

Appendix 1



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Permitting

Trail construction will require several local, state, and federal permits. The following jurisdictions and agencies could have permitting authority, depending on the type and location of the action: the Cities of Hendersonville and Brevard and the Town of Laurel Park; Henderson and Transylvania Counties; the North Carolina Department of Environment and Natural Resources; and the U.S. Army Corps of Engineers.

Activities associated with development of the trail corridor that may trigger a permit include, but are not limited to: filling, grading, construction of retaining walls, work below the ordinary high water mark of any water body, work within wetlands or their buffers, installation of septic systems, or utility construction. Environmental permits will be required if project actions impact any of the resources discussed above.

FEMA Conditional Letter of Map Revision (CLOMR)

Basis

Federal law with some review authority delegated to the city or county.

Threshold

Any earthwork or construction within a designated flood plain; work over, or in a designated floodway.

Process

Application is made to FEMA with the concurrence of the city or county. The application must demonstrate that the water surface elevation is not increased by proposed activities through modeling using Hydrologic Engineering Centers River Analysis System (HEC-RAS) software. Following construction, application must be made for a Letter of Map Revision (LOMR) depicting actual “as-built” conditions and modeling, demonstrating that no increase in water surface elevations will result.

Time Line:

Normally takes 6 to 12 months for CLOMR.

Preliminary Planning

None, as floodplain development requirements are set forth through multiple jurisdictions.

Contact

Region IV, Mitigation Division, Koger Center-Rutgers Building, 3003 Chamblee Tucker Road, Atlanta, GA 30341 (Phone)-770-220-5400

City of Hendersonville Engineering

Basis

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-

development stormwater runoff and non-point and point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

Threshold

Review of proposed projects are required when the disturbed area is larger than one acre, contains more than 20,000 SF of built-upon area, or is part of a larger common plan of development.

Process

Site plan review and post-development stormwater management plan to be reviewed per Stormwater Ordinance. Development fees are set forth by City of Hendersonville.

Time Line

Normally 30 days for initial review.

Preliminary Planning

The City of Hendersonville requires a review of the proposed rail-to-trail project but will not require a specific permit for the development due to the linearity of this project. However, a floodplain no-rise study will be required.

Contact

Brent G. Detwiler, PE (phone)-828-697-3000 (email)-bdeetwiler@cityofhendersonville.org

Susan Frady, Floodplain Manager (phone)-828-697-3010

Henderson County Engineering Services

(all unincorporated areas of Henderson County, City of Hendersonville, Village of Flat Rock, Town of Laurel Park, and Town of Fletcher)

Basis

To provide a strong value to the citizens of Henderson County with emphasis on safety, customer service and the environment.

Threshold

Review of proposed projects are required when the disturbed area is larger than one acre or is part of a larger common plan of development.

Process

Site plan review and post-development stormwater management plan to be reviewed per Stormwater Ordinance. Development fees are set forth by Henderson County. Floodplain development fees are \$50/acre for work in the flood fringe and \$100/acre for work in the floodway.

Timeline

Normally 30 days for initial review.

Contact

Natalie J. Berry, PE (Phone)-828-694-6608 (email)-nberry@hendersoncountync.org

Toby Linville, Henderson County Flood Damage Prevention Coordinator (Phone)-828694-6627

City of Brevard Engineering

Basis

To provide a strong value to the citizens of the City of Brevard with an interest in environmental impact through floodplain development and sediment control.

Threshold

Review of proposed projects are required when the disturbed area is larger than one acre or is part of a larger common plan of development.

Process

Site plan review and erosion control plan to be reviewed per Land Development Ordinance. Floodplain Development Permit will be reviewed by City of Brevard Planning Department.

Timeline

Normally 30 days for initial review.

Preliminary Planning

City of Brevard will require site submittal package if a private contractor is used. Floodplain Development Permit will also be required when significant impacts will be made in or adjacent to floodplain.

Contact

Daniel Cobb, PE (Phone)-828-885-5630 (Email)-dcobb@cityofbrevard.com

City of Brevard Planning Department (Phone)-828-883-8580

Transylvania County Engineering

Basis

To provide a strong value to the citizens of Transylvania County with an interest on environmental impact through floodplain development and sediment control.

Threshold

Review of proposed projects are required when the disturbed area is larger than one acre or is part of a larger common plan of development. Transylvania County permitting is covered under the required NCDENR Land Disturbance Permit.

Process

Site plan review and erosion control plan to be reviewed per Land Development Ordinance. Floodplain Development Permit will be reviewed by Transylvania County Planning Department.

Timeline

Normally 30 days for initial review.

Preliminary Planning

Transylvania County Engineering will defer all Land Disturbance Permits to NCDENR. Floodplain Development Permit will be required and will be submitted to Planning Department per ordinance.

Contact

Jeff Fisher (Phone)-828-884-3209 ext. 2 (Email)-jeff.fisher@transylvaniacounty.org

Transylvania County Planning Department
(Phone)-828-884-3209

Army Corps of Engineers (ACOE) Permit**Basis**

Federal statutes.

Threshold

There are three categories of ACOE permits based on the total area of disturbance of federally regulated wetlands. ACOE jurisdiction is triggered by any fill-in, or secondary impact to, a federally regulated wetland. If the ACOE has jurisdiction, then the category of permit is decided based on the total direct and secondary impacts to wetlands. Direct impacts include earthwork operations. Secondary impacts can include changes in drainage patterns or groundwater hydrology, clearing/cutting of vegetation, or alteration of shade patterns.

Category I: General Permit (less than 5,000

square feet of disturbance)

Category 2: Programmatic General Permit (5,000 square feet to one acre of disturbance)

Category 3: Individual Permit (one acre, or more, of disturbance)

Process

For Category I, there is no application required. For Category II and III permits, application is made to the ACOE. Review is conducted jointly by the ACOE and CTDEP (see CT 401 Water Quality Permit). Additional review by the U.S. Fish and Wildlife and other federal agencies is conducted for Category II and III permits. Category II permits can be changed to Category III if requested by reviewing agencies based on potential impacts of the wetlands or wildlife habitat.

Time Line

Category II permits normally take six to nine months depending on complexity, quality/function of wetlands, and surrounding habitats. Category III can take one year or more. Category II and III permits cannot be granted until the CT DEP issues a 401 Water Quality Permit.

Preliminary Planning

Pre-approval permit application can begin once final layout and site plans have been established and direct impacts to wetlands are quantifiable.

Contact

Tyler Crumbly, Asheville Regulatory Field Office, US Army Corps of Engineers, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006 (Phone)-828-271-7980 ext. 232 (Email)-tyler.crumbly@usace.army.mil

North Carolina Department of Environmental and Natural Resources**Contact**

Alison Davidson (One-Stop Permit Coordinator)
(Phone)-828-296-4698
(Email)-Alison.davidson@ncdenr.gov

Kevin Barnett (Division of Water Quality)
(Phone)-828-896-4567
(Email)-Kevin.barnett@ncdenr.gov

Division of Land Resources - Land Quality Section

Land Disturbance: Erosion and sediment control plan approval is required for all land disturbances of one or more acres. Upon approval of the Erosion and Sediment Control Plan, the applicant will also receive coverage under the NPDES-general stormwater permit. Please note that the applicant does not have to apply separately for coverage under the NPDES general stormwater permit. An agreement has been reached between the Division of Land Resources and the Division of Water Quality whereby, upon approval of the Erosion and Sediment Control Plan, the applicant automatically receives coverage under the NPDES general stormwater permit.

Timeline

30 days

Fees

\$65 per acre or part of an acre of disturbed area

Contact

Charles Koontz or Kristin Hicklin – 828-296-4500

Division of Water Quality - Water Quality Section**Disturbance (dredgelfill activities) to waters/wetlands**

The 404 permit is a federal permit issued by the US Army Corps of Engineers, but before an applicant

can receive a 404 permit, the applicant must obtain a 401 Water Quality Certification from the Division of Water Quality. The 401 certification is essentially verification by the state that a given project will not degrade Waters of the State or violate water quality standards. NCDENR has reviewed the scope of this project and determined that it does not require stormwater management and treatment. They have requested that the 401 application is prepared and mailed to Raleigh; it will be handled from there.

Trout Buffer Zone Requirements

If you propose to undertake a land-disturbing activity along the perimeter of a stream classified as trout waters, you are required to provide an undisturbed buffer zone of at least 25 feet wide between your land-disturbing activity and the stream. The trout buffer zone is measured horizontally from the top of the bank. You will need to obtain a “Trout Buffer Variance” whenever the proposed disturbance exceeds 100 continuous linear feet of encroachment or the encroachment is greater than ten percent of the linear footage of stream on your property. To obtain a “Trout Buffer Variance” to perform a land-disturbing activity in a regulated trout buffer zone, you must first obtain approval from the State of North Carolina. Information should be submitted to the following:

Mr. James D. Simons, P.G., P.E., Director
Land Resources Division, Land Quality Section
NC Department of Environment and Natural Resources
1612 Mail Service Center
Raleigh, NC 27699-1612

Timeline

No statutory time limit for review.

Fees

No additional fee required (i.e. other than the initial review fee for the sediment and erosion control plan, if the site is > 1 acre).