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3 FOR

4  
5 AN ORDINANCE

6  
7 ESTABLISHING STORMWATER DISCHARGE  
8 CONTROL REGULATIONS

9  
10 The City of Keizer ordains as follows:

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

14 Section 2. PURPOSE AND INTENT. The purpose and intent of this Ordinance is  
15 to ensure the health, safety, and general welfare of citizens, and protect and enhance the water  
16 quality of waterways and water bodies in a manner pursuant to and consistent with the Federal  
17 Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon  
18 Department of Environmental Quality by reducing pollutants in stormwater discharges and by  
19 prohibiting non-stormwater discharges to the storm drain system.

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

22 (a) "Bank" means:

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

1 (b) **BMP** means best management practices.

2 (c) **City.** The City of Keizer.

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

5 (e) **Construction Activity.** Activities subject to NPDES Construction Permits.

6 Such activities include but are not limited to clearing and grubbing, grading, excavating,  
7 and demolition.

8 (f) **Hazardous Materials.** Any material, including any substance, waste, or combination  
9 thereof, which because of its quantity, concentration, or physical, chemical, or infectious  
10 characteristics may cause, or contribute to, a substantial present or potential hazard to  
11 human health, safety, property, or the environment when improperly treated, stored,  
12 transported, disposed of, or otherwise managed.

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

15 (h) **Illicit Connections.** An illicit connection is defined as either of the following:

16 (1) Any drain or conveyance, whether on the surface or subsurface, which allows  
17 an illegal discharge to enter the storm drain system including but not limited to  
18 any conveyances which allow any non-storm water discharge including sewage,  
19 process wastewater, and wash water to enter the storm drain system and any  
20 connections to the storm drain system from indoor drains and sinks, regardless

1 of whether said drain or connection had been previously allowed, permitted, or  
2 approved by a government agency; or

3 (2) Any drain or conveyance connected from a commercial or industrial land use  
4 to the storm drain system which has not been documented in plans, maps, or  
5 equivalent records and approved by the City.

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

7 (j) **National Pollutant Discharge Elimination System (NPDES) Storm Water**  
8 **Discharge Permits.** General, group, and individual storm water discharge permits which  
9 regulate facilities defined in federal NPDES regulations and regulated through the  
10 Oregon Department of Environmental Quality.

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

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

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

19 (n) **Pollutant.** Anything which causes or contributes to pollution. Pollutants may  
20 include, but are not limited to: paints, varnishes, and solvents; oil and other automotive

1 fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage,  
2 litter, or other discarded or abandoned objects, articles, and accumulations, so that same  
3 may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers;  
4 hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and  
5 particulate metals; animal wastes; wastes and residues that result from constructing a  
6 building or structure (including but not limited to sediments, slurries, and concrete  
7 rinsates); and noxious or offensive matter of any kind.

8 (o) "**Pollution**" means such contamination or other alteration of the physical, chemical,  
9 or biological properties of any waters of the state, including change in temperature, taste,  
10 color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous,  
11 solid, radioactive, or other substance into any water of the state that either by itself or in  
12 connection with any other substance present can reasonably be expected to create a  
13 public nuisance or render such waters harmful, detrimental, or injurious to public health,  
14 safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other  
15 legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat  
16 thereof.

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

19 (q) **Storm Drain System.** Public facilities under the jurisdiction of the City by which  
20 storm water is collected and/or conveyed, including but not limited to any roads with

1 drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping  
2 facilities, retention and detention basins, natural and human-made or altered drainage  
3 channels, reservoirs, and other drainage structures which are within the City.

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

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

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

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

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1           Section 4.     APPLICABILITY. This Ordinance shall apply to all water entering the  
2 storm drain system generated on any developed and undeveloped lands lying within the City of  
3 Keizer including any amendments or revisions thereto.

4           Section 5.     RESPONSIBILITY FOR ADMINISTRATION. The Public Works  
5 Director of the City, or his/her designee shall administer, implement, and enforce the provisions  
6 of this Ordinance. Any powers granted or duties imposed upon the Public Works Director may  
7 be delegated by the Public Works Director to persons or entities acting in the beneficial interest  
8 of or in the employ of the City.

9           Section 6.     SEVERABILITY. The provisions of this Ordinance are hereby declared  
10 to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the  
11 application thereof to any person, establishment, or circumstances shall be held invalid, such  
12 invalidity shall not affect the other provisions or application of this Ordinance.

13          Section 7.     REGULATORY CONSISTENCY. This Ordinance shall be construed to  
14 assure consistency with the requirements of the Clean Water Act, Oregon Revised Statutes,  
15 Oregon Administrative Rules, and the Oregon Department of Environmental Quality and acts  
16 amendatory thereof or supplementary thereto, or any applicable implementing regulations.

17          Section 8.     ULTIMATE RESPONSIBILITY OF DISCHARGER. The standards set  
18 forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this  
19 Ordinance does not intend nor imply that compliance by any person will ensure that there will  
20 be no contamination, pollution, nor unauthorized discharge of pollutants into Waters of the State

1 caused by said person. This Ordinance shall not create liability on the part of the City of Keizer,  
2 or any agent or employee thereof for any damages that result from any discharger's reliance on  
3 this Ordinance or any administrative decision lawfully made hereunder.

4 Section 9. PROHIBITION OF ILLEGAL DISCHARGES. No person shall  
5 discharge or cause to be discharged into the municipal storm drain system, UICs, or waterways  
6 any materials, including but not limited to pollutants or waters containing any pollutants that  
7 cause or contribute to a violation of applicable water quality standards, other than stormwater.  
8 The commencement, conduct or continuance of any illegal discharge to the storm drain system  
9 is prohibited except as described as follows:

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

- 15 (a) potable water line flushing;
- 16 (b) uncontaminated pumped groundwater and other discharges from potable water sources;
- 17 (c) landscape irrigation and lawn watering;
- 18 (d) diverted stream flows; rising groundwater; groundwater infiltration to the storm drain  
19 system;

- 1 (e) uncontaminated foundation and footing drains; uncontaminated water from crawl space
- 2 pumps;
- 3 (f) air conditioning condensation; uncontaminated nonindustrial roof drains;
- 4 (g) springs;
- 5 (h) individual residential car washing and/or occasional non-commercial car washing (e.g.
- 6 fundraising purposes);
- 7 (i) flows from riparian habitats and wetlands;
- 8 (j) dechlorinated swimming pool, hot tub, spa or similar discharges;
- 9 (k) street wash waters;
- 10 (l) flows from fire fighting.

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

17 Section 10. PROHIBITION OF ILLICIT CONNECTIONS.

- 18 (a) The construction, use, maintenance or continued existence of illicit connections to
- 19 the storm drain system is prohibited.

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1 (b) This prohibition expressly includes, without limitation, illicit connections made in  
2 the past, regardless of whether the connection was permissible under law or practices  
3 applicable or prevailing at the time of connection.

4 Section 11. WASTE DISPOSAL PROHIBITIONS. No person shall throw, deposit,  
5 leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any  
6 public or private property, driveway, parking area, street, alley, sidewalk, component of the  
7 storm drain system, UICs, or Waters of the State, any refuse, rubbish, garbage, litter, or other  
8 discarded or abandoned objects, articles, and accumulations, so that the same may cause or  
9 contribute to pollution. Wastes deposited in proper waste receptacles for the purposes of  
10 collection are exempted from this prohibition.

11 Section 12. DISCHARGES IN VIOLATION OF INDUSTRIAL OR  
12 CONSTRUCTION ACTIVITY NPDES STORM WATER DISCHARGE PERMIT. Any  
13 person subject to an industrial or construction activity NPDES storm water discharge permit  
14 shall comply with all provisions of such permit. Failure to comply with all provisions shall  
15 constitute a violation of this Ordinance. Proof of compliance with said permit may be required  
16 in a form acceptable to the Public Works Director prior to or as a condition of a subdivision  
17 map, site plan, building permit, or development or improvement plan; upon inspection of the  
18 facility; during any enforcement proceeding or action; or for any other reasonable cause.

19 Section 13. WATERWAY PROTECTION. Every person owning property through  
20 which a waterway passes, or such person's lessee, shall keep and maintain that part of the

1 waterway within the property free of trash, debris, excessive vegetation, and other obstacles that  
2 would pollute, contaminate, or retard the flow of water through the waterway. In addition, the  
3 owner or lessee shall maintain existing privately owned structures within or adjacent to a  
4 waterway, so that such structures will not become a hazard to the use, function, or physical  
5 integrity of the waterway. The owner or lessee shall not remove bank vegetation that will result  
6 in bare slopes subject to erosion. Removal of invasive vegetation may be allowed by the Public  
7 Works Director upon submittal of a plan for approval prior to removal and replanting. The  
8 Public Works Director may impose reasonable conditions upon such approval. Violation of the  
9 conditions or any other portion of the approval shall constitute a violation of this Ordinance.  
10 The property owner shall be responsible for maintaining and stabilizing that portion of the  
11 waterway that is within their property lines in order to protect against erosion and degradation of  
12 the waterway originating or contributed from their property.

13 Section 14. REQUIREMENT TO MONITOR AND ANALYZE. The Public Works  
14 Director may require by written notice that any person engaged in any activity and/or owning or  
15 operating any facility which may cause or contribute to stormwater pollution, illegal discharges,  
16 and/or non-storm water discharges to the storm drain system, UICs, or Waters of the State, to  
17 undertake at said person's expense such monitoring and analyses and furnish such reports to the  
18 City of Keizer as deemed necessary to determine compliance with this Ordinance.

19 Section 15. ILLEGAL DISCHARGE PROCEDURE. Notwithstanding other  
20 requirements of law, as soon as any person responsible for a facility or operation, or responsible

1 for emergency response for a facility or operation has information of any known or suspected  
2 release of materials which are resulting or may result in illegal discharges or pollutants  
3 discharging into stormwater, the storm drain system, or Waters of the State from said facility,  
4 said person shall take all necessary steps to ensure the discovery, containment, and cleanup of  
5 such release. Upon discovery of any illicit discharge, the responsible person shall immediately  
6 notify the Public Works Director or other available City personnel.

7 Section 16. AUTHORITY TO INSPECT. Whenever necessary to make an inspection  
8 to enforce any provision of this Ordinance, or whenever the Public Works Director has cause to  
9 believe that there exists, or potentially exists, in or upon any premises any condition which  
10 constitutes a violation of this Ordinance, the Director, or his/her designee, may enter such  
11 premises at all times to inspect the same and to inspect and copy records related to stormwater  
12 compliance. In the event the owner or occupant refuses entry after a request to enter and inspect  
13 has been made, the City is hereby empowered to seek warrant or other assistance from any court  
14 of competent jurisdiction in obtaining such entry, including, but not limited to Municipal Court  
15 Warrant.

16 Section 17. AUTHORITY TO SAMPLE, ESTABLISH SAMPLING DEVICES,  
17 AND TEST. During any inspection as provided herein, the Public Works Director may take any  
18 samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to  
19 record site activities.

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1           Section 18.   REQUIREMENT TO ELIMINATE ILLEGAL DISCHARGES.

2   Notwithstanding the requirements of Section 23 (Emergency Abatement) herein, the Public  
3   Works Director may require by written notice that a person responsible for an illegal discharge  
4   immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to  
5   eliminate the source of the discharge to prevent the occurrence of future illegal discharges.  
6   Failure to comply with the requirements of the notice within the time stated shall constitute a  
7   violation of this Ordinance.

8           Section 19.   REQUIREMENT TO ELIMINATE OR SECURE APPROVAL FOR  
9   ILLICIT CONNECTIONS.

10           (a) The Public Works Director may require by written notice that the person responsible  
11           for an illicit connection to the storm drain system comply with the requirements of this  
12           Ordinance to either eliminate the connection or secure approval for the connection by a  
13           specified date, regardless of whether or not the connection or discharges to it had been  
14           established or approved prior to the effective date of this Ordinance.

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

19           Section 20.   REQUIREMENT TO REMEDIATE. Whenever the Public Works  
20   Director finds that a discharge of pollutants is taking place or has occurred which will result in

1 or has resulted in pollution of stormwater, the storm drain system, or Waters of the State, the  
2 Public Works Director may require by written notice to the responsible person that the pollution  
3 be remediated and the affected property restored within a specified time. Failure to comply with  
4 the requirements of the notice within the time stated shall constitute a violation of this  
5 Ordinance.

6 Section 21. NOTICE OF VIOLATION. Whenever the Public Works Director finds  
7 that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the  
8 Director may order compliance by written notice of violation to the responsible person. Such  
9 notice may require without limitation:

- 10 (a) The performance of monitoring, analyses, and reporting;  
11 (b) The elimination of illicit connections or discharges;  
12 (c) That violating discharges, practices, or operations shall cease and desist;  
13 (d) The abatement or remediation of storm water pollution or contamination hazards and  
14 the restoration of any affected property; and  
15 (e) The implementation of source control or treatment BMPs supplied by the Public  
16 Works Director or his/her designee.

17 If abatement of a violation and/or restoration of affected property is required, the notice  
18 shall set forth a deadline within which such remediation or restoration must be completed. Said  
19 notice shall further advise that, should the violator fail to remediate or restore within the  
20 established deadline, the work will be done by the City or a contractor designated by the Public

1 Works Director and the expense thereof shall be charged to the violator pursuant to Section 24.

2 Section 22. ABATEMENT BY CITY. If the violation has not been corrected  
3 pursuant to the requirements set forth in the Notice of Violation, then the City or a contractor  
4 designated by the Public Works Director may enter upon the subject private property and is  
5 authorized to take any and all measures necessary to abate the violation and/or restore the  
6 property. It shall be unlawful for any person, owner, agent or person in possession of any  
7 premises to refuse to allow the City or designated contractor to enter upon the premises for the  
8 purposes set forth above.

9 Section 23. EMERGENCY ABATEMENT. The Public Works Director, or his/her  
10 designee, is authorized to require immediate abatement of any violation of this Ordinance that  
11 constitutes an immediate threat to the health, safety or well-being of the public. If any such  
12 violation is not abated immediately as directed by the Public Works Director, the City of Keizer  
13 is authorized to enter onto private property and to take any and all measures required to  
14 remediate the violation. Any expense related to such remediation undertaken by the City of  
15 Keizer shall be fully reimbursed by the property owner and/or responsible party pursuant to  
16 Section 24. Any relief obtained under this section shall not prevent City from seeking other and  
17 further relief authorized under this Ordinance.

18 Section 24. CHARGING COST OF ABATEMENT/LIENS.

19 (a) Following completion of abatement by the City, the City Manager, by  
20 certified mail, postage prepaid, return receipt requested, shall forward to the

1 responsible person a statement of costs which include:

2 (1) The total costs of abatement, including administrative overhead.

3 (2) A statement that the costs as indicated will be assessed against  
4 the subject property unless paid within ten (10) days of the date  
5 of the statement.

6 (3) A statement that the City Council will hold a public hearing to  
7 determine the correctness of the statement and to declare a lien  
8 against the subject property on a date which is at least ten (10)  
9 days from the date of the statement.

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

19 (c) An error in the name of the responsible person shall not void the  
20 assessment, nor will a failure to receive the notice of the proposed assessment

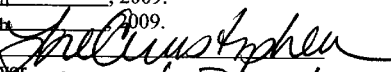
1 render the assessment void, but it shall remain a valid lien against the property.  
2 (d) The lien shall bear interest at the rate of nine percent (9%) per annum.  
3 The interest shall commence to run from the date of entry of the lien in the lien  
4 docket.

5 Section 25. VIOLATIONS. It shall be unlawful for any person to violate any  
6 provision or fail to comply with any of the requirements of this Ordinance. A violation of or  
7 failure to comply with any of the requirements of this Ordinance shall constitute an infraction  
8 and shall be punished as set forth in the Civil Infraction Ordinance.

9 Section 26. COMPENSATORY ACTION. In lieu of enforcement proceedings,  
10 penalties, and remedies authorized by this ordinance, the Public Works Director may propose  
11 alternative compensatory actions, such as storm drain stenciling, attendance at compliance  
12 workshops, creek cleanup, etc.

13 Section 27. NOTICE PROCESS. When required by this Ordinance, notice shall be in  
14 writing and delivered personally, by posting or by certified mail, postage prepaid, return receipt  
15 requested.

16 Section 28. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after  
17 its passage.

18 PASSED this 16th day of March, 2009.  
19 SIGNED this 16th day of March, 2009.  
20   
21 Stephen  
22 Mayer  
23 City Recorder