

Local Program Report to the SCC City of Asheville, December 4, 2019

On December 4, 2019 personnel from the NCDEQ, Land Quality Section, conducted a review of the City of Asheville's Erosion and Sedimentation Control Program. Asheville was last reviewed on 11/28/2012. The City of Asheville has 8.5 staff members that contribute 8.5 FTEs. The City issues a grading plan for any land disturbing activity between 550 and 10,000 sq. ft. In order to receive this grading permit the party must fill out a FRO form as well as submit a sketch of the site and proposed erosion control measures for the site, such as silt fence on the down slope. Asheville requires a fully engineered plan, prepared by a licensed engineer, for any land disturbing activity that is greater than 10,000 sq. ft. Between Sept. 2018 and Aug. 2019, Asheville reviewed 1048 grading permit applications and plans, including revision reviews, and approved of 567. The City of Asheville does not disapprove of plans, but rather places a project on "Hold for Revisions" in which comments are sent to the engineer and the engineer will have 180 days to make revisions to the plan and resubmit. Most projects will undergo multiple submittals before the plan is approved. In this same time frame, the city conducted 7945 erosion control site inspections, issued 79 NOVs, and 9 CPAs. The City states that their inspectors visit all of their sites on a bi-weekly basis. They plan to change their inspection schedule on their sites that are smaller than 10,000 sq. ft. in disturbance to monthly inspections so that they can increase inspections on their larger sites. Asheville currently has 701 active projects, including projects under 10,000 sq. ft. in disturbance. During our review of the program, we reviewed three sets of plans, as well as inspected three job sites.

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

1. Hotel Kish.

This site is 2.4 disturbed acres for commercial development. The file for this project included the plan, approval letter, calculations, inspection reports, and the FRO form. The deed is checked by the zoning department prior to plan erosion control plan submittal, but the county will require that a letter of agreement be signed in any case where the FRP and the land owner are not the same. The final submittal for this plan was received on 5/16/2019 and approved on 5/23/2018. The approved plan was adequate. It has received 24 inspections and was found in compliance during its last inspection on 11/26/2019. This project has not received any NOVs or CPAs. During our review, the site was in compliance but still required some action to prevent future issues. There was an unprotected stockpile near the site's entrance that needed to have silt fence installed around it and ground cover. There were also a number of slopes that needed to be seeded and matted, as well as silt fence outlets that needed maintenance. The Asheville inspector meet with the site supervisor and explained maintenance needs on site. The inspector also noted that the site did not have their NCG01 permit posted on site and told the contractor to print out a new copy and post it with the other job permits.

2. Smokey Park Renovations

This site is 5.3 disturbed acres for the redevelopment of a retail park. The file for this project included the plan, approval letter, calculations, inspection reports, and the FRO form. The deed is checked by the zoning department prior to plan erosion control plan submittal. The final submittal for this plan was received on 4/12/2019 and approved on 5/8/2019. The approved plan was adequate. It has received 10 inspections. During the last inspection this site was found in compliance. This site has not had any NOVs, or CPAs issued to it at the time of our review. During our review the site continued to be in compliance with the SPCA, but may have had some NPDES violations. The site had multiple construction entrances, two of which were well maintained, but the main entrance needed a fresh layer of stone shown by mud tracking in the road. The silt sacks and inlet protection on the site were all well maintained except for a few inlets on the back end of the project that had been filled with leaves that needed to be cleared. The site also lacked a concrete washout and had multiple areas of concrete slurry on the ground. This became more concerning when we noticed how close the concrete working area was to the water feature on site. Asheville staff was encouraged to look out for NPDES violations like the ones noted here on all of their sites. The Asheville inspector spoke with the contractor about maintenance items needed.

3. Asheville Oil Company

This site is 5.63 disturbed acres for commercial development. The file for this project included the plan, approval letter, calculations, inspection reports, and the FRO form. The deed is checked by the zoning department prior to plan erosion control plan submittal. The final submittal for this plan was received on 5/15/2019 and approved on 6/3/2019. The approved plan was adequate. It has received 2 inspections. On its first inspection the site was found out of compliance as they had not finished installing their preliminary measures. During the second inspection on 10/22/2019 inspection this site was found in compliance. This site has not had any NOVs, or CPAs issued to it at the time of our review. During our review this site continued to be in compliance but needed to take some action to prevent future issues. This project was still in the early stages and was still constructing the sites sediment basin at the time of our visit. All silt fence outlets on site needed maintenance. On the far end of the project the silt fence did not extend far enough to prevent sediment from leaving the site. Segments of this same silt fence had not been properly toed into the ground. Asheville staff noted that they would ask the contractor to extend the silt fence all the way up to the top of the slope and reinstall silt fence in areas where it had previously been installed improperly. Towards the end of our inspection we noted that the neighboring property had a recently extended their yard and backslope into the woods with a large amount of soil, which appeared to have come from the Asheville Oil Company project site. The neighboring property did not have any permit nor erosion control measures in place. Asheville staff stated that the neighboring property would receive an NOV for grading without a permit.

Positive findings:

During our review we found a number of positive aspects about the City of Asheville's local erosion control program including:

- Low Disturbance Threshold compared to state. Monitoring lower levels of disturbance capturing projects that might otherwise not be captured under the State's program.
- Limiting disturbance in high slope terrain. Areas with a natural average slope in excess of 15 percent is limited to disturbing 5 acres at a time. A Waiver can be granted so long as the project meets other criteria.
- High inspection rate. The City is getting to all of their active projects on a bi-weekly basis.
- Planning public outreach and workshop for local erosion control education opportunity.

Issues Noted and Required Actions:

During our review we found that the City of Asheville' local erosion control program had a few deficiencies including:

- CPA letters did not include remission option. G.S. 113A-64.2
- Lack of phasing of erosion control plan. G.S. 113A-54(1)(e) and G.S. 113A-57(2) and 15A NCAC 04B.0131(3)
- Approval letter missing language stating that approval of their erosion control plan does not supersede any other laws or regulations to which they may be subject. G.S. 113A-54.1(a)

The City shall implement the following changes to correct the deficiencies noted above:

- Add remission options to CPAs letters. Language can be found on the CPA template on the Local Programs SharePoint site.
- Look for detailed phasing plan or design sequence describing basin conversion and measure removal prior to approving of plans. Lack of phasing/planning can result in failure of measures during construction.
- Add the following language to your approval letter: "Acceptance and approval of this plan is conditioned upon your compliance with Federal and State water quality laws, regulations, and rules. In addition, local city or county ordinances or rules may also apply to this land-disturbing activity. This approval does not supersede any other permit or approval."

Additional Recommendations for Improvement (Optional changes):

DEMLR staff has also put together a list of recommendations, or option items, to improve the program:

- Provide applicants with the NPDES plan sheets found on DEMLR website to meet NPDES requirements or access to the plan sheets.
- Monitor sites for NPDES violations such as concrete washouts and fuel containment.

Conclusion:

During our review we found that the City of Asheville is effectively implementing their Locally Delegated Erosion and Sediment Control Program. All the approved plans that were reviewed were adequate and inspections are frequent.

Based on the review, staff will recommend “continuing delegation” for the City of Asheville’s Erosion and Sedimentation Control Program.

This report has been prepared based on the review of The City of Asheville’s Local Program conducted on 12/4/2019. This report will be presented to the Sedimentation Control Commission (SCC) on February 20, 2020.