
Agenda Item: Proposed Text Amendments to Wetland Regulations and Enforcement (cont.)
Public Hearing
Presented by: Deborah J. Hill MPA AICP CFM CZO
Date: October 4, 2023 (Continued from September 6, 2023)

UPDATE: On September 6, 2023, the Board of Aldermen conducted a public hearing to receive input on proposed text amendments to the Unified Development Ordinance to include:

- §10.07.05 Install and maintain effective sedimentation and erosion control measures;
- §10.07.06 Wetland protection; and
- §11.01.12 Definitions. Wetlands.

The consensus of the Board was to increase the citation to \$10,000 in the Fee Schedule provided in Attachment 5. The Board continued their discussion of wetlands to October 4, directing the Town Attorney and Planning Director provide a clarified definition of wetlands, which is provided in Attachment 4.

BACKGROUND: The Planning Director works with NC Division of Coastal Management and the U.S. Army Corps of Engineers in processing subdivision, zoning and floodplain applications, as well as responding to violations of local, state and federal regulations. Most wetland disturbance has resulted from lot-clearing without a permit or excavation not consistent with a permit. Violations are referred to the the appropriate jurisdictional authority, with mandated remediation, typically without fines.

LOCAL WETLAND REGULATIONS AND PERMITTING REQUIREMENTS

UNIFIED DEVELOPMENT ORDINANCE: Flood Damage Prevention

Coastal wetlands dampen the impact of storm surge and reduce flood risk. The Floodplain Administrator is responsible for reviewing all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

An application for a floodplain development permit requires a plot plan drawn to scale which shall include, but shall not be limited to, zoning district, setbacks, percentage impervious surface, building height, area of environmental concern, CAMA setbacks, wetland delineation and the following specific details of the proposed floodplain development:

The nature, location, dimensions and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities and other development; copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.).

The floodplain administrator advises the permittee if additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.) are required, and assures that copies of such permits are provided and maintained on file with the floodplain development permit.

4. ZFP22-000165 - Indicate proposed percentage impervious surface on site plan, as measured from NORMAL HIGH WATER LINE, TO BE UPDATED AND VERIFIED BY DCM.
5. ZFP22-000165 - Indicate OUTSTANDING RESOURCE WATER (ORW) Area of Environmental Concern (AEC) on site plan.
6. ZFP22-000165 - Indicate CAMA setbacks on site plan.
7. ZFP22-000165 - Provide current wetland delineation by bearings and distance and date confirmed by USACE on site plan. Reference to wetland delineation on MB 43 P 235 is 20 years old and no longer valid. An AJD is only valid for 5 years from the date of issuance.
8. ZFP22-000165 - Indicate statement that the entire lot is within the SPECIAL FLOOD HAZARD AREA on site plan.

Figure 1. Example Zoning/Floodplain application review, requiring updated wetland delineation by bearings and distance and confirmation by USACE.

UNIFIED DEVELOPMENT ORDINANCE: Zoning

Open space management practices are consistent with the goals of reducing hazard losses, such as the preservation of wetlands or other flood-prone areas in their natural state in perpetuity. In addition to the Conservation District, the purpose of R-A (residential-agricultural) zoning district is to set aside and protect those lands which are primarily suited for agriculture, forestry, wetlands and agricultural-related uses. Ashe Island is an example.

UNIFIED DEVELOPMENT ORDINANCE: Subdivision

All subdivision applications must indicate any wetlands on the sketch plan or site plan. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

CAMA LAND USE PLAN

The current CAMA Land Use Plan states, “North Topsail Beach accepts state and federal law regarding land uses and development in AEC’s (Areas of Environmental Concern), including all NCAC 7H standards. By reference, all applicable state and federal regulations are incorporated into this document. No policies exceed the

use standards and permitting requirements found in Subchapter 7H, State Guidelines for Areas of Environmental Concern.”

STATE LAW

Coastal Area Management Act (CAMA) regulations (attachments 1, 2) do not permit development in 401 wetlands except water dependent structures . The effects of Session Law 2023-63 Senate Bill 582 - which was passed, vetoed by Governor Cooper and recently overridden June 27, 2023, are not expected to alter DCM’s approach within the town’s jurisdiction, as coastal wetlands are part of the Estuarian Area of Environmental Concern.

FEDERAL LAW

The U.S. Army Corps of Engineers (USACE or the Corps) regulates activities in waterways and wetlands under the authority of several Federal laws. Permits issued by the Corps authorize various types of development projects in wetlands and other waters of the United States. On September 1, 2023, the Corps was expected to respond to the ruling May 25, 2023, by the U.S. Supreme Court (SCOTUS) in Sackett v. Environmental Protection Agency (EPA). No change in regulatory approach in North Topsail Beach is anticipated.

ACTION REQUIRED: The Board of Aldermen directed the Planning Board to review wetland regulations and submit a proposal for increased wetland protection and enforcement.

ACTION TAKEN At their regular meeting on August 10, 2023, the Planning Board discussed wetland regulations with Mr. Mickey Sugg, Chief of the Wilmington Regulatory Field Office for the U.S. Army Corps of Engineers, Mr. Robb Mairs, Local Permit Officer (LPO) Minor Permits Coordinator for the North Carolina Division of Coastal Management of the North Carolina Department of Environmental Quality and Deb Hill, Planning Director.

Mrs. Susan Meyer made a motion that the Board of Aldermen conducts a public hearing on September 6, 2023, and adopts attachments 4 (“An Ordinance Amending the Unified Development Ordinance of the Town Of North Topsail Beach, North Carolina by Updating Standards for Protecting Wetlands Pursuant to North Carolina Senate Bill 582 and Providing for Certain Enforcement Penalties for Unpermitted Disturbance”) and 5 (“Amendment to Town of North Topsail Beach FY 2023-2024 Fee Schedule Planning & Zoning Fees”). The motion was seconded by Mr. Scott Morse and passed unanimously, 5-0.

ATTACHMENTS

1. 15A NCAC 07H .0205 Coastal Wetlands
2. 15A NCAC 07H .0208 Use Standards
3. Session Law 2023-63 Senate Bill 582, Section 15 Clarify Definition Of Wetlands
4. An Ordinance Amending the Unified Development Ordinance of the Town Of North Topsail Beach, North Carolina by Updating Standards for Protecting Wetlands Pursuant to North Carolina Senate Bill 582 and Providing for Certain Enforcement Penalties for Unpermitted Disturbance. (draft)
5. Amendment to Town of North Topsail Beach FY 2023-2024 Fee Schedule Planning & Zoning Fees
6. Notice of Public Hearing (published August 19th and 26th, 2023, Jacksonville Daily News; jdnews.com; "sunshine list" (Mon 8/14/2023 10:29 AM), and Town Hall message board.
7. Tyler Newman email September 6, 2023 10:50 AM; 12:47 PM

15A NCAC 07H .0205 COASTAL WETLANDS

(a) Definition. "Coastal Wetlands" are defined as any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides, that reach the marshland areas through natural or artificial watercourses, provided this does not include hurricane or tropical storm tides. Regular or occasional flooding shall be established through field indicators, including the observation of tidal water on the site, changes in elevation, presence of periwinkle (*Littoraria* spp.), presence of crab burrows, staining, or wrack lines. Coastal wetlands may contain one or more of the following marsh plant species:

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

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

(b) Significance. The unique productivity of the estuarine and ocean system is supported by detritus (decayed plant material) and nutrients that are exported from the coastal wetlands. Without the wetlands, the high productivity levels and complex food chains typically found in the estuaries could not be maintained. Additionally, coastal wetlands serve as barriers against flood damage and control erosion between the estuary and the uplands.

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

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

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

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

(e) Alteration of Coastal Wetlands. Alteration of coastal wetlands includes mowing or cutting of coastal wetlands vegetation whether by mechanized equipment or manual means. Alteration of coastal wetlands by federal or state resource management agencies as a part of planned resource management activities is exempt from the requirements of this Paragraph. Alteration of coastal wetlands shall be governed according to the following provisions:

- (1) Alteration of coastal wetlands shall be exempt from the permit requirements of the Coastal Area Management Act (CAMA) when conducted in accordance with the following criteria:
 - (A) Coastal wetlands may be mowed or cut to a height of no less than two feet, as measured from the coastal wetland substrate, at any time and at any frequency throughout the year;
 - (B) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured from the coastal wetland substrate, once between each December 1 and March 31;
 - (C) Alteration of the substrate is not allowed;
 - (D) All cuttings or clippings shall remain in place as they fall;
 - (E) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured from the coastal wetland substrate, to create an access path four feet wide or less on waterfront lots without a pier access; and
 - (F) Coastal wetlands may be mowed or cut by utility companies as necessary to maintain utility easements.
- (2) Coastal wetland alteration not meeting the exemption criteria of this Rule shall require a CAMA permit. CAMA permit applications for coastal wetland alterations are subject to review by the North Carolina Wildlife Commission, North Carolina Division of Marine Fisheries, U.S. Fish and

Wildlife Service, and National Marine Fisheries Service in order to determine whether or not the proposed activity will have a significant adverse impact on the habitat or fisheries resources.

History Note: Authority G.S. 113A-107; 113A-113(b)(1); 113A-124;
Eff. September 9, 1977;
Amended Eff. September 1, 2016; November 1, 2009; August 1, 1998; October 1, 1993; May 1, 1990; January 24, 1978;
Readopted Eff. July 1, 2020.

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

- (1) Uses that are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent include: utility crossings, wind energy facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches;
- (2) Before being granted a permit, the CRC or local permitting authority shall find that the applicant has complied with the following standards:
 - (A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas;
 - (B) Development shall comply with State and federal water and air quality rules, statutes and regulations;
 - (C) Development shall not cause irreversible damage to documented archaeological or historic resources as identified by the N.C. Department of Cultural resources;
 - (D) Development shall not increase siltation;
 - (E) Development shall not create stagnant water bodies;
 - (F) Development shall be timed to avoid significant adverse impacts on life cycles of estuarine and ocean resources; and
 - (G) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.
- (3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule, the CRC may approve the development if the applicant can demonstrate that the activity associated with the proposed project will have public benefits as identified in the findings and goals of the Coastal Area Management Act, that the public benefits outweigh the long range adverse effects of the project, that there is no reasonable alternate site available for the project, and that all reasonable means and measures to mitigate adverse impacts of the project have been incorporated into the project design and shall be implemented at the applicant's expense. Measures taken to mitigate or minimize adverse impacts shall include actions that:
 - (A) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
 - (B) restore the affected environment; or
 - (C) compensate for the adverse impacts by replacing or providing substitute resources.
- (4) "Primary nursery areas" are defined as those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. Primary nursery areas are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC) at 15A NCAC 03R .0103;
- (5) "Outstanding Resource Waters" (ORW) are defined as those estuarine waters and public trust areas classified by the N.C. Environmental Management Commission (EMC). In those estuarine waters and public trust areas classified as ORW by the EMC no permit required by the Coastal Area Management Act shall be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC, or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site specific information, degrade the water quality or outstanding resource values; and
- (6) Beds of "submerged aquatic vegetation" (SAV) are defined as those habitats in public trust and estuarine waters vegetated with one or more species of submergent vegetation. These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the Marine Fisheries Commission. Any rules relating to SAVs shall not apply to non-development control activities authorized by the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et seq.).

(b) Specific Use Standards

- (1) Navigation channels, canals, and boat basins shall be aligned or located so as to avoid primary nursery areas, shellfish beds, beds of submerged aquatic vegetation as defined by the MFC, or areas of coastal wetlands except as otherwise allowed within this Subchapter. Navigation channels, canals and boat basins shall also comply with the following standards:
 - (A) Navigation channels and canals may be allowed through fringes of regularly and irregularly flooded coastal wetlands if the loss of wetlands will have no significant adverse impacts on fishery resources, water quality or adjacent wetlands, and if there is no reasonable alternative that would avoid the wetland losses;
 - (B) All dredged material shall be confined landward of regularly and irregularly flooded coastal wetlands and stabilized to prevent entry of sediments into the adjacent water bodies or coastal wetlands;
 - (C) Dredged material from maintenance of channels and canals through irregularly flooded wetlands shall be placed on non-wetland areas, remnant spoil piles, or disposed of by a method having no significant, long-term wetland impacts. Under no circumstances shall dredged material be placed on regularly flooded wetlands. New dredged material disposal areas shall not be located in the buffer area as outlined in 15A NCAC 07H .0209(d)(10);
 - (D) Widths of excavated canals and channels shall be the minimum required to meet the applicant's needs but not impair water circulation;
 - (E) Boat basin design shall maximize water exchange by having the widest possible opening and the shortest practical entrance canal. Depths of boat basins shall decrease from the waterward end inland;
 - (F) Any canal or boat basin shall be excavated no deeper than the depth of the connecting waters;
 - (G) Construction of finger canal systems are not allowed. Canals shall be either straight or meandering with no right angle corners;
 - (H) Canals shall be designed so as not to create an erosion hazard to adjoining property. Design may include shoreline stabilization, vegetative stabilization, or setbacks based on soil characteristics; and
 - (I) Maintenance excavation in canals, channels and boat basins within primary nursery areas and areas of submerged aquatic vegetation as defined by the MFC shall be avoided. However, when essential to maintain a traditional and established use, maintenance excavation may be approved if the applicant meets all of the following criteria:
 - (i) The applicant demonstrates and documents that a water-dependent need exists for the excavation;
 - (ii) There exists a previously permitted channel that was constructed or maintained under permits issued by the State or Federal government. If a natural channel was in use, or if a human-made channel was constructed before permitting was necessary, there shall be evidence that the channel was continuously used for a specific purpose;
 - (iii) Excavated material can be removed and placed in a disposal area in accordance with Part (b)(1)(B) of this Rule without impacting adjacent nursery areas and submerged aquatic vegetation as defined by the MFC; and
 - (iv) The original depth and width of a human-made or natural channel shall not be increased to allow a new or expanded use of the channel.
- (2) Hydraulic Dredging
 - (A) The terminal end of the dredge pipeline shall be positioned at a distance sufficient to preclude erosion of the containment dike and a maximum distance from spillways to allow settlement of suspended solids;
 - (B) Dredged material shall be either confined on high ground by retaining structures or deposited on beaches for purposes of renourishment if the material is suitable in accordance with the rules in this Subchapter, except as provided in Part (G) of this Subparagraph;
 - (C) Confinement of excavated materials shall be landward of all coastal wetlands and shall employ soil stabilization measures to prevent entry of sediments into the adjacent water bodies or coastal wetlands;

- (D) Effluent from diked areas receiving disposal from hydraulic dredging operations shall be contained by pipe, trough, or similar device to a point waterward of emergent vegetation or, where local conditions require, below normal low water or normal water level;
 - (E) When possible, effluent from diked disposal areas shall be returned to the area being dredged;
 - (F) A water control structure shall be installed at the intake end of the effluent pipe;
 - (G) Publicly funded projects shall be considered by review agencies on a case-by-case basis with respect to dredging methods and dredged material disposal in accordance with Subparagraph (a)(3) of this Rule; and
 - (H) Dredged material from closed shellfish waters and effluent from diked disposal areas used when dredging in closed shellfish waters shall be returned to the closed shellfish waters.
- (3) Drainage Ditches
- (A) Drainage ditches located through any coastal wetland shall not exceed six feet wide by four feet deep (from ground surface) unless the applicant shows that larger ditches are necessary;
 - (B) Dredged material derived from the construction or maintenance of drainage ditches through regularly flooded marsh shall be placed landward of these marsh areas in a manner that will insure that entry of sediment into the water or marsh will not occur. Dredged material derived from the construction or maintenance of drainage ditches through irregularly flooded marshes shall be placed on non-wetlands wherever feasible. Non-wetland areas include relic disposal sites;
 - (C) Excavation of new ditches through high ground shall take place landward of an earthen plug or other methods to minimize siltation to adjacent water bodies; and
 - (D) Drainage ditches shall not have a significant adverse impact on primary nursery areas, productive shellfish beds, submerged aquatic vegetation as defined by the MFC, or other estuarine habitat. Drainage ditches shall be designed so as to minimize the effects of freshwater inflows, sediment, and the introduction of nutrients to receiving waters. Settling basins, water gates and retention structures are examples of design alternatives that may be used to minimize sediment introduction.
- (4) Nonagricultural Drainage
- (A) Drainage ditches shall be designed so that restrictions in the volume or diversions of flow are minimized to both surface and ground water;
 - (B) Drainage ditches shall provide for the passage of migratory organisms by allowing free passage of water of sufficient depth; and
 - (C) Drainage ditches shall not create stagnant water pools or changes in the velocity of flow.
- (5) Marinas. "Marinas" are defined as any publicly or privately owned dock, basin or wet boat storage facility constructed to accommodate more than 10 boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haulout facilities, and repair service. Excluded from this definition are boat ramp facilities allowing access only, temporary docking, and none of the preceding services. Expansion of existing facilities shall comply with the standards of this Subparagraph for all development other than maintenance and repair necessary to maintain previous service levels. Marinas shall comply with the following standards:
- (A) Marinas shall be sited in non-wetland areas or in deep waters (areas not requiring dredging) and shall not disturb shellfish resources, submerged aquatic vegetation as defined by the MFC, or wetland habitats, except for dredging necessary for access to high-ground sites. The following four alternatives for siting marinas are listed in order of preference for the least damaging alternative; marina projects shall be designed to have the highest of these four priorities that is deemed feasible by the permit letting agency:
 - (i) an upland basin site requiring no alteration of wetland or estuarine habitat and providing flushing by tidal or wind generated water circulation or basin design characteristics;
 - (ii) an upland basin site requiring dredging for access when the necessary dredging and operation of the marina will not result in significant adverse impacts to

- existing fishery, shellfish, or wetland resources and the basin design shall provide flushing by tidal or wind generated water circulation;
- (iii) an open water site located outside a primary nursery area which utilizes piers or docks rather than channels or canals to reach deeper water; and
 - (iv) an open water marina requiring excavation of no intertidal habitat, and no dredging greater than the depth of the connecting channel.
- (B) Marinas that require dredging shall not be located in primary nursery areas nor in areas which require dredging through primary nursery areas for access. Maintenance dredging in primary nursery areas for existing marinas shall comply with the standards set out in Part (b)(1)(I) of this Rule;
 - (C) To minimize coverage of public trust areas by docks and moored vessels, dry storage marinas shall be used where feasible;
 - (D) Marinas to be developed in waters subject to public trust rights (other than those created by dredging upland basins or canals) for the purpose of providing docking for residential developments shall be allowed no more than 27 square feet of public trust areas for every one linear foot of shoreline adjacent to these public trust areas for construction of docks and mooring facilities. The 27 square feet allocation does not apply to fairway areas between parallel piers or any portion of the pier used only for access from land to the docking spaces;
 - (E) To protect water quality in shellfishing areas, marinas shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the marina. In compliance with 33 U.S. Code Section 101(a)(2) of the Clean Water Act and North Carolina Water Quality Standards (15A NCAC 02B .0200) adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Coastal Management shall consult with the Division of Marine Fisheries regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish that have been harvested or are available for harvest in the area where harvest will be affected by the development;
 - (F) Marinas shall not be located without written consent from the leaseholders or owners of submerged lands that have been leased from the state or deeded by the State;
 - (G) Marina basins shall be designed to promote flushing through the following design criteria:
 - (i) the basin and channel depths shall gradually increase toward open water and shall never be deeper than the waters to which they connect; and
 - (ii) when possible, an opening shall be provided at opposite ends of the basin to establish flow-through circulation;
 - (H) Marinas shall be designed so that the capability of the waters to be used for navigation or for other public trust rights in estuarine or public trust waters are not jeopardized while allowing the applicant access to deep waters;
 - (I) Marinas shall be located and constructed so as to avoid adverse impacts on navigation throughout all federally maintained channels and their boundaries as designated by the US Army Corps of Engineers. This includes permanent or temporary mooring sites; speed or traffic reductions; or any other device, either physical or regulatory, that may cause a federally maintained channel to be restricted;
 - (J) Open water marinas shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality;
 - (K) Marinas that require dredging shall provide areas in accordance with Part (b)(1)(B) of this Rule to accommodate disposal needs for future maintenance dredging, including the ability to remove the dredged material from the marina site;
 - (L) Marina design shall comply with all applicable EMC requirements (15A NCAC 02B .0200) for management of stormwater runoff. Stormwater management systems shall not be located within the 30-foot buffer area outlined in 15A NCAC 07H .0209(d);

- (M) Marinas shall post a notice prohibiting the discharge of any waste from boat toilets and listing the availability of local pump-out services;
 - (N) Boat maintenance areas shall be designed so that all scraping, sandblasting, and painting will be done over dry land with collection and containment devices that prevent entry of waste materials into adjacent waters;
 - (O) All marinas shall comply with all applicable standards for docks and piers, shoreline stabilization, dredging and dredged material disposal of this Rule;
 - (P) All applications for marinas shall be reviewed by the Division of Coastal Management to determine their potential impact to coastal resources and compliance with applicable standards of this Rule. Such review shall also consider the cumulative impacts of marina development in accordance with G.S. 113A-120(a)(10); and
 - (Q) Replacement of existing marinas to maintain previous service levels shall be allowed provided that the development complies with the standards for marina development within this Section.
- (6) Piers and Docking Facilities.
- (A) Piers shall not exceed six feet in width. Piers greater than six feet in width shall be permitted only if the greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur;
 - (B) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 2,000 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total. Projects requiring dimensions greater than those stated in this Rule shall be permitted only if the greater dimensions are necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur. Size restrictions shall not apply to marinas;
 - (C) Piers and docking facilities over coastal wetlands shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking;
 - (D) A boathouse shall not exceed 400 square feet except to accommodate a documented need for a larger boathouse and shall have sides extending no farther than one-half the height of the walls as measured from the Normal Water Level or Normal High Water and covering only the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline, except that structural boat covers utilizing a frame-supported fabric covering may be permitted on properties with less than 75 linear feet of shoreline when using screened fabric for side walls. Size restrictions do not apply to marinas;
 - (E) The total area enclosed by an individual boat lift shall not exceed 400 square feet except to accommodate a documented need for a larger boat lift;
 - (F) Piers and docking facilities shall be single story. They may be roofed but shall not be designed to allow second story use;
 - (G) Pier and docking facility length shall be limited by:
 - (i) not extending beyond the established pier or docking facility length along the same shoreline for similar use. This restriction does not apply to piers 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public;
 - (ii) not extending into the channel portion of the water body; and
 - (iii) not extending more than one-fourth the width of a natural water body, or human-made canal or basin. Measurements to determine widths of the water body, canals, or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier-head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property. However, the proposed pier or docking facility shall not be

- longer than the pier head line established by the adjacent piers or docking facilities, nor longer than one-third the width of the water body.
- (H) Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1 foot each 100 foot increment of length longer than 400 feet, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;
 - (I) Piers and docking facilities shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the pier or docking facility and the adjacent property owner's 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. If the adjacent property is sold before construction of the pier or docking facility 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 of the pier. Application of this Rule may be aided by reference to the approved diagram in 15A NCAC 07H .1205(t) illustrating the rule as applied to various shoreline configurations. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable as determined by the Director of the Division of Coastal Management; and
 - (J) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.
- (7) Bulkheads
- (A) Bulkhead alignment, for the purpose of shoreline stabilization, shall approximate the location of normal high water or normal water level;
 - (B) Bulkheads shall be constructed landward of coastal wetlands in order to avoid significant adverse impacts to the resources;
 - (C) Bulkhead backfill material shall be obtained from an upland source approved by the Division of Coastal Management pursuant to this Section, or if the bulkhead is a part of a permitted project involving excavation from a non-upland source, the material so obtained may be contained behind the bulkhead;
 - (D) Bulkheads shall be permitted below normal high water or normal water level only when the following standards are met:
 - (i) the property to be bulkheaded has an identifiable erosion problem, whether it results from natural causes or adjacent bulkheads, or it has unusual geographic or geologic features, e.g. steep grade bank, which will cause the applicant unreasonable hardship under the other provisions of this Rule;
 - (ii) the bulkhead alignment extends no further below normal high water or normal water level than necessary to allow recovery of the area eroded in the year prior to the date of application, to align with adjacent bulkheads, or to mitigate the unreasonable hardship resulting from the unusual geographic or geologic features;
 - (iii) the bulkhead alignment will not adversely impact public trust rights or the property of adjacent riparian owners;
 - (iv) the need for a bulkhead below normal high water or normal water level is documented by the Division of Coastal Management; and
 - (v) the property to be bulkheaded is in a non-oceanfront area.
 - (E) Where possible, sloping rip-rap, gabions, or vegetation shall be used rather than bulkheads.
- (8) Beach Nourishment

- (A) Beach creation or maintenance may be allowed to enhance water related recreational facilities for public, commercial, and private use consistent with the following:
 - (i) Beaches may be created or maintained in areas where they have historically been found due to natural processes;
 - (ii) Material placed in the water and along the shoreline shall be clean sand and free from pollutants. Grain size shall be equal to that found naturally at the site;
 - (iii) Beach creation shall not be allowed in primary nursery areas, nor in any areas where siltation from the site would pose a threat to shellfish beds;
 - (iv) Material shall not be placed on any coastal wetlands or submerged aquatic vegetation as defined by MFC;
 - (v) Material shall not be placed on any submerged bottom with significant shellfish resources as identified by the Division of Marine Fisheries during the permit review; and
 - (vi) Beach construction shall not create the potential for filling adjacent navigation channels, canals or boat basins.
 - (B) Placing unconfined sand material in the water and along the shoreline shall not be allowed as a method of shoreline erosion control;
 - (C) Material from dredging projects may be used for beach nourishment if:
 - (i) it is first handled in a manner consistent with dredged material disposal as set forth in this Rule;
 - (ii) it is allowed to dry prior to being placed on the beach; and
 - (iii) only that material of acceptable grain size as set forth in Subpart (b)(8)(A)(ii) of this Rule is removed from the disposal site for placement on the beach. Material shall not be placed directly on the beach by dredge or dragline during maintenance excavation.
 - (D) Beach construction shall comply with State and federal water quality standards;
 - (E) The renewal of permits for beach nourishment projects shall require an evaluation by the Division of Coastal Management of any adverse impacts of the original work; and
 - (F) Permits issued for beach nourishment shall be limited to authorizing beach nourishment only one time.
- (9) Groins
- (A) Groins shall not extend more than 25 feet waterward of the normal high water or normal water level unless a longer structure is justified by site specific conditions and by an individual who meets any North Carolina occupational licensing requirements for the type of structure being proposed and approved during the application process;
 - (B) Groins shall be set back a minimum of 15 feet from the adjoining riparian lines. The setback for rock groins shall be measured from the toe of the structure. This setback may be waived by 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 groin 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 of the groin;
 - (C) Groins shall pose no threat to navigation;
 - (D) The height of groins shall not exceed one foot above normal high water or normal water level;
 - (E) No more than two structures shall be allowed per 100 feet of shoreline unless the applicant provides evidence that more structures are needed for shoreline stabilization.
 - (F) "L" and "T" sections shall not be allowed at the end of groins; and
 - (G) Riprap material used for groin construction shall be free from loose dirt or any other pollutant and of a size sufficient to prevent its movement from the site by wave and current action.
- (10) "Freestanding Moorings".
- (A) A "freestanding mooring" is any means to attach a ship, boat, vessel, floating structure or other water craft to a stationary underwater device, mooring buoy, buoyed anchor, or piling as long as the piling is not associated with an existing or proposed pier, dock, or boathouse;

- (B) Freestanding moorings shall be permitted only:
 - (i) to riparian property owners within their riparian corridors; or
 - (ii) to any applicant proposing to locate a mooring buoy consistent with a water use plan that is included in either the local zoning or land use plan.
 - (C) All mooring fields shall provide an area for access to any mooring(s) and other land based operations that shall include wastewater pumpout, trash disposal and vehicle parking;
 - (D) To protect water quality of shellfishing areas, mooring fields shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the mooring field. In compliance with Section 101(a)(2) of the Federal Water Pollution Control Act, 33 U.S.C. 1251 (a)(2), and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Marine Fisheries shall be consulted regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish that have been harvested or are available for harvest in the area where harvest will be affected by the development;
 - (E) Moorings shall not be located without written consent from the leaseholders or owners of submerged lands that have been leased from the state or deeded by the State;
 - (F) Moorings shall be located and constructed so as to avoid adverse impacts on navigation throughout all federally maintained channels. This includes permanent or temporary mooring sites, speed or traffic reductions, or any other device, either physical or regulatory, which may cause a federally maintained channel to be restricted;
 - (G) Open water moorings shall not be enclosed within breakwaters that preclude circulation and degrade water quality in violation of EMC standards;
 - (H) Moorings and the associated land based operation design shall comply with all applicable EMC requirements for management of stormwater runoff;
 - (I) Mooring fields shall have posted in view of patrons a notice prohibiting the discharge of any waste from boat toilets or any other discharge and listing the availability of local pump-out services and waste disposal;
 - (J) Freestanding moorings associated with commercial shipping, public service, or temporary construction or salvage operations may be permitted without a public sponsor;
 - (K) Freestanding mooring buoys and piles shall be evaluated based upon the arc of the swing including the length of the vessel to be moored. Moorings and the attached vessel shall not interfere with the access of any riparian owner nor shall it block riparian access to channels or deep water, which allows riparian access. Freestanding moorings shall not interfere with the ability of any riparian owner to place a pier for access;
 - (L) Freestanding moorings shall not be established in submerged cable or pipe crossing areas or in a manner that interferes with the operations of an access through any bridge;
 - (M) Freestanding moorings shall be marked or colored in compliance with U.S. Coast Guard and the WRC requirements and the required marking maintained for the life of the mooring(s); and
 - (N) The type of material used to create a mooring must be free of pollutants and of a design and type of material so as to not present a hazard to navigation or public safety.
- (11) Filling of Canals, Basins and Ditches - Notwithstanding the general use standards for estuarine systems as set out in Paragraph (a) of this Rule, filling canals, basins and ditches shall be allowed if all of the following conditions are met:
- (A) the area to be filled was not created by excavating lands which were below the normal high water or normal water level;
 - (B) if the area was created from wetlands, the elevation of the proposed filling does not exceed the elevation of said wetlands so that wetland function will be restored;

- (C) the filling will not adversely impact any designated primary nursery area, shellfish bed, submerged aquatic vegetation as defined by the MFC, coastal wetlands, public trust right or public trust usage; and
 - (D) the filling will not adversely affect the value and enjoyment of property of any riparian owner.
- (12) "Submerged Lands Mining"
- (A) Development Standards. Mining of submerged lands shall meet all the following standards:
 - (i) The biological productivity and biological significance of mine sites, or borrow sites used for sediment extraction, shall be evaluated for significant adverse impacts and a protection strategy for these natural functions and values provided with the State approval request or permit application;
 - (ii) Natural reefs, coral outcrops, artificial reefs, seaweed communities, and significant benthic communities identified by the Division of Marine Fisheries or the WRC shall be avoided;
 - (iii) Mining shall avoid significant archaeological resources as defined in Rule .0509 of this Subchapter; shipwrecks identified by the Department of Cultural Resources; and unique geological features that require protection from uncontrolled or incompatible development as identified by the Division of Energy, Mineral, and Land Resources pursuant to G.S. 113A-113(b)(4)(g);
 - (iv) Mining activities shall not be conducted on or within 500 meters of significant biological communities identified by the Division of Marine Fisheries or the WRC, such as high relief hard bottom areas. "High relief" is defined for this Part as relief greater than or equal to one-half meter per five meters of horizontal distance;
 - (v) Mining activities shall be timed to minimize impacts on the life cycles of estuarine or ocean resources; and
 - (vi) Mining activities shall not affect potable groundwater supplies, wildlife, freshwater, estuarine, or marine fisheries.
 - (B) Permit Conditions. Permits for submerged lands mining may be conditioned on the applicant amending the mining proposal to include measures necessary to ensure compliance with the provisions of the Mining Act and the rules for development set out in this Subchapter. Permit conditions shall also include:
 - (i) Monitoring by the applicant to ensure compliance with all applicable development standards; and
 - (ii) A determination of the necessity and feasibility of restoration shall be made by the Division of Coastal Management as part of the permit or consistency review process. Restoration shall be necessary where it will facilitate recovery of the pre-development ecosystem. Restoration shall be considered feasible unless, after consideration of all practicable restoration alternatives, the Division of Coastal Management determines that the adverse effects of restoration outweigh the benefits of the restoration on estuarine or ocean resources. If restoration is determined to be necessary and feasible, then the applicant shall submit a restoration plan to the Division of Coastal Management prior to the issuance of the permit.
 - (C) Dredging activities for the purposes of mining natural resources shall be consistent with the development standards set out in this Rule;
 - (D) Mitigation. Where mining cannot be conducted consistent with the development standards set out in this Rule, the applicant may request mitigation approval under 15A NCAC 07M .0700; and
 - (E) Public Benefits Exception. Projects that conflict with the standards in this Subparagraph, but provide a public benefit, may be approved pursuant to the standards set out in Subparagraph (a)(3) of this Rule.
- (13) "Wind Energy Facilities"
- (A) An applicant for the development and operation of a wind energy facility shall provide:

- (i) an evaluation of the proposed noise impacts of the turbines to be associated with the proposed facility;
 - (ii) an evaluation of shadow flicker impacts for the turbines to be associated with the proposed facility;
 - (iii) an evaluation of avian and bat impacts of the proposed facility;
 - (iv) an evaluation of viewshed impacts of the proposed facility;
 - (v) an evaluation of potential user conflicts associated with development in the proposed project area; and
 - (vi) a plan regarding the action to be taken upon decommissioning and removal of the wind energy facility. The plan shall include estimates of monetary costs, time frame of removal and the proposed site condition after decommissioning.
- (B) Development Standards. Development of wind energy facilities shall meet the following standards in addition to adhering to the requirements outlined in Part (a)(13)(A) of this Rule:
- (i) Natural reefs, coral outcrops, artificial reefs, seaweed communities, and significant benthic communities identified by the Division of Marine Fisheries or the WRC shall be avoided;
 - (ii) Development shall not be sited on or within 500 meters of significant biological communities identified by the Division of Marine Fisheries or the WRC, such as high relief hard bottom areas. High relief is defined for this standard as relief greater than or equal to one-half meter per five meters of horizontal distance;
 - (iii) Development shall not cause irreversible damage to documented archeological resources including shipwrecks identified by the Department of Cultural Resources and unique geological features that require protection from uncontrolled or incompatible development as identified by the Division of Energy, Mineral, and Land Resources pursuant to G.S. 113A-113(b)(4)(g);
 - (iv) Development activities shall be timed to avoid significant adverse impacts on the life cycles of estuarine or ocean resources, or wildlife;
 - (v) Development or operation of a wind energy facility shall not jeopardize the use of the surrounding waters for navigation or for other public trust rights in public trust areas or estuarine waters; and
 - (vi) Development or operation of a wind energy facility shall not interfere with air navigation routes, air traffic control areas, military training routes or special use airspace and shall comply with standards adopted by the Federal Aviation Administration and codified under 14 CFR Part 77.13.
- (C) Permit Conditions. Permits for wind energy facilities may be conditioned on the applicant amending the proposal to include measures necessary to ensure compliance with the standards for development set out in this Rule. Permit conditions may include monitoring to ensure compliance with all applicable development standards; and
- (D) Public Benefits Exception. Projects that conflict with these standards, but provide a public benefit, may be approved pursuant to the standards set out in Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124; Eff. September 9, 1977; Amended Eff. February 1, 1996; April 1, 1993; February 1, 1993; November 30, 1992; RRC Objection due to ambiguity Eff. March 21, 1996; Amended Eff. August 1, 2012(see S.L. 2012-143, s.1(f)); February 1, 2011; August 1, 2010; June 1, 2010; August 1, 1998; May 1, 1996; Readopted Eff. July 1, 2020; Amended Eff. August 1, 2022.

CLARIFY DEFINITION OF WETLANDS

SECTION 15.(a) Definitions. – For purposes of this section and its implementation, "Wetlands Definition" means 15A NCAC 02B .0202 (Definitions).

SECTION 15.(b) Wetlands Definition Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission (Commission) is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Wetlands Definition Rule as provided in subsection (c) of this section.

SECTION 15.(c) Implementation. – Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 C.F.R. § 328.3 and 40 C.F.R. § 230.3. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions.

SECTION 15.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Wetlands Definition Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 15.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA BY
UPDATING STANDARDS FOR PROTECTING WETLANDS PURSUANT TO SENATE
BILL 582 AND PROVIDING FOR CERTAIN ENFORCEMENT PENALTIES FOR
UNPERMITTED DISTURBANCE**

Ordinance 23-__

WHEREAS, N.C. Session Law 2023-63 created new definitions for Wetlands that apply throughout North Carolina; and

WHEREAS, the Planning Board has reviewed the proposed standards and recommended approval of this ordinance; and

WHEREAS, the Board of Aldermen has found this ordinance to be consistent with the Town's adopted CAMA Land Use Plan; and

WHEREAS, the Board of Aldermen acknowledges the importance of Wetlands in reducing flood risk; and

WHEREAS, the Board of Aldermen affirms that open space management practices are consistent with the goals of reducing hazard losses, such as the preservation of Wetlands or other flood-prone areas in their natural state in perpetuity; and

WHEREAS, the Board of Aldermen has determined that is in public interest to update standards for protecting Wetlands in the Unified Development Ordinance consistent with North Carolina Senate Bill 582 and in compliance with the N.C. General Statutes 160D.

NOW THEREFORE BE IT ORDAINED by the Board of Aldermen for the Town of North Topsail Beach, North Carolina that the Unified Development Ordinance shall be amended as follows:

PART I. That Subsection of the Unified Development Ordinance be amended with the addition of the following:

§10.07.05 INSTALL AND MAINTAIN EFFECTIVE SEDIMENTATION AND EROSION CONTROL MEASURES

All unconsolidated material resulting from associated grading and landscaping shall be retained on site by effective sedimentation and erosion control measures.

Disturbed areas shall be vegetated and stabilized (planted and mulched) within 14 days of construction completion.

It shall be the responsibility of the property owner to ensure the installation and maintenance of effective sedimentation and erosion control measures and to stabilize disturbed areas within 14 days of construction completion.

Failure to install and maintain effective sedimentation and erosion control measures during construction or stabilize disturbed areas after construction are in violation of this ordinance shall be subject to a fine in accordance with the Planning and Zoning Fee Schedule for Code Enforcement Civil Citations, as adopted by the Board of Aldermen.

§10.07.06 WETLAND PROTECTION.

- (A) Any Wetlands, as defined in Chapter 11, damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation.
- (B) It shall be the responsibility of the property owner to guarantee the protection of all identified Wetlands and not allow the natural wetland hydrology of the lot to be altered beyond that which has been authorized in the permit.
- (C) Wetland grass planting or wetland reforestation shall be the ultimate responsibility of the property owner.
- (D) Any Wetlands, as defined in Chapter 11,-in the required natural area that has been damaged or excavated in violation of this ordinance shall be subject to a fine in accordance with the the Planning and Zoning Fee Schedule for Code Enforcement Civil Citations for this section, as adopted by the Board of Aldermen and restored within 7 days of notice.
- (E) Failure to repair damage to Wetlands and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification pursuant to §2.17.01.

§11.01.12 DEFINITIONS.

WETLANDS are waters defined to be Wetlands as determined by the North Carolina Department of Environmental Quality and/or the United States Army Corps of Engineers. Wetlands shall also include all waters defined as Wetlands by NC Session Law 2023-63/NC Senate Bill 582, as may be amended from time to time.

PART II. This ordinance shall be effective upon its adoption.

**Town of North Topsail Beach
FY 2023-2024
Fee Schedule**

PLANNING & ZONING FEES

Fees effective 7-1-2022

Development

Re-inspection Fee	\$75.00 for 1st Re-Inspection; \$100 for 2nd Re-Inspection and \$100 for all other additional Re-Inspections (Applied if Inspection NOT READY or FAILS)
Floodplain Development Permit Fee	\$50.00
Zoning Permit Fee(unless otherwise listed)	\$75.00
Special Requirement Site Plans (includes CUP fee)	\$750.00
Commercial Site Plan Review (includes CUP fee)	\$750.00
NTB Driveway Permit (NCDOT separate fee)	\$50.00
Telecommunications Facility - Co-location	\$400.00
Telecommunications Facility - New	\$2,000.00
Accessory Structures	\$50.00

Quasi-Judicial Public Hearings*

Variance Request	\$350.00
Appeals	\$350.00
Conditional Use Permit/Special Use Permit	\$350.00

Legislative Hearings

Map Amendment (Rezone)	\$500.00
Text Amendment	\$500.00

Other Fees

Home Occupation Permit	\$50.00
Land Disturbance	\$50.00
Signs	\$50.00
Zoning Letter of Compliance	\$100.00
Mobile Food Vendor - ANNUAL	\$500.00
Mobile Food Vendor - Special Event	\$100.00
Pushcart - ANNUAL	\$75.00
Pushcart - Special Event	\$25.00

Re-Inspections	\$75.00 for 1st Re-Inspection; \$100 for 2nd Re-Inspection and \$100 for all other additional Re-Inspections (Applied if Inspection NOT READY or FAILS)
Work Done without Permit	Double permit fee + \$200 fine
Failure to get final inspection prior to expiration of permit	\$100.00

**Town of North Topsail Beach
FY 2023-2024
Fee Schedule**

Major Subdivision/Planned Unit Developments

Sketch, Preliminary and Final	\$300/\$300/\$150
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Minor Subdivision

Sketch & Final	\$200/\$200
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Exemptions (Review Required)	\$50.00
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Code Enforcement

Civil Citations	First Offense \$50.00 Second Offense \$100.00 Third & Subsequent Offenses \$200.00 each
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Civil Citations: § 10.07.02 REBUILDING OF DAMAGED DUNES.	First Offense & Subsequent Offenses \$10,000.00.00 each
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Civil Citations: §10.07.06 WETLAND PROTECTION.	First Offense & Subsequent Offenses \$10,000.00.00 each
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*** Applicant is responsible for all transcript expenses. In addition to the fee, a \$150 deposit for transcript is required. All cancellations must be received at least 48 hours before the start of the public hearing and refunds are subject to a \$150 cancellation fee.**

AFFP

Town of North Topsail Sept 6

Affidavit of Publication

STATE OF NC }
COUNTY OF ONSLOW } SS

Christy Williamson , being duly sworn, says:

That she is Christy Williamson, Advertising Director of the The Daily News, a daily newspaper of general circulation, printed and published in Jacksonville, Onslow County, NC; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following


August 19, 2023, August 26, 2023

That said newspaper was regularly issued and circulated on those dates.

SIGNED:


Christy Williamson, Advertising Director

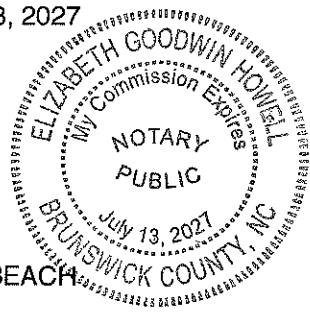
Subscribed to and sworn to me this 26th day of August 2023.


Elizabeth Goodwin Howell, , Onslow County, NC

My commission expires: July 13, 2027

70086577 70749116

DEBORAH HILL
TOWN OF NORTH TOPSAIL BEACH
2008 LOGGERHEAD CT.
NORTH TOPSAIL BEACH, NC 28460



**TOWN OF NORTH TOPSAIL
BEACH**

BOARD OF ALDERMEN

Wednesday, September 6, 2023,
11:00 a.m.

2008 Loggerhead Court, North
Topsail Beach NC 28460

Pursuant to NCGS § 160D-601
and the Town's Unified Develop-
ment Ordinance (UDO) §2.07.01,
notice is hereby given that a regu-
lar meeting of the North Topsail
Beach Board of Aldermen will be
held at 2008 Loggerhead Court,
North Topsail Beach NC on Wed-
nesday, September 6, 2023, 11:00
a.m. Hearings will be conducted to
receive input on:

**Proposed Text Amendments to
Wetland Regulations and Enforce-
ment:**

**Uniform Development Ordinance
§10.07.05 Install and maintain ef-
fective sedimentation and erosion
control measures; §10.07.06 Wet-
land Protection; and §11.01.12
Definitions. Wetlands.**

All information pertaining to these
public hearings may be viewed at
the Town Hall by appointment
only Monday through Friday
between the hours of 8:00 am and
5:00 pm.

**For more information, please con-
tact:**

**Deborah J. Hill MPA AICP CFM
CZO, Planning Director
dhill@northtopsailbeachnc.gov
910-328-1349**

From: [Deb Hill](#)
To: [Tyler Newman](#); [Alice Derian](#)
Cc: [Cameron Moore](#); [Millis, Chris](#); [Christina Asbury](#); [TIAR](#)
Subject: RE: wetlands
Date: Wednesday, September 6, 2023 12:54:00 PM

It is continued until the next meeting.

Confirmation of wetland delineation on a plat of survey, signed and sealed by a NC licensed surveyor – typically staked by Gene Young/Applied Resource Management, in this area - **is made by Division of Coastal Management (401) and U. S. Army Corps of Engineers (404).**

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.
North Topsail Beach, NC 28460
Town Hall 910.328.1349
Direct 910.581.3008



From: Tyler Newman <tyler@ncbase.org>
Sent: Wednesday, September 6, 2023 12:47 PM
To: Deb Hill <dhill@northtopsailbeachnc.gov>; Alice Derian <aderian@northtopsailbeachnc.gov>
Cc: Cameron Moore <cameron@wilmhba.org>; Millis, Chris <cmillis@nchba.org>; Christina Asbury <christinasellsrealestate@gmail.com>; TIAR <office@topsailrealtors.com>
Subject: Re: wetlands

Assuming that the text amendment passed, how is the town going to implement identification of wetlands?

Tyler Newman
President and CEO
Business Alliance for a Sound Economy
Wilmington, NC
404-484-9045

From: Deb Hill <dhill@northtopsailbeachnc.gov>
Sent: Wednesday, September 6, 2023 12:44:33 PM
To: Tyler Newman <tyler@ncbase.org>; Alice Derian <aderian@northtopsailbeachnc.gov>
Cc: Cameron Moore <cameron@wilmhba.org>; Millis, Chris <cmillis@nchba.org>; Christina Asbury <christinasellsrealestate@gmail.com>; TIAR <office@topsailrealtors.com>
Subject: RE: wetlands

Thank you, but the link provides no access. I received this after I returned from the meeting downstairs.

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.

North Topsail Beach, NC 28460

Town Hall 910.328.1349

Direct 910.581.3008



From: Tyler Newman <tyler@ncbase.org>

Sent: Wednesday, September 6, 2023 10:50 AM

To: Deb Hill <dhill@northtopsailbeachnc.gov>; Alice Derian <aderian@northtopsailbeachnc.gov>

Cc: Cameron Moore <cameron@wilmhba.org>; Millis, Chris <cmillis@nchba.org>; Christina Asbury <christinasellsrealestate@gmail.com>; TIAR <office@topsailrealtors.com>

Subject: wetlands

With the clear understanding that y'all have a meeting in 15 minutes, I wanted to pass along some information from DEQ about wetlands. This link will take you to a document addressed to the EMC Chair, regarding the state's authority on wetlands following recent legislation.

<https://edocs.deq.nc.gov/WaterResources/DocView.aspx?dbid=0&id=2943763&cr=1>

In short, doing anything at the local level is regulatory overreach. The state's definition is pegged to the federal definition—and that is in flux, even with the final rule announced last week.

We strongly encourage the Town not to take action on this item, for a variety of reasons.

Thanks,

Tyler

Tyler Newman

President & CEO

Business Alliance for a Sound Economy

Wilmington, North Carolina

404-484-9045 (c)

Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may possibly be disclosed to third parties.