

Local Program Report to the SCC City of Wilson Follow Up, August 18, 2022

On June 16, 2021, personnel from NCDEQ, DEMLR conducted a formal review of the City of Wilson's Erosion and Sedimentation Control Program. A report based on this review was presented to the Sedimentation Control Commission (SCC) on August 17, 2021, who voted to place your program on Probation for 8 months. A follow up review was conducted on April 13, 2022, with a follow up report presented to the SCC on May 19, 2022. The SCC voted to place your program on probation for 3 months with a follow up report to be presented during the 2022 3rd quarterly meeting. During the initial review the following deficiencies and required corrective actions were noted:

Issues Noted:

- The City is providing a pre-review meeting for some projects prior to receiving the complete application and conducting a formal review. This a good practice to streamline the formal review process; however, plans are not always reviewed, and notification of the review decision is not being sent out within statutory deadlines.
- Approved plans were not all drawn at an adequate scale. Proposed silt fence, limits of disturbance (LOD) and contour lines were sometimes difficult to distinguish from each other and other features on the plan. Multiple phases of the plan were shown on one plan sheet and lacked sequencing of how to conduct the construction during and in-between each phase.
- While regular inspections are good and areas of non-compliance are being documented, corrective actions taken by the contractor are not being documented making areas of continued non-compliance difficult to distinguish and does not provide documentation of when contractors are being responsive and bringing sites back into compliance.
- Certain sections within your 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.

Required Actions:

- Once a complete application is received, plans are to be reviewed, and the applicant notified that it has been approved, approved with modifications, or disapproved within 30 days of receipt of a new plan and within 15 days of receipt of a revised plan. G.S. 113A-61(b).
- When plans are drawn at a scale which makes measures, contours, LOD and/or perimeter measures difficult to see, plans should not be approved, and a larger scale plan set should be required. Plans should be drawn to clearly distinguish between phases and should be labeled as such. The construction sequence and notes should address the transition between phases and erosion control measures during said transitions. If the proposed plan is found to be inadequate or drawn at an illegible scale, the plan should be disapproved, and a disapproval letter should be sent out to notify the applicant within the appropriate time-period.

- Multiple reports showing the same areas needing maintenance or repair suggests that no corrective actions have been taken and out of compliance areas are continuing violations of the SPCA. Inspectors should note when corrective actions have been taken and whether areas are a continuing violation or due to a subsequent rain event after corrective actions were taken. When areas of non-compliance persist, the use of enforcement should be considered. NOV's should be issued in cases where sites are continuously found to be out of compliance, are non-responsive to previous inspection reports and communications from inspectors, or when offsite sedimentation due to violations is found. G.S. 113A-61.1 and MOA Part III(E).
- Your local ordinance should be updated to meet the changing requirements of the program. It appears that your ordinance has not been updated in at least ten years. The Commission recently approved an updated Model Ordinance, and it is available on the [NC DEQ Erosion and Sedimentation Control website](#).

At the time of our first follow up review on April 13, 2022, the City had begun taking steps to addressing the deficiencies noted. The City was still in the process of adjusting their procedures and implementing some of the corrective actions required. The City was requesting the ESC Program Administrator position be reclassified as an Engineer position and were in the process of updating their local ordinance. During the 3-month probation period, the City was expected to implement their proposed changes to the program's procedures, receive approval for the reclassified positions and update the local ordinance. DEMLR staff conducted a follow up review on July 20, 2022.

Follow up:

During the probationary period the City provided periodic updates and has provided inspection reports, plan review comments, review decision letters and enforcement documents to DEMLR staff. During the previous calendar quarter from April 2022 through June 2022, the City reported that they conducted 9 plan reviews or re-reviews, issued 3 approvals and 6 disapprovals. They also conducted 126 inspections and issued 7 NOV's and 1 CPA. The City currently reports 4 staff which contribute approximately 1 FTE to the program. The City has received approval for and posted 2 additional engineering positions which will increase their FTE count towards the ESC program. Currently the City has contracted with an engineering consultant to conduct plan reviews. These staff do not contribute to the currently reported 1 FTE. The consultant uses the City's checklist and provides additional comments to City staff once a plan has been received. The City then reviews the comments for consensus and sends the official review decision to the applicant. Once the City has filled the open engineer positions, plan reviews will be conducted by City staff and inspection duties will remain with the two current City inspectors. At the time of our follow up, the City had 26 open projects. During our follow up, we reviewed 4 project files and conducted inspections on 3 of those projects.

The following is a summary of the projects reviewed:

1. Torres Property:

This project consists of 6.60 acres disturbed for recreational development. The project file contained the approved plan, letter of approval, a copy of the property deed, previous inspection

reports and the FRO form. The City initially received the complete application on 7/14/2020 and issued the letter of approval on 9/14/2020. Due to previous filing complications and poor record keeping, the City was not conducting regular inspections prior to June of 2022. On July 1, 2022, City staff conducted an inspection and found that adequate groundcover had not been established and the required onsite documentation was missing. The City issued an NOV to this site on July 17, 2022, for failing to maintain adequate groundcover, failure to display plan approval at the construction site and failing to complete self-inspection forms. On the day of our review, the site had been partially seeded but the required onsite documentation was still missing. Sections of new silt fence had been installed but did not appear to be trenched in properly. Slopes adjacent to the perimeter needed to be repaired and stabilized and silt fence outlets needed to be installed per the approved plan. This site remained out of compliance for needing to complete the remaining corrective actions listed by the City in the NOV.

2. 1158 Place:

This project consists of 32.5 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. The City initially received the complete application on 4/15/2021 and issued the letter of approval on 5/3/2021. The City had conducted 8 inspections prior to the day of our review. No NOVs or CPAs had been issued to this project. On the day of our review, the basins had been installed and roads were being actively graded. The disturbed areas appeared to be limited to only what was required to install the perimeter measures, basins, and roads per the approved construction sequence. A temporary seed mat liner had been installed on the emergency spillway of the large basin. This liner was not adequate and should be replaced with the permanent riprap as shown on the plans. The rock pad below the skimmer had become covered with mud and needed to be refreshed. The retrieval rope for the skimmer was also missing. The disturbed slopes and diversion ditches between basins needed to be stabilized. One slope appeared to have been tracked improperly and would need to be retracked vertically before stabilizing. Onsite documentation and self-inspection records appeared to be adequate. The construction entrance appeared well maintained and functioning properly, and temporary groundcover had been established in the completed areas adjacent to the perimeter. Overall, this site was out of compliance; however, no offsite sedimentation was noted.

3. Whitfield Homes Flood Recovery Ph. 1:

This project consists of 2.08 acres disturbed for residential development. The project file contained the approved plan, letter of approval, previous inspection reports and the FRO form. A copy of the property deed was not retained in the project file. The City initially received the complete application on 11/3/2020 and issued the letter of approval on 11/4/2020. The City had conducted 26 inspections prior to the day of our review. The City issued an NOV to this project on 4/18/2022 for failing to follow the approved plan and failing to display the plan approval onsite. The City noted that sediment was leaving the site into the surrounding streets, sidewalks, and the existing stormwater system through unprotected yard inlets. This site remained out of compliance by the deadline given in the NOV. The City issued a Continuing Notice of Violation on 5/25/2022. During the compliance inspection conducted on 6/6/2022, the City found that all required corrective actions had still not been completed and issued a Civil Penalty on 6/13/2022. City staff conducted a follow up inspection on 6/30/2022 and found that perimeter wattles and drop inlet protection measures had been installed and areas where offsite sedimentation had

occurred had been cleaned up. On the day of our review, the perimeter wattles remained in place and the site was being permanently stabilized. No further signs of offsite sedimentation were noted.

4. 7-Eleven (File Review Only):

This project consists of 2.8 acres disturbed for commercial development. The City initially received the complete application on 5/13/2022. This plan was received and reviewed under the City's new plan review process with their engineering consultant. When the plan was received, the City forwarded the package to the consultant and required review comments within 10 days. Once the consultant conducted the review, comments and a recommendation to disapprove the plan were sent back to the City. City staff reviewed the consultants' comments and issued a letter of disapproval on 5/31/2022. The applicant submitted revisions addressing the reasons for disapproval on 6/16/2022. The City reviewed and approved this plan on 6/16/2022. The project file contained the approved plan, letter of approval, a copy of the property deed, letter of consent from the landowner, previous inspection reports, and the FRO from. The approved plan appeared to be adequate. City staff stated that this project was just beginning construction and little activity was underway.

Conclusion:

During our initial review it was noted that some approved plans were drawn at an inadequate scale making measures difficult to distinguish from one another and lacking descriptive construction sequencing and phasing. It was also noted that the while inspections were being conducted frequently, sites would remain out of compliance with no corrective actions taken by the developers and little to no actions taken by the City to bring sites into compliance. During the follow up conducted on April 18, 2022, it was noted that the City was taking steps to address the deficiencies noted during the initial review. The City has continued to implement the changes in procedures and staffing structure during this 3-month probationary period. They have implemented an effective plan review process with the contracted engineering consultant. The City has developed a comprehensive plan review checklist which the consultant uses along with providing their own plan specific comments. The consultant has a strict deadline to review plans and provide comments, which ensures that the City is able to notify the applicant of the review decision within the statutory deadlines. The City has posted 2 engineering positions which will contribute time to the ESC program once filled. Staff indicated that filling of these positions was anticipated for August. The City stated that the engineering consultant will continue to provide plan review assistance while the new positions are filled, and new hires are trained. The 2 inspectors currently responsible for conducting inspections have shown a notable improvement in their ability to conduct adequate inspections. The City is conducting inspections on all sites every 2 weeks and appear to be noting continuing violations when found. The City has also shown a willingness and ability to utilize their enforcement tools such as NOVs and CPAs to bring sites into compliance when continued violations persist. They also stated that they do have the ability to work with their building inspections department to place holds on building permits or inspections as additional tools. The City has made updates to the local ordinance to reflect the 2021 model ordinance; however, clarifying language and minor consistency changes still need to be adopted. The City should ensure that the ordinance as adopted is accurately reflected in the online Municode as well as the UDO. The City has taken steps to address the deficiencies noted during our initial review and has continued to show improvement throughout this probationary

period. City staff have demonstrated a determination, knowledge, and ability to make the necessary changes in order to improve the program and fulfill the delegated authority of the local program. DEMLR staff recommends to “Continue Delegation” of the City of Wilson’s Erosion and Sedimentation Control Program.

This report has been prepared based on the initial review conducted on June 16, 2021, follow up reviews conducted on April 13, 2022, and July 20, 2022, and the probationary periods in between. This report will be presented to the SCC during its 2022 Q3 meeting on August 18, 2022.