009; January 1, 1998; March 1, 1988; March 1, 1985; July 1, 1982.*

7 *Readopted Eff. September 1, 2021*

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1 **15A NCAC 07M .0303 STANDARDS FOR PUBLIC ACCESS**

2 (a) **Public beach Beach** nourishment projects undertaken with public funds shall include provisions for public access
3 and parking within the boundaries of the project to achieve **maximum** public use and benefit of these areas.

4 (b) Public access projects funded **under this** through the Public Beach and Coastal Waterfront Access Program shall
5 be consistent with public access policies contained in the local government's land use plan as required in 15A NCAC
6 07B .0702(d)(3)(A) and its local waterfront access plan, or a local recreation plan that addresses public access.

7 (c) Local governments with public access sites funded by the Division of Coastal Management pursuant to G.S. **113-**
8 **134.3 113A-134.3** may charge user fees as long as those fees are used exclusively for operation and maintenance, or
9 provision of new public access. Local governments shall include biannual accounting reports for fees generated by
10 Public Beach and Coastal Waterfront Access Program funded access sites. Biannual accounting reports shall be
11 submitted to the Director of the Division of Coastal Management by June 30 of the year in which it is due. Accounting
12 reports may be included in Biannual LUP Implementation Status Reports under **15A NCAC 07B .0804 .15A NCAC**
13 **07L .0511.**

14 (d) Land acquired with Public Beach and Coastal Waterfront Access grant funds shall be dedicated in perpetuity for
15 public access and benefit of the general public. The dedication shall be recorded in the property records by the grantee.
16 Any lease or easement agreement shall extend at least 25 years. If land acquired or improved with access grant funds
17 is sold or otherwise disposed of, the local government shall reimburse the State at a percentage equal to the proportion
18 of access grant funds provided for the original purchase at current market value at the time of sale.

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20 *History Note:* Authority G.S. 113A-124; 113A-134.1; 113A-134.3; **153A-277(a) 153A-227(a)**; 160A-314(a); **16**
21 **U.S.C. Sec. 1453;**
22 *Eff. March 1, 1979;*
23 *Amended Eff. March 1, 1988; March 1, 1985; July 1, 1982;*
24 *RRC Objection due to lack of necessity and unclear language Eff. October 17, 1991;*
25 *Amended Eff. February 1, 2009; August 1, 2007; January 1, 1998; March 1, 1992.*
26 **Readopted Eff. September 1, 2021**
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1 **15A NCAC 07M .0306 LOCAL GOVERNMENT AND STATE INVOLVEMENT IN ACCESS**

2 (a) Coastal ~~Waterfront waterfront~~ access in the 20-county coastal ~~area region~~ is a concern of local, ~~state, State, regional~~
3 and national importance. Local governments have ~~lead~~ responsibility for the selection of public access sites within
4 their jurisdiction. Access shall be based on identified needs as stated in land use plans pursuant to ~~15A NCAC 07B~~
5 ~~.0702(d)(3)(A) 15A NCAC .0702(d)(2)(A)~~ and local waterfront access plans. ~~The Division of Coastal Management~~
6 ~~may take the lead in acquiring and improving access sites as such opportunities arise.~~

7 (b) ~~A local policy in a land use plan sets the community objectives for access.~~ A local government may, through its
8 land use plan:

- 9 (1) identify access needs and develop local policy to pursue access funding;
- 10 (2) develop a local access plan; and
- 11 (3) solicit access sites through corporate assistance.

12 (c) An access plan shall identify needs and ~~opportunities, opportunities for public access,~~ determine access and facility
13 requirements, establish standards, and develop ~~specific~~ project design plans or guidelines by ~~appropriate~~ site. An
14 access plan shall consider both financial resource availability (such as grants, impact ~~fees fees,~~ or hotel/motel tax
15 revenues) and construction timing. It shall establish priorities ~~for the development of access plans~~ and devise a system
16 for annual evaluation of the plan.

17 (d) Local governments may also include provisions in local ordinances that require access for waterfront
18 developments or require payment in lieu of access for non-water dependent subdivisions.

19 (e) Dedicated street ends may be acceptable for accessways.

20 (f) The Division of Coastal Management has primary responsibility for administering the Public Beach and Coastal
21 Waterfront Access Program. Subject to the availability of funds, the Division of Coastal Management shall annually
22 solicit pre-application proposals from local governments and shall select competitive projects for ~~full~~ application
23 submittal. Projects from these final applications shall be selected for funding based on criteria in Rule .0307 of this
24 Section.

25 (g) The Division of Coastal Management may use available funds on a non-competitive basis to plan for and provide
26 public access through acquisition of improvements. Prior to expending funds, the Division of Coastal Management
27 shall hold a public meeting or hearing ~~at a regularly scheduled meeting of the Commission~~ to discuss its proposal.
28 Members of the public shall be invited to comment to the Coastal Resources Commission for ~~a minimum of~~ 60 days
29 prior to the expenditure of non-competitive money by the Division of Coastal Management.

30 (h) The Division of Coastal Management shall ensure all projects funded through the Public Beach and Coastal
31 Waterfront Access Program ~~are making progress throughout project implementation and ensure that completed~~
32 ~~projects~~ are operated and maintained for access purposes.

33
34 *History Note: Authority G.S. 113A-124; 113A-134.3;*
35 *Eff. January 1, 1998;*
36 *Amended Eff. February 1, 2009; August 1, 2007.*
37 *Readopted Eff. September 1, 2021*

1 **15A NCAC 07M .0307 ELIGIBILITY, SELECTION CRITERIA AND MATCHING REQUIREMENTS**

2 (a) Any local government in the ~~20-coastal-county~~ **20-county coastal** region having ocean beaches or estuarine or
3 public trust waters within its jurisdiction may apply for access funds for the development of beach or coastal waterfront
4 access facilities with associated improvements. Boat ramps, ~~or~~ **canoe/kayak** launch areas may also be developed
5 provided that the access facilities incorporate pedestrian access to coastal waters.

6 (b) Eligible projects include:

- 7 (1) Land acquisition, including acquisition of unbuildable ~~lots;~~ **lots as described in G.S. 113A-134.3(a);**
- 8 (2) Local ~~Access Sites;~~ **access sites;**
- 9 (3) Neighborhood ~~Access Sites~~ **access sites** or improvements;
- 10 (4) Regional ~~Access Sites~~ **access sites** or improvements;
- 11 (5) Multi-regional ~~Access Sites~~ **access sites** or improvements;
- 12 (6) Urban waterfront development access projects;
- 13 (7) Reconstruction or relocation of existing, damaged facilities;
- 14 (8) Reconstruction or replacement of ~~aging~~ facilities; and
- 15 (9) Offsite parking areas servicing access sites within the local government's jurisdiction.

16 (c) The following criteria shall be used to select projects that may receive financial assistance:

- 17 (1) ~~Applicant~~ **The applicant** demonstrates a need for the project due to a high demand for public access
18 and limited ~~availability;~~ **availability within the local government jurisdiction.**
- 19 (2) ~~Project~~ **The project** is identified in the local land use plan or local access plan;
- 20 (3) ~~Applicant~~ **The applicant** has not received previous assistance from ~~this the Public Beach and Coastal~~
21 **Waterfront Access Program** grant program or the applicant has received assistance and
22 demonstrated its ability to complete previous projects ~~successfully~~ with funds from ~~this the~~ grant
23 program;
- 24 (4) ~~Applicant's~~ **The applicant's** commitment of matching funds exceeds the required local share of the
25 total project cost provided in Paragraphs (d) and (e) of this Rule;
- 26 (5) ~~Project~~ **The project** proposal includes multiple funding sources; ~~and~~
- 27 (6) The project location includes donated land ~~with physical limitations, or it has been~~ deemed
28 unbuildable ~~as described in G.S. 113A-134.3(a).~~
29 ~~due to regulations or physical limitations;~~

30 (d) The North Carolina Department of Commerce's Tier designations, as outlined by ~~the Lee Act (G.S. 105-129.3)~~
31 **G.S. 143B-437.08** shall be used to determine the economic status of counties. Land acquisition, including acquisition
32 of unbuildable lots, shall include a local government contribution of at least 15 percent of the acquisition cost, except
33 for Tier 1 and Tier 2 counties as designated by the N.C. Department of Commerce, and their respective ~~municipalities~~
34 **municipalities**, which shall have a contribution of at least 10 percent. At least one-half of the local contribution shall
35 be cash match, the remainder may be in-kind match.

36 (e) Local government contributions for access site improvements shall be at least 25 percent of the project costs,
37 except for Tier 1 and Tier 2 designated counties and their respective ~~municipalities~~ **municipalities**, which shall have a

1 local government contribution of at least 10 percent of the project costs. At least one half of the local contribution
2 shall be cash match; the remainder may be in-kind match.

3 (f) Federal and other State funds may be used as the local government cash contribution, provided such funds are not
4 already being used as matching funds for other ~~state~~ State programs.

5 (g) Multi-phase projects ~~and previous contingency projects~~ shall be considered on their own merits within the pool
6 of applications being reviewed in any year.

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8 *History Note: Authority G.S. 113A-124; 113A-134.3;*

9 *Eff. January 1, 1998;*

10 *Amended Eff. February 1, 2009; September 1, 2007; August 1, 2000.*

11 *~~Readopted Eff. September 1, 2021~~*

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1 **15A NCAC 07M .0308 PUBLIC INVOLVEMENT/NOTICE**

2 Prior to submitting its final application for a public access grant **in accordance with 15A NCAC 07M .0306(f)** from
3 the Division of Coastal Management, the local government shall hold a public meeting or hearing to discuss its
4 proposal. The local government shall consider public comments prior to its decision to apply for funds from the State.

5
6 *History Note: Authority G.S. 113A-124; 113A-134.3;*
7 *Eff. January 1, 1998.*
8 ***Readopted Eff. September 1, 2021***
9