

(Council President Umholtz)

**CITY OF KIRTLAND**

**ORDINANCE NUMBER 02-O-34**

**AN ORDINANCE ESTABLISHING CODIFIED ORDINANCE  
CHAPTER 1464 OF THE BUILDING AND HOUSING CODE  
OF THE CITY OF KIRTLAND RELATING TO EROSION AND  
SEDIMENT CONTROL, AND DECLARING AN EMERGENCY.**

**Whereas**, soil is most vulnerable to erosion by wind and water during soil disturbing activities and this eroded soil necessitates repair of sewers and ditches and dredging of rivers, harbors, and lakes; accelerates downstream bank erosion and damage to public and private property; endangers water resources and wetlands by reducing water quality; and causes the siltation of aquatic habitat; and,

**Whereas**, communities throughout the Chagrin River watershed have experienced and continue to experience significant costs associated with inadequate erosion and sediment control including legal fees, engineering services, and increased state and federal regulation; and,

**Whereas**, there is a watershed-wide effort to reduce sedimentation of the Chagrin River and to protect and enhance the water resources and wetlands of the Chagrin River and its tributaries, and Kirtland recognizes its obligation as a part of this watershed to reduce sedimentation and to protect water quality by controlling soil disturbing activities within its borders; and,

**Whereas**, 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, require designated communities, including Kirtland to develop a Storm Water Management Program to address, among other components, erosion and sediment control during soil disturbing activities; and,

**Whereas**, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt rules to abate soil erosion and water pollution by soil sediments; and,

**Whereas**, Chapter 1511 of the Ohio Revised Code grants municipalities the legal authority to adopt sediment and erosion control practices; and,

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kirtland, County of Lake, State of Ohio, that:

**SECTION 1:** Codified Ordinance Chapter 1464, Erosion and Sediment Control, is hereby adopted to read in total as follows:

CHAPTER 1464  
EROSION AND SEDIMENT CONTROL

**1464.01 PURPOSE & SCOPE**

- A. The intent of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of Kirtland.
- B. This regulation will:
  - 1. Allow development while minimizing increases in downstream flooding, erosion, and sedimentation.
  - 2. Reduce damage to receiving water resources, wetlands, and drainage systems that may be caused by increases in the quantity and/or rate of water discharged from new development activities or redevelopment activities.
  - 3. Reduce deterioration of the receiving waters.
- C. This regulation applies to and requires an Erosion and Sediment Control Plan prior to soil-disturbing activities on land used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, pipelines, subdivisions, commercial or industrial areas, building activities on farms, redevelopment of urban areas, and all other uses that are not specifically exempted in 1464.01(D) and (E).
- D. This regulation applies to, but does not require an Erosion and Sediment Control Plan from single family home construction or general clearing activities disturbing areas of less than one (1) acre of land. These minimal areas shall be protected in accordance with an approved site plan specifying erosion and sediment control measures and meeting all other provisions of this regulation.
- E. This regulation does not apply to general clearing activities of less than one tenth (1/10<sup>th</sup>) of an acre, unless required by the Kirtland Engineer.

**1464.02 WORDS & TERMS DEFINED**

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

- A. ACRE: A unit of measure equaling 43,560 square feet.

- B. BEST MANAGEMENT PRACTICES: Structural or nonstructural facilities or activities that control soil erosion and/or storm water runoff at a development site. Includes treatment requirements, operating and maintenance procedures, and other practices to control site runoff, leaks, or waste disposal.
- C. CUT: An excavation that reduces an existing elevation, as in road or foundation construction.
- D. DEVELOPMENT AREA: A contiguous area owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration which changes the runoff characteristics of a parcel of land.
- E. DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- F. DRAINAGE: The removal of excess surface water or groundwater from land by surface or subsurface drains.
- G. EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- H. EROSION AND SEDIMENT CONTROL: The control of soil material, both mineral and organic, to minimize the removal of soil material from the land surface and to prevent its transport out of a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.
- I. EROSION AND SEDIMENT CONTROL PLAN: The written document meeting the requirements of this regulation that sets forth the plans and practices to be used to minimize soil erosion and prevent off-site disposal of soil sediment by containing sediment on-site or by passing sediment-laden runoff through sediment control measures during and after development.
- J. FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% cover for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.
- K. KIRTLAND: Throughout this regulation, this shall refer to the City of Kirtland, its designated representatives, boards, or commissions.

- L. LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.
- M. LARGER COMMON PLAN OF DEVELOPMENT: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan (OEPA, NPDES Permit #OH100000).
- N. MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.
- O. NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- P. PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.
- Q. PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- R. PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.
- S. RAINWATER AND LAND DEVELOPMENT: Ohio's standards for storm water management, land development, and urban stream protection. Developed by the Ohio Department of Natural Resources, the U.S. Department of Agriculture Natural Resource Conservation Service, and the Ohio Environmental Protection Agency. The most current edition of these standards shall be used with this regulation.
- T. RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources or wetlands.
- U. SEDIMENT: The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- V. SEDIMENTATION: The deposition of sediment in water resources or wetlands.
- W. SETBACK: A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from

runoff pollution. Construction activities in this area are restricted or prohibited as required in this regulation.

- X. SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution.
- Y. SOIL & WATER CONSERVATION DISTRICT: An entity organized under Chapter 1515 of the Ohio Revised Code referring to either to the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as the Lake County SWCD.
- Z. STABILIZATION: The use of Best Management Practices that reduce or prevent soil erosion by storm water runoff, wind, ice, gravity, or a combination thereof.
- AA. UNSTABLE SOILS: A portion of land surface or area which is identified by the Kirtland Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.
- BB. WATER RESOURCE: Any public or private body of water including lakes or ponds, and streams, gullies, swales, or ravines having banks, a defined bed, and a definite direction of course, either continuously or intermittently flowing.
- CC. WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

#### **1464.03 DISCLAIMER OF LIABILITY**

Neither submission of an Erosion and Sediment Control Plan under the provisions herein, nor compliance with the provisions of this regulation, shall relieve any person from responsibility from damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health and safety of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

#### **1464.04: CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY**

- A. Where this regulation is in conflict with other provisions of law, ordinance,

contract, or deed, whichever imposes the more stringent restriction shall prevail.

- B. If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- C. This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- D. Failure of Kirtland to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting therefrom, and shall not result in Kirtland, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

**1464.05 APPLICATION PROCEDURES FOR EROSION AND SEDIMENT CONTROL PLANS**

- A. For soil disturbing activities requiring an Erosion and Sediment Control Plan (ESC Plan), two (2) sets of the ESC Plan and necessary data required by this regulation shall be submitted to the Lake County Soil and Water Conservation District, as follows:
  - 1. For subdivisions: After the approval of the preliminary plans and with submittal of the improvement plans.
  - 2. For other construction projects: After issuance of a zoning permit by the Zoning Inspector.
  - 3. For general clearing projects: Fifteen (15) working days prior to any soil disturbing activities.
- B. For soil disturbing activities requiring a site plan with erosion and sediment control measures, two (2) sets of these sites plans shall be submitted to the Lake County Soil and Water Conservation District, as follows:
  - 1. For single family home construction: After issuance of a zoning permit by the Zoning Inspector.

2. For general clearing projects: Fifteen (15) days working days prior to any soil disturbing activities.
- C. The Lake County SWCD shall review the plan submitted under 1464.05(A) or (B) and approve, or return for revisions with comments and recommendations for revisions, within twenty-one (21) working days after receipt of the plan. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan. At the time of receipt of a revised plan, another twenty-one (21) day review period shall begin.
- D. Approved plans shall remain valid for two (2) years from the date of approval.

#### **1464.06: COMPLIANCE WITH STATE AND FEDERAL REGULATIONS**

- A. Erosion and Sediment Control Plans issued in accordance with this regulation do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from federal, state, and/or county agencies. If requirements vary, the most stringent requirement shall be followed.
- B. Erosion and Sediment Control Plans shall be accompanied by other permits and documentation relevant to the project, including, but not limited to, the following. No soil-disturbing activity shall begin before all necessary state and federal permits have been granted to the owner or operator.
  1. Proof of compliance with the Ohio Environmental Protection Agency (Ohio EPA) General NPDES Storm Water Permit. Proof of compliance shall be, but is not limited to, a copy of the NPDES General Storm Water Permit Notice of Intent; the NPDES General Storm Water Permit Number; and/or the Ohio EPA Director's Acceptance Letter for the NPDES Permit.
  2. Proof of compliance with Section 401 of the Clean Water Act administered by the Ohio EPA.
  3. Proof of compliance with Section 404 of the Clean Water Act administered by the U.S. Army Corps of Engineers relating to waters of the United States under its jurisdiction. Proof of compliance shall be, but is not limited to, a copy of the U.S. Army Corps of Engineers Individual Permit, if an Individual Permit is required for the development project, showing project approval and any restrictions that apply to site activities. If an Individual Permit is not required, the site owner shall

submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include, but is not limited to, one of the following:

- a. A letter from the site owner verifying that a qualified professional has surveyed the site and found no waters of the United States. Such a letter shall be noted on site plans submitted to the Kirtland Engineer.
  - b. A site plan showing that any proposed fill of waters of the United States conforms to the general and specific conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the US Army Corps of Engineers at the time of application of this regulation.
3. Proof of compliance with the Ohio Dam Safety Law administered by Ohio Department of Natural Resources (ODNR) Division of Water. Proof of compliance shall be, but is not limited to, a copy of the ODNR Division of Water permit number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner explaining why the Ohio Dam Safety Law is not applicable.

#### **1464.07 EROSION & SEDIMENT CONTROL PLAN**

- A. In order to control sediment pollution of water resources and wetlands, the owner or operator shall be responsible for developing an Erosion and Sediment Control Plan. The owner or operator shall also obtain an OEPA NPDES Storm Water General Permit and shall abide by its requirements in addition to an approved Erosion and Sediment Control Plan from Kirtland. In situations of conflict between OEPA requirements and Kirtland requirements, the more stringent requirement shall apply.
- B. If the construction site is subject to OEPA's NPDES General Permit, a copy of all the required inspection sheets shall be submitted to the Lake County SWCD within two (2) working days of the date that the inspection was conducted.
- C. The Erosion and Sediment Control Plan shall be certified by a professional engineer, a registered surveyor, a certified professional erosion and sediment control specialist, or a landscape architect registered in the State of Ohio.
- D. The Erosion and Sediment Control Plan shall incorporate measures as recommended by the most current edition of *Rainwater and Land Development* and shall include the



following information:

1. A project description including the type and purpose of soil disturbing activities and a description of the larger common plan of development if applicable.
2. A vicinity sketch locating the site, and the larger common plan of development if applicable, and all pertinent surrounding features including wetlands, streams, steep slopes, and other sensitive areas receiving runoff from the development area on or within 200 feet of the site.
3. The name and location of the immediate receiving water resource and the first subsequent named receiving water and the major watershed(s) in which the project is located.
4. The existing and proposed topography shown in 2' contour intervals.
5. The location and description of existing and proposed drainage patterns and facilities, including any related drainage facilities beyond the development area and the larger common development area. Drainage patterns during major phases of construction shall also be shown as appropriate.
6. Existing and proposed watershed boundary lines, direction of flow, and watershed acreage.
7. The types and locations of soils in or affected by the development area, including unstable soils as determined by the most recent edition of the Lake County Soil Survey and/or field investigations performed by NRCS/SWCD personnel, a professional engineer, or a professional soil scientist. The Soil Survey and interpretive assistance can be obtained from the Lake County SWCD.
8. The scheduling, phasing, and coordination of construction operations and erosion and sediment control practices, including vegetative plantings and mulch.
9. Erosion and sediment control practices to be employed on the development area, including:
  - a. Their location and size, including detail drawings, maintenance requirements during construction, and design calculations, all where applicable.

- b. The type and amount of temporary and/or permanent seed, fertilizer, and mulch to be used.
  - c. Settling ponds drawn to scale and including dimensions.
  - d. Detail drawings of sediment control practices.
  - e. Limits of clearing and of soil disturbing activities.
  - f. The name, address, and contact information of the person responsible for the continued maintenance of the erosion and sediment control practices.
10. A soils engineering report, when required by the Kirtland Engineer and based upon his/her determination that the conditions of the soils are unknown or unclear so that additional information is required to protect against erosion or other hazard. This report shall be based on adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and approved by the Kirtland Engineer shall be incorporated in the grading plans and/or other specifications.
- a. Data regarding the nature, distribution, strength, and erodibility of existing soils.
  - b. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
  - c. Conclusions and recommendations for grading procedures.
  - d. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
  - e. Design criteria for corrective measures when necessary.
  - f. Opinions and recommendations covering the stability of the site.

**1464.08 PERFORMANCE STANDARDS**

- A. To control sediment pollution of water resources and wetlands, the owner or operator shall adhere to the following planning and best management practices as specified in the most current edition of *Rainwater and Land Development*, where applicable:
1. Timing of sediment trapping practices.
    - a. Sediment control practices shall be functional throughout all phases of up slope soil disturbing activities.
    - b. Settling facilities, perimeter controls, and other practices intended to trap sediment shall be implemented as the first step of grading within seven (7) days from the start of grubbing. They shall continue to function until the up slope development area is permanently restabilized.
  2. Clearing and Grubbing: Clearing and grubbing will be done in two (2) or more phases. The first phase will include only those locations necessary to install the perimeter soil erosion and sediment control, and storm water control practices. After the perimeter controls are in place and functioning, the remaining phase(s) of clearing and grubbing may continue.
  3. Stabilization of Denuded Areas & Soil Stockpiles: Permanent or temporary soil stabilization shall be applied as described below. Permanent vegetation shall not be considered established until ground cover is achieved which, in the opinion of the Kirtland Engineer, covers eighty percent (80%) or more of the soil surface, provides adequate cover, and is mature enough to control soil erosion and to survive adverse weather conditions.
    - a. Denuded areas shall be stabilized within seven (7) days if they have remained inactive for fourteen (14) days or longer, or are to remain inactive for more than thirty (30) days. This stabilization shall be permanent if the denuded area has reached final grade.
    - b. Disturbed areas within twenty (25) feet of any riparian setback or wetland shall be stabilized within two (2) days of disturbance if these disturbed areas will remain inactive for fourteen (14) days or longer.
    - c. Soil stockpiles shall be stabilized within seven (7) days if they have remained inactive for fourteen (14) days or longer, or are to remain inactive for more than thirty (30) days.

4. Settling Ponds: Storm water runoff from denuded areas flowing at rates which exceed the design capacity of sediment barriers shall pass through a sediment settling facility. When designing sediment settling facilities, the following shall apply:
  - a. The facility's storage capacity shall be no less than sixty-seven (67) cubic yards per acre of total drainage area.
  - b. Permanent storm water management ponds that are designed to trap sediment during construction shall be designed to provide for a slow release of sediment laden water. The ideal drawdown time is from three (3) to four (4) days or seventy-two (72) to ninety-six (96) hours.
5. Sediment Barriers: Sheet and rill runoff from denuded areas shall be diverted to a settling pond or treated by a geotextile silt fence or other approved sediment barrier. The total runoff flow treated by a sediment barrier shall not exceed the design capacity of that sediment barrier.
6. Storm Sewer Protection: All storm sewer inlets that accept water runoff from the development area shall be protected so that sediment-laden water will not enter the storm sewer. In areas where construction will be ongoing, such as subdivisions, the storm sewer protection shall be maintained until all upslope areas reach final stabilization, as determined by the Kirtland Engineer. The site owner or operator shall be required to hydraulically clean the storm sewers after the end of this period to the satisfaction of the Kirtland Engineer.
7. Working in or Crossing Water Resources and Wetlands: Construction vehicles shall avoid water resources, wetlands, and their setbacks. If these areas must be crossed by construction vehicles repeatedly during construction, an approved temporary crossing shall be constructed. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.
8. Construction Access Routes.
  - a. Measures shall be taken to prevent soil transport onto surfaces where runoff is not checked by sediment controls or onto public roads. Gravel

construction access drives shall be implemented as appropriate or as required by the Kirtland Engineer.

- b. Soil shall be removed from paved surfaces and/or public roads at the end of each day in such a manner that does not create off-site sedimentation in order to ensure safety and abate off-site soil loss. Collected sediments shall be placed in a stable location on site or taken off-site to a stable location.

9. Sloughing and Dumping.

- a. No soil, rock, debris, or any other material shall be dumped or placed into a water resource or wetland, or into such proximity that it may readily slough, slip, or erode into a water resource or wetland unless such dumping or placing has been authorized by the Planning and Zoning Commission, and where applicable, the U.S. Army Corps of Engineers and the OEPA, for such purposes as, but not limited to, constructing bridges, culverts, and erosion control measures.
- b. Soils prone to slipping, landsliding, or other instability, as determined by the Lake County Soil Survey, shall not be graded, excavated, filled, or have loads imposed upon them, unless the work is done in accordance with a qualified professional engineer's recommendation to correct, eliminate, or adequately address the problems caused by the soil characteristics.

10. Cut and Fill Slopes: Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Consideration shall be given to the length and steepness of the slope, soil type, up slope drainage area, groundwater conditions, and slope stabilization.

11. Stabilization of Outfalls and Channels: Outfalls and constructed or modified channels shall be designed and constructed to withstand the expected velocity of flow from a post-development, ten year frequency storm without eroding.

12. Disposition of Temporary Practices: All temporary erosion and sediment control practices shall be disposed of within thirty (30) days after final site stabilization is achieved or after the temporary practices are no longer needed, unless otherwise authorized by the Kirtland Engineer. Trapped sediment shall be permanently stabilized to prevent further erosion.

13. Control of Materials and Debris: Site management practices shall be implemented to prevent toxic materials, hazardous materials, or other debris from entering Kirtland's water resources or wetlands. These practices shall include but are not limited to the following:
  - a. A covered Dumpster shall be made available for the proper disposal of construction site waste materials, garbage, plaster, drywall, grout, or gypsum.
  - b. The washing of excess concrete material into a street, catch basin, or other public facility or natural resource shall not occur. A designated area for concrete washout shall be made available.
  - c. All fuel tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of the largest container in the storage area.
  - d. Any toxic or hazardous waste shall be disposed of properly.
  - e. Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated sites shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites.
14. Pre-Winter Stabilization: If the development area is, or is planned, to remain active through the winter months, a Pre-Winter Stabilization Meeting shall be held by the owner or operator, and the developer, engineer, and contractor of the project with the Kirtland Engineer and Lake County SWCD prior to October 1, in order to plan and approve winter erosion and sediment control as defined in the most current edition of *Rainwater and Land Development*.
15. Maintenance: All temporary and permanent erosion and sediment control practices shall be:
  - a. Designed and constructed to minimize maintenance requirements. They shall be maintained and repaired as needed to assure continued performance of their intended function. The person or entity responsible for the continued physical and financial maintenance of permanent erosion

control measures shall be identified to the satisfaction of the Kirtland Engineer.

- b. Inspected by the owner or person responsible for the development area once every seven (7) days and within twenty-four (24) hours of a 0.5" or greater rainfall event. A written log of these inspections and any subsequent improvements to controls shall be kept on site. The inspections shall include the date of the inspection, the name of the inspector, weather conditions, the actions taken to correct problems, and the date actions were taken.
16. Underground Utility Construction: Trenches for underground utility lines and pipes shall be temporarily stabilized within seven (7) days if they are to remain inactive for thirty (30) days. Trench de-watering devices shall discharge in a manner that filters soil-laden water before discharging it to a receiving drainage.
- B. To control increases in storm water runoff peaks and volumes and non-point source pollutants, the following practices are required when determined necessary by the Kirtland Engineer in order to promote the intent and scope of this regulation:
1. Retarding flow velocities by increasing friction through grassed road ditches, rather than paved street gutters; discharging roof water to vegetated areas or grass and rock lined channels; or other measures.
  2. Grading and use of grade control structures to provide a level of control in flow paths and stream gradients.
  3. Inducing infiltration of increased storm water runoff into soils where practicable through construction of infiltration areas where soils are suitable; retaining top soil for all areas to be vegetated; providing good infiltration areas with proper emergency overflow facilities; and other measures.
  4. Providing detention and retention through permanent ponds and lakes with storm water basins and proper drainage, multiple use areas for storm water detention and creation, wildlife, and other measures.

#### **1464.09 BOND AND PERMIT**

- A. Funds shall be deposited with the Kirtland Finance Department prior to review by

Kirtland and/or its consultants to cover the professional services of the Kirtland Engineer and/or other experts as the Kirtland Engineer may require.

- B. No soil disturbing activities shall be permitted until a cash bond has been deposited with the Kirtland Finance Department to the satisfaction of the Kirtland Engineer sufficient for Kirtland to perform the obligations otherwise to be performed by the owner or person responsible for the development area as stated in this regulation and to allow all work to be performed as needed in the event that the owner or person responsible for the development area fails to comply with the provisions of this regulation. The cash bond shall be returned after all work required by this regulation has been completed to the satisfaction of the Kirtland Engineer.
- C. No project subject to this regulation shall commence without an Erosion and Sediment Control Plan approved by the Lake County SWCD.

#### **1464.10 VIOLATIONS**

- A. No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.
- B. Upon notice, the Kirtland Engineer may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the owner or operator, and shall state the conditions under which work may be resumed. In instances, however, where the Kirtland Engineer finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

#### **1464.99 PENALTY**

- A. Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.



- B. The imposition of any other penalties provided herein shall not preclude Kirtland from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the Kirtland Engineer.

**SECTION II:**

(a) It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

(b) This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that the construction season has started therefor posing an increased risk of damage to public and private land from construction related activity; wherefore, this Ordinance shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this Ordinance shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading:  
Second Reading:  
Third Reading:

DATE PASSED:

President of Council

Submitted to the Mayor for his  
Approval on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002.

ATTEST:

Approved by the Mayor, this \_\_\_\_\_ day  
of \_\_\_\_\_ 2002.

Clerk of Council

Mayor Edward J. Podojil