

**SECTION THREE**

**Tools for**

**Managing Development**

## SECTION THREE -- TOOLS FOR MANAGING DEVELOPMENT

### *Role of Land Use Plan in Decision Making*

The Land Use Plan is a policy document that is used by the Dare County Board of Commissioners, Planning Board, and Planning Department to guide growth and development in the unincorporated areas of Dare County. The policy statements, implementation strategies, and future land use map are consulted by the Boards and staff during the review of new development projects, rezoning requests, and other land use issues. Although the land use plan and the future land use map are not regulatory documents, the documents are important tools for Dare County. Efforts are made to maintain consistency between the policies and maps of the land use plan and development proposals and zoning decisions.

For the citizens of Dare County, the land use plan and its maps provide information on certain issues affecting land development in Dare County and other community issues. Demographic information, infrastructure service areas, and other information on state and federal regulatory programs that impact Dare County are also available for consultation by the general public.

The Land Use Plan is used by the staff of the Division of Coastal Management in the review of CAMA major permit applications for development activities in CAMA Areas of Environmental Concerns (AECs). Every CAMA major permit application is reviewed for consistency with the policies and maps of the local land use plan. A consistency determination must be rendered by the CAMA staff before a CAMA major permit can be issued. If activities proposed in a CAMA major permit application are found to be inconsistent with a local LUP, then the CAMA major permit may not be issued.

The Dare County Land Use Plan applies to the unincorporated portions of Dare County (Hatteras Island, the Mainland, Colington, Martins Point, and the areas of Roanoke Island outside the boundaries of the Town of Manteo). The six municipalities in Dare County (Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, and Manteo) have all chosen to prepare and adopt their own land use plans for their respective jurisdictions. These municipal plans should be consulted for policies and future land use maps specific to these six towns.

### *Existing Development Management Program*

There are numerous federal, state and local programs and ordinances that are involved in the development process as detailed in the following sections.

#### **Federal**

1. Army Corps of Engineers (ACOE)–The Corps of Engineers has regulatory responsibility for wetlands, including Section 404 or freshwater wetlands, and dredging activities. Permits for wetland alteration and filling activities must be secured from the Corps of Engineers. A field office is maintained in Washington, NC for the permitting of nationwide permits and other wetland-related activities. The Wilmington district office assists with waterway dredging projects in Dare County.
2. Federal Emergency Management Agency (FEMA) – This federal agency is responsible for the enforcement of floodplain management regulations. Dare County delegates the enforcement of these federal rules to a Floodplain Administrator who works as part of the Planning Department. The Floodplain Administrator enforces the Dare County Flood Hazard Ordinance and ensures that all new construction in unincorporated Dare County complies with flood elevations and other flood-related construction standards. FEMA also sponsors a Community Rating System that involves a series of incentives for local governments to promote proper construction techniques and public education of floodplain regulations for discounts on flood insurance rates. Dare County participates in the Community Rating System.
3. Department of Interior – The National Park Service and the US Fish and Wildlife Service both own large amounts of land in Dare County. Their management plans and policies greatly affect the activities of the citizens and visitors of Dare County. The National Park Service is responsible for management of the Cape Hatteras National Seashore and Fort Raleigh on Roanoke Island. This includes enforcing access restrictions on these federal lands, oversight of federal campgrounds, and visitor information services at these sites. The US Fish and Wildlife manages activities in the Pea Island Wildlife Refuge on Hatteras Island and the Alligator River Wildlife Refuge on the Mainland. Their duties include maintenance of access facilities for visitors and citizens of Dare County and property management of the wildlife refuges for the animal and bird species that inhabit the refuges such as the red wolves. Both of the agencies are also involved in the review of transportation and infrastructure projects that are proposed within their jurisdictions. Examples are the proposed replacement of the Bonner Bridge and the Alligator River Bridge.

**State**

1. Division of Coastal Management – This State agency is responsible for the administration and enforcement of the Coastal Area Management Act (CAMA) which applies to the twenty-county coastal region of North Carolina. All proposed development in designated CAMA Areas of Environmental Concern (AECs) must be reviewed and approved under these standards. The Coastal Resources Commission is an appointed commission which oversees variances and appeals of the CAMA rules, certifies local land use plans, and revises existing CAMA regulations and/or adopts new coastal regulations. Dare County assists with the administration of CAMA regulations through the designation of a Planning staff member as a local permit officer for the review of minor CAMA permits. Major CAMA permits are administered from the Elizabeth City, NC regional office.
2. Division of Water Quality -- The Division of Water Quality is the State agency which is charged with the protection and management of surface water quality and groundwater quality. Part of these duties include the issuance of stormwater management permits in the coastal area and water quality monitoring programs. The field office for Dare County is located in Washington NC. This office is responsible for the review and approval of stormwater management permits for development activities in Dare County. Another function of the Division of Water Quality is the review and approval of wastewater systems such as spray irrigation systems or drip irrigation systems.
3. Division of Land Resources – This State agency oversees mining activities and is responsible for the issuance of sedimentation and erosion control permits. The field office for Dare County is located in Washington, NC.
4. Department of Transportation – Development projects that intersect or connect to existing State maintained roads must secure NCDOT permits before construction activities commence. NCDOT also prepares and annually updates the Transportation Improvement Plan (TIP) which outlines proposed transportation improvements in the state.
5. Department of Insurance – This department has supervision and regulatory authority over the State building and fire codes that apply in Dare County and are enforced by the County building inspectors and Fire Marshal.
6. Dept of Cultural Resources – This State agency is responsible for the identification and protection of historical and archaeologically significant lands and structures.

7. Division of Environmental Health – Wastewater treatment systems that involve more than 3,000 gallons per day of effluent are subject to review and approval by this State agency. Smaller systems are approved locally by the Dare County Environmental Health Department.

***Local***

1. The Dare County Planning Department is responsible for the enforcement and administration of the Dare County Zoning Ordinance, Dare County Mobile Home Park Ordinance, Dare County Travel Trailer Park Ordinance, and the Dare County Subdivision Ordinance. The Planning Department also serves as the staff for the Dare County Planning Board and the Dare County Zoning Board of Adjustment.
2. Dare County Building Inspections and Fire Marshal – The building inspectors and Fire Marshal serve under the departmental structure of the Planning Department and are responsible for the enforcement of the NC State building and fire codes.
3. Dare County Health Department – This department is responsible for the review and approval of wastewater systems that involve less than 3,000 gallons per day of effluent. Other duties include inspection of restaurants, daycare centers and public swimming pools.
4. Dare County Water Department – The Dare County Water Department reviews and approves plans for new developments and subdivisions that will be served by the central water system operated by Dare County.
5. Dare County Public Works Department – The Dare County Public Works Department is consulted for comments on the provision of solid waste services and container locations in new subdivisions and new commercial buildings.
6. Dare County Capital Improvements Plan – A five-year Capital Improvement Plan is adopted by the Dare County Board of Commissioners and updated on an annual basis in conjunction with the operating budget process. The CIP outlines capital needs and details the estimated costs, description, and anticipated funding sources for capital projects. A capital asset is defined as an asset with a value of \$50,000 or more and a useful life of five years or more. A Capital Improvements Committee composed of County staff members and members of the Board of Commissioners prepares the CIP for adoption by the entire Board of Commissioners. Items included in the plan are submitted by the various County departments and agencies based on the infrastructure needs and departmental needs. A copy of the current CIP is available on the Dare County website at [www.darenc.com](http://www.darenc.com).

### ***Action for 2008 Update***

The CAMA regulations require the inclusion of an “action plan” or schedule for the implementation strategies that have been identified in Section Two of the LUP update. The implementation strategies are arranged by management topic and the associated policy or policies. A projected implementation date for consideration or action by Dare County is included with the implementation strategy. Some of the implementation strategies represent on-going activities undertaken by Dare County and have been so noted. Some of the implementation strategies identify new regulations that should be considered or amendments to existing ordinances that should be considered.

Public involvement is an important component in the development of the LUP update and during the implementation phase as well. Efforts to ensure continued public input will be undertaken by Dare County as follows:

1. Notification of proposed ordinance adoption or ordinance amendment as required by North Carolina General Statutes. This involves advertised of the ordinance or amendment in a local newspaper of general circulation and often notification of adjoining property owners depending on the type and scope of proposed regulations. In some instances, more prominent newspaper advertisements may be used to supplement the traditional legal advertisement in the interest of increased public awareness.
2. Posting of proposed implementation actions on Dare County website: [www.darenc.com](http://www.darenc.com)
3. Electronic notification to local media list. This list is developed by the Dare County Public Relations Department and updated as needed.
4. Coordination of other County departments as needed.

**Action Plan for 2008 Update**

<b>Implementation Strategies for Public Access Management Topic</b>	<b>Associated Policy</b>	<b>Target Date for Implementation</b>
Identify and pursue appropriate grant opportunities for access sites to public trust waters and public trust areas. Any new public access sites shall address the needs of handicap persons and address those needs to the maximum extent practicable in working with the natural conditions of the site.	Policy PA #3	2009-2013 when appropriate grant opportunities occur
Continue to actively participate in the negotiated rule making process with the National Park Service in developing a plan for vehicular and pedestrian access to all beaches of Dare County.	Policy PA #4	2009 -2013 or until process is complete
Defend and assist with legal interventions that would allow continued off-road vehicle access for federal beaches.	Policy PA #4	2009-2013 as needed
Continue to monitor efforts of NC Department of Transportation to permit and construct replacement for the Bonner Bridge.	Policy PA #5	2009-2013 or until construction is begun
Develop a comprehensive inventory of working waterfront and other waterfront access areas in unincorporated Dare County.	Policy PA #6	2009-2010
Support efforts by the Shoreline Management Commission to address issues associated with shoreline erosion, public access, and other related issues that involve the ocean beaches and estuarine shorelines in Dare County.	Policy PA #7	2009-2013 on-going
Work with federal agencies to allow continued access to federal property in Dare County for hunting (hunting with dogs), fishing, and other similar activities.	Policy PA #8	2009-2013 on-going

Implementation Strategies for Land Use Compatibility Management Topic	Associated Policy	Target Date for Implementation
Identify amendments to the Dare County Zoning Ordinance and other land use ordinances that may be necessary to implement management objectives for residential and commercial development. This may include the elimination of drive-thru window service for restaurants (but not all businesses employing drive-thru window service such as banks and pharmacies) in all commercial and S-1 zonings districts and building design standards for commercial structures.	Policy LUC #2	2009-2013 as needed
Administration of existing regulations of the Dare County Zoning Ordinance for minimum lot size, dwelling density, building height and other standards for residential development. These standards should be periodically examined relative to changes in technology for wastewater treatment, improved construction practices, market conditions, and demographic changes.	Policy LUC #3	2009-2013 on-going
Administration of Family Housing Incentive Standards (section 22-58.2) of the Dare County Zoning Ordinance to address workforce housing needs.	Policy LUC #4	2009-2013 as needed
Inventory older existing commercial businesses and consideration of zoning amendments to ensure their replacement or repair in the event of damage from a natural disaster.	Policy LUC #5	2010
Identify amendments to the Dare County Zoning Ordinance and other land use ordinances that may be necessary to implement management objectives for residential and commercial development. This may include the elimination of drive-thru window service for restaurants (but not all businesses employing drive-thru window service such as banks and pharmacies) in all commercial and S-1 zonings districts and building design standards for commercial structures.	Policy LUC #5 Policy LUC #6 Policy LUC #7	2009-2013 as needed
Rely on existing dimensional standards of the Dare County Zoning Ordinance for dwelling densities, lot coverage limitations, and commercial gross floor area limitations. These standards should be periodically examined relative to changes in technology for wastewater treatment, improved construction practices, market conditions, and demographic changes.	Policy LUC #5 Policy LUC #6 Policy LUC #7	2009-2013 on-going

Implementation Strategies for Land Use Compatibility Management Topic	Associated Policy	Target Date for Implementation
Study legality of regulations designed to address the proliferation of tourist-oriented retail establishments.	Policy LUC #5 Policy LUC #6 Policy LUC #7	2009-2010
Work with East Lake residents to review zoning alternatives for this area.	Policy LUC #5, Policy LUC #6, Policy LUC #7	2009-2010
Consider development of incentives for “green” building techniques and energy efficient construction standards.	Policy LUC #8	2010-2011
Rely on the standards of the Dare County Zoning Ordinance for the siting and development of industrial development of both maritime-related uses and non-maritime related uses.	Policy LUC #9	2009-2013 on-going
Enforcement of the Airport Overlay zoning regulations to address land uses, especially building height issues, on land adjacent to and surrounding the Dare County Regional Airport on Roanoke Island.	Policy LUC #11	2009-2013 on-going
Adopt of additional airport overlay regulations, as needed, to address land uses on land adjacent to and surrounding the Billy Mitchell Airstrip in Frisco, NC.	Policy LUC #11	2009
Administration of Section 22-58.1 Dune Alteration Standards of the Dare County Zoning Ordinance.	Policy LUC #13	2009-2013 on-going
Promote best management practices by referrals to State agencies and work with Outer Banks Homebuilders Association to promote best management practices with local general contractors.	Policy LUC #14	2009-2013
Evaluate the need to establish regulations for the placement of fill material on private property to address concerns about impacts on drainage patterns.	Policy LUC #14	2009-2011
Explore local interest in establishing a formal historic preservation program focused on the unincorporated areas of Dare County.	Policy LUC #15	
Administration of the SED-1 zoning ordinance.	Policy LUC #17	2009-2013 on-going

<b>Implementation Strategies for Infrastructure Carrying Capacity Management Topic</b>	<b>Associated Policy</b>	<b>Target Date for Implementation</b>
Application of minimum lot size standards of Dare County Zoning Ordinance and the Dare County Subdivision Ordinance for the development of new subdivisions in unincorporated Dare County.	Policy ICC #1	2009-2013 on-going
Consider standards to address the use of drip irrigation wastewater facilities, especially in VE flood zones.	Policy ICC #4	2009
Copies of proposed site plans and subdivisions shall be sent to appropriate Dare County agencies and State agencies for review and comment.	Policy ICC #5	2009-2103 on-going
Continue to lobby State and Federal agencies for replacement of Bonner Bridge and the long-term protection of NC 12.	Policy ICC #6	2009-2013
Administer Street standards of Subdivision Ordinance for new subdivisions approved in unincorporated Dare County.	Policy ICC # 9	2009-2013 on-going
Consider expansion of residential recycling and commercial recycling programs to facilitate greater volumes of recycling materials.	Policy ICC #10	2010
Amend Dare County Zoning Ordinance or other land use codes as may be necessary in response to alternative energy sources.	Policy ICC # 13	2009

<b>Implementation Strategies for Natural Hazards Management Topic</b>	<b>Associated Policy</b>	<b>Target Date for Implementation</b>
Rely on existing CAMA AEC regulations to address development activities along the ocean beaches, estuarine shoreline, and other public trust areas in unincorporated Dare County. Dare County will continue to participate in the CAMA permitting process with the provision of a local permit officer for unincorporated Dare County.	Policy NH #1	2009-2013 on-going
Rely on existing regulations of the Dare County Zoning Ordinance for development activities along the ocean front.	Policy NH #1	2009-2013 on-going
Rely on existing CAMA AEC regulations to address development activities along the ocean beaches, estuarine shoreline, and other public trust areas in unincorporated Dare County. Dare County will continue to participate in the CAMA permitting process with the provision of a local permit officer for unincorporated Dare County.	Policy NH #2	2009-2013 on-going
Re Rely on the regulations of the Dare County Zoning Ordinance for development activities along estuarine shoreline areas.	Policy NH #2	2009-2013 on-going
Oppose efforts to eliminate the use of estuarine bulkheads or other efforts designed to prioritize or amend the current State regulations on their installation and maintenance.	Policy NH #3	2009-2013 as needed
Administration of Dare County Flood Ordinance and continued participation in Community Rating System to result in reduction in flood insurance rates for property owners in unincorporated Dare County.	Policy NH #5	2009-2013 on-going
Work with Dare County Emergency Management personnel on storm hazard mitigation and reconstruction issues as needed.	Policy NH #7, Policy NH #8, Policy NH #9, Policy NH #10	2009-2013 on-going
As may be needed following flooding or overwash events in which the issue of sand relocation may be pertinent.	Policy NH #11	2009-2013 as needed

<b>Implementation Strategies for Water Quality Management Topic</b>	<b>Associated Policy</b>	<b>Target Date for Implementation</b>
Enforcement of dune alteration standard of Section 22-58.1 of the Dare County Zoning Ordinance	Policy WQ #1	2009-2013 on-going
Implementation and enforcement of CAMA use standards for Buxton Woods wellfield AEC and Buxton SED-1 zoning regulations.	Policy WQ #2	2009-2103 on-going
Continue full-time staff of mosquito control program	Policy WQ #6	2009-2013 on-going
Continued support of local permit officer for CAMA for implementation and enforcement of CAMA use standards for coastal wetlands.	Policy WQ #7	2009-2013 on-going
Oppose efforts eliminate the use of estuarine bulkheads or other efforts designed to prioritize or amend the current State regulations on their installation and maintenance.	Policy WQ #10	2009-2013 as needed
Continued support of the Dare County Commission of Working Watermen	Policy WQ #12	2009-2103 on-going
As may be needed in response to National Park Service efforts on beach driving.	Policy WQ #14	2009-2013 as needed
Consideration of regulations to prohibit floating homes and structures in unincorporated Dare County.	Policy WQ #17	2011

<b>Implementation Strategies for Local Areas of Concern Management Topic</b>	<b>Associated Policy</b>	<b>Target Date for Implementation</b>
Request North Carolina General Assembly to authorize and establish an expedited permit process for projects funded by State grants.	Policy LAC #4	2010
Continue working with the Army Corps of Engineers, State and Federal agencies to secure permit authorization for work as needed.	Policy LAC #9	2009-2013 as needed
Lobby the US Congress for a dedicated funding source for the maintenance dredging or Oregon Inlet.	Policy LAC #10	2009
Continue to work with our congressional delegation to acquire all facilities at the Buxton Coast Guard base.	Policy LAC #11	2009
Actions, as needed to secure maintenance permits for the terminal groins located in the Atlantic Ocean in front of the Coast Guard base.	Policy LAC #11	2009-2013