

## Existing Protections of Isolated Wetlands Environmentally Sensitive Areas

### Key Points:

- Swansboro supports the policies and permitting processes under CAMA and Section 404 of the Clean Water Act.
- Due to changes in interpretation/legislation in the past few years, gaps have been created in the protection of coastal NC's small, isolated wetlands by federal and state programs.
- Swansboro does not have policies or ordinances specifically targeting and protecting isolated, non-coastal wetlands not protected under federal or state law.

### Findings:

In the existing Land Use Plan (LUP), Swansboro complies with all state and federal laws regarding wetlands and environmentally sensitive areas, including section 404 of the Clean Water Act and all CAMA regulations. However, in 2008, a [statement by the EPA](#) asserted that wetlands not adjacent to traditional navigable waters are not under 404 jurisdiction. In 2015, changes were made to [15A NCAC 2H .1300](#) to regulate only 2 types of the 16 formerly identified isolated wetlands in NC, and to allow discharges that impact one acre or less of isolated wetlands in the coastal region without a permit (15A NCAC 02H .1305(3)). Combined, these changes create a gap in protection for small, non-adjacent/isolated wetlands and make it increasingly important that local municipalities adopt more stringent protections.

Currently, the town does not have many policies that go beyond protections under section 404 of the CWA. Going forward, the Town plans to amend the Unified Development Ordinance to enable clustering in office and business zoning districts, as well as residential district. Most policies in regard to wetlands are statements of support for federal/state regulations. For example, policy 37 states that the town "supports coordinated efforts to preserve and protect the ecological and flood hazard benefits of freshwater wetlands, as protected under Section 404 of the Clean Water act. "Swansboro also has a CAMA-required Environmental Composite Map that incorporates areas of environmental concern into their land suitability analysis. In addition to this, there are a few policies which could have indirect benefits to isolated wetlands. Policy 93 mentions a commitment to Low Development (LID), which the UDO is required in Flexible Lot Developments. In implementing action 21 and policy 65, the town supports the education of the public about "environmentally sensitive areas" and the dangers of location development in natural hazard areas, which could be used to support an education campaign about isolated wetlands.





## Recommendations

- **Educate residents** about the benefits (ecological, economic, public health/safety) of protecting wetlands. Incorporate wetland education efforts into Implementing Action 21 of the LUP.
- **Define wetlands** environmentally sensitive areas in the LUP and Unified Development Ordinance to include ~~not only 404-regulated wetlands, but also isolated, freshwater wetlands, floodplains, floodways, all types of wetlands, and areas of threatened or endangered species.~~
- **Update policies** 25 (define environmentally sensitive areas to include isolated wetlands), 37, and 89 in the Land Use Ordinance to include wetlands not protected under CWA(404), according to the previously mentioned definition.
  - Also include a discussion of town protections/definitions in the Wetlands Section of Existing/Emerging Conditions: Fragile Areas.
  - In policy 63, amend to include more specific requirements for development susceptible to wetlands loss (instead of "consideration" in project development).
- **Change zoning** to ~~either include isolated wetlands as a new, separate zone (overlay map of isolated wetlands), or incorporate isolated wetlands into the existing conservation zone;~~ include isolated wetlands in the definition of environmentally sensitive areas and protect wetlands when development is proposed with zoning incentives such as cluster development.
  - Could commission maps of Swansboro wetlands, or use existing maps (FWS, NCRS, NOAA). Add delineation of environmentally sensitive areas is required prior to development approval to the Unified Development Ordinance.
  - Allow appeals process for landowners to challenge delineations they feel are inaccurate
  - If not included in conservation zone, which is included in policy 27 of the LUP (about using increased lot sizes, decreased impervious surfaces, and cluster development), could include in large lot residential zoning to encourage building on uplands and not disturbing wetlands on lot.
- **Create a wetlands** environmentally sensitive area **protection ordinance** specific to the needs of Swansboro:
  - Include: definition of ~~a wetland~~ environmentally sensitive areas, fact finding, intent/goals, definition of regulated activities, standards for issuance of permits development approval to be placed in the Unified Development Ordinance (general: e.g. no net loss of wetlands, and specific: e.g. mitigation ratios), and conditions which may be attached to permits
  - Model ordinance from the Association of State Wetland Managers
  - Wisconsin Model Ordinance
  - Study on Local Ordinance Effectiveness in NYS
- **Create a Wetland Review Board** to help review permit applications under ordinance
- **Institute subdivision regulations** requiring wetlands protection, encourage use of wetlands as open space/stormwater management
- **Institute incentives** to encourage wetlands protection incorporate with environmentally sensitive area in the Unified Development Ordinance, such as:
  - Reduce local real estate taxes for preserved wetlands
  - Density bonuses or development right schemes
  - Work with local land trusts to provide wetland owners who donate wetlands or conservation easements with tax benefits