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**CITY OF TURNER, OREGON  
ORDINANCE 13-104**

**CREATING TITLE 8 SECTION 3 OF THE TURNER  
REVISED CODE; ESTABLISHING EROSION CONTROL  
AND POLLUTION PREVENTION REGULATIONS**

**WHEREAS,** The City of Turner was granted a Municipal Storm water Permit (MS4) by DEQ in 2006;

**WHEREAS,** One of the six required Best Management Practice components is for the City to develop an erosion control program;

**WHEREAS,** The Cities current erosion control rules do not meet the standards required by the permit;

**NOWHEREFORE, The City of Turner ordains as follows:**

8.03.01        TITLE, PURPOSE AND GENERAL PROVISIONS. This Ordinance shall be known as the Erosion Control Ordinance of the City of Turner and may be so cited.

8.03.02        PURPOSE AND INTENT. The purpose and intent of this Ordinance is to minimize the amount of sediment and other pollutants reaching the stormwater system as a result of construction, grading, excavating, clearing and any other activity which may cause or accelerate erosion and to minimize the disturbance of existing vegetation in order to maximize infiltration of runoff. The objective is to control erosion and pollution at its source as a means of maintaining and improving water quality and minimizing water pollution, downstream flooding, and wildlife habitat damage.

8.03.03        DEFINITIONS. The terms used in this Ordinance shall have the following meanings:

(a) **“Applicant”** means the owner of a property or his or her agents or contractors who have applied for a permit pursuant to 8.03.05.

(b) **City.** The City of Turner.

(c) **Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

1 (d) “Control Measure” shall mean any measure designed to prevent or minimize the  
2 occurrence of erosion, or spills, or designed to prevent/minimize the movement of sediment,  
3 solid or liquid pollutants, or spilled material, or to contain such materials on the project site.  
4 Control measures may also include policies and procedures designed to respond to spills or to  
5 track plan elements.

6 (e) “**Disturb or Disturbance**” means any activity that exposes soil.

7 (f) “**Erosion**” means any detachment and movement of soil, rock fragments, mulch, fill  
8 or sediment.

9 (g) “**Fill**” means any placement of organic or inorganic material.

10 (h) “**Guidance Manuals**”. Reference manuals to assist with the design and  
11 implementation of erosion control and pollution prevention activities.

12 (i) “**Inspector**” means an official of the City of Turner who examines the plan and  
13 control measures to determine compliance.

14 (j) “**Mulch**”. Plant residue, straw, netting, compost, or other material applied to the  
15 land surface to conserve moisture, hold soil in place and aid in establishing plant cover.

16 (k) “**Permit**” means the written document issued by the City granting permission to  
17 proceed with a project according the accepted plan.

18 (l) “**Permitee**” means the person who signs the permit, signifying acceptance of  
19 responsibility to ensure that project activities comply with the Erosion Control Ordinance and  
20 are in accordance with the approved Plan for the project.

21 (m) “**Plan**” shall mean either the Construction Site Pollution Prevention Plan or the  
22 Construction Site Pollution Prevention Plan –B, depending on the size and location of the  
23 project.

24 (n) “**Pollution**” or “**Pollutant**” shall mean any sediment, chemical, construction  
25 material, debris, or solid or liquid waste, generated by project activities which if allowed to  
26 move off the project site, could cause detriment to the stormwater system, or a nuisance to the  
27 public.

28 (o) “**Project**” shall mean the collective actions on one property and overseen by one  
29 responsible party which meet or exceed the thresholds triggering the need for a Permit.

30 (p) “**Property or Site**”. The property upon which activities are conducted which

1 require a Permit .

2 (q) “**Public Works Director**”. The Public Works Director of the City of Turner, or  
3 his/her designee.

4 (r) “**Sediment**”. Any material that is in suspension, is being transported, or has been  
5 moved from its original site by the action of erosion.

6 (s) “**Site**”. See Property

7 (t) “**Stormwater System**”. All natural and human-made facilities that regulate the  
8 direction, quantity and quality of surface or groundwater, including drainage easements,  
9 culverts, storm drains, catch basins, underground injection control systems, stream corridors,  
10 rivers, ponds, ditches, swales, intermittent waterways, or wetlands and impoundments.

11 (u) “**Visible or Measurable Erosion**”. Any sediment transfer exceeding one-half cubic  
12 foot in volume which is allowed to travel off site or enter the stormwater system.

13 (v) “**Waste**”. See Pollution

14 (w) “**Waters of the State**”. Lakes, bays, ponds, impounding reservoirs, springs, wells,  
15 rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial  
16 limits of the State of Oregon, and all other bodies of surface or underground waters, natural or  
17 artificial, inland or coastal, fresh or salt, public or private (except those private waters that do  
18 not combine or effect a junction with natural surface or underground waters) that are located  
19 wholly or partially within or bordering the state or within its jurisdiction.

20 (x) “**Wetland**”. An area that is inundated or saturated by surface water or groundwater  
21 at a frequency and duration sufficient to support, and that under normal circumstances does  
22 support, a prevalence of vegetation typically adapted for life in saturated soil conditions,  
23 commonly known as hydrophytic vegetation. Wetlands generally include, but are not limited  
24 to, swamps, marshes, bogs and similar areas.

25 8.03.04. **GUIDANCE MANUALS.** The Public Works Director is hereby  
26 authorized to administratively adopt Erosion Control and/or Pollution Prevention Guidance  
27 Manuals to assist the Public Works Department in plan review and permit issuance. Such  
28 guidance manuals shall be advisory only and the Public Works Director has discretion where

1 the situation requires to vary from the guidelines set forth in the manuals. Compliance with any  
2 procedure listed in the manuals does not release the applicant or permittee from any conditions,  
3 requirements and/or penalties listed in this Ordinance.

4 8.03.05. PERMIT PROCEDURES. An erosion control permit issued by the  
5 Public Works Director shall be required prior to conducting construction activities which  
6 may cause disturbance greater than or equal to one acre, or a disturbance of less than one  
7 acre if the activity is part of a larger common plan of development greater than 1 acre. At  
8 the discretion of the City Administrator, a permit will also be required for any activity  
9 disturbing 1000 square feet or more on any tax lot directly adjacent to or containing any  
10 portion of Waters of the State, wetlands or manmade water bodies that empty into waters of  
11 the state.

12 This ordinance does not substitute for State law. Any and all permits required from the State  
13 of Oregon for specific construction activity shall be required and presented prior to  
14 application and processing of a City Erosion Control Permit.

15 (a) In order to request a permit, an applicant shall submit the appropriate plan  
16 pursuant to 8.03.06, and any associated permit application materials.

17 (b) The Public Works Director shall grant, deny, or condition the request for a  
18 permit within twenty (20) days after the date of receipt of all completed application  
19 materials, unless the time for a decision has been waived by the applicant.

20 (c) Once the inspector has given approval to proceed, a permit can be issued.  
21 The applicant shall not commence activities or consider the permit to have been granted  
22 until the permit is received. The applicant may not consider the permit to have been granted  
23 until the permit is received, and signed by the City and the Permittee.

24 (d) The Public Works Director shall refuse to grant a permit where conditions  
25 cannot be met or are not accepted.

26 (e) The permittee shall have a copy of the permit and accepted plan on site  
27 during the activities, and must present either upon the request of the Public Works Director.

28 (f) Once activities are completed, the site must be stabilized and all non-

1 permanent control measures must be properly removed. Once these requirements have been  
2 approved by the Inspector, the permit may then be closed. Certificate of Occupancy may be  
3 withheld until permit closure is accomplished.

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5 8.03.06. REQUIRED PLANS.

6 (a) Construction Site Pollution Prevention Plan (CSPPP) –This plan is required for  
7 activities which must obtain an erosion control permit as stated in 8.03.05.

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9 8.03.07. REQUIRED CONTROL MEASURES. Any plan submitted pursuant to

10 8.03.06 shall use and comply with the following methods of erosion control and pollution  
11 prevention throughout the disturbance period to prevent visible or measurable erosion and to  
12 otherwise prevent pollutants from moving off site. These measures shall be enforceable 24  
13 hours a day:

14 (a) Disturbance shall be confined to the immediate construction site only. Adequate  
15 perimeter control measures shall be used to contain sediment, pollution or runoff from leaving  
16 the site. The project site shall be stabilized during periods of no work, including after each  
17 work day.

18 (b) All disturbed areas not being actively worked must be stabilized within 14 days of  
19 inactivity. Permanent stabilization measures shall be used on all disturbed areas not being  
20 actively worked for 60 days or more, to prevent erosion and transport of sediments. An  
21 alternate time frame may approved by the Public Works Director.

22 (c) If construction equipment or vehicles will be used onsite, an adequate construction  
23 entrance shall be installed and utilized at each access point to minimized track-off of material.

24 (d) Appropriate control measures shall be in place to prevent sediment or pollution from  
25 entering the stormwater system. Pollution-laden water shall not be flushed nor allowed to enter  
26 the stormwater system.

27 (e) Dust shall be minimized by using appropriate control measures.

28 (f) Adequate waste management methods shall be employed to protect the stormwater  
29 system from any exposure to solid or liquid waste or pollution generated on-site. Foreign

1 material is prohibited from being buried on site.

2 (g) Permittee must inspect and maintain the control measures identified in the plan, taking  
3 corrective action as necessary. Inspections shall occur at least once every 4 work days and  
4 within 1 calendar day of any storm event exceeding one-half inch of precipitation within a 24  
5 hour period. During inactive periods, this inspection frequency may be reduced to once every 14  
6 days at the discretion of the Public Works Director.

7 8.03.09. PLAN IMPLEMENTATION. Upon the City's acceptance of the plan, the  
8 conditions of the plan shall be implemented as follows:

9 (a) Adhering to Plan. Permittee shall adhere to the approved plan for the project. Any  
10 changes to the plan must be approved by the Public Works Director.

11 (b) Installation of Control Measures. Installation of control measures shall occur prior  
12 to any disturbance.

13 (c) Maintenance of Control Measures. Maintenance of all control measures pursuant to  
14 an approved plan shall be the responsibility of the permittee. During active construction or any  
15 other activity which might result in erosion or pollution, the permittee shall inspect control  
16 measures and shall maintain, adjust, repair or replace control measures to ensure that they are  
17 functioning properly and are in keeping with the provisions of the approved plan. The permittee  
18 shall maintain written records of all site inspections of control measures and shall provide them  
19 to the Public Works Director or inspector upon request.

20 (d) Duration of Maintenance. The permittee shall maintain control measures pursuant  
21 to the approved plan and this ordinance until soils are stabilized as determined by the Public  
22 Works Director.

23 (e) Correction of Ineffective Control Measures. In the event that any control measure  
24 experiences a failure or insufficiency in function or design, the permittee shall immediately  
25 undertake corrective actions in the form of remedial control measures or techniques to amend  
26 the deficiency as directed by the Public Works Director.

27 (f) Discharge. Any pollutant discharged to adjacent property, right-of-way, stormwater  
28 system, Waters of the State or wetlands shall be removed at the expense of the permittee.  
29 Should the removal be deemed likely to cause more environmental damage than leaving the  
30 material in place, mitigation practices may be allowed. Mitigation shall be at the discretion of

1 the Public Works Director and shall only be allowed upon express written authority of the  
2 Director.

3 (g) Record-Keeping. Records of inspections, corrective actions, and approved changes to  
4 the plan shall be maintained and kept on the project site at all times.

5 (h) Permit closure. Permittee must close the permit at the completion of the project.  
6 Prior to permit closure, all temporary control measures shall be removed and final stabilization  
7 shall be achieved as determined by the inspector. The permit must be closed prior to the site  
8 receiving an occupancy permit.

9 8.03.10. PROHIBITED ACTIVITIES.

10 (a) No person shall cause or suffer visible and measurable erosion or pollutants to  
11 leave the project site, , or to otherwise drag, drop, track, or otherwise place or deposit, or permit  
12 to be deposited any pollution from the site upon a public or private street or into any part of the  
13 stormwater system, or any part of a private storm drainage and surface water system which  
14 drains or connects to the public storm drainage and surface water system, or bury on any portion  
15 of the construction site.

16 (b) No person shall wash or flush any pollutant-laden water into any part of the  
17 storm water system.

18 8.03.11. VIOLATIONS/PENALTIES.

19 (a) A violation of or failure to comply with any requirements of this Ordinance or of the  
20 approved plan shall constitute an infraction and shall be punished as set forth in the Turner  
21 Revised Code.

22 (b) Any violation of this Ordinance or an approved plan which results in visible or  
23 measureable erosion or pollutant transport off site is hereby declared to be a nuisance and may  
24 be abated pursuant to the procedures put forth in TRC 5.18.04. Notwithstanding the provisions  
25 of such Ordinance, the Public Works Director may summarily abate such nuisance.

26 (c) In addition to those penalties available under TRC 1.39.00 through 1.46.00 and  
27 5.18.04, the following penalties and remedies are available for use by the City:

- 28 1. The Public Works Director may order all or part of the work to be stopped on any  
29 project where control measures are not being properly maintained or are not  
30 functioning properly. Notice to stop work may be immediate if appropriate under

1 the circumstances at the discretion of the Public Works Director.

2 2. The Public Works Director may refuse to accept, approve, or certify completion  
3 of any development or building permit or project, or may deny occupancy on the  
4 subject property until control measures have been properly installed, maintained,  
5 and/or removed and site stabilization has been confirmed by the inspector following  
6 completion of activities, in accordance with this Ordinance.

7 3. The owner of the property from which any visible or measurable erosion or  
8 pollutant discharges occur, together with any person or parties who cause such  
9 discharges, shall be responsible to remediate any impacts and take measures to  
10 prevent any future occurrences.

11 4. Upon request of the Public Works Director, or direction from the City Council,  
12 the City Attorney may institute appropriate action in any court to enjoin a  
13 development of a site or building project which is in violation of this Ordinance or  
14 to require conformance with this Ordinance.

15 5. In lieu of enforcement proceedings, penalties, and remedies authorized by this  
16 Ordinance, the Public Works Director may propose alternative compensatory  
17 actions.

18 (d) The rights, remedies and penalties provided in this Ordinance are cumulative, are  
19 not mutually exclusive, and are in addition to any other rights, remedies and penalties available  
20 to the City under any other provision of law.

21 8.03.12. NOTICE PROCESS. When required by this Ordinance, notice shall be in  
22 writing and delivered personally or by certified mail, postage prepaid, return receipt requested  
23 to the Applicant's/Permittee's last known address. In addition, the subject property shall be  
24 posted with the written notice.

25 8.03.13. RESPONSIBILITY FOR ADMINISTRATION. The Public Works  
26 Director shall administer, implement, and enforce the provisions of this Ordinance.

27 8.03.14. SEVERABILITY. The provisions of this Ordinance are hereby declared  
28 to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the  
29 application thereof to any person, establishment, or circumstances shall be held invalid, such  
30 invalidity shall not affect the other provisions or application of this Ordinance.



