

15A NCAC 07J .0405 PERMIT MODIFICATION

(a) A permit holder may modify their permitted major development and/or dredge and fill project only after approval by the Division of Coastal Management. In order to modify a permitted project the permit holder shall make a written request to the Division of Coastal Management showing the proposed modifications. Minor modifications may be shown on the existing approved application and plat. Modification requests which, in the opinion of the Division of Coastal Management are major shall require a new application. Modification requests are subject to the same processing procedure applicable to original permit applications. A permit need not be circulated to all agencies commenting on the original application if the Commission determines that the modification is so minor that circulation would serve no purpose.

(b) Modifications to a permitted project that are imposed or made at the request of the U.S. Army Corps of Engineers or other federal agencies shall be approved by the Division of Coastal Management under provisions of this Rule dealing with permit modification procedures.

(c) Modifications of projects for the benefit of private waterfront property owners that meet the following criteria shall be considered minor modifications and shall not require a new permit application, but shall be approved under the provisions of Paragraph (a) of this Rule:

- (1) for bulkheads:
 - (A) bulkhead shall be positioned so as not to extend more than an average distance of two feet waterward of the mean high water and in no place shall the bulkhead be more than five feet waterward of the mean high water contour;
 - (B) all backfill must come from an upland source;
 - (C) no marsh area may be excavated or filled;
 - (D) work must be undertaken because of the necessity to prevent loss of private residential property due to erosion;
 - (E) the bulkhead must be constructed prior to any backfilling activities;
 - (F) the bulkhead must be constructed so as to prevent seepages of backfill materials through the bulkhead; and
 - (G) the bulkhead may not be constructed in the Ocean Hazard AEC;
- (2) for piers, docks and boathouses:
 - (A) the modification or addition shall not be within 150 feet of the edge of a federally-maintained channel;
 - (B) the structure, as modified, must be 200 feet or less in total length offshore;
 - (C) the structure, as modified, must not extend past the four feet mean low water contour line (four feet depth at mean low water) of the waterbody;
 - (D) the project as modified, must not exceed six feet in width;
 - (E) the modification or addition must not include an enclosed structure; and
 - (F) the project shall continue to be used for private, residential purposes;
- (3) for boatramps:
 - (A) the project, as modified, shall not exceed 10 feet in width and 20 feet offshore; and
 - (B) the project shall continue to be used for private, residential purposes.

(d) An applicant may modify his permitted minor development project only after approval by the local permit-letting authority. In order to modify a permitted project the applicant must make a written request to the local minor permit-letting authority showing in detail the proposed modifications. The request shall be reviewed in consultation with the appropriate Division of Coastal Management field consultant and granted if all of the following provisions are met:

- (1) the size of the project is expanded less than 20 percent of the size of the originally permitted project;
- (2) a signed, written statement is obtained from all adjacent riparian property owners indicating they have no objections to the proposed modifications;
- (3) the proposed modifications are consistent with all local, State, and federal standards and local Land Use Plans in effect at the time of the modification requests; and
- (4) the type or nature of development is not changed.

Failure to meet this Paragraph shall necessitate the submission of a new permit application.

(e) The applicant for a major permit modification shall submit with the request a check or money order payable to the Department in the sum of one hundred dollars (\$100.00) for a minor modification and two hundred fifty dollars (\$250.00) for a major modification.

History Note: Authority G.S. 113A-119; 113A-119.1; 113-229;
Eff. March 15, 1978;
Amended Eff. August 1, 2000; March 1, 1991; August 1, 1986; November 1, 1984;
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