

SECTION .0500 - NATURAL AND CULTURAL RESOURCE AREAS

15A NCAC 07H .0501 GENERAL

The fourth and final group of AECs is gathered under the heading of fragile coastal natural and cultural resource areas and is defined as areas containing environmental, natural or cultural resources of more than local significance in which uncontrolled or incompatible development could result in major or irreversible damage to natural systems or cultural resources, scientific, educational, or associative values, or aesthetic qualities.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4e) to (b)(4g); 113A-124;
Eff. September 9, 1977;
Amended Eff. June 1, 1979.

15A NCAC 07H .0502 SIGNIFICANCE

- (a) Fragile coastal natural resource areas are generally recognized to be of educational, scientific, or cultural value because of the natural features of the particular site. These features in the coastal area serve to distinguish the area designated from the vast majority of coastal landscape and therein establish its value. Such areas may be key components of systems unique to the coast which act to maintain the integrity of that system.
- (b) Areas that contain outstanding examples of coastal processes or habitat areas of significance to the scientific or educational communities are a second type of fragile coastal natural resource area. These areas are essentially self-contained units or "closed systems" minimally dependent upon adjoining areas.
- (c) Finally, fragile areas may be particularly important to a locale either in an aesthetic or cultural sense.
- (d) Fragile coastal cultural resource areas are generally recognized to be of educational, associative, scientific, aesthetic, or cultural value because of their special importance to our understanding of past human settlement of and interaction with the coastal zone. Their importance serves to distinguish the designated areas as significant among the historic architectural or archaeological remains in the coastal zone, and therein established their value.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4e) to (b)(4g); 113A-124;
Eff. September 9, 1977;
Amended Eff. June 1, 1979.

15A NCAC 07H .0503 NOMINATION AND DESIGNATION PROCEDURES

- (a) Special Designation Process. The nomination and designation of a coastal complex natural area, a unique coastal geologic formation, a coastal area that sustains remnant species, a significant coastal archaeological resource, or a significant coastal historic architectural resource area of environmental concern shall follow the procedures set forth in this Rule and in GS 113A-115.
- (b) Nomination. An area may be nominated by any person or group at any time for Coastal Resources Commission (CRC) consideration. Nominations may, for example, be made by citizens, interest groups, local governments, or state and federal agencies. Nominations shall be on a standard form and shall be submitted to the Division of Coastal Management (DCM). The nomination shall include information relating to the location, size, importance, ownership, and uniqueness of the proposed site. Nomination forms are available from the Division of Coastal Management.
- (c) Preliminary Evaluation. After receipt of a nomination, the Division of Coastal Management shall conduct a preliminary evaluation of the proposed site. The land owner, local government, and CRC and CRAC members in whose jurisdiction the site is located shall be informed of the proposed nomination. Representatives of these groups shall meet to discuss the proposed nomination and shall complete a preliminary evaluation within 60 days after receipt of the nomination. Various protection methods shall be examined to determine if AEC designation is appropriate.
- (d) CRC Endorsement. A report on the preliminary evaluation shall be presented to the CRC so that it may determine whether to endorse the evaluations and proceed with a more detailed analysis of the site. This report shall be made at the first CRC meeting after the preliminary evaluation is completed. All parties involved in the nomination and preliminary evaluation shall be informed, in writing, of the Commission's decision to proceed or not to proceed with a detailed review

of the site in question. For sites that do not receive CRC endorsement for detailed review, recommendations for some other form of protection may be discussed with the landowner. Other forms of protection include, registry with the North Carolina Natural Heritage Program, conservation easement to a public agency or to a local conservation foundation, donation or acquisition of title, or other strategies.

(e) Detailed Review. A detailed review of the proposed site shall be initiated under DCM supervision after CRC endorsement. This shall include the development of a management plan, if applicable, or site specific use standards. Opportunity shall be given to local government officials, interest groups, and those with scientific expertise to comment on the specific biological/physical or cultural values of the site together with appropriate management strategies to safeguard the values identified. This review shall be completed within 90 days, starting from the date of the official CRC endorsement. At the conclusion of this review, the report on the detailed review shall be presented to the CRC for their consideration.

(f) Public Hearing. If, after receiving the detailed review, the CRC decides to consider formal designation of the site as an AEC and adopt the particular management plan or use standards developed, a public hearing or hearings shall be conducted and notice of hearing published and distributed in accordance with the requirements of G.S. 113A-115 and G.S. 150B-21.2. Copies of the site description and of any proposed rules shall be made available for public inspection at the county courthouse in each affected county and at the Morehead City Office of the Division of Coastal Management. At the hearing(s) the CRC shall present the documentation and recommendations in support of the designation decision.

(g) Formal Designation. After consideration of all comments, the Commission shall make its final judgment. If the site is designated as an AEC, the CRC shall also adopt a management strategy or use standards applicable to the AEC.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)e,f,g, and h; 113A-124;
Eff. September 9, 1977;
Amended Eff. June 1, 2005; May 1, 1988; May 1, 1985; February 1, 1982; June 1, 1979

15A NCAC 07H .0504 AECS WITHIN CATEGORY

The description, significance, and management objectives for each AEC (coastal complex natural areas, coastal areas that sustain remnant species, unique coastal geologic formations, significant coastal architectural resources, and significant coastal historic architectural resources) within the grouping of fragile coastal natural and cultural resource areas follows in Rules .0505, .0506, .0507, .0509, and .0510 of this Section.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4) e., f., g., and h.; 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1991; June 1, 1979.

15A NCAC 07H .0505 COASTAL AREAS THAT SUSTAIN REMNANT SPECIES

(a) Description. Coastal areas that sustain remnant species are those areas that support native plants or animals determined to be rare or endangered (synonymous with threatened and endangered), within the coastal area. Such places provide habitats necessary for the survival of existing populations or communities of rare or endangered species within the coastal area. Determination will be made by the Commission based upon the listing adopted by the North Carolina Wildlife Resources Commission or the federal government listing; upon written reports or testimony of experts indicating that a species is rare or endangered within the coastal area; and upon consideration of written testimony of local government officials, interest groups, and private land owners.

(b) Significance. The continued survival of certain habitats that support native plants and animals in the coastal area is vital for the preservation of our natural heritage and for the protection of natural diversity which is related to biological stability. These habitats and the species they support provide a valuable educational and scientific resource that cannot be duplicated.

(c) Management Objective. To protect unique habitat conditions that are necessary to the continued survival of threatened and endangered native plants and animals and to minimize land use impacts that might jeopardize these conditions.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)f; 113A-124;
Eff. September 9, 1977.

15A NCAC 07H .0506 COASTAL COMPLEX NATURAL AREAS

(a) Description. Coastal complex natural areas are defined as lands that support native plant and animal communities and provide habitat qualities which have remained essentially unchanged by human activity. Such areas may be either significant components of coastal systems or especially notable habitat areas of scientific, educational, or aesthetic value. They may be surrounded by landscape that has been modified but does not drastically alter conditions within the natural area. Such areas may have been altered by human activity and/or subject to limited future modifications, e.g. the placement of dredge spoil, if the CRC determines that the modifications benefit the plant or animal habitat or enhance the biological, scientific or educational values which will be protected by designation as an AEC.

(b) Significance. Coastal complex natural areas function as key biological components of natural systems, as important scientific and educational sites, or as valuable scenic or cultural resources. Often these natural areas provide habitat suitable for threatened or endangered species or support plant and animal communities representative of pre-settlement conditions. These areas help provide a historical perspective to changing natural habitats in the coastal area and together are important and irreplaceable scientific and educational resources. The CRC may determine significance of a natural area by consulting the Natural Heritage Priority List maintained by the Natural Heritage Program within the Division of Parks and Recreation. The CRC will establish a standing committee, composed of two or more members of the CRC, one or more members of the CRAC, and three or more members of the Natural Area Advisory Committee, to evaluate areas not included in the Natural Heritage Priority List.

(c) Management Objectives. The management objectives of this Rule are to protect the features of a designated coastal complex natural area in order to safeguard its biological relationships, educational and scientific values, and aesthetic qualities. Specific objectives for each of these functions shall be related to the following policy statement either singly or in combination:

- (1) To protect the natural conditions or the sites that function as key or unique components of coastal systems. The interactions of various life forms are the foremost concern and include sites that are necessary for the completion of life cycles, areas that function as links to other wildlife areas (wildlife corridors), and localities where the links between biological and physical environments are most fragile.
- (2) To protect the identified scientific and educational values and to ensure that the site will be accessible for related study purposes.
- (3) To protect the values of the designated coastal complex natural area as expressed by the local government and citizenry. These values should be related to the educational and aesthetic qualities of the feature.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)e; 113A-24; Eff. September 9, 1977; Amended Eff. October 1, 1988; February 1, 1982.

15A NCAC 07H .0507 UNIQUE COASTAL GEOLOGIC FORMATIONS

(a) Description. Unique coastal geologic formations are defined as sites that contain geologic formations that are unique or otherwise significant components of coastal systems, or that are especially notable examples of geologic formations or processes in the coastal area. Such areas will be evaluated by the Commission after identification by the State Geologist.

(b) Significance. Unique coastal geologic areas are important educational, scientific, or scenic resources that would be jeopardized by uncontrolled or incompatible development.

(c) Management Objectives. The CRC's objective is to preserve unique resources of more than local significance that function as key physical components of natural systems, as important scientific and educational sites, or as valuable scenic resources. Specific objectives for each of these functions shall be related to the following policy statements either singly or in combination:

- (1) To ensure that the designated geologic feature will be able to freely interact with other components of the identified systems. These interactions are often the natural forces acting to maintain the unique qualities of the site. The primary concern is the relationship between the geologic feature and the accompanying biological component associated with the feature. Other interactions which may be of equal concern are those relating the geologic feature to other physical components, specifically the relationship of the geologic feature to the hydrologic elements; ground water and surface runoff.
- (2) To ensure that the designated geologic feature or process will be preserved for and be accessible to the scientific and educational communities for related study purposes.

- (3) To protect the values of the designated geologic feature as expressed by the local government and citizenry. These values should be related to the educational and aesthetic qualities of the feature.
- (d) Designation. The Coastal Resources Commission hereby designates Jockey's Ridge as a unique coastal geologic formation area of environmental concern. The boundaries of the area of environmental concern shall be as depicted on a map approved by the Coastal Resources Commission on December 4, 1987, and on file with the Division of Coastal Management. This area includes the entire rights of way of US 158 Bypass, SR 1221 (Sound Side Road), Virginia Dare Trail, and Conch Street where these roads bound this area. Jockey's Ridge is the tallest active sand dune along the Atlantic Coast of the United States. Located within the Town of Nags Head in Dare County, between US 158 and Roanoke Sound, the Ridge represents the southern extremity of a back barrier dune system which extends north along Currituck Spit into Virginia. Jockey's Ridge is an excellent example of a medano, a large isolated hill of sand, asymmetrical in shape and lacking vegetation. Jockey's Ridge is the largest medano in North Carolina and has been designated a National Natural Landmark by the U.S. Department of the Interior.
- (e) Use Standards. Jockey's Ridge. Development within the Jockey's Ridge AEC shall be consistent with the following minimum use standards:
 - (1) Development which requires the removal of greater than ten cubic yards of sand per year from the area within the AEC boundary shall require a permit;
 - (2) All sand which is removed from the area within the AEC boundary in accordance with 7H .0507(e)(1) shall be deposited at locations within the Jockey's Ridge State Park designated by the Division of Coastal Management in consultation with the Division of Parks and Recreation;
 - (3) Development activities shall not significantly alter or retard the free movement of sand except when necessary for the purpose of maintaining or constructing a road, residential/commercial structure, accessway, lawn/garden, or parking area.

*History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)g.; 113A-124;
Eff. September 9, 1977;
Amended Eff. March 1, 1988.*

15A NCAC 07H .0508 USE STANDARDS

Permits for development in designated fragile coastal natural or cultural resource areas will be approved upon finding that:

- (1) The proposed design and location will cause no major or irreversible damage to the stated values of a particular resource. One or more of the following values must be considered depending upon the stated significance of the resource:
 - (a) Development shall preserve the values of the individual resource as it functions as a critical component of a natural system.
 - (b) Development shall not adversely affect the values of the resource as a unique scientific, associative, or educational resource.
 - (c) Development shall be consistent with the aesthetic values of a resource as identified by the local government and citizenry.
- (2) No reasonable alternative sites are available outside the designated AEC.
- (3) Reasonable mitigation measures have been considered and incorporated into the project plan. These measures shall include consultation with recognized authorities and with the CRC.
- (4) The project will be of equal or greater public benefit than those benefits lost or damaged through development.
- (5) Use standards will not address farming and forestry activities that are exempted in the definition of development (G.S. 113A-103(5)a.4).

*History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4e) to (b)(4h); 113A-124;
Eff. September 9, 1977;
Amended Eff. February 1, 1982; June 1, 1979.*

15A NCAC 07H .0509 SIGNIFICANT COASTAL ARCHAEOLOGICAL RESOURCES

(a) Description. Significant coastal archaeological resources are defined as areas that contain archaeological remains (objects, features, and/or sites) that have more than local significance to history or prehistory. Such areas will be evaluated by the North Carolina Historical Commission in consultation with the Commission as part of the procedure set forth in Rule .0503 of this Section.

(b) Significance. Significant coastal archaeological resources are important educational, scientific, or aesthetic resources. Such resources would be jeopardized by uncontrolled or incompatible development. In general, significant archaeological resources possess integrity of location, design, setting, workmanship, materials, and association and:

- (1) are associated with events that have made a significant contribution to the broad patterns of history; or
- (2) are associated with the lives of persons significant in history; or
- (3) embody the distinctive characteristics of a type, period, or method of construction, or represent a significant and distinguishable entity whose components may lack individual distinction; or
- (4) have yielded, or may be likely to yield, information important in history or prehistory.

(c) Management Objectives. The CRC's objective is to conserve coastal archaeological resources of more than local significance to history or prehistory that constitute important scientific sites, or are valuable educational, associative, or aesthetic resources. Specific objectives for each of these functions shall be related to the following policy statements either singly or in combination:

- (1) to give the highest priority to the development of a preservation management plan to provide long-term, effective management of the archaeological resource; only that development which would have minimal adverse effects on the archaeological resource will be acceptable;
- (2) to conserve significant archaeological resources, including their spatial and structural context and characteristics through in-situ preservation and/or scientific study;
- (3) to insure that the designated archaeological resource, or the information contained therein, be preserved for and be accessible to the scientific and educational communities for related study purposes;
- (4) to protect the values of the designated archaeological resource as expressed by the local government and citizenry; these values should be related to the educational, associative, or aesthetic qualities of the resource.

(d) General Use Standards.

- (1) Significant concentrations of archaeological material, preferably reflecting a full range of human behavior, should be preserved in-situ for future research by avoidance during planned construction activities. Areas for avoidance should be selected only after sufficient archaeological investigations have been made. See Subparagraph (d)(2)(B) of this Rule to determine the nature, extent, conditions and relative significance of the cultural deposits. Three avoidance measures should be considered, preferably in combination:
 - (A) incorporation of "no impact" spaces in construction plans such as green spaces between lots;
 - (B) definition of restrictions limiting specific types of ground disturbing activities;
 - (C) donation of preservation easements to the state or, upon approval by the N.C. Division of Archives and History, a legitimate historic preservation agency or organization.
- (2) Any activities which would damage or destroy the fragile contents of a designated site's surface or subsurface shall be expressly prohibited until an archaeological investigation and subsequent resource management plan has been implemented. Such investigation and management plan shall be developed in full consultation with the North Carolina Division of Archives and History. In this way, potentially damaging or destructive activities (e.g., construction, roads, sewer lines, land-scaping) may be managed both during initial phases of construction and after the development is completed. Such archaeological investigations shall comply with the following criteria:
 - (A) all archaeological work will be conducted by an experienced professional archaeologist;
 - (B) initial archaeological investigations conducted as part of the permit review process will be implemented in three parts: Phase I, a reconnaissance level investigation to determine the nature and extent of archaeological materials over the designated area; Phase II, an intensive level investigation which represents a direct outgrowth of Phase I findings and through systematic data recovery assesses the potential importance of identified concentrations of archaeological materials; Phase III, mitigation of adverse effects to recognized areas of importance. Evaluations of research potential will be made and prioritized in order of importance, based upon the status of previous research in the area and the integrity of the remains;
 - (C) an archaeological research design will be required for all archaeological investigations. All research designs will be subject to the approval of the North Carolina Division of Archives and

History prior to conducting the work. A research proposal must allow at least 30 days for review and comment by the North Carolina Division of Archives and History;

- (D) data will be collected and recorded accurately and systematically and artifacts will be curated according to accepted professional standards at an approved repository.

(e) Designations. The Coastal Resources Commission hereby designates Permuda Island as a significant coastal archaeological resource area of environmental concern. Permuda Island is a former barrier island located within Stump Sound in southwestern Onslow County. The island is 1.2 miles long and .1 - .25 miles wide. Archaeological evidence indicates earliest occupation from the Middle Woodland Period (300 B.C. - 800 A.D.) through the late Woodland Period (800 A.D. - 1650 A.D.) and historic occupations predating the Revolutionary War. Archaeological remains on the island consist of discrete shell heaps, broad and thick layers of shell midden, prehistoric refuse pits and postholes, as well as numerous ceramic vessel fragments and well-preserved animal bone remains. The resources offer extensive research opportunities.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4h); 113A-124;
Eff. June 1, 1979;
Amended Eff. October 1, 1988; January 1, 1985.

15A NCAC 07H .0510 SIGNIFICANT COASTAL HISTORIC ARCHITECTURAL RESOURCES

(a) Description. Significant coastal historic architectural resources are defined as districts, structures, buildings, sites or objects that have more than local significance to history or architecture. Such areas will be evaluated by the North Carolina Historical Commission in consultation with the Commission as part of the procedure set forth in Rule .0503 of this Section.

(b) Significance. Significant coastal historic architectural resources are important educational, scientific, associative, or aesthetic resources. Such resources would be jeopardized by uncontrolled or incompatible development. In general, significant historic architectural resources possess integrity of design, setting, workmanship, materials, and association and:

- (1) are associated with events that have made a significant contribution to the broad patterns of history; or
- (2) are associated with the lives of persons significant in history; or
- (3) embody the distinctive characteristics of a type, period, or method of construction, or represent a significant and distinguishable entity whose components may lack individual distinction; or
- (4) have yielded, or may be likely to yield, information important in history.

(c) Management Objectives. The CRC's objective is to conserve coastal historic architectural resources of more than local significance which are valuable educational, scientific, associative or aesthetic resources. Specific objectives for each of these functions shall be related to the following policy statements either singly or in combination:

- (1) to conserve historic architectural resources as a living part of community life and development, including their structural and environmental characteristics, in order to give a sense of orientation to the people of the state;
- (2) to insure that the designated historic architectural resource be preserved, as a tangible element of our cultural heritage, for its educational, scientific, associative or aesthetic purposes;
- (3) to protect the values of the designated historic architectural resource as expressed by the local government and citizenry; these values should be related to the educational, scientific, associative or aesthetic qualities of the resource.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4h); 113A-124;
Eff. June 1, 1979.