

TITLE EIGHT BUILDING

BUILDING CODE

8.01.00 Building Code. Unless otherwise indicated, Ordinance 00-109 enacts Section 8.01.01 through 8.01.27.

8.01.01 Purpose. The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of Turner who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation. This Code is adopted as a general legislative enactment.

8.01.02 Scope.

(a) This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

(b) Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(c) Where, in any specific case, there is a conflict between this Code and Oregon Revised Statute, the statute shall govern.

8.01.03 Intergovernmental Relationship

Administration and enforcement of the State Building Code is conducted by the Marion County Community Development, Building Inspection Division, under an intergovernmental agreement between Marion County and the City of Turner.

Where, in any specific case, there is a conflict between this Code and the intergovernmental agreement, the agreement shall govern.

8.01.04 Designation of a Building Official.

The Building Official for the City of Turner is the Marion County Building Official, or his/her duly authorized representative, and charged by the City with the administration and enforcement of the state building code.

8.01.05 Powers and Duties of the Building Official.

The building official is hereby authorized and directed to enforce all the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code.

8.01.06 Deputies.

In accordance with prescribed Marion County procedures, the building official may appoint technical officers and inspectors and other employees to carry out the functions of code enforcement.

8.01.07 Alternate Materials and Methods.

(a) The provisions of this code are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this code, provided any alternate has been approved and its use authorized by the building official.

(b) The building official may approve any such alternate, provided the building official finds that the proposed design is

satisfactory and complies with the provisions of this code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

(c) The building official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the files.

(d) ORS 455.060 provides for state rulings on acceptable materials, designs and methods of construction. When a ruling has been issued, ORS 455.060 (4) applies.

8.01.08 Modifications. When there are practical difficulties involved in carrying out the provisions of this code, the building official may grant modifications for individual cases. The building official shall first find that a special individual reason makes the strict letter of this code impractical and that the modification is in conformance with the intent and purpose of this code and that such modifications not lessen any fire-protection requirements or any degree of structural integrity. The details of any action granting modification shall be recorded and entered in the files.

8.01.09 Tests. Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that any material or construction does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction. Test methods used shall be determined by the building official based on recognized test standards and procedures. All tests shall be made by an approved agency. Reports of

such tests shall be retained by the building official for the period required for the retention of public records.

8.01.10 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

8.01.11 Stop Work Orders. Whenever any work is being done contrary to the provisions of this code, or other pertinent laws or ordinances implemented through the enforcement of this code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work.

8.01.12 Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, or

energy supplies to a building, structure, premises or equipment regulated by this code in case of emergency when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection immediately thereafter.

8.01.13 Connection after Order to Disconnect. Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to any equipment regulated by this code which has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of such equipment.

8.01.14 Occupancy Violations. Whenever any building or structure or equipment therein regulated by this code is being used contrary to the provisions of this code, the building official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the building official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this code.

8.01.15 Appeals.

(a) Appeals relating to the administrative provisions of this code made by representatives of the Marion County

Building Department shall be to the building official.

(b) Any person aggrieved by a decision of the building official made pursuant to the following specialty codes may appeal that decision to the following:

(1) Electrical Specialty Code - appeals may be made to the State of Oregon, Building Codes Division, Chief Electrical Inspector.

(2) Structural Specialty Code - appeals shall be made to the State of Oregon, Building Codes Structures Board.

(3) Mechanical Specialty Code - appeals shall be made to the State of Oregon, Building Codes Structures Board.

(4) Plumbing Specialty Code - appeals shall be made to the State of Oregon, Building Codes Division.

(5) One and Two Family Dwelling Specialty Code - appeals shall be made to the State of Oregon, Building Codes Structures Board.

(6) Manufactured Dwelling Code - appeals shall be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

(7) Recreational Park and Organizational Camp Regulations - appeals shall be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

(8) On-Site Sewage Disposal, appeals shall be made to the State of Oregon, Department of Environmental Quality.

(c) Appeals of decisions made by representatives of the City of Turner relating to the administrative provisions of this code shall be to the City Administrator.

(d) Any person aggrieved by a decision of the City Administrator may appeal that decision to the City Council.

(e) An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with either the building

official or City Administrator as appropriate.

8.01.16 Permit Application.

(a) The City of Turner is the permit issuing authority for all building permits required within the City of Turner. All building permit applications shall be submitted, with required plans, specifications, computations and all other data required by the Marion County Building Department, to the City of Turner.

(b) Exception. Contractors licensed for electrical, mechanical, or plumbing structural codes may apply directly, pay fees directly, and be issued permits directly to and by the Marion County Building Department.

8.01.17 Permit Application, Review and Issuance.

(a) The City Administrator or designated representative is responsible for reviewing plans and insuring that all standards for development and building contained in the Turner Land Use Development Code are met. Permit applications will not be forwarded to Marion County for building review if plans do not meet land use development standards or if land use applications submitted pursuant to the Turner Land Use Development Code have not been approved.

(b) Exception. An applicant may request, in writing, that a building permit application be submitted before final action on a land use application, providing such request clearly states that the applicant understands and agrees that he/she will be liable for any building permit fees assessed should the land use application be denied. Under no circumstance, will such a building permit be allowed to be submitted before the land use application is submitted.

(c) Upon completion of the land use review, the City Administrator or designated representative will forward the permit application and all supporting documents to the Marion County Building Department.

(d) Once submitted by the City of Turner, the Marion County Building Department will process, review and issue permits through the City of Turner in accordance with the intergovernmental agreement, established Marion County procedures and applicable state statutes.

(e) The City of Turner shall, in turn, issue the permit to the applicant and retain one copy of the permit on file with the City for a period of not less than one year from completion of the work contained therein.

8.01.18 Validity of permit.

(a) No permit shall be issued if the parcel of land, or the use of the land on which the building, structure, or equipment is to be placed, erected, altered, equipped or used is in violation of any City of Turner Ordinance.

(b) No building or site permit shall be issued by the City until a sewer permit application has been approved in accordance with TRC Section 4.04.00. Further, no building or structure containing plumbing shall be occupied until connected to the municipal sewer and a final inspection of the sewer installation is completed.

(c) The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the City. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid.

(d) The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on there under when in violation of this code or of any other ordinances of the City.

8.01.19 Expiration of Applications, Plans and Permits.

(a) Applications for which no permit is issued within 180 days following the date of the application, due to failure of the applicant to provide required information, shall expire, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(b) Every permit issued by the City under the provisions of this code shall expire and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained, and the fee therefore shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided

further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

(c) Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

8.01.20 Work without a permit/investigation fees.

(a) Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

(b) An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

8.01.21 Not transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work there under.

8.01.22 Suspension/revocation. The City Administrator or building official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever

the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any of the provisions of this code.

8.01.23 Inspections.

(a) It shall be the duty of the permit holder or his agent to request all necessary inspections in a timely manner, provide access to the site, and provide all necessary equipment as determined by the building official. The permit holder shall not proceed with the building construction until authorized by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

(b) Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the building official.

8.01.24 City of Turner Building Code.

The City of Turner Building Code consists of the following Specialty Codes as adopted by the State of Oregon:

(a) The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, except as modified in this Code, is enforced as part of this Code.

(b) The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified

in this Code, is enforced as part of this Code.

(c) The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, except as modified in this Code, is enforced as part of this Code.

(d) The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, except as modified in this Code, is enforced as part of this Code.

(e) The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-480-000 through 918-480-0010, except as modified in this Code, is enforced as part of this Code.

(f) The manufactured dwelling park and mobile home park rules adopted by OAR 918600-0005 through 918-600-0110, except as modified in this Code, are enforced as part of this Code.

(g) The manufactured dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this Code, are enforced as part of this Code.

(f) The Recreational Park and Organizational Camp Rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this Code, are enforced as part of this Code.

(g) Excavation and Grading as described in Appendix Chapter 33 of the 1994 edition of the Uniform Building Code, as published by the International Conference of Building Officials.

(h) The On-Site Sewage Disposal Rules as adopted by OAR 340-71-100 through 340-71-605 and OAR 340-73-025 through 340-73-090, except as modified in this Code, and are enforced as part of this Code.

8.01.25 Adoption of Uniform Code for the Abatement of Dangerous Buildings. The 1997 ICBO Uniform Code for the Abatement of Dangerous Buildings is

adopted as part hereof, with the following modifications:

- (a) Section 205.1: The Turner City Council shall be the board of appeals. It is the appellant's responsibility to provide evidence from qualified persons to support the appeal.
- (b) Section 205.2: Not adopted.
- (c) Chapter 4: Change title to: Notices and Orders of the City of Turner.
- (d) Section 401.1: The City Administrator shall be responsible for commencing proceedings subsequent to a determination by the building official that a building is dangerous.
- (e) Section 401 and 404: The City Administrator shall be responsible for issuing all notices and orders in behalf of the City.
- (f) Section 402: The City Administrator shall be responsible for action by the City under this section.
- (g) Chapters 5, 6 and 7: Substitute "City Administrator" for "Building Official" and "City Council" for "Board of Appeals" throughout.
- (h) Section 601.1: Hearings will be conducted before the City Council only.
- (i) Section 603: This section is not adopted. It is the responsibility of the City Administrator, through the Building Official, to submit or provide evidence to support the action taken by the City. It is the responsibility of the appellant to submit or provide evidence in opposition to the action taken by the City.
- (j) Section 604.2: An oath is not required to provide oral evidence
- (k) Section 605.2 through 605.6: Not adopted. The City Council shall always hear the appeal and decide the issue itself.
- (l) Section 701.1: In lieu of the last sentence, the following is adopted: "The penalty for failure to comply with any such order will be in accordance with TRC

Section 1.45.00. TRC Section 1.42.00 applies.

- (m) Chapter 9: Substitute "City Administrator" for both "Director of Public Works" and "Clerk" throughout.
- (n) Sections 909, 910, and 911 are not adopted.
- (o) Section 912: Change to read: All money received from payment of the charge or assessment or through foreclosure sale shall be paid to the City of Turner and shall be credited to the budget line from which the cost to repair or demolish was charged.

8.01.26 Dangerous Buildings.

- (a) All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages.
- (b) All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Buildings Code or such alternate procedures as may have been or as may be adopted by this jurisdiction. As an alternative, the building

official, or another employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

8.01.27 Fees.

(a) The fees set by the Marion County Board of Commissioners for permits, inspections, plan checks, site plan review, and such other fees deemed reasonable in order to administer this Code, plus an additional administrative fee established by resolution of the City of Turner, are hereby adopted. (*Amend. Ord. 06-103 08/10/06*)

(b) The City shall collect all fees for permits issued by the City. All fees collected by the City shall be placed in a Trust and Agency account for disbursement as necessary.

(c) The City will only refund those fees authorized to be refunded by the building official.

(d) The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

8.01.28 Enforcement. Enforcement of the provisions of this section, for which a special penalty has not been expressly provided, shall be in accordance with TRC Section 1.45.00. TRC Section 1.42.00 applies.

EXCAVATION AND GRADING

8.02.00 Excavation and Grading. Unless otherwise indicated Ordinance 01-100 (1/22/01) enacts Section 8.02.01 through 8.02.05.

8.02.01. Adoption. The City of Turner hereby adopts Chapter 33, Excavation and Grading, of the 1997 Uniform Building Code of the State of Oregon for use by the City of Turner without modification, a copy of which is at Attachment A to Ordinance 01-100 and by this reference, incorporated into this code section.

8.02.02 Excavation and Grading Permit Processing. Permit applications for excavation and grading activities required under this section will be submitted to the City of Turner and processed by Marion County in accordance with TRC 8.01.00 through 8.01.22. Marion County Excavation and Grading permit forms will be used.

8.02.03 Permit Fees. Fees charged for excavation and grading permits will be those on the most current Excavation and Grading Permit Fee Schedule adopted by the Marion County Board of Commissioners. (*Amend. Ord. 06-103 08/10/06*)

8.02.04 Relationship with requirements of Hillside Development Overlay District. Requirement of this section are intended to be in addition to requirements of Turner Land Use Development Code, Section 4.230, Hillside Development Overlay District, for development on land having a slope of 15% or greater before excavation. Application and approval pursuant to Section 4.230 must be completed before an excavation and grading permit application will be accepted by the City for all development for which such an approval is required. Where there is a conflict

between standards and requirements of Appendix Chapter 33 of the Uniform Building Code and Section 4.230 of the Turner Land Use Development Code, the more stringent standard or requirement will apply. If Section 4.230 has more stringent requirements, it is the responsibility of the City staff to inform the Marion County Building Department of the more stringent requirements when the permit application is submitted to Marion County for processing.

8.02.05 Erosion Control. City standards for erosion control shall be applied as long as those standards meet or exceed those in Chapter 33 referenced above.

(Amended by Ord. 13-105, 08/22/13)

8.02.06 Enforcement. Enforcement of the provisions of this section shall be in accordance with TRC Section 1.45.00.

EROSION CONTROL

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) **“Site”**. See Property

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

(u) **“Visible or Measurable Erosion”**. Any sediment transfer exceeding one-half

cubic foot in volume which is allowed to travel off site or enter the stormwater system.

(v) **“Waste”**. See Pollution

(w) **“Waters of the State”**. 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.

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

8.03.04 Guidance Manuals. The Public Works Director is hereby authorized to administratively adopt Erosion Control and/or Pollution Prevention Guidance Manuals to assist the Public Works Department in plan review and permit issuance. Such guidance manuals shall be advisory only and the Public Works Director has discretion where the situation requires to vary from the guidelines set forth in the manuals. Compliance with any procedure listed in the manuals does not release the applicant or permittee from any conditions, requirements and/or penalties listed in this Ordinance.

8.03.05 Permit Procedures. An erosion control permit issued by the Public

Works Director shall be required prior to conducting construction activities which may cause disturbance greater than or equal to one acre, or a disturbance of less than one acre if the activity is part of a larger common plan of development greater than 1 acre. At the discretion of the City Administrator, a permit will also be required for any activity disturbing 1000 square feet or more on any tax lot directly adjacent to or containing any portion of Waters of the State, wetlands or manmade water bodies that empty into waters of the state.

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

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

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

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

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

(e) The permittee shall have a copy of the permit and accepted plan on site during

the activities, and must present either upon the request of the Public Works Director.

(f) Once activities are completed, the site must be stabilized and all non-permanent control measures must be properly removed. Once these requirements have been approved by the Inspector, the permit may then be closed. Certificate of Occupancy may be withheld until permit closure is accomplished.

8.03.06 Required Plans.

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

8.03.07 Required Control Measures.

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

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

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

(c) If construction equipment or vehicles will be used onsite, an adequate construction entrance shall be installed and

utilized at each access point to minimized track-off of material.

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

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

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

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

8.03.09 Plan Implementation. Upon the City's acceptance of the plan, the conditions of the plan shall be implemented as follows:

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

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

(c) Maintenance of Control Measures. Maintenance of all control measures pursuant to an approved plan shall be the responsibility of the permittee. During active construction or any other activity which might result in erosion or pollution, the permittee shall inspect control

measures and shall maintain, adjust, repair or replace control measures to ensure that they are functioning properly and are in keeping with the provisions of the approved plan. The permittee shall maintain written records of all site inspections of control measures and shall provide them to the Public Works Director or inspector upon request.

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

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

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

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

(h) Permit closure. Permittee must close the permit at the completion of the project. Prior to permit closure, all temporary control measures shall be removed and final stabilization shall be achieved as determined by the inspector. The permit

must be closed prior to the site receiving an occupancy permit.

8.03.10 Prohibited Activities.

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

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

8.03.11 Violations/Penalties.

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

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

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

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

circumstances at the discretion of the Public Works Director.

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

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

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

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

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

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

8.03.13 Responsibility for Administration.

The Public Works Director shall administer, implement, and enforce the provisions of this Ordinance.

8.03.14 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.

8.03.15 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.

8.03.16 Effective Date. This Ordinance shall take effect 30 days after its passage. *(Amended by Ord. 13-104, 08/22/13)*

POST-CONSTRUCTION
ENFORCEMENT

**8.04.00 POST CONSTRUCTION
RUNOFF CONTROL REGULATION.**

Unless otherwise indicated, Ordinance 21-101 enacts Section 8.04.01 through 8.04.23.

8.04.01 TITLE. This Ordinance shall be known as the Post-Construction Enforcement Ordinance of the City of Turner and may be so cited.

8.04.02 PURPOSE AND GENERAL PROVISIONS. The purpose of this Ordinance is to establish minimum stormwater management requirements and

controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the jurisdiction, thus complying with the Requirements.

8.04.03 DEFINITIONS. The Permit contains language and definitions specific to said Permit. The terms used in this Ordinance are specific to this Ordinance, are not intended to replace or supersede definitions in the Permit, and 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 development or construction site permit pursuant to Turner Revised Code (TRC) 8.03.05

(b) **“Authorized Agent”** means the developer, architect, contractor, engineer, builder, personal representative, or anyone designated by the Applicant to have control or supervision of a construction site.

(c) **“Best Management Practices (BMPs)”** means schedules of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also mean treatment requirements, operating procedures, and practices to control runoff, spillage, or leaks, sludge, or waste disposal, or drainage from raw materials.

(d) **“Building”** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

(e) **“Channel”** means a permanent or intermittent stream or other body of water, either natural or man-made, with a definite bed and banks, that conducts continuously or periodically flowing water.

(f) **“City”** means the City of Turner.

(g) **“Construction Activity”** includes, but is not limited to, clearing, grading, excavation, and other site preparation work related to the construction of residential buildings and non-residential buildings, and heavy construction (for example, highways, streets, bridges, tunnels, pipelines, transmission lines and industrial non-building structures).

(h) **“Construction site”** means a location where a City land use or building permit is required, or a site where ground disturbing activity involves an area meeting or exceeding the criteria established in the Standards.

(i) **“County”** means Marion County.

(j) **“Developer”** means a person who undertakes land disturbance activities.

(k) **“Development”** means:

- (1) The division of land;
- (2) The construction of a planned unit development;
- (3) The construction or structural alteration of a building or structure which will result in increased usage of a public facility.

(l) **“Director”** means the City Administrator, the Director of Public Works, or their authorized designee.

(m) **“Emergency”** has the same meaning as found in ORS 401.025.

(n) **“Erosion and Sediment Control Plan”** means a plan that is designed to describe the control of soil, raw materials, or other substances to prevent pollutants in stormwater runoff, and minimize the accelerated erosion and sediment runoff at a site during construction activities.

(o) **“Impervious Surface”** means any surface resulting from development that prevents the infiltration of water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

(p) **“Land Disturbance Activity”** means any activity which changes the volume or peak flow discharge rate of rainfall runoff

from the land surfaces. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made channel.

(q) **“Landowner”** means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

(r) **“Maintenance Activities”** means activities such as pavement preservation projects; restoration of impervious surfaces disturbed by construction, maintenance or repair of utilities; and roof replacement projects.

(s) **“Maintenance Agreement”** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(t) **“Nonresidential development”** means a development in which living units are not included or individual living units are not separately owned.

(u) **“Operations and maintenance manual”** means a written document containing policies and procedures related to the operation, maintenance, repair and replacement requirements for all structural, vegetative, and best management practices installed and relating to stormwater control systems for a development or construction site.

(v) **“Redevelopment”** means a project that entails construction activities, occurs on a previously developed site, and results in the addition or replacement of impervious surface, with the following exceptions:

- (1) Maintenance Activities;
- (2) Construction Activities conducted to ameliorate a public

health or safety emergency or natural disaster; AND/OR

(3) Construction Activities within an existing footprint to repair or replace a site or a structure damaged by a public health or safety emergency or natural disaster.

(w) **“Replaced Impervious Surface”** is defined as the removal of impervious surface down to earth material/subgrade and replacement with new impervious surface.

(x) **“Residential development”** means a development in which individual living units are separately owned.

(y) **“Standards”** means the Design and Construction Standards established in Article 8 of the City’s Land Use Development Code.

(z) **“Stormwater Management”** means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

(aa) **“Stormwater Drainage Permit”** means a permit for constructing a Stormwater Treatment Facility.

(bb) **“Stormwater Runoff”** means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed infiltration facility.

(cc) **“Stormwater Treatment Facility”** means a stormwater collection, conveyance, storage and/or treatment system, operated and maintained by the City, County, or by a private property owner, located outside of any buildings, which serves one or more building storm

drains, catch basins, area drains, or other drainage facilities.

8.04.04 APPLICABILITY. This Ordinance shall be applicable to all development or construction site applications, unless eligible for an exemption or granted a waiver by the Director under the Standards. The Ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by the Director to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff pollutant discharges are adequately reduced.

(a) To prevent the adverse impacts of stormwater runoff, the Director has developed a set of performance Standards that must be met at new development or construction sites. The following activities may be exempt from the stormwater performance criteria:

- (1) Additions or modifications to existing single family structures.
- (2) Developments or construction sites that do not meet the criteria established in the Standards, provided they are not part of a larger common development plan.
- (3) Repairs to any stormwater treatment facility deemed necessary by the Director.

(b) When a development or construction site plan is submitted that qualifies as a redevelopment project as defined in Section 8.04.03 of this Ordinance, approval and permit requirements shall

meet criteria established in the current Standards. Permit approval and issuance shall be provided by the Director after review and approval of the redevelopment plan.

8.04.05 ENGINEERING STANDARDS.

Article 8 of the City's Land Use Development Code shall establish Design and Construction Standards ("Standards") and specify exactly what requirements apply to a development or construction site. The Director may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this Ordinance and may provide such information in these Standards. The Standards will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

8.04.06 PERMIT REQUIRED.

No Landowner or Applicant shall receive land development approval; or be allowed to commence activity for building, grading, and/or other land disturbance permits without first meeting the requirements of this Ordinance.

(a) The Standards shall establish under what circumstances an on-site stormwater drainage permit is required inside City limits. The permit shall require an applicant to install any applicable

stormwater treatment facilities as required by the Standards in effect on the date of the applicant's application for a permit.

(b) Unless specifically excluded by this Ordinance, any Landowner or Applicant desiring land development approval or a permit for a land disturbance activity shall submit to the Director a permit application accompanied by the following: an on-site stormwater management plan; a draft operation and maintenance manual; a draft maintenance agreement; and a permit application and/or plan review fee.

(c) On construction sites of one (1) acre or more, the Department of Public Works shall perform at least one inspection of stormwater treatment facilities during installation to ensure compliance with this chapter and the permit. The Department of Public Works may also perform a final inspection of stormwater treatment facilities shortly after completion.

(d) Upon completion of the installation, a final operation and maintenance manual and maintenance agreement shall be submitted to the Director for review and approval.

(e) Permits issued under this section shall be valid from the date of issuance through the date the Director notifies the permit holder that all documentation is approved and that the stormwater management construction and practices have passed the final inspection.

8.04.07 ON-SITE STORMWATER DRAINAGE PLAN.

The on-site stormwater drainage plan must be submitted by the applicant and approved by the Director prior to the commencement of work at the construction site.

(a) The plan must contain protection techniques that will eliminate runoff siltation created after completion of the development.

(b) Site-specific consideration shall be incorporated into the plan.

(c) If landscaping is part of the stormwater treatment facilities, then the applicant must prepare and submit for approval a detailed plan for management of vegetation at the site after construction, which shall be attached to the draft maintenance agreement and operations and maintenance manual. The plan shall include a description of what practices will be employed to ensure that adequate vegetation cover is preserved.

8.04.08 MAINTENANCE RESPONSIBILITIES.

All stormwater management facilities must be periodically inspected, in accordance with the operations and maintenance manual, to document maintenance and repair needs.

(a) Unless otherwise approved by the City, the City shall maintain stormwater treatment facilities serving public rights-of-way created pursuant to a development application submitted after the effective date of this Ordinance codified in this chapter.

(b) The owner of property containing stormwater treatment facilities maintained by the City pursuant to subsection (a) of this section shall execute a surface and stormwater management easement and a stormwater treatment facility access easement to the City of Turner in a form sufficient to the City.

(c) Unless otherwise approved by the City, stormwater treatment facilities maintained by the City shall be located on a separate tract of land for any development creating multiple parcels.

(d) Stormwater facilities on private property, constructed for private ownership, shall be inspected, and maintained in accordance with the City-approved operations and maintenance manual.

8.04.09 MAINTENANCE AGREEMENT.

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the Director and recorded into the land record prior to final plan approval.

(a) An applicant for a nonresidential development or a single-family residence with a stormwater treatment facility that serves the residence exclusively which is required to obtain an on-site stormwater drainage permit shall execute a maintenance agreement in a form acceptable to the City to ensure that the stormwater treatment facilities function consistently with the City standards in effect on the date of the applicant's application for permit. This agreement will:

(1) Authorize City Public Works staff to access the stormwater treatment facilities at the site for the purpose of inspection to ensure continued compliance with the City standards in effect on the date of the applicant's application for permit.

(2) Require the current owner to keep an operations and maintenance manual available on site at all times. The current owner shall keep a record of maintenance and repairs for the last five years, which shall be available for inspection at a reasonable time and in a reasonable manner by City Public Works staff.

(3) Expressly run with the land and be binding on applicant's successors and assigns.

(4) Authorize City Public Works staff to enter the subject property in order to make any repairs

necessary, at the owner's expense, to restore the stormwater treatment facilities at the site to a condition consistent with the City standards in effect on the date of the applicant's application for permit in the event that the present condition of the stormwater treatment facilities poses an imminent threat to the public health, safety, or welfare.

(b) After an applicant executes a maintenance agreement, the applicant shall record the maintenance agreement in the Marion County real property deed records.

(c) Any violation of an executed maintenance agreement shall constitute a violation of this chapter.

8.04.10 FALSIFYING INFORMATION.

No person shall knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter.

8.04.11 NOTICE OF VIOLATION.

Whenever the Director finds that a condition exists on an owner's property that constitutes a violation of this chapter, the Director may order compliance by written notice of violation to the property owner.

(a) The notice may require, without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The maintenance of vegetation;
- (3) The cessation of all violating discharges, practices, or operations;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the

restoration of any affected property; AND/OR

(5) The implementation of source control or treatment best management practices directed by the Director.

(b) The notice shall:

(1) Describe the property by street address or tax lot number;

(2) Describe the nature of the violation;

(3) State by a date certain when the property owner must correct the violation in a manner acceptable to the Director;

(4) Inform the owner that if the violation is not corrected the City shall either complete the repairs, seek to compel abatement or cite the owner, as appropriate;

(5) Inform the property owner that if the City performs the necessary abatement or repairs, the City will bill the property owner for the costs;

(6) Include an estimate of the costs anticipated for the City to abate or repair the violation;

(7) Inform the property owner that failure to pay the City for its costs to correct the violation may result in filing of a lien on the property; AND

(8) Inform the property owner of the rights spelled out in the TRC 8.04.14 and 8.04.15, including the right to a hearing, and individuals the property owner may contact for additional information.

(c) The notice shall be served on the property owner by personal service consistent with Oregon Rules of Civil Procedure (ORCP) 7D(2)(a).

(d) If a stormwater treatment facility is maintained by the City the owner is not

responsible for violation of this chapter other than violation caused by the owner.

8.04.12 ABATEMENT AND/OR REPAIR OF VIOLATION. If the property owner has not corrected the violation as directed within the time allowed in the notice given pursuant to TRC 8.04.10, the Director may take all measures necessary to abate the violation and/or restore the property. The Director or person authorized by the Director may enter upon property to abate and/or restore the property upon obtaining consent of the property owner or through a court-issued warrant.

8.04.13 EMERGENCY ABATEMENT. The Director is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety, or well-being of the public. The Director or persons authorized by the Director may enter upon property to abate and/or restore the property upon obtaining consent of the property owner or through a court-issued warrant.

8.04.14 COLLECTION OF COSTS. The City may collect costs in the case of a violation, as follows:

- (a) The City may collect all costs associated with the repair or abatement of a violation, or both, from the property owner.
- (b) The City shall keep detailed records of all costs associated with the abatement or repair due to a violation of this chapter.
- (c) Upon completion of the abatement or repair of the violation by the City, a notice of final costs shall be served on the owner by personal service consistent with ORCP 7D(2)(a). Payment must be made within 30 days from the date of the notice of final

costs. The notice must contain the following:

- (1) The total cost of repair or abatement, or both;
- (2) A statement that the total cost may be filed as a lien with the county clerk unless paid within 60 days from the date of the hearings officer's order described in TRC 8.04.16; AND
- (3) A statement that the owner may contest the charges at a hearing that will be scheduled on the matter pursuant to TRC 8.04.16.

8.04.15 HEARING REQUEST. A property owner who is served with a notice of violation as described in TRC 8.04.10 may request a hearing before the City Council. Hearing requests must be filed in writing with the City Recorder within five business days from the date the notice was served.

8.04.16 HEARING ON NOTICE OF VIOLATION. When a hearing is authorized:

- (a) Upon receiving a written request for a hearing pursuant to TRC 8.04.14, the City Recorder shall set a time and place for a hearing that shall be no more than seven days from the date of filing of the hearing request, or as soon as practicable. The City Recorder shall notify the person requesting a hearing of the time and date of the hearing. The Director shall appear and present evidence pertinent to the alleged violation and its abatement or repair. The owner of the property may also present evidence before City Council pertinent to the alleged violation and its abatement or repair. The City shall have the burden of proving by a preponderance of the evidence that a violation exists and must be abated or repaired.

(b) Failure of the person requesting hearing to appear shall constitute a waiver of the right to present evidence at the hearing or thereafter.

(c) After the hearing, the City Council shall issue an order containing findings as to whether the alleged violation does in fact exist, the extent to which the violation exists and (if abatement or repair is required) shall set a date for abatement or repair to be accomplished by the owner. The order shall be issued within 10 days of the date of the hearing or as soon as practicable.

(d) The decision of the City Council is final. Appeal shall be only by writ of review under ORS Chapter 34.

8.04.17 HEARING ON FINAL COST.

Upon determination of final cost:

(a) At the time of notice of final costs is sent to the property owner as described in TRC 8.04.13, a copy shall also be sent to the City Recorder. The City Recorder shall set a time and place for a hearing that shall be no more than seven days from the date of receipt of the notice of final costs, or as soon as practicable. The City Recorder shall notify the property owner and the Director of the time and date of the hearing. The only issue at the hearing shall be the reasonableness of the cost of abatement or repairs.

(b) Failure of the property owner to appear shall constitute a waiver of the right to present evidence at the hearing or thereafter.

(c) After the hearing, the City Council shall issue an order within 10 days of the date of the hearing, or as soon as practicable, detailing the amount of the final costs that the owner must pay, if any. The order shall also indicate that the final costs must be paid within 30 days and if they are not paid within 60 days the City

may record a lien in the Marion County Clerk lien record.

(d) The City Council's order of determination shall be final and binding. Appeal shall be only by writ of review under ORS Chapter 34.

8.04.18 LIEN RECORD FILING. If final costs are not paid within 60 days of the City Council order requiring payment of final costs, the City shall record a lien with the Marion County Clerk. The total amount of final costs shall be recorded as a lien in the County Clerk lien record. The lien provided for herein shall be foreclosed in the manner prescribed by state law for the enforcement of liens. Nothing in this section precludes the City from taking other action to collect the final costs.

8.04.19 PENALTIES. In the case of fines due for a violation of this Chapter:

(a) Any person who is cited for a violation of this chapter shall be subject to a fine of not more than \$500.00 for a noncontinuing violation and a fine of not more than \$1,000 for a continuing violation.

(b) Each day that this chapter is violated shall constitute a separate violation.

8.04.20 ENFORCEMENT. The provisions of this chapter are enforceable pursuant to Title One of the Turner Revised Code.

8.04.21 OTHER REMEDIES. The provisions of this chapter are in addition to and not in lieu of any other procedures and remedies provided by law including equitable relief and damages.

8.04.22 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.

8.04.23 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. This Ordinance is not intended to interfere with, abrogate, or annul any other Ordinance, rule or regulation, statute, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other Ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.