ORDINANCE NO. 2026-81

AN ORDINANCE REPLACING CHAPTER 1351 OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY, OHIO, TITLED "EROSION AND SEDIMENT CONTROL", IN ITS ENTIRETY, AND DECLARING AN EMERGENCY.

WHEREAS, in order to comply with federal and state regulations pertaining to Erosion and Sediment Control, it is necessary to replace Chapter 1351 Erosion and Sediment Control in its entirety and to adopt new procedures and regulations for Erosion and Sediment Control;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY, THE COUNTY OF LAKE, AND THE STATE OF OHIO:

SECTION 1. Chapter 1351 of the Codified Ordinances of the City of Willoughby, Ohio, titled, "Erosion and Sediment Control" is hereby amended in its entirety; said Chapter to read and provide as follows:

CHAPTER 1351
EROSION AND SEDIMENT CONTROL

1351.01 PURPOSE AND SCOPE.

(a) The purpose 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 will promote and maintain the health and safety of the citizens of City of Willoughby:

(b) This regulation will:

(1) Allow development while minimizing increases in erosion and sedimentation.
(2) Reduce water quality impacts to receiving water resources that may be caused by new development, redevelopment, grading, or clearing activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing.

1351.02 DEFINITIONS

The definitions contained in Ohio Environmental Protection Agency ("Ohio EPA")'s Construction General Permit entitled "Authorization for Storm Water Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System" in effect at the time a permit is applied for under this chapter shall apply to this chapter, and the following definitions shall also apply:

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

(a) ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3): See, "EROSION AND SEDIMENT CONTROL PLAN" as defined herein.

(b) ACRE: A measurement of area equaling 43,560 square feet.

(c) ADMINISTRATOR: The person or entity having the responsibility and duty of administering and ensuring compliance with this regulation.

(d) COMMUNITY: Throughout this regulation, this shall refer to City of Willoughby, its designated representatives, boards, or commissions.

(e) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this regulation.

(f) CONSTRUCTION GENERAL PERMIT: The most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of storm water discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000006 and its successors).

(g) CRITICAL AREA: Any area the disturbance of which would cause soil erosion and sediment runoff and damage to private properties, water courses, storm sewers or public lands due to topography, soil type, hydrology, or proximity to a water course. These areas include, but are not limited to, riparian areas, wetlands, and highly erodible soils.

(h) DEVELOPMENT AREA: A parcel or contiguous parcels 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 that changes runoff characteristics.

(i) DEWATERING VOLUME: See current *Ohio Rainwater and Land Development* Manual.

(j) DISCHARGE: The addition of any pollutant to surface waters of the state from a point source.

(k) DISTURBANCE: Any clearing, grading, grubbing, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.

(l) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities such as grading, excavating, or filling.

(m) DRAINAGE: (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface of subsurface drains.

(n) DRAINAGE WAY: A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity.

(o) 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.

(p) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

(q) EROSION AND SEDIMENT CONTROL PLAN: The written document meeting the requirements of this regulation which 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 bypassing sediment-laden runoff through a sediment control measure during and after land development.

(r) GRADING: The excavating, filling, or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

(s) GRUBBING: removing or grinding of roots, stumps and other unwanted material below existing grade.

(t) IMPERVIOUS: That which does not allow infiltration.

(u) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.

(v) SUBDIVISIONS, MAJOR AND MINOR: See Ohio Administrative Code 711.001 for definition.

(w) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Lake County Auditor's Office.

(x) PERCENT IMPERVIOUSNESS: The impervious area created divided by the total area of the project site.

(y) 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.

(z) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(aa) PRE-CONSTRUCTION MEETING: A meeting between the City of Willoughby and all principal parties, prior to the start of any construction, at a site that requires an Erosion and Sediment Control Plan.

(bb) PRE-WINTER STABILIZATION MEETING: A meeting between the City of Willoughby and all principal parties, prior to October 1, in order to plan winter erosion and sediment controls for a site that requires an Erosion and Sediment Control Plan.

(cc) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

(dd) SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

(ee) SEDIMENTATION: The deposition or settling of sediment.

(ff) SEDIMENT STORAGE VOLUME: See current edition of *Rainwater and Land Development*.

(gg) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, grubbing or stump removal that occurs during clearing or timber activities, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

(hh) SOIL & WATER CONSERVATION DISTRICT: An entity organized under Chapter 940 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Lake County SWCD.

(ii) STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

(jj) STORMWATER POLLUTION PREVENTION PLAN (SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation. This typically contains the Erosion and Sediment Control Plan for the site.

(kk) STORMWATER: Stormwater runoff, snow melt and surface runoff and drainage.

(ll) SURFACE OUTLET: A dewatering device that only draws water from the surface of the water.

(mm) TEMPORARY STABILIZATION: The establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation, and other techniques capable of quickly establishing cover over disturbed areas to provide erosion control between construction operations.

(nn) TOPSOIL: The upper layer of the soil that is usually darker in color and richer in organic matter and nutrients than subsoil.

(oo) UNSTABLE SOILS: A portion of land that is identified by the City of Willoughby 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.

(pp) WATER RESOURCE Also SURFACE WATER OF THE STATE: Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.

(qq) WATERSHED: The total drainage area contributing runoff to a single point.

(rr) 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).

1351.03 DISCLAIMER OF LIABILITY

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

1351.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

(a) Where this regulation is in conflict with other provisions of law or ordinance or requirements in the Construction General Permit, the most restrictive provisions 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 the City of Willoughby to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Willoughby, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

1351.05 DEVELOPMENT OF STORMWATER POLLUTION PREVENTION PLANS

(a) This regulation requires that a Storm Water Pollution Prevention Plan (SWP3) be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land. The City Engineer may require a SWP3 for sites disturbing less than one (1) acre.

(b) The following activities shall submit an Abbreviated SWP3:

(1) New single-family residential construction that disturbs 0.1 (one tenth) up to one (1) acre of land.
(2) Additions or accessory buildings for single-family residential construction that disturb 0.1 (one tenth) up to one (1) acre of land.
(3) All non-residential construction that disturbs 0.1 (one tenth) - up to one (1) acre of land.
(4) General clearing activities not related to construction that disturb 0.1 (one tenth) up to one (1) acre of land.
(5) Activities disturbing 0.1 (one tenth) or less of an acre are not required to submit a SWP3, unless required by the City Engineer. These activities must comply with all other provisions of this regulation.

1351.06 APPLICATION PROCEDURES

(a) SOIL DISTURBING ACTIVITIES SUBMITTING A STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the City of Willoughby and two (2) sets of the SWP3 and the applicable fees to the Lake County SWCD as follows:

(1) For subdivisions: After the approval of the preliminary plans and with submittal of the improvement plans.
(2) For other construction projects: Before issuance of a building permit by the Chief Building Inspector.
(3) For general clearing projects: Prior to issuance of a zoning permit or grading permit by the Chief Building Inspector.

(b) SOIL DISTURBING ACTIVITIES SUBMITTING AN ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit two (2) sets of the Abbreviated SWP3 and the applicable fees to the City Engineer and two (2) sets of the Abbreviated SWP3 and the applicable fees to the Lake County SWCD as follows:

(1) For single-family home construction: Before issuance of zoning permit, building permit, or grading permit by the Chief Building Inspector.
(2) For other construction projects: Before issuance of a zoning permit or grading permit by the Chief Building Inspector.
(3) For general clearing projects: Before issuance of a zoning permit or grading permit by the Chief Building Inspector.

(c) The City Engineer and the Lake County SWCD shall review the plans submitted under Section 1351.06 (a) or (b) for conformance with this regulation and approve, or return for revisions, with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a checklist or narrative report stating specific problems and the procedures for filing a revised plan.

(d) Soil disturbing activities (including mechanized clearing) shall not begin and zoning, building, or grading permits shall not be issued without:

(1) Approved SWP3 or Abbreviated SWP3
(2) NOI submittal to Ohio EPA and NPDES permit covered issued
(3) Physical marking in the field of protected areas or critical areas, including wetlands and riparian areas
(4) Installation of construction entrances, perimeter sediment barriers and other erosion and sediment controls that must be in place to address initial site conditions.

(e) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the sublot is in compliance with this regulation.

(f) The developer, engineer and contractor, and other principal parties, shall meet with the City Engineer for a Pre-Construction Meeting no less than seven (7) days prior to soil-disturbing activity at the site to ensure that erosion and sediment control devices are properly installed, limits of disturbance and buffer areas are properly delineated and construction personnel are aware of such devices and areas. Pre-Construction Meetings for Abbreviated SWP3s may be waived at the discretion of the City Engineer.

(g) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.

1351.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with SWP3s or Abbreviated SWP3s.

(a) Ohio EPA Construction General Permit: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI), a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit including the NPDES Facility Permit number assigned by Ohio EPA, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable. Please note that when a separate SWP3 shall be prepared for a separate phase or stage of development, a separate NOI or NPDES Facility Permit number must be provided.

(b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from a qualified professional certifying that they have surveyed the site and determined that Section 401 of the Clean Water Act is not applicable because there are no wetlands on site. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(c) Ohio EPA Isolated Wetland or Ephemeral Stream Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit or Ephemeral Stream application tracking number, public notice, project approval, or a letter from a qualified professional certifying that they have surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit or Ephemeral Stream Permit is not applicable because there are no wetlands or ephemeral streams on the site. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. 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 one of the following:

(1) A letter from a qualified professional certifying that they have evaluated the site and determined that Section 404 of the Clean Water Act is not applicable because there are no wetlands on site.
(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.

(e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

1351.08 STORMWATER POLLUTION PREVENTION PLAN (SWP3)

The applicant shall submit a SWP3 that meets the requirements of the Construction General Permit and the following additional requirements. The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect. The SWP3 shall include control measures to ensure that discharges from the construction site and construction support activities comply with the non-numeric effluent limitations contained in the Construction General Permit.

In addition to all information required by the Construction General Permit, the SWP3 shall also include completed design tools found on Ohio EPA's website such as the Sediment Basin Compliance Spreadsheet.

Before any off-site support areas such as borrow or spoil areas, concrete or asphalt batch plants, equipment staging yards or material storage areas are utilized, a SWP3 for the off-site support area must be submitted and approved by the City Engineer. The applicant shall ensure appropriate permits have been obtained to operate the off-site support area. Failure to do so can lead to enforcement action under Sections 1351.13 and 1351.14 of this code.

The City Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. 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 City Engineer shall be incorporated in the grading plans and/or other specifications for site development.

(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.

(g) Delineations of surface waters of the state located on the site. Affirmation by the U.S. Army Corps of Engineers may be required.

1351.09 PERFORMANCE STANDARDS

The SWP3 must contain a description of the controls appropriate for each stage of construction operation and the applicant must implement such controls. BMP selection and design must meet criteria established within the current Construction General Permit. BMPs must be designed, constructed and installed to meet the specifications in *Rainwater and Land Development* or another design manual acceptable to the City of Willoughby. The approved SWP3, and the sediment and erosion controls, and non-sediment pollution controls contained therein, shall be implemented and maintained according to the requirements in the Construction General Permit. Site operators must conduct site inspections as described in the Construction General Permit.

Certified inspection reports shall be submitted to the City Engineer within seven (7) working days from the inspection and retained at the development site.

The following standards will also apply:

(a) BMPs must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These BMPs must include, but are not limited to, the following:

(1) Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter placed over a geotextile. Culverts shall be provided where construction entrances cross drainage ditches and water bars shall be provided to divert sediment-laden runoff away from connected roadways.

(2) Streets and catch basins adjacent to construction entrances shall be kept free of sediment tracked off site. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly and protected from sediment-laden runoff, if feasible without posing a public safety hazard.

(3) Based on site conditions, the City Engineer and/or the Lake County SWCD may require additional best management practices to control off site tracking and dust. These additional BMPs may include:

A. Fencing shall be installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.

B. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The City Engineer and/or the Lake County SWCD may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.

(b) Construction vehicles shall avoid water resources. If it is infeasible to provide and maintain an undisturbed natural buffer around water resources, the SWP3 shall comply with all the following additional requirements:

(1) All stream crossings shall be designed as specified in the most recent edition of *Rainwater and Land Development*.

(2) Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.

(3) 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.

(4) Protected areas or critical areas, including wetlands and riparian areas shall be physically marked in the field prior to earth disturbing activities.

(c) For sites that will not be completed by October 1, a Pre-Winter Stabilization Meeting shall be held by the landowner and the developer, engineer and contractor of the project and the City of Willoughby prior to October 1, in order to plan and approve winter erosion and sediment controls as defined in the most current online edition of *Rainwater and Land Development*.

1351.10 ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3)

(a) In order to control sediment pollution of water resources, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this regulation.

(b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The Abbreviated SWP3 shall include a minimum of the following BMPs. The City of Willoughby may require other BMPs as site conditions warrant.

(1) Construction Entrances: Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter and placed over a geotextile fabric.

(2) Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be indicated on the plan. Use for other waste and wastewater is prohibited.

(3) Street Sweeping: Streets directly adjacent to construction entrances and receiving traffic from the development area shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.

(4) Stabilization. The development area shall be stabilized as detailed in Table 4.

Table 4: Stabilization

Area requiring stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a surface water of the state and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 14 days
For all construction activities, any disturbed area, including soil stockpiles, that will be dormant for more than 14 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1

Areas at final grade	Within 7 days of reaching final grade or within 2 days of reaching final grade for areas within 50 feet of a surface water of the state
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

(5) Inlet Protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed on storm water catch basins located on the subject property and, if there is no threat to public safety, on curb inlets closest to the construction entrance, to minimize sediment-laden water entering active storm drain systems, including rear yard inlets.

(6) Silt Fence and Other Perimeter Controls. Silt fence and other perimeter controls approved by the City of Willoughby shall be used to protect adjacent properties and water resources from sediment discharged via sheet (diffused) flow. Silt fence shall be placed along level contours and the permissible drainage area is limited to those indicated in the Construction General Permit.

(7) Internal Inspection and Maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24-hour period. Maintenance shall occur as detailed below:

A. When BMPs require repair or maintenance. If the internal inspection reveals that a BMP is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

B. When BMPs fail to provide their intended function. If the internal inspection reveals that a BMP fails to perform its intended function and that another, more appropriate control practice is required, the Abbreviated SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

C. When BMPs depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a BMP has not been implemented in accordance with the schedule, the BMP must be implemented within ten (10) days from the date of the inspection. If the inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(8) Final Stabilization: Final stabilization is achieved when the site has reached 70% cover and when the City Engineer approves the site condition.

1351.11 FEES

The SWP3 and Abbreviated SWP3, or Erosion and Sediment Control Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Willoughby and the Lake County SWCD before the review process begins. Please consult with City Engineer for current fee schedule. Applicants will be charged $250 for each

additional inspection that Lake County SWCD must conduct if a site has one of the following compliance issues:

(a) Construction activities have started at the site with no SWP3 completed;

(b) Failure to install sediment basin(s) when the SWP3 and/or site drainage clearly indicate as a first step (within 7 days prior to grading and within 7 days of grubbing)

(c) Failure to implement any sediment/erosion controls; or

(d) Dewatering activities resulting in turbid discharges.

1351.12 BOND

(a) If a SWP3 or abbreviated SWP3 is required by this regulation, soil disturbing activities shall not be permitted until a cash bond or deposit has been deposited with the City of Willoughby Building Department. The amount shall be a $1,000 minimum, and an additional $1,000 paid for each subsequent acre or fraction thereof or the cost of stabilizing disturbed areas based on a fee schedule established by the City of Willoughby. The bond will be used for the City of Willoughby to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less City of Willoughby administrative fees as detailed in Chapter 1351 of the City of Willoughby Codified Ordinances, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the City Engineer.

(b) A portion of bond (equivalent of cost to apply final stabilization) will be retained until all areas disturbed by construction activity are permanently stabilized and a Notice of Termination has been submitted to Ohio EPA. Where vegetative growth is used to achieve permanent stabilization, the area shall comply with final stabilization requirements of the Construction General Permit.

(c) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the City Engineer.

1351.13 ENFORCEMENT

(a) If the City of Willoughby and/or the Lake County SWCD determines that a violation of the rules adopted under this code exist, the City of Willoughby or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity.

(b) All development areas may be subject to external inspections by the City Engineer and/or the Lake County SWCD to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(c) After each external inspection, the City Engineer and/or the Lake County SWCD shall prepare and distribute a status report to the applicant.

(d) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City Engineer and/or the Lake County SWCD may take action as detailed in Sections 1351.13 and 1351.14 of this regulation.

(e) Failure to maintain and repair erosion and sediment controls per the approved SWP3 plan may result in the following escalation. The penalty is determined by the total number of violations per site even if the violations are for different BMPs.

(1) First Violation: The Chief Building Inspector will issue a Notice of Deficiency to the owner or operator. All controls are to be repaired or maintained per the SWP3 plan within three (3) days of the notification. If controls have not been corrected after this time, the Chief Building Inspector may issue a Stop Work Order for all activities until corrections have been made.
(2) Second Violation: The Chief Building Inspector may issue a formal Notice of Violation which includes a $500 administrative fee against the SWP3 Bond or site plan deposit. All controls are to be repaired or maintained per the approved SWP3 plan within three (3) days of the Notice of Violation. If controls have not been corrected after this time, the Chief Building Inspector may issue a Stop Work Order for all activities until corrections have been made.
(3) Third and subsequent violations: The Chief Building Inspector may issue a Stop Work Order for all construction activities and charge a $1,000 administrative fee against the SWP3 bond or site plan deposit. The Stop Work Order will be lifted once all controls are in compliance with the approved SWP3 plan.

(f) The City Engineer shall have the authority to make immediate on-site adjustments to the SWP3 in order to achieve compliance with this ordinance.

(g) A final inspection will be made to determine if the criteria of this code has been satisfied and a report will be presented to the City of Willoughby and the site operator on the site's compliance status.

(h) The City Engineer will monitor soil-disturbing activities for non-farm residential, commercial, industrial, or other non-farm purposes on land of less than one contiguous acre to ensure compliance required by these Rules.

(i) The City Engineer shall notify the U.S. Army Corps of Engineers when a violation on a development project covered by an Individual or Nationwide Permit is identified. The City Engineer shall notify the Ohio Environmental Protection Agency when a violation on a development project covered by a Section 401 Water Quality Certification and/or Isolated Wetland Permit is identified.

(j) The City of Willoughby shall not issue building permits for projects regulated under this code without approved SWP3s or Erosion and Sediment Control Plans.

1351.14 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 Chief Building Inspector and/or his designee 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 applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Chief Building Inspector and/or his designee 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.

1351.15 APPEALS

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Willoughby in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with Ohio Revised Code Chapters 2505 and 2506. Written notice of appeal shall be served on the City of Willoughby and a copy shall be provided to the Lake County SWCD.

1351.16 PERMIT REQUIRED.

No work under this Chapter shall be commenced or performed prior to or without the issuance of a permit from the City's Chief Building Inspector authorizing such work.

1351.99 PENALTY

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who 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 the City of Willoughby 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 City of Willoughby.

SECTION 2. That the existing Chapter 1351 of the Codified Ordinances of the City of Willoughby, Ohio is hereby repealed in that said Chapter is superseded by this legislation.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were conducted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such actions were conducted in meetings open to the public in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the inhabitants of the community; and for the further reason to comply with time frames mandated by federal and state regulations; and provided that it receives the affirmative vote of two-thirds of the members elected to Council, it shall be in full force and take effect immediately upon its passage by Council and approval by the Mayor; otherwise, it shall be in full force and take effect from and after the earliest period allowed by law.

Passed: July 14, 2026 _____
President of Council

Attest: _____
Clerk of Council

Date: 07.15.26 Approved: _____
Mayor

Submitted to the Mayor for his approval on this 15th day of July, 2026.

_____
Clerk of Council