

BILL NO. _____

ORDINANCE _____

DIVISION 2

Sec. 94-350 Purpose

The purpose of this ordinance is to establish controls on activities related to land disturbance through the following objectives:

- (A) To protect the quality of local streams, lakes, and other bodies of water from the effects of increased erosion and sediment discharge.
- (B) To protect the welfare of individuals and their property by reducing the amount of sediment that leaves land disturbance sites.
- (C) To protect the environment and aquatic habitat of fish and other species.
- (D) To reduce the need for maintenance of storm sewers and ditches as well as the dredging of lakes and ponds.

Sec. 94-351 Definitions

- (A) **Land Disturbance** includes the grading, digging, cutting, scraping, or excavating of soil; placement of fill materials; paving; construction; substantial removal of vegetation; or any activity that bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
- (B) **Erosion Control** is any method, including the use of best management practices, which reduces the potential for soil particles to become dislodged and carried by wind or water.
- (C) **Sediment Control** is any method, including the use of best management practices, used to capture or contain sediment particles after they have been eroded.
- (D) **ESC Permit** refers to the permit obtained from the West Plains Engineering Department prior to commencement of land-disturbing activities as defined in the most current *Erosion and Sediment Control Manual*.
- (E) **Stormwater Coordinator** refers to a position within the Engineering Department of the City of West Plains that has the authority and responsibility to manage, enforce, and regulate land-disturbance activities within the City of West Plains.
- (F) **Erosion and Sediment Control Manual** gives requirements and guidance relating to land disturbance.

- (G) ***Erosion and Sediment Control Field Manual*** gives requirements and guidance relating to land disturbance, similar to the *Stormwater Management Erosion and Sediment Control Manual Volume I*, but only addresses field requirements and guidance relating to land disturbance. It is intended to be used by the person performing the land disturbance and not the design engineer that develops the plans.
- (H) ***ESC Manager*** is the person responsible for ensuring that the site is in accordance with the standard ESC permit as well as performing site inspections and maintaining the required records.
- (I) ***Stop Work Order*** refers to a written notice posted at the site of land disturbance by the City's ESC Inspector that requires land-disturbance activities cease until requirements of the Stop Work Order are met and a signed Stop Work Order Release Form is obtained. The Stop Work Order is enforceable by Section 1-10 of the City of West Plains Code.

Sec. 94-352 Requirements

- (A) The City of West Plains shall administer and enforce this ordinance with the issuance of ESC Permits. Requirements and guidance for the ESC Permit are contained within the most current edition of the *Erosion and Sediment Control Manual* with a supplemental *Erosion and Sediment Control Field Manual*.
- (B) Before conducting land-disturbance activities that are equal to or greater than 1 acre, or are part of a larger common plan of development or sale that will disturb 1 or more acres over the life of the project within the City of West Plains limits, an ESC Permit must be obtained.
- (C) Before conducting land-disturbance activities when installing utilities with 1,000 feet or more of length within the City of West Plains limits, an ESC Permit must be obtained.
- (D) Before conducting land-disturbance activities located within 100 feet of a drainageway within the City of West Plains limits, an ESC Permit must be obtained.
- (E) Before conducting excavation of 50 or more cubic yards of material, not related to building of a detached single family residential unit within the City of West Plains limits, an ESC Permit must be obtained.
- (F) Land-disturbance activities less than 1 acre in size in the City of West Plains may require erosion and sediment control measures if the Stormwater Coordinator deems it necessary to prevent sediment and erosion from occurring.
- (G) *Erosion and Sediment Control Manual* with a supplemental *Erosion and Sediment Control Field Manual* may be updated and expanded from time

to time at the discretion of the City of West Plains based on improvements in engineering, science, monitoring, and local maintenance experience.

- (H) In addition to the requirements set forth by the City of West Plains, all other local, state, and federal permits, ordinances, laws, and regulations relating to land disturbance must be followed. Any construction or land-disturbance activity that will result in the disturbance of 1 acre or more must obtain a land disturbance permit from the Missouri Department of Natural Resources.

Sec. 94-353 Fees

Fees are shown in the appendix of the most current version of the *Erosion and Sediment Control Manual*.

Sec. 94-354 Inspections

All land-disturbance activities shall be subject to inspection by the City of West Plains. Representatives of the City of West Plains shall have the right to enter upon any land for the purposes of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this ordinance.

Sec. 94-355 Enforcement

The Stormwater Coordinator, a position within the Engineering Department of the City of West Plains, shall have the authority and responsibility to manage, enforce, and regulate land-disturbance activities within the City of West Plains.

Sec. 94-356 Violations

- (A) All persons are required to obtain a standard ESC Permit before performing any land-disturbance activities that are stated in Section 94-352 of this Code. If land-disturbance activities are performed without a permit, but require one, the Stormwater Coordinator will place a posted Stop Work Order at the location of the land-disturbance activity. This Stop Work Order shall state what is required prior to continuing the land-disturbance activity. If the Stop Work Order is removed by anyone other than the City of West Plains, or the land-disturbance act continues without following the requirements of the Stop Work Order, then the person performing the work and the owner of the property are in violation of the land disturbance code and are subjected to Section 1-10 of the West Plains Code. In order to begin land-disturbance activities after receiving a Stop Work Order, a signed Stop Work Order Release Form must be obtained from the Stormwater Coordinator.
- (B) The City of West Plains can also require any person to obtain a standard ESC Permit for any land-disturbance activity of any size, if it has the potential of endangering others or degrading the environment and the

Stormwater Coordinator feels that this can be reduced by obtaining an ESC Permit. In this case, the Stormwater Coordinator must contact the person by placing a posted Stop Work Order at the location of the land-disturbance activity. This Stop Work Order shall state what is required prior to continuing the land-disturbance activity. If the Stop Work Order is removed by anyone other than the City of West Plains, or the land-disturbance act continues without following the requirements of the Stop Work Order, then the person performing the work and the owner of the property are in violation of the land disturbance code and are subjected to Section 1-10 of the West Plains Code. In order to begin land-disturbance activities after receiving a Stop Work Order, a signed Stop Work Order Release Form must be obtained from the Stormwater Coordinator.

- (C) Failure to comply with any term, condition, limit, deadline or other provision of the ESC Permit constitutes a violation of the West Plains Land Disturbance Ordinance.
- (D) The City of West Plains may recover all attorneys' fees, court costs, stabilization of disturbed areas, cleanup costs, and other expenses associated with enforcement of this ordinance through required fiscal securities and any other forms available.

Sec. 94-357 Appeal of Notice of Violations

Any person receiving a Notice of Violation may appeal the determination of the Stormwater Coordinator. The notice of appeal must be received within 15 days from the date of the Notice of Violation in written form. Hearing on the appeal before the City Administrator shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the City Administrator shall be final.

Effective Date. This ordinance shall become effective March 1, 2010, and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply.

PASSED AND APPROVED THIS ____ DAY OF _____, 2010.

CITY OF WEST PLAINS, MISSOURI

BY: _____
JOE PAUL (J. P.) EVANS, MAYOR

ATTEST:

MALLORY PREWETT, CITY CLERK