

**PROTECTION OF CONSERVATION EASEMENTS IN THE  
NCDENR –OCCA CONSERVATION LANDS STEWARDSHIP PROGRAM:  
RECOMMENDED CORRECTIVE ACTIONS FOR VIOLATIONS**

**Minor Violations**

*Activities or uses that violate the conditions of the easement, but which will not have, or are not expected to have, a substantial negative impact on the easement*

**Response to a Minor Violation**

The response to a minor violation will be determined by the Inspector and the NCDENR OCCA Stewardship Program Administrator, either through overall guidance statements or on a case-by-case basis when necessary; and generally carried out by the inspector who discovered the violation. The response to a Minor Violation allows for some flexibility in determining certain aspects of response to such violations based on the severity of the violation and the accessibility and cooperation of the landowner or responsible party.

The following list provides examples of the most typical Minor Violations and some suggested corrective actions that the Inspector, with approval of OCCA Stewardship Program Administrator, will seek for remedying such violations.

<b>Minor Violations Types</b>	<b>Examples</b>	<b>Corrective Action</b>
Construction of Insignificant Structures	<ul style="list-style-type: none"> <li>• Construction of temporary, mobile, or turnout shed structures not permitted by the easement</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of Structure</li> </ul>
Construction of Permitted Structures Without Prior Approval	<ul style="list-style-type: none"> <li>• Construction of structure(s) which meet all requirements of the easement, with exception of prior review/approval</li> </ul>	<ul style="list-style-type: none"> <li>• Submission of Plans</li> <li>• Landscaping / Screening</li> </ul>
Permitted Disturbance of Natural Areas Without Prior Approval	<ul style="list-style-type: none"> <li>• Disturbance to natural areas such as streams, wetlands, woodlands, that are permitted to occur, but only with prior approval</li> </ul>	<ul style="list-style-type: none"> <li>• Submission of Plans</li> <li>• Implementation of protective measures</li> </ul>
Minor Unpermitted Disturbance to Natural Areas	<ul style="list-style-type: none"> <li>• Incidental cutting of one or a few trees</li> <li>• Incidental wetland/stream disturbance</li> <li>• Unpermitted grazing/mowing</li> </ul>	<ul style="list-style-type: none"> <li>• Planting or Restoration Plan</li> <li>• Fencing</li> </ul>
Minor Dumping	<ul style="list-style-type: none"> <li>• Small amounts of trash, debris, or discarded items/materials dumped in non-sensitive areas</li> </ul>	<ul style="list-style-type: none"> <li>• Cease using</li> <li>• Remove non-biodegradables</li> </ul>
Inappropriate Stockpiling or Composting	<ul style="list-style-type: none"> <li>• Composting or Stockpiles located in sensitive natural areas</li> <li>• Excessive Stockpiling or Composting</li> </ul>	<ul style="list-style-type: none"> <li>• Move to acceptable area</li> <li>• Find alternative management for (recycle, mushroom)</li> </ul>
Permitted Activity in Violation of Setbacks	<ul style="list-style-type: none"> <li>• Plowing within setbacks to streams, wetlands, woodlands</li> <li>• Composting within setbacks to streams, wetlands</li> </ul>	<ul style="list-style-type: none"> <li>• Cease activity or move activity to acceptable area</li> </ul>
Failure to use BMP / Control Erosion	<ul style="list-style-type: none"> <li>• Excessive trail, stream crossing, or field/pasture erosion</li> <li>• Overgrazing</li> </ul>	<ul style="list-style-type: none"> <li>• Stabilization (rip/rap, waterbars, contour strips, grading)</li> <li>• Control/Eliminate Access/Use</li> </ul>
Trespass / Vandalism	<ul style="list-style-type: none"> <li>• Motorized vehicle damage</li> <li>• Destruction of signs or fences</li> </ul>	<ul style="list-style-type: none"> <li>• Posting of site for cessation of further use</li> </ul>

## **Guidance for Minor Violation Resolution**

The procedures described below should be used in combination with the information provided in the table above.

1. If the landowner is present during the site inspection and the appropriate corrective action is clearly indicated by overall guidance statements, corrective action shall be prescribed by the inspector on site. However, if the inspector does not have a copy of the easement on-site, wishes to examine the issue in more depth, or wishes to consult with other staff, resolution should be presented as tentative. In any case, a letter to the landowner confirming the requested corrective action and deadline should always follow. This letter contact may be made by either the inspector or OCCA Stewardship Program Administrator, depending on the corrective action needed.
2. If the landowner is not present during investigation, OCCA Stewardship Program Administrator should be informed of the problem in order to determine the next step of enforcement determined.
  - a. Following that consultation, the landowner should be contacted by telephone, during which time the problem should be explained and a solution and deadline agreed upon. A letter should always follow reiterating the problem and the agreed upon solution and deadline.
  - b. If the landowner cannot be reached by telephone, does not respond in a timely manner to calls, or if the inspector deems calls inappropriate, a letter explaining the problem and suggesting the appropriate corrective action and deadline should be sent, with a request to be contacted with any questions or concerns.
  - c. If a landowner is uncooperative, or if a more in-depth explanation or illustration of the problem is required, program management should always be consulted. Possible next steps include an in-person meeting, with another staff member attending the meeting. A letter reiterating the request for corrective action and the deadline for completing it should follow.
3. If, at any time, a landowner does not respond to or refuses to acknowledge and/or cooperate with the request for resolving the violation, or if the inspector suspects that written correspondence is not reaching the landowner, OCCA Stewardship Program Administrator should again be contacted. A follow-up letter explaining the problem and suggesting the appropriate corrective action and deadline should be sent via certified mail, return receipt requested.
4. For matters not expected to have any permanent damage nor to worsen over time, one-year deadlines for completing corrective action are recommended so that the results can be checked at the following year's inspection. However, shorter deadlines should be utilized for more pointed requests for action, such as planting/restoration or the removal of structures, or for situations which can be expected to worsen over time (for example, stabilization before winter weather).
5. All potential violations should be reported on the Stewardship Monitoring Report, completing the Monitoring phase. Any follow-up actions will be taken by the Stewardship Program Administrator, as part of the management, enforcement and legal defense components of the Stewardship Program, in coordination with the Inspector.

## **Major Violations**

*Activities or uses having, or expected to have, a substantial negative impact on the easement*

### **Response to a Major Violation**

The initial response to a major violation should come from the NCDENR OCCA Stewardship Program Administrator, following consultation with the Inspector. If corrective action is not obtained, or other resolution reached, NCDENR will refer the matter to the Attorney General's Office. The response to a Major Violation will be consistent with the procedures established by OCCA.

The following list provides examples of the most typical Major Violations and some suggested corrective actions that the OCCA Stewardship Program Administrator will seek for remedying such violations.

<b>Major Violations Types</b>	<b>Examples</b>	<b>Corrective Action</b>
*Construction of Substantial Prohibited Structures	<ul style="list-style-type: none"><li>• Construction of Residence</li><li>• Construction of Pond or Road</li><li>• Construction of Indoor Riding Arena</li><li>• Construction of other Agricultural, Recreational, or Accessory Structures not permitted by easement other than temporary, mobile, or turnout shed structures</li></ul>	<ul style="list-style-type: none"><li>• Removal of Improvement</li></ul>
*Construction of Substantial Structures in Prohibited Areas	<ul style="list-style-type: none"><li>• Construction of a Residence outside of an approved location</li><li>• Construction of any of the other structures listed immediately above in an areas specifically protected from such construction by the easement (such as wetlands, streams, scenic hilltops, sensitive geology)</li></ul>	<ul style="list-style-type: none"><li>• Removal of Improvement</li><li>• Landscaping / Screening</li><li>• Restoration / Planting</li><li>• Compensation of Value (Timber)</li></ul>
Prohibited Destruction of Natural Features Protected by the Easement	<ul style="list-style-type: none"><li>• Timbering</li><li>• Destruction of Wetlands</li><li>• Destruction of Stream</li><li>• Excavation</li><li>• New Roads or Trails</li></ul>	<ul style="list-style-type: none"><li>• Restoration</li><li>• Compensation of Value</li></ul>
Major Dumping / Depositing of Waste	<ul style="list-style-type: none"><li>• Use of the property for permanent disposal of substantial amounts of non-biodegradable waste</li></ul>	<ul style="list-style-type: none"><li>• Removal of Waste</li><li>• Posting of site for cessation of further use</li></ul>
Prohibited Subdivision	<ul style="list-style-type: none"><li>• Completion of a Subdivision Not Permitted by the Easement</li></ul>	<ul style="list-style-type: none"><li>• Merging or Mandatory Joint Ownership</li></ul>

\*EEP easements do not allow these activities.

### **Guidance for Major Violation Resolution**

Enforcement options may include personal contact with the landowner or responsible party; a certified mail letter describing the violation and needed corrective action; or legal action in the most substantial cases. If the landowner or responsible party does not meet the compliance deadline, then enforcement escalates. The OCCA Stewardship Program will use temporary restraining orders or injunctions to ensure corrective action.

NOTE: The Nature Conservancy developed these categories of potential conservation easement violations. The Office of Conservation and Community Affairs (OCCA) has reviewed and adopted their work, with minor edits and changes needed for compatibility with the OCCA Stewardship Program.