

4.31.00 ILLICIT DISCHARGE AND DETECTION. This Ordinance shall be known as the Storm water Discharge Control Ordinance of the City of Turner and may be so cited.

4.31.01 Purpose And Intent. The purpose and intent of this Ordinance is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of waterways and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon Department of Environmental Quality by reducing pollutants in storm water discharges and by prohibiting non-storm water discharges to the storm drain system

4.31.02 Definitions. The terms used in this Ordinance shall have the following meanings: (a) "Bank" means:

(1) That portion of a waterway that is exposed from the Ordinary High Water Line (OHWL) and extends to upland.

(b) BMP means best management practices.

(c) City. The City of Turner.

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

(e) Construction Activity. Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(f) Hazardous Materials. Any material, including any substance, waste, or

combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(g) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 9.

(h) Illicit Connections. An illicit connection is defined as either of the following: (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

(i) Industrial Activity. Activities subject to NPDES Industrial Permits.

(j) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits. General, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations and regulated

through the Oregon Department of Environmental Quality.

(k) Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

(l) "Ordinary High Water Line" (OHWL). The line on the bank or shore to which the high water ordinarily rises annually in season. The OHWL excludes exceptionally high water levels caused by large flood events (e.g., 100 year events).

(m) Person Responsible or Responsible Person. The equitable or legal owner of the subject property, a lessee, tenant or person in possession of the property, or the person or persons directly or indirectly responsible for an act.

(n) Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

(o) "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of

any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

(p) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(q) Storm Drain System. Public facilities under the jurisdiction of the City by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City.

(r) Storm water. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(s) UIC means underground injection control. A UIC is a subsurface distribution system for storm water; usually an assemblage of perforated pipes, drain tiles or other mechanisms intended to distribute fluids below the surface of the ground.

(t) "Waters of the State" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits

of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

(u) Waterway means a body of water (whether natural or man-made) that periodically or continuously contains waters of the state and has a definite bed and banks that serve to confine the water

4.31.03 Applicability. This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the City of Turner including any amendments or revisions thereto.

4.31.04 Responsibility For Administration. The City Administrator of the City, or his/her designee shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the City Administrator may be delegated by the City Administrator to persons or entities acting in the beneficial interest of or in the employ of the City.

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

4.31.06 Regulatory Consistency. This Ordinance shall be construed to assure consistency with the requirements of the Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon Department of Environmental Quality and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

4.31.07 Ultimate Responsibility Of Discharger. The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into Waters of the State caused by said person. This Ordinance shall not create liability on the part of the City of Turner, or any agent or employee thereof for any damages that result from any discharger's reliance on this Ordinance or any administrative decision lawfully made hereunder.

4.31.08 Prohibition Of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system, UICs, or waterways any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to Waters of the State when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges under the Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules or this Ordinance:

- 1) potable water line flushing;
- 2) uncontaminated pumped groundwater and other discharges from potable water sources;

- 3) landscape irrigation and lawn watering;
- 4) diverted stream flows; rising groundwater; groundwater infiltration to the storm drain system;
- 5) uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps;
- 6) air conditioning condensation; uncontaminated nonindustrial roof drains;
- 7) springs;
- 8) individual residential car washing and/or occasional non-commercial car washing (e.g. fundraising purposes);
- 9) flows from riparian habitats and wetlands;
- 10) dechlorinated swimming pool, hot tub, spa or similar discharges;
- 11) street wash waters;
- 12) flows from fire fighting.

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Oregon Department of Environmental Quality under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City of Turner for any discharge to the storm drain system.

4.31.09 Prohibition Of Illicit Connections .

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made

in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

4.31.10 Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, UICs, or Waters of the State, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in proper waste receptacles for the purposes of collection are exempted from this prohibition.

4.31.11 Discharges In Violation Of Industrial Or Construction Activity NPDES Storm Water Discharge Permit.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Failure to comply with all provisions shall constitute a violation of this Ordinance. Proof of compliance with said permit may be required in a form acceptable to the City Administrator prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

4.31.12 Waterway Protection. Every person owning property through which a waterway passes, or such person's lessee, shall keep and maintain that part of the waterway within the property free of trash, debris and contamination that would

pollute, contaminate the water flowing through the waterway

4.31.13 Requirement To Monitor And Analyze.

The City Administrator may require by written notice that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the storm drain system, UICs, or Waters of the State, to undertake at said person's expense such monitoring and analyses and furnish such reports to the City of Turner as deemed necessary to determine compliance with this Ordinance.

4.31.14 Illegal Discharge Procedure.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the State from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Upon discovery of any illicit discharge, the responsible person shall immediately notify the City Administrator or other available City personnel.

4.31.15 Authority To Inspect.

Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the City Administrator has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Ordinance, the Director, or his/her designee, may enter such premises at all times to inspect the same and to inspect

and copy records related to storm water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek warrant or other assistance from any court of competent jurisdiction in obtaining such entry, including, but not limited to Municipal Court Warrant.

4.31.16 Authority To Sample, Establish Sampling Devices, And Test. During any inspection as provided herein, the City Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

4.31.19 Requirement To Eliminate Illegal Discharges. Notwithstanding the requirements of Section 23 (Emergency Abatement) herein, the City Administrator may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges. Failure to comply with the requirements of the notice within the time stated shall constitute a violation of this Ordinance.

4.31.20 Requirement To Eliminate Or Secure Approval For Illicit Connections.

(a) The City Administrator may require by written notice that the person responsible for an illicit connection to the storm drain system comply with the requirements of this Ordinance to either eliminate the connection or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or

approved prior to the effective date of this Ordinance.

(b) If, subsequent to eliminating a connection found to be in violation of this Ordinance, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

4.31.21 Requirement To Remediate. Whenever the City Administrator finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or Waters of the State, the City Administrator may require by written notice to the responsible person that the pollution be remediated and the affected property restored within a specified time. Failure to comply with the requirements of the notice within the time stated shall constitute a violation of this Ordinance.

4.31.22 Notice Of Violation. Whenever the City Administrator finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, he may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards

and the restoration of any affected property; and
(e) The implementation of source control or treatment BMPs supplied by the City Administrator or his/her designee.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor designated by the City Administrator and the expense thereof shall be charged to the violator pursuant to Section 24.

4.31.23 Abatement By City. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the City or a contractor designated by the City Administrator may enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

4.31.24 Emergency Abatement. The City Administrator, or his/her designee, is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the City Administrator, the City of Turner is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense

related to such remediation undertaken by the City of Turner shall be fully reimbursed by the property owner and/or responsible party pursuant to Section 24. Any relief obtained under this section shall not prevent City from seeking other and further relief authorized under this Ordinance.

4.31.25 Charging Cost Of Abatement/Liens.

(a) Following completion of abatement by the City, the City Administrator, by certified mail, postage prepaid, return receipt requested, shall forward to the responsible person a statement of costs which include: The total costs of abatement, including administrative overhead. A statement that the costs as indicated will be assessed against the subject property unless paid within ten (30) days of the date of the statement. A statement that the City Council will hold a public hearing to determine the correctness of the statement and to declare a lien against the subject property on a date which is at least ten (10) days from the date of the statement.

(b) After the expiration of ten (10) days after the date of the statement, the City Council, in the regular course of business, shall hold a public hearing to hear the matter. Following the hearing, the Council may, by ordinance, determine the correctness of such statement and declare the same to be a lien upon the subject property, to be entered in the lien docket and enforced against the property, in the same manner provided for the enforcement of liens for street improvement. Such determination by the Council shall be considered a final order. Appeal from the Council's final order shall be by way of writ of review only, pursuant to ORS 34.020 et seq.

(c) An error in the name of the responsible person shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

(d) The lien shall bear interest at the rate of nine percent (9%) per annum. The interest shall commence to run from the date of entry of the lien in the lien docket.

4.31.26 Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. A violation of or failure to comply with any of the requirements of this Ordinance shall be considered a General Penalty under TRC 1.45.00.

4.31.27 Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the City Administrator may propose alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

4.31.28 Notice Process. When required by this Ordinance, notice shall be in writing and delivered personally, by posting or by certified mail, postage prepaid, return receipt requested.