

1 BILL NO. 690

A BILL

ORDINANCE NO.  
2014- 711

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3 FOR

4  
5 AN ORDINANCE

6  
7 ESTABLISHING EROSION CONTROL AND POLLUTION  
8 PREVENTION REGULATIONS; **REPEAL OF ORDINANCE**  
9 **NO. 2011-635**

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11 The City of Keizer ordains as follows:

12 Section 1. TITLE, PURPOSE AND GENERAL PROVISIONS. This Ordinance  
13 shall be known as the Erosion Control Ordinance of the City of Keizer and may be so cited.

14 Section 2. PURPOSE AND INTENT. The purpose and intent of this Ordinance is  
15 to minimize the amount of sediment and other pollutants reaching the stormwater system as a  
16 result of construction, grading, excavating, clearing and any other activity which may cause or  
17 accelerate erosion and to minimize the disturbance of existing vegetation in order to maximize  
18 infiltration of runoff. The objective is to control erosion and pollution at its source as a means  
19 of maintaining and improving water quality and minimizing water pollution, downstream  
20 flooding, and wildlife habitat damage.

21 Section 3. DEFINITIONS. The terms used in this Ordinance shall have the  
22 following meanings:

23 (a) **Applicant.** The owner of a property or his or her agents or contractors who have  
24 applied for a permit pursuant to Section 5.

25 (b) **City.** The City of Keizer.

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

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

8 (e) **Disturbance.** Any activity that exposes soil.

9 (f) **Erosion.** Detachment and movement of soil, rock fragments, mulch, fill or sediment.

10 (g) **Fill.** Placement of organic or inorganic material.

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

13 (i) **Inspector.** Any City staff member designated to examine the plan, control measures,  
14 and site conditions to determine compliance and issue the permit.

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

17 (k) **Ordinary High Water Mark.** The line on the bank or shore to which the high  
18 water ordinarily rises. The Ordinary High Water Mark excludes exceptionally high water levels  
19 caused by large flood events (e.g., 100-year events).

20

1 (l) **Permit.** The written document issued by the City granting permission to proceed with  
2 a project according to the accepted plan.

3 (m) **Permittee.** Person who signs the permit, signifying acceptance of responsibility to  
4 ensure that project activities comply with the Erosion Control Ordinance and are in accordance  
5 with the approved Plan for the project.

6 (n) **Plan.** Either the Construction Site Pollution Prevention Plan or the Construction Site  
7 Pollution Prevention Plan –B described in Section 6, depending on the size and location of the  
8 project.

9 (o) **Pollution or Pollutant.** Any sediment, chemical, construction material, debris, or  
10 solid or liquid waste generated by project activities which if allowed to move off the project site  
11 could cause detriment to the stormwater system or the environment, or would constitute a public  
12 nuisance.

13 (p) **Project.** The collective actions on one property and overseen by one responsible  
14 party which meet or exceed the thresholds triggering the need for a Permit.

15 (q) **Property.** The property upon which activities are conducted which require a Permit.

16 (r) **Public Works Director.** The Public Works Director of the City of Keizer, or his/her  
17 designee.

18 (s) **Sediment.** Any material that is in suspension, is being transported, or has been  
19 moved from its original site by the action of erosion.

20

1 (t) **Site.** See Property.

2 (u) **Stormwater System.** All natural and human-made facilities that regulate the  
3 direction, quantity and quality of surface or groundwater, including, but not limited to drainage  
4 easements, culverts, storm drains, catch basins, underground injection control systems, stream  
5 corridors, rivers, ponds, ditches, swales, intermittent waterways, wetlands, vegetated stormwater  
6 facilities and impoundments.

7 (v) **Visible or Measurable Erosion.** Any sediment transfer exceeding one-half cubic  
8 foot in volume which is allowed to travel off site or enter the stormwater system.

9 (w) **Waste.** See Pollution.

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

16 Section 4. GUIDANCE MANUALS. The Public Works Director is hereby  
17 authorized to administratively adopt Erosion Control and/or Pollution Prevention Guidance  
18 Manual(s) to assist the Public Works Department in plan review and permit issuance. Such  
19 guidance manuals shall be advisory only and the Public Works Director has discretion to vary  
20 from the guidelines set forth in the manuals, where the situation requires. Compliance with any

1 procedure listed in the manuals does not release the applicant or permittee from any conditions,  
2 requirements and/or penalties listed in this Ordinance.

3 Section 5. PERMIT PROCEDURES. An erosion control permit issued by the  
4 Public Works Director or Inspector shall be required prior to conducting any activities which  
5 may singly or cumulatively cause greater than 2,000 square feet of disturbance. A permit shall  
6 also be required for any activities which may singly or cumulatively cause greater than 200  
7 square feet of disturbance, if any portion of said disturbance is within 75 feet of the ordinary  
8 high water mark of the Willamette River, or within 50 feet of any other Waters of the State.

9 (a) In order to request a permit, an applicant shall submit the appropriate plan  
10 pursuant to Section 6, and any associated permit application materials.

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

14 (c) An initial site inspection may be conducted prior to permit issuance, to ensure  
15 control measures are in place. In such case, if the control measures are properly in place and  
16 other conditions met, a permit may be issued. The applicant may not consider the permit to  
17 have been granted until the permit is received, and signed by the City and the Permittee.

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

1 (e) No Permit is transferable without the consent in writing of the Public Works  
2 Director or Inspector.

3 (f) The permittee shall have a copy of the permit and accepted plan on site during  
4 the activities, and must present either upon the request of the Public Works Director or  
5 Inspector.

6 (g) Once activities are completed, the site must be stabilized and all non-permanent  
7 control measures must be properly removed. Once these requirements have been approved by  
8 the Inspector, and all outstanding fees paid, the permit may then be closed.

9 (h) The final Certificate of Occupancy shall be withheld until the permit closure is  
10 completed.

11 Section 6. REQUIRED PLANS. Depending upon the scope of the project, the  
12 applicant shall prepare one of the following two plans in order to receive a permit:

13 (a) Construction Site Pollution Prevention Plan (CSPPP) – This plan is required for  
14 activities which may singly or cumulatively cause 10,000 square feet or more of disturbance.  
15 This also includes any activities which may cause 10,000 square feet or more of disturbance, if  
16 any portion of said disturbance may come within 75 feet of the ordinary high water mark of the  
17 Willamette River, or within 50 feet of any other Waters of the State.

18 (b) Construction Site Pollution Prevention Plan –B (CSPPP–B) – This plan is  
19 required for any activities which may singly or cumulatively cause greater than 2,000 but less

1 than 10,000 square feet of disturbance. The CSPPP-B shall also be required for any activities  
2 which may singly or cumulatively cause greater than 200 but less than 10,000 square feet of  
3 disturbance, if any portion of said disturbance may come within 75 feet of the ordinary high  
4 water mark of the Willamette River, or within 50 feet of any other Waters of the State.

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

7 (a) Adhering to Plan. Permittee shall adhere to the approved plan for the project.  
8 Any changes to the plan must be approved by the Inspector.

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

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

18 (d) Duration of Maintenance. The permittee shall maintain control measures  
19 pursuant to the approved plan and this Ordinance until soils are stabilized as determined by the  
20 Public Works Director or Inspector.

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

5           (f)     Re-Inspection Fees. If the Inspector is required to make additional inspections  
6 due to insufficient effort on the part of the Permittee to address concerns or requests made by the  
7 Inspector, re-inspection fees shall be assessed.

8           (g)     Discharge. Any pollutant discharged off-site to adjacent property, right-of-way,  
9 stormwater system, or Waters of the State shall be removed at the expense of the permittee.  
10 Should the removal be deemed likely to cause more environmental damage than leaving the  
11 material in place, mitigation practices may be allowed. Mitigation shall be at the discretion of  
12 the Public Works Director and shall only be allowed upon express written authority of the  
13 Director.

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

16          (i)     Permit closure. Permittee shall close the permit at the completion of the project.  
17 Prior to permit closure, all temporary control measures shall be removed and final stabilization  
18 shall be achieved as determined by the Inspector. The final Certificate of Occupancy shall be  
19 issued until the permit is closed and all outstanding fees paid.

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1           Section 8.     REQUIRED CONTROL MEASURES. Any plan submitted pursuant to  
2 Section 6 shall, at a minimum, use and comply with the following methods of erosion control  
3 and pollution prevention throughout the disturbance period to prevent visible or measurable  
4 erosion and to otherwise prevent pollutants from moving off site. These measures shall be  
5 enforceable 24 hours a day:

6           (a) Disturbance shall be confined to the immediate construction site only. Perimeter  
7 control measures shall be used to contain all sediment, pollution or runoff from leaving the site  
8 as determined by the Inspector. The project site shall be stabilized during periods of no work,  
9 including after each work day.

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

14          (c) If construction equipment or vehicles will be used onsite, a construction entrance  
15 shall be installed and utilized at each access point to minimize track-off of material as  
16 determined by the Inspector.

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

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

1 (f) Adequate waste management methods shall be employed to protect the stormwater  
2 system from any exposure to solid or liquid waste or pollution generated on-site. Pollutants are  
3 prohibited from being buried on site.

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

9 Section 9. AUTHORITY TO INSPECT. Whenever necessary to make an inspection  
10 to confirm compliance with or enforce any provision of this Ordinance, or whenever the Public  
11 Works Director has cause to believe that there exists, or potentially exists, in or upon any project  
12 site any condition which constitutes a violation of this Ordinance, the Director or his/her  
13 designee, may enter such premises at all times to inspect the same and to inspect and copy  
14 records related to compliance with this Ordinance. In the event the owner or occupant refuses  
15 entry after a request to enter and inspect has been made, the City is hereby empowered to seek  
16 warrant or other assistance from any court of competent jurisdiction in obtaining such entry.

17 Section 10. PROHIBITED ACTIVITIES.

18 (a) No person shall cause, suffer or allow visible and measurable erosion or  
19 pollutants to leave a project site, or to otherwise drag, drop, track, or otherwise place or deposit,  
20 or permit to be deposited any pollution from the site upon a public or private street or into any

1 part of the public stormwater system, or any part of a private stormwater system which drains or  
2 connects to the public stormwater system, or bury on any portion of the construction site.

3 (b) No person shall wash or flush any pollutant-laden water into any part of the  
4 storm water system or into a public street.

5 Section 11. VIOLATIONS/PENALTIES.

6 (a) The failure to acquire a Permit required herein shall constitute an infraction and  
7 shall be punished as set forth in the Civil Infraction Ordinance.

8 (b) A violation of or failure to comply with any requirements of this Ordinance or of  
9 the approved plan or permit shall constitute an infraction and shall be punished as set forth in  
10 the Civil Infraction Ordinance.

11 (c) Any violation of this Ordinance or an approved plan which results in visible or  
12 measureable erosion or pollutant transported off site is hereby declared to be a nuisance and may  
13 be abated pursuant to the Keizer Uniform Nuisance Abatement Procedure Ordinance.  
14 Notwithstanding the provisions of such Ordinance, the Public Works Director may summarily  
15 abate such nuisance.

16 (d) In addition to those penalties available under the Civil Infraction Ordinance and the  
17 Keizer Uniform Abatement Procedure Ordinance, the following penalties/remedies are available  
18 for use by the City:

19 1. The Public Works Director may order all or part of the work to be stopped on any  
20 project where control measures are not being properly maintained or are not

1 functioning properly. Notice to stop work may be immediate if appropriate under  
2 the circumstances at the discretion of the Public Works Director.

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

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

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

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

1 (e) The rights, remedies and penalties provided in this Ordinance are cumulative, are not  
2 mutually exclusive, and are in addition to any other rights, remedies and penalties available to  
3 the City under any other provision of law.

4 Section 12. NOTICE PROCESS. When required by this Ordinance, notice shall be in  
5 writing and delivered personally or by certified mail, postage prepaid, return receipt requested to  
6 the Applicant's/Permittee's last known address. In addition, the subject property shall be posted  
7 with the written notice.

8 Section 13. RESPONSIBILITY FOR ADMINISTRATION. The Public Works  
9 Director shall administer, implement, and enforce the provisions of this Ordinance.

10 Section 14. SEVERABILITY. The provisions of this Ordinance are hereby declared  
11 to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the  
12 application thereof to any person, establishment, or circumstances shall be held invalid, such  
13 invalidity shall not affect the other provisions or application of this Ordinance.

14 Section 15. REGULATORY CONSISTENCY. This Ordinance shall be construed to  
15 assure consistency with the requirements of the Clean Water Act, Safe Drinking Water Act,  
16 Oregon Revised Statutes, Oregon Administrative Rules, and any stormwater-related permits  
17 issued to the City by the Oregon Department of Environmental Quality and acts amendatory  
18 thereof or supplementary thereto, or any applicable implementing regulations.

19 Section 16. REPEAL OF ORDINANCE NO. 2011-635. Ordinance No. 2011-635  
20 (Establishing Erosion Control Regulations) is hereby repealed in its entirety, but such Ordinance

1 shall remain in force for the purpose of authorizing the citation, prosecution, conviction and  
2 judgment of a person who violated that Ordinance, the imposition of any fees, enforcing permits  
3 issued under that Ordinance, or for the purpose of abating a nuisance that occurred when such  
4 Ordinance was in effect.

5 Section 17. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after  
6 its passage.

7 PASSED this 1st day of December, 2014.

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9 SIGNED this 1st day of December, 2014.

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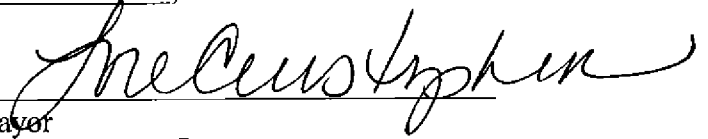
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Mayor

  
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City Recorder