



## TOWN OF KILL DEVIL HILLS

*Land Where Flight Began*

### Resolution Supporting the Coastal Resource Commission's Temporary Rules

**WHEREAS**, the North Carolina Coastal Area Management Act (CAMA) was enacted in 1974 to protect coastal resources by developing regulations to protect Areas of Environmental Concern (AEC); and

**WHEREAS**, in addition to CAMA, the State established the North Carolina Coastal Management Program to establish a comprehensive, coordinated approach for the protection, preservation, and orderly development of the State's coastal resources. The management program is primarily based on the legislative authority contained in CAMA that established the Coastal Resources Commission (CRC) as a regional resource management body; and

**WHEREAS**, North Carolina has historically applied a two-tiered approach to coastal resources management through AEC designations, alongside management and coordination with State authorities and local governments; and

**WHEREAS**, coastal North Carolina has largely avoided many possible environment-changing disasters due to CAMA and its establishment and regulation of AECs. AEC creation requires a closer examination of proposed activities and interventions and provides everyone time to completely consider the consequences of particular actions.

**WHEREAS**, the North Carolina Rules Review Commission (RRC) voted to return 30 long-standing rules to the CRC on October 5, 2023, following the adoption of Session Law 2023-134. As a result, the Codifier removed these rules from the Administrative Code, ultimately resulting in the CRC and RRC currently in litigation to resolve the dispute over these rules; and

**WHEREAS**, the CRC called a special meeting on December 13, 2023, to consider temporary emergency rules as a means to reinstate these nullified rules in the NC Administrative Code; and

**WHEREAS**, the CRC developed 16 proposed temporary Coastal Resource management rules (07H .0507, .0508, .0509, 07I .0702, 07J .0203, .0204, .0206, .0207, .0208, 07M .0401, .0402, .0403, .0701, .0703, .0704 and .1101) for critical day-to-day administration of the North Carolina Coastal Management Program in response to the RRC decision and ongoing litigation. While the rules are not new, the CRC included amendments that address RRC objections. These amendments focus on what the RRC considered to be vague and ambiguous language, and clarified procedures, definitions, and citations addressing statutory authority. These amendments impose no additional requirements on the regulated community as these rules were already in existence as of October 5, 2023; and

**WHEREAS**, the CRC conducted public hearings on January 9 and 10, 2024, to accept comments on the proposed temporary rules, and has extended the public comment period on these rules until February 22, 2024; and

**WHEREAS**, the proposed temporary rules are necessary under the Federal Coastal Zone Management Act (CZMA). The loss of these rules could trigger a re-review of North Carolina's CAMA program, which could potentially result in the loss of federal benefits, such as those utilized for beach nourishment projects; and

**WHEREAS**, the Coastal Resource management rules are necessary to protect valuable state resources, including 'unique geologic formations' and 'significant coastal archeological resources' found at sites such as Jockey's Ridge State Park and Permuda Island Reserve; and

**WHEREAS**, the CRC's objective is to preserve unique resources, such as these heritage sites that are more than just of local significance, to ensure that the areas and their natural processes shall be preserved for and be accessible to the scientific and educational communities for study purposes, and to protect their educational and aesthetic qualities; and

**WHEREAS**, the Coastal Resource management rules are necessary for the evaluation and issuance of CAMA permit applications. Loss of these rules could impact local governments' ability to collect permit fees and process permit applications in a legally defensible manner. Not only would this create confusion and inconsistency within permitting, but applicants would also be required to seek separate, individual U.S. Army Corps of Engineers permits, instead of streamlined joint permits through the Division of Coastal Management.

**WHEREAS**, the Coastal Resource management rules create and explain necessary policies, and without these rules, the State may not be able to engage in consistency determinations, impacting its ability to govern beneficial use of dredged materials; and

**WHEREAS**, the loss of these Coastal Resource management rules jeopardizes North Carolina's ability to avail itself of federal consistency review privileges and federal funding under the CZMA that depend upon the National Oceanic Atmospheric Administration's approval of the State's coastal management program; now, therefore be it

**RESOLVED** that the Board of Commissioners for the Town of Kill Devil Hills expresses its strong support for the implementation of the proposed Coastal Resource management temporary rules 07H .0507, .0508, .0509, 07I .0702, 07J .0203, .0204, .0206, .0207, .0208, 07M .0401, .0402, .0403, .0701, .0703, .0704 and .1101; and be it

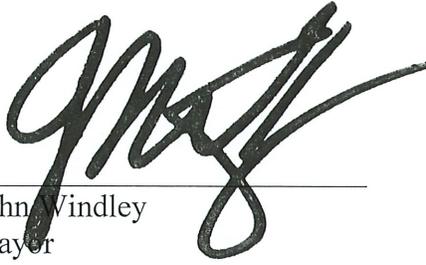
**FURTHER RESOLVED** that the Board of Commissioners urges the CRC to adopt and implement these temporary rules; and be it

**FURTHER RESOLVED** that the Board of Commissioners implores the North Carolina Rules Review Commission to revisit its decision to nullify long-standing rules affecting the management of North Carolina's coastal resources.

This 21<sup>st</sup> day of February, 2024.

SEAL



  
\_\_\_\_\_  
John Windley  
Mayor

ATTEST:

  
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James Michael O'Dell  
Town Clerk