

Local Program Report to the SCC City of Burlington, April 20, 2021

On February 24, 2021, a report was presented to the Sedimentation Control Commission based on the formal review of the City of Burlington's local erosion and sediment control program conducted on January 14, 2021. The Commission voted to "Continue Delegation with Review for 3 months." During the January 14th review, the following issues and required actions that the program should implement to address said issues were noted:

Issues Noted:

- A copy of the property deed was not kept in every project file.
- While monthly inspections are frequent, corrective actions taken since the previous inspection are not being documented.

Required Actions:

- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.0118(c). Retain a copy of the property deed in each project file.
- Corrective actions taken by the developer/contractor to address areas of non-compliance should be documented. Reports should note the positive actions that have been taken and if areas of non-compliance from the previous inspection continue to be out of compliance. Inspectors should either generate a report when follow up inspections are performed in between monthly inspections or inspectors should note when they see corrective actions taken on the following monthly inspection report. If the developer/contractor has not taken corrective actions the report should note the continued violations and the use of enforcement tools such as NOVs, stop work orders or local permit holds should be considered to bring the site into compliance.

Follow-up:

In the first quarter of 2021, the City reported that they have 2 staff which contribute 1 full time equivalent to the program. In this time-period the City has received and approved 2 plans. The City has conducted 99 inspections and issued 8 NOVs. The City has also issued 9 stop-work orders or holds on building inspections. The City currently has 32 active projects. During the Continued review period the City of Burlington staff has forwarded inspection reports to DEMLR staff as well as sent a list of policy modifications which will be implemented. The following points are policy modifications which the City has started to implement:

- A copy of the property deed is now a submittal requirement along with the erosion and sediment control plan, certificate of assumed name (if applicable), engineering calculations, the FRO form and the application fee. All must be included prior to the City's acceptance of a plan for review.
- The City will increase inspection frequency from inspecting active sites every four-five weeks to every two weeks.
- When an inspection results in non-compliance, two weeks are given to address the noted violations. If after two weeks the site is still in violation, the City will issue a warning that a NOV and a hold on all permits and inspections will be forthcoming if the site is not brought into compliance by the follow-up inspection in another two weeks. If the site is found to still be out of

compliance at the follow-up inspection, which will be approximately four weeks after the violation was initially found, the City will issue a NOV and place a hold on all utility and/or building permits and inspections.

- Inspection reports have been changed to include when past violations have been brought into compliance so that it will be clear when corrective actions have been taken and if out of compliance areas are new or a continuing violation.

The following update is based on the inspection reports conducted by the City of Burlington following the site inspections conducted during the January 14th review:

1. Brassfield Meadows Phase 3 Section 2

This project was found to be out of compliance on the day of the January 14th review for failure to maintain inlet measures and skimmer basins, as well as sedimentation accumulating on the paved road in front of active lots. The City conducted follow up inspections on February 16, 2021 and found the site to still be out of compliance. The City made note that all corrective actions from the January 14th inspection had been corrected except for clean out of the skimmer basins. This inspection report noted that inlet protection devices around some storm sewer structures needed maintenance, silt fencing needed repair and again required skimmer basins to be cleaned. The City also noted that a concrete washout was not on-site, and that notification would be made to DEMLR if one were not installed. The responsible parties coordinated with the City to make the corrective actions in a timely manner while considering continued wet conditions and this site was found to be in-compliance during the most recent inspection.

2. LIDL at South Church Street

This project was found to be out of compliance on the day of the January 14th review for failure to maintain drop inlet protections, having unprotected stockpiles above the skimmer basin and having minor mud tracking out of the construction entrance. A new drainage channel had been installed in the rear corner of the site and needed to have a stone filter installed at the outlet of the channel. The City conducted an inspection on January 29th and found that the site was still out of compliance, however, some corrective actions had been taken. The City noted that some of the inlet protections which had been installed needed to be reinstalled per the details in the plan and a comment was added to this inspection report to notify the responsible party if corrective actions were not completed within 14 days, a hold on all building inspections and a NOV with possible fines would be issued. The site was found to have made all corrective actions needed and was in-compliance at the time of the follow-up inspection. This site continued to be in-compliance during the following inspection in March.

3. Birkdale at Mackintosh

This project was found to be out of compliance on the day of the January 14th review for failure to maintain or install curb inlet protections, areas of downed silt fence needing repair and the emergency spillway liner needing to be re-stapled and secured to the ground. At the time of the review utilities were being installed but no lots were active. On February 3, 2021, the City conducted an inspection and found that a few inlet protection devices throughout the site still needed to be installed or maintained, sediment build up needed to be removed in some areas of the silt fence and minor tracking was occurring on the paved road at the entrance to the site. The following inspection report showed that the emergency spillway liner had been repaired, however inlet protections were not installed or maintained, and sediment

was continuing to accumulate on the paved streets. On March 19, 2021, the site continued to be out of compliance and the City issued an NOV along with a hold on all building permits. The city conducted a compliance inspection and found that all corrective actions had been made but minor sediment was still being tracked onto the paved street by individual builders during recent rains. The NOV deadline was extended to give the developer a chance to better manage individual builders and the hold on building inspections remained in place.

Conclusion:

The City of Burlington has taken steps to correct the deficiencies found during the January 14, 2021 review and has begun to implement some of the recommendations made by DEMLR staff. Inspection reports clearly indicate when areas of non-compliance are continuing from previous reports and when corrective actions have been taken. The City has adjusted its plan review checklist to require a copy of the property deed before approving plans and have begun to increase their inspection frequency. City staff continues to demonstrate their knowledge and experience during plan reviews and in the field and have made the necessary changes to their documentation. DEMLR staff has not received any public complaints regarding projects regulated by the City of Burlington Program.

DEMLR staff will recommend to “Continue Delegation” of the City of Burlington’s Local Erosion and Sediment Control Program. This report will be presented to the Sediment Control Commission (SCC) on May 4, 2021.