

## **Local Program Report to the SCC City of Rocky Mount Follow up, May 19, 2022**

On February 22, 2022, a report was presented to the Sedimentation Commission (SCC) based on the formal review of the City of Rocky Mount's Erosion and Sediment Control Program conducted on November 23, 2021. The Commission voted to "Continue Delegation with review for 3 months" with a follow up report to be presented at the 2<sup>nd</sup> Quarterly SCC meeting of 2022. During the November 23<sup>rd</sup> review, the following issues and required actions that the program should implement to address said issues were noted:

### **Issues Noted:**

- Plans are being reviewed and comments sent back to the designer when found to be inadequate; however, official notification of the plan review decision is not being given to the applicant within 30 days of receipt of new plans and 15 days for revised plans.
- A copy of the property deed is not being kept on file and a landowner/builder agreement is not being obtained when the landowner and financially responsible party (FRP) differ.
- Once a subdivision final plat has been recorded and the development has moved into the individual lot construction, or the homebuilding phase, the City is no longer monitoring for erosion and sedimentation control and is not conducting regular inspections.
- Certain sections within the local ordinance are devoid or no longer adhere to the most recent state statutes or state administrative code pertaining to that which constitute your delegation authority for erosion and sedimentation control. The City does not appear to have amended its local ordinance since 2013.
- One responsibility of a locally delegated Erosion and Sedimentation Control Program is to track and report the program's monthly activity numbers using the Local Program SharePoint Site. The previous year's numbers reported appear to be inaccurate or incomplete.

### **Required Actions:**

- 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). Once a plan/application is found to be inadequate a letter of disapproval should be sent to the applicant. Letter of Disapproval templates can be found on the Local Program SharePoint site.
- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.0118(c). A copy of the property deed should be obtained and kept in each project file.
- 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 to conduct the land-disturbing activity. G.S. 113A-54.1(a). A letter of agreement or landowner/builder agreement should be obtained prior to approval of a plan when the landowner and FRP differ.
- The City should continue to monitor and enforce the provisions of the SPCA, NCAC and local ordinance on all projects until the site has been permanently stabilized and the

project can be closed out. Individual lot development still constitutes a land disturbing activity which should be monitored and regularly inspected.

- Local ordinances should reflect the law under G.S. 113A-50 through 65 and Chapter 04 of Title 15A of the NC Administrative Code (NCAC). The Sedimentation Control Commission (SCC) provides a Model Ordinance for all local programs which is available on the NC DEQ Erosion and Sedimentation Control website. Changes to your local ordinance which conform to the current Model Ordinance do not have to be brought back before the SCC for approval. Any substantive changes not reflected in the Model Ordinance will have to be approved by the SCC.
- The numbers which were reported on the SharePoint site through the 3<sup>rd</sup> Quarter of 2021 did not reflect the numbers reported during the formal review of the program. The definitions for each reporting category can be found on the SharePoint site. Monthly numbers should be reported for each calendar quarter following the end of said quarter and should accurately and completely represent the programs activity for each month.

### **Follow up:**

During the 1<sup>st</sup> calendar quarter of 2022, the City reported that they have 3 staff member which contribute 1.5 full time equivalents. During this period the City conducted 5 reviews or re-reviews, issued 3 approvals and 3 disapprovals. The City also conducted 29 inspections and issued 1 NOV. The City is in the process of filling an open position which will add to the current 1.5 FTE. The City has begun the process of updating their local ordinance in accordance with the 2021 Model Ordinance. The City currently has 9 open projects. The following updates are based on our initial review and inspections conducted by the City throughout the continued review period.

#### **1. Stonewall Villas – Phase II:**

This project consists of 18.86 acres disturbed for residential development. On the day of our initial review active grading was occurring in one section while home building was active in the other. This site was out of compliance needing to maintain and repair measures during our initial review. Following our initial review, the City continued to regularly inspect this site and resumed monitoring the home building section of the project. The City found that all corrective actions noted during our initial review had been completed and this site was in compliance during its inspection conducted on 12/20/2021. The City continued to monitor and inspect this site during the continued review period. During its most recent inspection conducted on 3/17/2022, the City noted that temporary seeding was needed on areas which were not being worked per the specifications of the approved plan and found this site to be out of compliance. No offsite sediment has been noted by the City.

#### **2. 7-Eleven:**

This project consists of 1.83 acres disturbed for commercial use. On the day of our initial review, demolition of an existing house had been completed and grading had yet to begin. Perimeter silt fence had been installed and one inlet protection measure needed to be re-installed per the construction details in the approved plan. The City found this site to be in compliance during its next inspection on 12/22/2021. The City continued to monitor this site and found it in compliance during its most recent inspection conducted on 3/22/2022. No offsite sediment has been noted by the City.

### **3. Olde Mill Stream – Phase I:**

This project consists of 18 acres disturbed for residential use. On the day of our initial review the City had not conducted an inspection of this site during the previous 4 months since the final subdivision plat had been recorded. At the time, individual home building was underway, and the surrounding areas needed to be restabilized as temporary groundcover had started to die off. The City found that all corrective actions had been made and the site was in compliance during its inspection on 1/4/2022. The City has continued to monitor this site as home building has progressed. This site was out of compliance needing to clean the rocks and sediment from the roads during the City's most recent inspection conducted on 3/22/2022. No sediment losses offsite were noted.

### **4. Flagmarsh Hills:**

This project was not reviewed during the initial review. During the continued review period, the City found this site to be out of compliance during an inspection on 1/13/2022 for needing to repair damaged silt fence, clean sediment from the streets and maintain inlet protections. The City conducted a follow up inspection and found this site to be in compliance on 1/25/2022. The City noted that this site was out of compliance during inspections conducted on 2/22/2022 and 3/7/2022 and issued an NOV to this site on 3/9/2022. The NOV noted a 15-day deadline to complete corrective actions. A follow up inspection conducted on 3/21/2022 found this site in compliance and lifted the NOV, noting that silt fence and inlet protections had been maintained and repaired throughout the site and sediment lost into the street had been cleaned.

### **Conclusion:**

During the continued review period, DEMLR staff received periodic updates and inspection reports from the City and have noted the improvements made by the program. The City is now requiring a copy of the property deed and a landowner consent letter when the FRP and landowner differ as part of a complete application package. Once a complete package is received, the City is reviewing and sending official notice of the review decision to the applicant within 30-days. The City is also offering the option for an applicant to go through preliminary reviews at no cost prior to submitting a complete package to facilitate a streamlined official review. It was discovered during our initial review that the City was not conducting inspections on projects or portions of projects once a final plat had been recorded. The City has adjusted their inspection procedure to ensure that inspections are conducted on all areas of a project until it is complete and closed out. The City stated that staff will conduct informal or partial inspections as they are on site daily for other duties and communicate maintenance needs or repairs they may note to the contractors on site. This promotes open and consistent communication between contractors and City staff and allows for a frequent presence on projects. A formal inspection is conducted on all sites at least once a month. The City has begun to track and report their monthly activity numbers accurately and completely. The City is in the process of filling a vacant position which will contribute additional time to the program and stated that they are in the process of updating the local ordinance pursuant to the 2021 Model Ordinance. During the continued review period the City has worked to address all deficiencies noted during our initial review and have demonstrated their ability to adequately implement their delegated program.

DEMLR staff recommends to “Continue Delegation” of the City of Rocky Mount Erosion and Sedimentation Control Program.

This report has been prepared based on the formal review conducted on November 23, 2021, and the following continued review period. This report will be presented to the Sedimentation Control Commission during its 2022 2<sup>nd</sup> quarterly meeting on May 19, 2022.