



RALEIGH PLANNING COMMISSION CERTIFIED RECOMMENDATION

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CASE INFORMATION: TC-4-19 EROSION AND SEDIMENTATION CONTROL - PRIOR PLAN APPROVAL

COMPREHENSIVE PLAN GUIDANCE

Applicable Policy Statements	Policy EP 3.1 Water Quality BMPs Use non-structural Best Management Practices (BMPs) in an effort to improve water quality, such as public education programs, monitoring and control of illicit discharges, expansion of the greenway concept to include “receiving lands” that can absorb storm surge overflows, and update of the City’s sediment control program with an orientation toward performance measures. (5)
Action Items	Action EP 3.5 Illegal Discharges Identify and eliminate illegal discharges into the City’s sewer and stormwater systems and its waterways through inspections and enforcement.

SUMMARY OF TEXT CHANGE

The text change would alter when an erosion and sedimentation control plan is needed and clarify which land is to be included when calculating the total area of land-disturbance.

SUMMARY OF IMPACTS

Adoption of TC-4-19:

Would require the submittal of an erosion and sedimentation control plan for any land disturbing activity below 12,000 square feet under the following circumstances:

1. Land-disturbing activity in any Watershed Protection Area;
2. Relocation of any natural watercourse;
3. Upon the occurrence of off-site sedimentation; or
4. When a person conducting a land-disturbing activity has been issued a Notice of Violation, within the last 2 years, for failure to comply with the provisions of Article 9.4.

PUBLIC MEETINGS

Submitted	Committee	Planning Commission
8/13/19		8/13/19

PLANNING COMMISSION RECOMMENDATION

Reasonableness and Public Interest	
Recommendation	Approval
Motion and Vote	Motion: Second: Approval:

ATTACHMENTS

1. Staff Report
2. Draft Ordinance

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report and Comprehensive Plan Amendment Analysis.

Planning Director

Planning Commission Chair

8/13/19

Staff Coordinator: Keegan McDonald: (919) 996-4630; Keegan.McDonald@raleighnc.gov



ZONING STAFF REPORT – TC-4-19 EROSION AND SEDIMENTATION CONTROL - PRIOR PLAN APPROVAL

TC-4-19 EROSION AND SEDIMENTATION CONTROL - PRIOR PLAN APPROVAL

Section Reference	Section 9.4.4.A.1.
Basic Information	This text change enables the city to take into account the compliance history of a developer/builder when considering whether an erosion and sedimentation control (ES&C) plan is needed.
Planning Commission Recommendation Deadline	November 26, 2019

COMPREHENSIVE PLAN GUIDANCE

Applicable Policy Statements	<p>Policy EP 3.1 Water Quality BMPs</p> <p>Use non-structural Best Management Practices (BMPs) in an effort to improve water quality, such as public education programs, monitoring and control of illicit discharges, expansion of the greenway concept to include “receiving lands” that can absorb storm surge overflows, and update of the City’s sediment control program with an orientation toward performance measures. (5)</p>
Action Items	<p>Action EP 3.5 Illegal Discharges</p> <p>Identify and eliminate illegal discharges into the City’s sewer and stormwater systems and its waterways through inspections and enforcement.</p>

CONTACT INFORMATION

Staff Coordinator	Keegan McDonald Keegan.McDonald@raleighnc.gov
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OVERVIEW AND HISTORY

At the July 3, 2018 City Council meeting, Council Member Mendell requested a report on options to address violations of the City Code through increased penalties or enhanced communications in the area of erosion and sediment control enforcement, which includes the issue of failed silt fences. An August 17, 2018 City Manager's Weekly Report item and back up memo outlined the current enforcement processes and suggested areas for potential improvement. The memo also identified possible next steps that should be taken. At the August 21, 2018 meeting, City Council asked staff to proceed with the next steps as outlined to address repeat violations.

This text change has been reviewed by and endorsed by the Stormwater Management Advisory Commission.

PURPOSE

Stormwater Management Division staff worked with the City Attorney's Office to develop and propose changes to address repeat violations. One proposed change includes this text change which considers the compliance history of a developer/builder in considering when an erosion and sedimentation control (ES&C) plan is needed. Typically, sites below 12,000 square feet of land-disturbing activity are exempt from requiring an ES&C plan; however, under the new proposal, applicants with a history of violation in the past two years will be required to submit an ES&C plan for all sites, even those under the 12,000 square feet threshold.

IMPACTS

Staff believes that implementation of this change will result in a decrease of repeat violations of the City Code related to erosion and sedimentation control.

This text change may result in more mass grading permit applications for smaller developments which would increase fees related to plan development/submittal and additional permits. An increase in plans would increase workload for both plan review staff and inspections staff.

ALTERNATIVES CONSIDERED

At present, staff has not evaluated any additional alternatives. The proposed changes are now being presented to the Planning Commission for their discussion and input.

**ORDINANCE NO. XXX- (2019)
TC-4-19**

**AN ORDINANCE TO AMEND SECTION 9.4.4. OF THE PART 10 RALEIGH UNIFIED
DEVELOPMENT ORDINANCE TO CORRECT REGULATIONS RELATED TO
STORMWATER**

WHEREAS, the Unified Development Ordinance is a regulatory document and in order to properly regulate development, the document should be clear and understandable;

WHEREAS, errors and inconsistencies in the document can undermine the consistency and application of the regulations;

WHEREAS, after application of certain standards, staff has identified areas of need to improve and correct the errors; and

WHEREAS, staff has identified a need to enhance or clarify certain processes contained within the document;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
RALEIGH THAT:**

Section 1. Section 9.4.4.A.1 of the Part 10 Raleigh Unified Development Ordinance, Prior Plan Approval, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Prior Plan Approval

- a. An erosion and sedimentation control plan must be approved by the Engineering Services_Director at least 30 days prior to any regulated land-disturbing activity of ~~more than 12,000 square feet~~. This does not restrict the initiation of land-disturbing activities when the plan is approved and the permit is issued in less than 30 days from initial submission. Failure to approve, approve with modifications, or disapprove a completed draft erosion and sedimentation control plan within 30 days of receipt shall be deemed approval of the plan.
- ~~b. In any Reservoir Watershed Protection Area or for relocation of any natural watercourse or when off-site sedimentation occurs, an approved erosion and sedimentation control plan is required for land disturbing activity in areas below 12,000 square feet.~~
- b. When determining the area of land-disturbance, the square footage of land-disturbance of all land and bodies of water disturbed or to be disturbed shall be aggregated, regardless of whether under single or diverse ownership.

- c. A surety equal to the cost of clearing, grubbing and reseeded a site shall be paid to the City prior to grading permit issuance. If the property is subject to a continuing violation the City may cash the surety.
- d. An approved erosion and sedimentation control plan is required for any land-disturbing activity of 12,000 square feet or greater.
- e. An approved erosion and sedimentation control plan is required for any land-disturbing activity below 12,000 square feet for the following:
 - i. Land-disturbing activity in any ~~Reservoir~~ Watershed Protection Area;
 - ii. Relocation of any natural watercourse;
 - iii. Upon the occurrence of off-site sedimentation; or
 - iv. When a person conducting a land-disturbing activity has been issued a Notice of Violation, within the last 2 years, for failure to comply with the provisions of Article 9.4.

Section 2. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. This text change has been reviewed by the Raleigh City Planning Commission.

Section 5. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 6. This ordinance has been provided to the North Carolina Capital Planning Commission as required by law.

Section 7. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 8. This ordinance is effective 5 days after adoption.

ADOPTED:

EFFECTIVE:

DISTRIBUTION:

Prepared by the Department of City Planning