

Local Program Report to the SCC City of Greensboro, February 22, 2022

On December 14, 2021, personnel from the NCDEQ Land Quality Section, conducted a formal review of the City of Greensboro Erosion and Sedimentation Control Program. The City of Greensboro was last reviewed on 5/24/2017. The City has 3 staff members that currently contribute 3 full time equivalents to the erosion control program. The City requires an erosion and sediment control plan for all projects disturbing greater than 1 acre. A plan is also required for projects located within a watershed critical area (WCA) if the project will take place on highly erodible soils with a “k” factor greater than 0.36, will include a pond or retention structure or is located within Tier 1 or Tier 2 of the WCA. Jurisdiction of the program covers all areas within the City of Greensboro corporate limits. During the period from November 2020 through October 2021, the City conducted 139 plan reviews or re-reviews, approved 62 plans, and disapproved 77. During the same period, the City conducted 1540 inspections, issued 16 NOV's and 2 Stop Work Orders. No CPAs were issued. The City indicated that they can and do place holds on building inspections, certificates of occupancy and other permits as enforcement tools when needed. The City requires a preconstruction meeting for all projects with an approved erosion and sediment control plan. At the time of the review the City had 164 open projects. During our review of the program, we looked at the project files and conducted inspections on three open projects.

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

1. Simply Southern Warehouse:

This project consists of 5.68 acres disturbed for industrial development. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports and the FRO form. A copy of the property deed was missing from the project file. The plan for this project went through two review cycles with the revised plan received on 6/3/2021 and was indicated as approved in the City files on 6/15/2021. However, the approval letter for this plan was not sent until 8/20/2021. The City explained that once this erosion and sediment control plan was reviewed and approved, other aspects of the project did not have final approval from all other City departments. The approval letter was not sent until all other aspects of the project had been approved by the other departments and the Technical Review Committee. The approved plan appeared to be adequate. The City had conducted 4 inspections prior to the day of our review. The City found this site to be out of compliance during its most recent inspection conducted on 11/29/2021 needing to maintain measures and to provide groundcover for inactive areas. On the day of our review, building foundations had recently been poured and the surrounding area was actively being graded. The proposed drive around the rear of the site and retaining wall location adjacent the skimmer basin had recently been graded and would need to be restabilized once completed. A few drop inlet protections had been removed for grading and paving and would need to be reinstalled once the area had been completed. The skimmer basin appeared to not be dewatering properly and would need to be maintained to ensure proper functioning. Recently graded slopes had been tracked properly and inactive or completed areas appeared to have been properly stabilized. Overall, this site was in compliance with some general maintenance needs including maintaining the skimmer to ensure proper dewatering. No offsite sedimentation was noted.

2. Pompano Townhomes:

This project consists of 3.84 acres disturbed for residential development. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed, previous inspection reports and the FRO form. This project underwent multiple review cycles with the final revised plan received by the City on 2/15/2021 and the letter of approval sent on 2/23/2021. The approved plan appeared to be adequate. The City had conducted 8 inspections prior to the day of our review. This site was found to be in compliance during the most recent inspection conducted by the City on 12/2/2021. No NOVs or CPAs had been issued to this site. On the day of our review, utilities were being in the process of being installed. A diversion ditch above a slope adjacent the skimmer basin had been recently installed and matted. The slope had also recently been seeded and mulched with straw. Inlet protections along the entrance drive had either been removed or overtopped and needed to be reinstalled or maintained. One section of silt fence had accumulated sediment at the toe of this slope and would need cleaned out and maintained before the next rain event to prevent potential loss into the adjacent wetlands area. The inlet pipe to the skimmer basin needed to have a rock dissipator pad or other means of stable transition installed to protect against end-cutting and rills forming down the bank of the basin. The diversion ditch in the rear of the site was stabilized with grass. A stockpile in the rear corner of the site was unprotected and would either need to be stabilized or removed. Overall, this site was found to be out of compliance needing to maintain the silt fence in areas, stabilize the basin inlet and reinstall inlet protection devices along the drive. No offsite sedimentation was noted.

3. Liberty Road Self Storage:

This project consists of 2.37 acres disturbed for commercial development. The project file contained the approved plan, design calculations, previous inspection reports, and the FRO form. A copy of the property deed was missing from the project file. This project underwent multiple review cycles with the final revised plan received by the City on 4/12/2021 and the letter of approval sent on 4/20/2021. The approved plan appeared to be adequate. The City had conducted 8 inspections prior to the day of our review. This site was found to be out of compliance during the most recent inspection conducted by the City on 11/23/2021 for failure to follow the approved plan and insufficient measures. No NOVs or CPAs had been issued to this site. On the day of our review, sewer and stormwater systems had been recently installed and tied in. The area disturbed by these installations had been regraded, silt fence reinstalled and areas below silt fence had been seeded and mulched with straw. The diversions ditches conveying water to the skimmer basin had been disturbed and reinstalled. One diversion outlet was short circuiting the first baffle and needed to be relocated and then restabilized. Inlet protection measures throughout the site appeared to be installed correctly and well maintained. Overall, this site was in compliance but did have some general maintenance needs throughout. No offsite sediment was noted.

Positive Findings:

During our review we found a few positive aspects about the City of Greensboro Local Erosion and Sedimentation Control Program including:

- The City has a stricter criterion than the State when requiring an erosion and sediment control plan. They require plans for all projects which will disturb greater than 1 acre but also projects within a WCA if it is located on highly erodible soils, will include a pond or retention structure, or will take place within Tier 1 or Tier 2 of the WCA.
- The City requires a preconstruction meeting for all projects.

- The City requires that any 404/401 permits be submitted prior to approval of the erosion and sediment control plan or submit a phased plan showing the areas which are not allowed to be disturbed until the relevant water quality permits are obtained and presented to the City.
- The City requires the two NPDES plan sheets be included, and proposed stockpile and concrete washout locations be shown on all plan sets prior to approval.
- The City provides reference to the NCG01 permit process and the NCG01 Fact Sheet with their approval letters.

Issues Noted and Required Actions:

During our review we found that the City of Greensboro Erosion and Sedimentation Control Program had deficiencies including:

- Documentation of land ownership was not kept in all project files.
- A plan had been reviewed and approved but notification of the review decision had not been issued to the applicant within the required timeframe.
- The City is not requiring a landowner/builder agreement when the Landowner and Financially Responsible Party differ.
- Letters of Disapproval are not being sent with the ability to track when the applicant receives the letter.

The City shall implement the following changes to correct the deficiencies found during our review and noted above:

- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.0188(c). A copy of the property deed should be kept in each project file.
- Once a complete application is received, plans are to be reviewed, and the person submitting the plan notified that it has been approved, approved with modifications, or disapproved within 30 days of receipt of a new plan and 15 days for a revised plan. G.S. 113A-61(b). Notification of all plan review decisions should be sent to the applicant within the required timeframe.
- Except for certain utility construction, if the applicant is not the owner of the land to be disturbed, the erosion and sediment control plan must include the landowner's written consent for the applicant to submit a plan and to conduct the land-disturbing activity. G.S. 113A-54.1(a). A letter of consent or Landowner/Builder agreement should be obtained when the landowner and the financially responsible party differ.
- The disapproval of a proposed erosion and sedimentation control plan entitles the person submitting the plan to a public hearing if the person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval. G.S. 113A-61(c). The City should send all notices of disapproval with the ability to confirm receipt via Certified Mail or other means pursuant to G.S. 1A-1 Rule 4.

Recommendations for improvement:

DEMLR staff has also put together a list of recommendations that would help to improve the program:

- Certain sections within your ordinance are outdated and should be updated to reflect the most recent state statutes and administrative code pertaining to that which constitute your delegation authority for erosion and sedimentation control. The Commission recently

approved an updated Model Ordinance at their November 2021 meeting. This can be found on the NC DEQ Erosion and Sedimentation Control website.

- Update all template letters and inspection reports to reflect the most current references to the North Carolina Administrative Code and your local ordinance once it is updated. Template letters and Inspection Reports with the most recent references to the NCAC rules and State Statutes can be found on our Local Program Reporting SharePoint site.
- Continue to monitor and provide guidance for NPDES violations including operating without a permit, improper concrete washout, and fuel containment on site during inspections. Note possible NPDES violations and refer to the NCDEQ Winston-Salem Regional Office when necessary.

Conclusion:

During our formal review of the City of Greensboro Erosion and Sedimentation Control Program we found a few deficiencies. The City will need to begin sending all notifications of a plan disapproval with the ability to confirm the date which the notification was received by the applicant as they have the right to appeal these decisions if requested within a certain time. The City will also need to notify the applicants that the erosion and sediment control plan has been approved within the appropriate timeframes, regardless of the status of other department reviews. City staff noted all areas noted by State staff while conducting site inspections. The City also has demonstrated its ability to utilize additional enforcement tools such as stop work orders, building permit holds and working across other City departments to stop construction progress until all erosion and sediment control concerns have been addressed. City staff demonstrated their knowledge, experience, and ability to effectively implement the local program's delegated authority.

This report has been prepared based on the formal review of the City of Greensboro local program conducted on December 14, 2021. DEMLR staff recommends to "Continue Delegation" of the City of Greensboro Locally delegated Erosion and Sedimentation Control Program.

This report will be presented to the Sedimentation Control Commission during its 2022 Q1 meeting on February 22, 2022.