

SECTION .0400 - LAND USE PLAN AMENDMENT PROCESS

15A NCAC 07B .0401 LAND USE PLAN AMENDMENT

The Land Use Plan may be amended as a whole by a single resolution or in parts by successive resolutions. The successive resolutions may address geographical sections, county divisions, or functional units of subject matter.

History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
RRC Objection due to lack of statutory authority Eff. December 21, 1995;
Amended Eff. February 1, 1996.

15A NCAC 07B .0402 PUBLIC HEARING REQUIRED

(a) The Land Use Plan may be amended only after a properly held public hearing. Notice of the public hearing shall be posted at least 30 days prior to the public hearing and must state the date, time, place, proposed action, and that copies of the amendment may be viewed at a particular office in the county courthouse or town hall during designated hours. The notice must appear at least once in a newspaper of general circulation in the planning jurisdiction. The notice may also be posted in other public facilities such as county or city office buildings, post offices or similar locations.

(b) Copies of the proposed amendment or update shall be available at the time notice is provided. Minor changes after hearing are acceptable without additional hearings unless the changes are so significant that the original notice would not have provided adequate notice to the public of the subject matter and potential action. If there are significant changes to a proposed amendment the local government shall hold another public hearing advertised in the same manner as the original that advises of the same subject matter to be considered.

(c) Local governments are encouraged to adopt their plan amendments expeditiously following the close of the public hearing.

History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
Amended Eff. July 1, 1984;
RRC Objection due to lack of statutory authority and necessity Eff. December 21, 1995;
Amended Eff. February 1, 1996.

15A NCAC 07B .0403 NOTICE TO COASTAL RESOURCES COMMISSION

(a) The local government proposing an amendment to its Land Use Plan shall provide to the executive secretary of the Commission or his designee written notice of the public hearing, a copy of the proposed amendment, and the reasons for the amendment no less than 30 days prior to the public hearing. After the public hearing, the local government shall provide the executive secretary or his designee with a copy of the amendment as adopted.

(b) The local government shall submit the full text of the proposed amendment in full page units as it would appear in the Land Use Plan if adopted in the proposed form. Any maps (such as the land classification map) that will be affected by the amendment shall also be submitted as they would appear if the proposed amendment were adopted. If the proposed amendment includes reclassifying an area from a lower-intensity land class which does not presently require urban type services to a higher-intensity class which will necessitate urban services, then the local government shall describe, as part of the amendment, how, when and where these services will be provided in order to support such a reclassification.

- (1) Local governments that presently enforce the minimum land management tools (zoning and subdivision regulations, or planned unit development ordinances) and also supply other urban services such as water, sewer, fire and police protection, solid waste disposal, transportation

network and schools, shall so state, and as part of any plan amendment proposal shall assure the Commission that the local government has or will provide for adequate services to support any development that will occur. As part of this assurance, the local government shall discuss the circumstances making the amendment necessary and shall also describe how this amendment will help the local government implement its stated policies as contained in the Land Use Plan. This discussion shall also include an examination of the availability of vacant land presently in the land classification being sought for in the proposed amendment and why the land proposed for reclassification is more appropriate for intense development than that presently vacant and currently classed for intense development.

- (2) Local governments that are not presently enforcing the minimum land management tools (zoning and subdivision regulations; or planned unit development ordinances) and that do not provide public services such as water, sewer, fire and police protection, solid waste disposal, transportation network and schools, shall so state as part of any proposed plan amendment. If the local government intends to allow these services to be provided privately, then a "demand-supply" analysis is required as part of any plan amendment proposed. This analysis shall be thoroughly discussed at the local public hearing prior to local action and shall be available for public review during the 30 day public hearing notice period as part of the notice and the notice shall so state. This analysis shall also include information as to the whole range of uses permitted within the proposed land classification and shall discuss potential impacts associated with those uses, including the most dense possible development therein. At a minimum, the demand-supply analysis shall discuss: water, sewer, fire and police protection, solid waste disposal, transportation impacts and school impacts. Potential impacts on the immediate environment shall also be discussed. As part of any proposed amendment, the local government shall also discuss the circumstances making the amendment necessary and shall also describe how the amendment will help the local government achieve and implement its stated policies as contained in the Land Use Plan. This discussion shall also include an examination of the availability of vacant land presently in the land classification being sought, and why the proposed reclassification is more appropriate for intense development than that presently vacant and currently classed for intense development.

- (c) The local government shall provide the executive secretary of the Commission with a copy of the amended text or maps, or certification of adoption as proposed within seven days after adoption. If the adopted amendment varies from the proposed revision, the adopted amendment shall be submitted in the manner described in Paragraph (b) of this Rule for proposed amendments.

*History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
Amended Eff. January 1, 1996; November 1, 1989; July 1, 1984.*

15A NCAC 07B .0404 WAIVER OF FORMAL REVIEW BY THE CRC

(a) When the local government deems a proposed amendment sufficiently insubstantial, it shall request a waiver of the formal amendment procedure when giving notice to the executive secretary. The executive secretary shall make such determination in accordance with Rule .0406 of this Subchapter and mail written notification to the local government no later than two weeks after receipt of notice.

(b) If the waiver is granted and the amendment is adopted as proposed, it shall become final upon local adoption and is not subject to Commission review as noted in Rule .0405 of this Section. The local government shall provide the executive secretary with a certification that the amendment was adopted as proposed within seven days after adoption.

(c) If the waiver is granted and the amendment is not adopted as proposed, the adopted amendment shall be submitted to the executive secretary, shall be subject to Commission review as noted in Rule .0405 of this Section, and shall become final only after such Commission review.

(d) If the request for waiver is denied by the executive secretary, the waiver provisions of the rules in this Section shall not apply. The local amendment finally adopted shall be reviewed by the Commission in accordance with the regular plan amendment process.

History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
Amended Eff. January 1, 1996; July 1, 1984.

15A NCAC 07B .0405 CONSISTENCY AND ADOPTION

(a) The amended Land Use Plan must be consistent with the Commission's Land Use Planning Guidelines (15A NCAC 7B) and insofar as possible, with the Land Use Plans of adjacent local governments.

(b) The Commission shall review locally-adopted Land Use Plan amendments that are not subject to the waiver provisions. The local government shall submit in writing its proposed plan amendment to the executive secretary or his designee at least 21 days prior to the meeting at which the local government intends for the Commission to consider the change. If adequate time is not available for review of the amendment, the local government shall be advised in writing by the executive secretary of the date at which the Commission anticipates review of the amendment. Public comments are invited during the Commission's review of the proposed amendment.

- (1) The Commission shall approve, disapprove, or conditionally approve the proposed Land Use Plan amendment following the procedure and conditions specified for Land Use Plans in Rule .0216 of this Subchapter.
- (2) If the amendment is disapproved or conditionally approved, the Commission shall provide reasons for such action to the local government with suggestions as to how the amendment might be changed so approval could be granted.
- (3) When the local government complies with the imposed condition for a conditionally approved plan, then plan approval is automatic with no further action needed by the Commission.

(c) If additional time is needed for review of a plan amendment, the local government shall be advised in writing according to Paragraph (b) of this Rule. Otherwise failure of the Commission to take negative action at its first regularly scheduled meeting after notification to the executive secretary of the adopted amendment indicates compliance with these standards and commission approval of the amendment.

(d) Any amendments to the text or maps of the Land Use Plan shall be incorporated in context in all available copies of the plan and shall be dated to indicate the dates of local adoption and Commission approval. The amended Land Use Plan shall be maintained as required by G.S. 113A-110(g).

History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
Amended Eff. January 1, 1996; November 1, 1989; September 1, 1988; July 1, 1984.

15A NCAC 07B .0406 STANDARDS FOR WAIVER OF FORMAL REVIEW

The executive secretary's authority to waive formal review of proposed Land Use Plan amendments is limited to the following instances:

- (1) minor changes in policy statements or objectives that are the result of public participation;
- (2) modification of any classification that does not affect Transition or Conservation Classes;
- (3) new data compilations and associated statistical adjustments that do not suggest major substantive revisions;
- (4) more detailed identification of existing land uses or additional maps of existing or natural conditions;
- (5) identification of fragile areas to be brought under locally initiated protection;
- (6) changes in land classifications to reflect new designations or deletions of AECs; and

(7) changes certified by the executive secretary to be consistent with specific Commission comments.

History Note: Authority G.S. 113A-110; 113A-124;
Eff. May 10, 1978;
Amended Eff. January 1, 1996.