

Local Program Report to the SCC Village of Whispering Pines, October 19, 2018

On October 19, 2018, personnel from the NCDEQ, Land Quality Section, conducted a review of the Village of Whispering Pines' Erosion and Sedimentation Control Program. One staff member currently contributes 0.5 full-time equivalents to the program. The Village currently has 53 active projects, all of which are single family home sites that have less than 10,000 square feet of disturbance. Lots are typically 0.5 acres in size, but disturbance is limited to the house pad, driveway, and septic field, according to the Village Zoning Administrator. The Village Public Works Director would review any sediment and erosion control plans. (These plans are no longer being contracted for review.) The Village resides in a High-Quality Water watershed. The Village requires an erosion and sediment control (ESC) plan if: 1) More than 10,000 sq. ft. of land is disturbed, 2) Any portion of the land disturbed is located within 150 feet of a watercourse or wetland, 3) Any portion of the land disturbed includes slopes of 3:1 or greater, or 4) Any portion of the land disturbed is located within critical areas identified on a disturbed area of more than 1 acre, and it is under review. The Village has reviewed no (0) erosion and sediment control plans in the past year. The Village indicates that it conducts an informal inspection once per week for each project with a written formal inspection once per month; however, no written inspection reports have been sent to any of the contractors or financially responsible parties. A Notice of Violation was issued on September 21, 2018 for off-site sedimentation.

All residential work between 500 and 10,000 sq. ft. of disturbance requires a Grading Permit with an accompanying Compliance Form. This form requires erosion control measures to be placed on lots. It also includes a financial responsibility and ownership statement for all land disturbing activities. It is to be signed by the owner and contractor. Builders must obtain their building permits from the county. The Village is considering matching the State threshold of 1.0 disturbed acres for a plan approval.

Since there were no projects that were deemed qualified for erosion control plan approval, there were no plans to review, and no sites where inspections were required under the Sedimentation Pollution Control Act. Our review did include visits to two lots being inspected as part of the local Grading Permit (with Compliance Form). Review staff looked for violations typically found during lot construction and advised local program staff of corrective actions needed.

Village of Whispering Pines Criteria for Land Disturbance Activities

Criteria	Status
Disturbance: 500 – 10,000 sq. ft Slopes < 3:1 Critical Areas = No	Grading Permit with Compliance Form required. Minimum EC measures required.
Disturbance: 500 – 10,000 sq. ft Slopes >= 3:1 Or Critical Areas = Yes	Grading Permit with Compliance Form and (<i>schematic</i>) "erosion control lot plan" required.
Disturbance: > 10,000 sq. ft. (0.23 ac)	Erosion Control Plan required. FR/O form required.

Conclusion:

The Village of Whispering Pines should implement the following recommendations to improve the program:

1. Update Chapter 10 of the Whispering Pines Land Development Ordinance (LDO) to include the latest state statutory exemptions from the Sedimentation Pollution Control Act of 1973 under which your program has delegated authority. This includes exemptions (G.S. 113A-52.01) and the handling of civil penalty remission requests (G.S. 113A-64.2). The latest promulgated law can be found on the DEQ-DEMLR website. A copy of our model ordinance for local programs can also be provided upon request.
2. The local program may be visiting sites with an adequate frequency, however without proper documentation this cannot be established. The Village must complete an inspection report and document whether each site is following the Village ordinance. For situations not requiring an ESC plan, complete the Sedimentation Inspection Report whenever off-site sedimentation has been observed, or when sediment has entered the nearest 25 percent of a buffer to a lake or natural watercourse.
3. For situations requiring an ESC plan, complete the Sedimentation Inspection Report upon completion of each phase of grading listed below:
 - 1) **Installation of perimeter erosion and sediment control measures (For homebuilding activities, this is when the lot is considered active.)**
This requirement is similar to that found in part (B) *Compliance Procedure* of your E&SC Compliance Form.
 - 2) **Clearing and grubbing of existing ground cover (For homebuilding activities, this means the lot is under construction.)**
 - 3) **Completion of construction or development and all land-disturbing activity**
 - 4) **Permanent ground cover applied (For homebuilding activities, this is when the lot has been landscaped and stabilized.)** This requirement is similar to that found in part (C) *Final Inspections* of your E&SC Compliance Form.

3. cont., These self-inspection reports should be kept on the project site, if the local program is performing inspections and completing the reports on behalf of the homebuilder. Self-inspection reports prepared by the homebuilder/developer typically use a version of the state-approved combined inspection form that must be kept on site.
4. Complete Sedimentation Inspection Reports for all citizen complaints.
5. All completed Sedimentation Inspection Reports should be given or sent to the Financially Responsible Person or Party (FRP), with a copy kept for Village records.
6. Sedimentation Inspection Reports should always accompany a Notice of Violation issued to the Financially Responsible Person/Party. Compliance (“follow-up”) inspections should be conducted following the date the corrective actions were or are anticipated to be completed.
7. Notices of Violations issued when no ESC plan was required should be copied to the NCDEQ State Sediment Program Engineer when off-site sedimentation has been observed or when sediment has entered the nearest 25 percent of a buffer to a lake or natural watercourse.
8. Notices of Violations issued when an ESC plan was required should be copied to the NCDEQ State Sediment Program Engineer.
9. Have the developer complete the Financial Responsibility/Ownership form for projects requiring an ESC plan.
10. For projects under delegated program authority: If the landowner and the financially responsible party differ, obtain written consent from the land owner allowing the FRP to conduct land disturbing activities on his/her property. This is as stated in Section 10.8.7(B) of your ordinance.
11. Please provide the combined self-inspection form when approving ESC plans. This form can be found on the DEQ-DEMLR website.
12. Require an erosion and sediment control plan for cumulative disturbances within the boundaries of a tract that total 1.0 acre or greater. For instance, when five or more lots of 0.20 acres each are to be developed within the same subdivision, an ESC plan should be required.

The staff recommend continuing the review with assistance from the NCDEQ Fayetteville Regional Office, with a follow-up report in three months.

Johnston County, October 19, 2018

On November 1, 2018 personnel from the NCDEQ, Land Quality Section, conducted a review of Johnston County's Erosion and Sedimentation Control Program. Two staff members currently contribute 1 full-time equivalent to the program. Staff changes occurred at the beginning of June of 2018. The county requires a sediment and erosion control plan for sites that have one acre or more of total land disturbance. Since October of 2017, the county has reviewed 93 plans, with 55 approvals, and 38 disapprovals. The county currently has 135 active projects. In this time frame, the county has conducted 367 site inspections, issued 10 Notices of Violation and 11 Stop Work Orders. There have been no Civil Penalty Assessments made in this time frame. The county continues to hold building permits and plats as tools to bring sites back into compliance. Johnston County has reached out to the Raleigh Regional office for assistance with inspections, enforcement, and plan reviews. During our review of the program, we reviewed three sets of plans that had already been approved, two of which were approved prior to staff changes, and inspected 2 sites due to time constraints. A third site, McGee's Crossing Retail Expansion, was inspected on Nov. 7, 2018.

The following is a summary of the projects that were reviewed:

1. Live Oak Church Road Subdivision

This project consists of 7.5 acres and was being constructed for residential development. The file for this project included the FRO, plan, calculations, deed, and an approval letter. The FRO and plan set showed inconsistencies for total disturbed area. No inspections had yet been performed for this site. Land disturbing activities began approximately 1.5 weeks prior to this inspection. The erosion and sediment control plan was approved on August 17, 2018. The approved plan was adequate. The site was active during our visit. During our inspection, the site was not in compliance for failure to follow the approved plan and failure to take all reasonable measures. Some of the issues we noticed during our inspection were land disturbance outside of the limits of disturbance, a stock pile on the site not where it was shown on the plan, skimmer basins were completed and seeded but did not have skimmers installed as well as had improper grading, and silt fence improperly installed by being keyed in only 1"-2". The site had permanent ground cover sufficient to restrain erosion. A few recommendations were made in the field: 1) Submit a revised erosion and sediment control plan. 2) Finish installing skimmer basins as designed on plan; install skimmers immediately. 3) Reinstall silt fence with proper key in depth. 4) Temporary measures adequate to retain sediment on site should be installed in the disturbed area outside of limits of disturbance immediately.

2. East School Road at Flowers Plantation

This project consists of 38 acres and was being constructed for residential development. The file for this project included the FRO, plan, calculations, deed, inspections, and an approval letter. The erosion and sediment control plan was approved on January 18, 2018. The approved plan was adequate. This plan was approved prior to staff changes in June. This site has received three Notices of Violation (NOVs). The first NOV was dated 4/19/2018 and is still active; the second NOV was issued on 5/24/2018 and was closed 7/20/2018. The third NOV was issued 7/31/2018 and is still open. During our inspection, the site was not in compliance. Violations included failure to follow the approved plan, failure to provide adequate groundcover, failure to take all reasonable measures, graded slopes and fills too steep, unprotected exposed slopes, failure to maintain measures, and failure to self-inspect. Corrective actions needed include submitting a revised sedimentation and erosion control plan, reducing the angle of graded slopes to an angle on which vegetative ground cover may be established, providing adequate temporary or permanent ground cover on all graded slopes where rough or fine grading has been completed, and maintain all sedimentation and erosion control measures as specified in the approved plan and as required to prevent sedimentation damage.

3. McGee's Crossing Retail Expansion

This project consists of 4 acres and was being constructed for commercial development. The file for this project included the FRO, plan, calculations, inspections, and an approval letter. The deeds were missing from this file. There were some inconsistencies with the forms including acreage between the FRO and plans; the FRO signatures, names, and companies did not match throughout the document. The plans were also missing certain details, calculations, and specifications and methods. The erosion and sediment control plan was approved on September 19, 2017. The approved plan was adequate. This plan was approved prior to staff changes in June. During our site inspection, the site was out of compliance. Violations included failure to follow approved plan, failure to submit a revised plan, failure to provide adequate ground cover, insufficient measures to retain sediment on site, failure to take all reasonable measures, graded slopes and fills too steep, unprotected and exposed slopes, and failure to maintain measures. Some of the issues noticed were the site design differing from the approved plan set, resulting in the approved E&SC plan being ineffective in certain areas. There was also inadequate protection around a drop inlet, insufficient permanent ground cover on finished developed areas, low spots with no drainage, removal of E&SC measures before establishing sufficient ground cover, slope failure on stock pile due to steep slopes, and undercut silt fencing. Corrective actions needed include submitting a revised sediment and erosion control plan immediately, providing adequate permanent ground cover on all areas where development has been completed, installing erosion control devices sufficient to retain sediment on the tract, installing adequate drop inlet protection, reducing the angle of graded slopes to an angle on which vegetative ground may be established,

maintaining all sedimentation and erosion control devices, and keeping them in place until stabilization has been achieved.

Conclusion:

During our review, we found a few deficiencies on plan reviews and site inspections. The County should implement the following recommendations to improve the program:

1. Continue to ensure there is consistency of information between the disturbed acreage listed on an application and the limit of disturbance noted on the accompanying plans.
2. If the landowner and the financially responsible party differ, obtain written consent from the land owner allowing the FRP to conduct land disturbing activities on his/her property.
3. Inspection reports should provide for more specific corrective actions, such as locations where repairs need to be made, or the storm drain inlet number that needs maintenance. Photos, if included within the inspection report, should have captions or descriptions.
4. Resolve NOV's after they are issued and document the results.
5. Make sure the site is accessed only through a designated construction entrance.
6. Johnston County's last update to their ordinance was in 2013. Update the County's Unified Development Ordinance (UDO) to include the latest state statutory exemptions from the Sedimentation Pollution Control Act of 1973 under which your program has delegated authority. This includes exemptions (G.S. 113A-52.01) and the handling of civil penalty remission requests (G.S. 113A-64.2). The latest promulgated law can be found on the DEQ-DEMLR website. A copy of our model ordinance for local programs can also be provided upon request.
7. Considering the number of active projects, we encourage the program to increase the number of inspectors who can monitor projects and assist with enforcing the Sedimentation Pollution Control Act.

Overall, the Johnston County Program has seen improvements. Notices of Violations are being issued, and have the appropriate enforcement language. County staff are reaching out to the DEQ Raleigh Regional Office for assistance with NPDES violations. Inspection reports are providing appropriate corrective actions, and are otherwise properly documenting site conditions. Pre-construction meetings are mandatory. Staff attended the 2018 Local Programs Workshop.

Based on the review, staff recommend the “Sediment and Erosion Control Program” of Johnston County be placed on continuing review for three (3) months with continuing assistance from the Raleigh Regional office. A follow-up report would be submitted to the Commission at the first quarter meeting in 2019.