

Local Program Report to the SCC City of Jacksonville, March 25, 2021

On March 25, 2021, personnel from the NCDEQ, Land Quality Section, conducted a review of the City of Jacksonville's Erosion and Sedimentation Control Program. The City of Jacksonville was last reviewed on July 21, 2011. The City reports that 7 staff contribute 4 full time equivalents to the erosion control program. The City requires an erosion and sediment control plan for projects with a total land disturbance of greater than 1 acre. In the year from February 2020 to February 2021 inclusive, the City review or re-reviewed 29 plans and approved 10. During the same time-period the City reported they conducted 501 inspections, issued 39 NOV's, and 3 Stop Work Orders. The City is inspecting sites weekly and currently has 11 active projects. The City requires a preconstruction meeting for all projects before land disturbance ca start. In addition to NOV's the City can put a hold on intermediate building inspections and building permits as enforcement tools. During our review of the program, we reviewed three sets of approved plans, as well as inspected three job sites.

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

1. Springfield Park Apartments

This project consists of 10.5 disturbed acres for residential development. The project file contained the approved plan, letter of approval, FRO Form, calculations, a copy of the property deed and previous inspections. The plan was received on March 11, 2020 and was approved on May 11, 2020. The approved plan for this project was adequate. This project started in August of 2020 and no NOV's or CPAs had been issued at the time of our review. Since the project's start, there have been 25 inspections conducted. The City had found this site to be in-compliance at the time of its last inspection. The site had been graded and building foundations were being poured. The skimmer basin in the rear of site had been installed and the banks stabilized. Curb inlets were protected and well maintained. The area not being actively worked had been seeded and mulched with straw, however machine tracking through this area may need to be smoothed and the area reseeded if vegetation does not establish. The perimeter wattles needed to be maintained and replaced in some areas. Silt fence was suggested as possible alternative to these wattles in high traffic areas and where construction materials were placed on or over the limits of disturbance. Construction materials which were located outside of the limits of disturbance needed to be moved back on site. There was minor sediment loss into the roadside swale where the water line was recently bored beneath the road. The eroded areas from this boring needed to be repaired and stabilized to prevent future sediment loss from occurring. This site was found to be out of compliance by both City and State staff for failure to provide adequate groundcover where the water line boring was conducted and the minor sediment loss into the roadside drainage swale, as well as failure to maintain perimeter measures.

2. MSA Expansion

This project consists of 7.1 disturbed acres for industrial development. The project file contained the approved plan, letter of approval, FRO Form, a copy of the property deed, calculations, and past inspection reports. The plan was received on May 1, 2020 and was

approved on June 4, 2020. These plans were also modified in August of 2020. The plans for this project were adequate. This project started in late June of 2020 and has received 40 inspections prior to our review. This project was initially issued an NOV for disturbing without an approved plan. The City had found this site to be in-compliance at the time of its last inspection. During a recent heavy rain event City staff had recommended and the contractor had installed additional check dams in the roadside drainage swale, however portions of the swale along the front of the site needed to be stabilized. Areas of the perimeter silt fence had been recently replaced and repaired in response to previous inspection reports. The water line easement running along the road adjacent to the site had been seeded and mulched with straw and vegetation was starting to come up. A few drop inlet protections throughout the site needed maintenance. The previous construction entrance had been removed and a new construction entrance needed to be installed. This site was found to be out of compliance by both City and State Staff for failure to provide adequate groundcover throughout the site, failure to maintain measures such as inlet protections and the lack of construction entrance.

3. Gateway Marketplace

This project consists of 27.38 disturbed acres for commercial development. The project file contained the approved plan, letter of approval, FRO Form and previous inspection reports. This plan was received on February 18, 2018 and was approved on March 26, 2018. The City stated that the missing copy of the property deed and design calculations were kept in the Stormwater plan file. This project had received 36 inspections since March of 2020. This project has completed the construction phase and is establishing final stabilization. The previous inspection conducted by the City found the site to be out of compliance. The slope of the drainage ditch along the road in the front of the site had eroded beneath the coir matting and created deep rills leading to accumulation on the silt fence below and causing a failure. The City issued an NOV and has been in frequent contact with the responsible party. The contractor had taken steps to address the issues noted in the NOV by repairing the deep rill and installing sod to stabilize the area, however, the silt fence still needed to be repaired and the rest of the slope still needed to be stabilized. The City also had noted that the contractor and financially responsible party had been facing Covid related complications. This site remained out-of-compliance although some progress towards addressing the violations found had been made and all parties involved were responsive and working towards bringing the site into compliance, so a continued notice of violation was not issued at the time of the review.

Positive Findings:

During our review we found a few positive aspects about the City of Jacksonville's local erosion and sediment control program including:

- The City is performing weekly inspections on sites.
- The City provides multiple references to the NCG01 permit process in both their email notification and official Letter of Approval, as well as attaching the DEMLR NCG01 Fact sheet and Frequently Asked Questions sheet to the Letter of Approval. The City also requires that a copy of the NCG01 Certificate of Coverage be provided during the Preconstruction meeting for the City's file as well as a copy to be posted onsite.

- Preconstruction meetings are required by the City for all projects before land disturbance can begin.
- City staff showed an adequate knowledge of erosion and sediment control measure design and placement during plan reviews.

Issues Noted:

During our review we found that the City of Jacksonville’s local erosion and sediment control program had a few deficiencies including:

- Plans were either not reviewed, or a decision not sent out within the 30-day time frame.
- A copy of the property deed and the design calculations were not included in every project file.
- A landowner-builder consent agreement was not obtained when the landowner and financially responsible party differ.

Required Actions:

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

- 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) and MOA Part III.C.1&3. When disapproving a plan, a formal disapproval letter should be sent out within 30 days of receiving the complete application via Certified Mail. All decision letters should acknowledge the date when the complete application or revised plan was received.
- Documentation of land ownership must be obtained prior to approval of a plan. A copy of the property deed should be kept on file with each project. 15A NCAC 04B.0188(c). When plans are submitted as a whole package and then split for the respective department reviews, a copy of all relevant plan items; the measure design calculations, narrative, existing conditions, etc. should be kept in the E&SC file as well as any other departments 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. A letter of consent/landowner-builder agreement letter should be obtained in all cases where the party conducting the land disturbance and the landowner of record differ. G.S. 113A-54.1(a).

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 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. 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 is available on the NC DEQ Erosion and Sedimentation Control website.

- Ensure that all letters and inspection reports are up to date and reflect the latest language and references to the North Carolina Administrative Code and your Local Ordinance.
- Request NPDES Plan sheets: *Ground Stabilization and Materials Handling*, and *Inspection, Recordkeeping and Reporting*, be included on plans prior to approval. Both sheets can be found on the NCDEQ Construction Stormwater Website.

Conclusion:

During our review we found that the City of Jacksonville's Locally Delegated Erosion and Sediment Control Program had a few deficiencies. While City staff is knowledgeable and passionate for the environment and keeping sediment from leaving construction sites and entering waterways, a need for additional guidance was evident. Staff was unaware of their responsibility to send out official Letters of Disapproval and was therefore not always meeting the time requirement for notifying the applicant of the decision to Approve, Approve with Modifications or Disapprove the plan within 30 days of receiving the plan. Staff was also unaware of the need to get written consent between a landowner and the FRP when they differ and could potentially open itself up to legal ramifications. Approved plans were adequate from a design standpoint, but project files did not all contain the necessary documentation. The program is inspecting each site frequently and are using all enforcement tools at their disposal when needed to get sites into compliance. While all three sites we looked at were found to be out of compliance on the day of the review, signs of previous repairs and corrective actions being made were evident. Inspection reports and photos well document the conditions on sites each week and gives the program a strong base of evidence if needed for enforcement. City staff would benefit from additional training and guidance regarding both the administration of plan reviews and site inspections.

Based on the review, DEMLR staff will recommend that the City of Jacksonville's Erosion and Sedimentation Control Program "Continue Delegation with Review" for 6 months.

This report has been prepared based on the Review of the City of Jacksonville's Local Program conducted on March 25, 2021. This report will be presented to the Sedimentation Control Commission (SCC) on May 4, 2021.