

ORDINANCE NO 19, 2004  
December 13, 2004

**AN ORDINANCE FOR THE CITY OF RUSSELL, KENTUCKY GUIDING, REGULATING,  
AND CONTROLLING THE DESIGN, CONSTRUCTION, USE, AND MAINTENANCE OF  
ANY DEVELOPMENT OR OTHER ACTIVITY THAT DISTURBS OR BREAKS THE  
TOPSOIL OR RESULTS IN THE MOVEMENT OF EARTH ON LAND IN THE CITY OF  
RUSSELL.**

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL, CITY OF RUSSELL:**

**Section I. Introduction/ Purpose**

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the City of Russell. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Russell.

**Section II. Definitions**

Clearing: Any activity that removes the vegetative surface cover.

Drainage Way: Any channel that conveys surface runoff throughout the site.

Erosion Control: A measure that prevents erosion.

Erosion and Sediment

Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading: Excavation or fill of material, including the resulting conditions thereof

Perimeter Control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing : Clearing a parcel of land in distinct phases, with the stabilization of

each phase completed before the clearing of the next.

**Sediment Control:** Measures that prevent eroded sediment from leaving the site.

**Site:** A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

**Site Development**

**Permit:** A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

**Stabilization:** The use of practices that prevent exposed soil from eroding.

**Start of Construction:** The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

**Watercourse:** Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Russell.

**Waterway:** A channel that directs surface runoff to a watercourse or to the public storm drain.

**Section III. Permits**

- A) Construction within any zoning district in the City of Russell shall conform to the provisions of the Kentucky Pollutant Discharge Elimination System (KPDES) Permit.
- B) No person shall be granted a site development permit for land-disturbing activity without the approval of an Erosion and Sediment Control Plan by the City of Russell.
- C) Any person proposing site development for land-disturbing activity that would require the uncovering of 1 acre or more must apply for a KPDES permit application.
- D) No site development permit is required for the following activities:
  - 1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - 2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

- E) Each application shall bear the name(s) and address of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee.
- F) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan.

**Section IV. Review and approval**

- A) The City of Russell will review each application or a site development permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, the City of Russell shall, in writing:
  - 1) Approve the permit application;
  - 2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of the regulations, and issue the permit subject to these conditions; or
  - 3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- B) Failure of the City of Russell to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Russell. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of Russell.

**Section V. Erosion and Sediment Control Plan**

- A) The Erosion and Sediment Control Plan shall include the following:
  - 1) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code. The map shall be at a scale no smaller than 1"=100'.
  - 2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  - 3) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the

drafting of intermediate plans may be required at the close of each season.

- 4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- B) Modifications to the plan shall be processed and approved or disapproved in the same manner as Section IV of this regulation, may be authorized by the City of Russell by written authorization to the permittee.

## Section VI. Design Requirements

- A) Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of Russell. Cut and fill slopes shall be *no greater than 2:1*, except as approved by the City of Russell to meet other community or environmental objectives.
- B) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described shall be used to the satisfaction of the City of Russell.
- C) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D) Erosion control requirements shall include the following:
  - 1) Soil stabilization shall be completed within *five days* of clearing or inactivity in construction.
  - 2) If seeding or another vegetative erosion control method is used, it shall become established within *two weeks* or the City of Russell may require the site to be reseeded or a non-vegetative option employed.
  - 3) Special techniques that meet the design criteria outlined in the City of Russell on steep slopes or in drainage ways shall be used to ensure stabilization.
  - 4) Soil stockpiles must be stabilized or covered at the end of each workday.
  - 5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
  - 6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
  - 7) Techniques that divert upland runoff past disturbed slopes shall be employed.
- E) Waterway and watercourse protection requirements shall include
  - 1) A temporary stream crossing installed and approved by the City of Russell if a

- wet watercourse will be crossed regularly during construction
- 2) Stabilization of the watercourse channel before, during, and after any in-channel work
  - 3) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels
- F) Construction site access requirements shall include
- 1) a temporary access road provided at all sites
  - 2) other measures required by the City of Russell in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains

**Section VII. Inspection**

- A) The City of Russell or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of Russell shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City of Russell at least two working days before the following:
- 1) Start of construction
  - 2) Installation of sediment and erosion measures
  - 3) Completion of site clearing
  - 4) Completion of rough grading
  - 5) Completion of final grading
  - 6) Close of the construction season
  - 7) Completion of final landscaping
- B) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of Russell at the time interval specified in the approved permit.

**Section VIII. Enforcement**

- A) Stop-Work Order; Revocation of Permit
- In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially

detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Russell suspend or revoke the site development permit.

**B) Violation and Penalties**

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

**Section IX. Separability**

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

**Section X. Adoption**

This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law.

  
DONALD G. FRALEY  
MAYOR, CITY OF RUSSELL

ATTEST:

  
JOYCE E. CONLEY,  
CLERK, CITY OF RUSSELL

FIRST READING AND ADOPTION:  
SECOND READING AND READOPTION:  
PUBLISHED:

November 15, 2004  
December 13, 2004  
December 23, 2004