

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

On November 23, 2021, personnel from the NCDEQ-DEMLR Land Quality Section conducted a formal review of the City of Rocky Mount Erosion and Sedimentation Control Program. The City of Rocky Mount was last reviewed in 2013. The City currently has 3 staff members which contribute approximately 1.5 full time equivalents to the erosion and sedimentation control program. The City requires an erosion and sedimentation control plan for projects disturbing greater than 1 acre within the City's corporate limits and extraterritorial jurisdiction. The City is not currently tracking the number of reviews and re-reviews but estimated approximately 50 had been conducted during the period from November 2020 through October 2021. During the same period the City has reported that they conducted 156 official inspections and had not issued any NOV's or CPAs. Once an application and plan are submitted, the City conducts a review and sends comments back when plans are found to be inadequate but are not notifying the applicant of the official review decision. City staff indicated that they typically will be on-site for other inspections or monitoring at least weekly and will comment on erosion and sedimentation control measure maintenance or repair needs at the time in addition to the official monthly inspections. The City has the ability to hold building permits and final subdivision plats as additional enforcement tools, although they are not currently tracking this usage. At the time of our review the City had 11 open projects. During our review of the program, we looked at three sets of approved plans and their files as well as inspected three job sites.

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

1. Stonewall Villas – Phase II:

This project consists of 18.85 acres disturbed for residential development. The project File contained the approved plan, letter of approval, design calculations, previous inspections and the FRO form. A copy of the property deed and a landowner/builder agreement letter were missing from the project file. The initial plan for this project was received on February 16, 2021 and was approved on April 9, 2021. The approved plans for this project appeared to be adequate. The City had conducted 6 official inspections on this project prior to the day of our review. No NOV's or CPAs had been issued to this project. The two most recent inspections conducted by the City were on October 14, 2021, and November 3, 2021. The City found this site to be out of compliance and needing to repair downed silt fence during the October inspection and then found that all areas had been addressed and the site was back into compliance by the November inspection. On the day of our review active grading was occurring in one section while home building was underway in another. The diversion ditches to the skimmer basins needed to be stabilized. Areas below the stable conveyances leading into the first basin had begun to erode and should be repaired and stabilized. This area should continue to be monitored and State staff suggested the use of an alternative conveyance such as a slope drains could be considered if erosion persisted. The construction entrance needed to be refreshed as sediment was beginning to be tracked onto the road but had not yet left the site. Individual lot silt fence had been damaged and needed to be repaired. City staff indicated that they currently were not conducting inspections on single lot construction once a final plat has been recorded. State staff explained that the responsibility to monitor for erosion and sedimentation control does not end with the

overall site development and the City should continue to monitor all land disturbing activities until a project has been permanently stabilized and can be closed out. The City had recently requested that wattles be installed as curb inlet protections in areas with active traffic. Wattles had been placed but did not completely protect the inlets. Drop inlet protections and perimeter silt fence in the active grading sections appeared to be well maintained. Overall, this site was out of compliance for failure to maintain measures, however no off-site sedimentation could be noted, and several measures were in good condition.

2. 7-Eleven:

This project consists of 1.83 acres disturbed for commercial use. The project file contained the approved plan, letter of approval, previous inspections and the FRO form. This plan did not require any additional design calculations. A copy of the property deed and a landowner/builder agreement letter were missing from the project file. The initial plan for this project was received on August 24, 2021 and was approved on September 21, 2021. The approved plan for this project appeared to be adequate. The City had conducted 1 inspection on October 3, 2021 prior to the day of our review. The City found this site to be in compliance during its inspection. No NOV's or CPAs had been issued to this project. On the day of our review demolition of an existing house had been completed and grading had yet to begin. City and State staff noted that silt fence was being used as drop inlet protection which was not per the approved detail that called for hardware cloth and rock. No off-site sedimentation was noted, and perimeter measures had been installed. Overall, this site was in compliance.

3. Olde Mill Stream – Phase I:

This project consists of 18 acres disturbed for residential use. 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. The initial plan for this project was received on May 15, 2019 and approved on December 17, 2019. The initial plan for this project was found to be inadequate and comments were sent back to the designer but again no official notification of the disapproval was sent to the applicant. The approved plan for this project appeared to be adequate. The City had conducted 12 inspections prior to the day of our review. The most recent inspection by the City was conducted on July 21, 2021. Following this inspection, the final subdivision plat was recorded and the City has no longer been monitoring this project. No NOV's or CPAs had been issued to this project. On the day of our review, lots were active with home building. The temporary groundcover on inactive lots had started to die off and areas were beginning to erode and scour. Prior to the final plat being recorded, the temporary skimmer basins were either removed or converted to the permanent stormwater control measure. These conversions and removals had been conducted prior to the areas draining to them being permanently stabilized. Perimeter measures were still installed and appeared to be functioning. Silt fence and construction entrances were installed on most of the active lots. Silt sacks were installed in curb inlets throughout the site and appeared to be functioning properly. State staff reiterated the responsibility of the local program to continue monitoring sites including individual lot construction until sites are permanently stabilized. No off-site sedimentation could be noted. Overall, this site was out of compliance for failing to maintain measures and inadequate groundcover.

Positive Findings:

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

- The City requires proposed laydown area, stockpile, and concrete washout locations to be shown on the plans.
- The City requires a preconstruction meeting for all projects which require an approved erosion and sedimentation control plan.
- The City requires that the two NPDES NCG01 plan sheets are included in the Erosion and Sedimentation Control Plan set prior to approval.
- Reference to the NCG01 permitting process is included in the erosion and sedimentation control approval letter.

Issues Noted and Required Actions:

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

- 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.

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

- 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 3rd 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.

Recommendations for Improvement:

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

- Monitor and provide guidance for NPDES violations including improper concrete washout and fuel containment on site during inspections. Note possible violations and refer to the DEQ Raleigh Regional Office.
- Update all letters and forms to reflect the latest language and references to the NCAC, SPCA and Local Ordinances once updated. Template letters and forms with the most up to date references to the NCAC and State Statutes can be found on our Local Program SharePoint site.
- A set of Standard Operating Procedures outlining the responsibilities of each staff position along with different aspects of the program would be beneficial. Guidance documents such as these would aid in training new staff or in cases where different staff may have to perform duties which are not their regular responsibility due to extended absences or staff turnover.

Conclusion:

During our review we found that the City of Rocky Mount staff demonstrated their knowledge and ability to conduct adequate plan reviews and site inspections. The program did have a number of deficiencies, including missing required documentation in multiple project files and not meeting statutory timeframes for review and notification in all cases. While the City is reviewing plans and sending back comments when found to be inadequate, the City is not issuing official notice of the review decision within the required timeframe. The City indicated that they are on-site at least weekly for other duties and may address erosion and sedimentation control areas of concerns any time they are noted but will not necessarily conduct a full official inspection and subsequent report until the monthly inspection is due. This is a good practice as

consistent and frequent communication with the contractors and developers is a powerful tool in being proactive and preventing major issues. This was evident through the sites we inspected, while there were maintenance needs and some reminders that were given, no off-site sedimentation nor signs of previous measure failures or losses could be noted. The City, however, is not continuing to monitor subdivision developments once the final plat is recorded and the subsequent individual lot development has begun. This practice can cause premature removal or conversion of erosion and sedimentation control measures and has led to a lack of monitoring projects which are still active and open but have moved into another phase or type of construction. All projects should continue to be monitored until permanent stabilization has been established and the project is closed out. The City will need to implement a few policy changes in order to meet all the responsibilities of its delegation and requirements under the SPCA and NCAC. The City would benefit from additional oversight and guidance while the required actions above are implemented.

This report has been prepared based on the formal review of the City of Rocky Mount Local Program conducted on November 23, 2021. DEMLR staff recommends to “Continued Delegation with Review” for 3-months with a follow-up report to be presented to the Sedimentation Control Commission (SCC) during the 2022 Q2 meeting.

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