

GRESHAM REVISED CODE

City of Gresham, Oregon

Enacted by Ordinance No. 1260 on August 4, 1992
and effective September 1, 1992

COMPILED AND MAINTAINED BY:

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Chapter 1
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Article 1.05

GENERAL PROVISIONS

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1.05.005 Code Designated.

All ordinances included in this and the following chapters are designated the "City of Gresham Revised Code" and will be referred to as "code." When referring to specific sections of the Gresham Revised Code, the letters "GRC" shall precede the numerical designation.

1.05.010 Definitions.

The following definitions and rules of construction shall be observed, unless inconsistent with the intent of the council or the context clearly requires otherwise, or a more specific definition is included in the applicable chapter or ordinance.

Accessory Dwelling. An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single detached dwelling or townhouse. The accessory unit functions as a complete, independent living facility with provisions

within the unit for a separate kitchen, bathroom and sleeping area.

Actual Costs. City costs incurred for labor, materials & services, equipment, construction services, and administrative overhead.

Administrative Overhead. A rate, set using federal cost allocation guidelines, for indirect costs of providing labor, materials & services, equipment, and construction services.

Attorney. The city attorney appointed by the council or the attorney's designee.

City. The city of Gresham, Multnomah County, Oregon.

Computation of time. The time within which an act is to be done is computed by excluding the first day and including the last, unless the last falls on a legal holiday as defined in ORS 187.010 or 187.020 or on Saturday or Sunday, in which case the last day is also excluded.

Council. City council of the city of Gresham.

County. Multnomah County, Oregon.

Day. The period of time between any midnight and the midnight following.

Days. Calendar days unless otherwise specified.

Daytime; nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Department; board; commission; office; officer or employee. A department, board, commission, office, officer or employee of the city.

Dwelling or Dwelling Unit. A building, or any portion thereof, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Financial Assurance. A surety bond, cash deposit or other security acceptable to the manager to assure completion of specified work.

Gender. The masculine gender includes the feminine and neuter, and the feminine includes the masculine and neuter.

In the city. Territory over which the city now has or acquires jurisdiction for the exercise of its powers.

Joint authority. Words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Law. Applicable federal law, the constitution and statutes of the state of Oregon, the code, ordinances, and applicable adopted rules and regulations of the city.

Manager. The city manager appointed by the council or the manager's designee.

Middle Housing. Duplexes, Triplexes, Quadplexes, Townhouses and Cottage Clusters.

Minor. A person under the age of 18 years, unless otherwise stated.

Month. A calendar month.

Multifamily Dwelling. A structure or grouping of structures containing multiple dwelling units on a single lot. The land underneath the structure is not divided into separate lots or parcels. Dwelling units on the same lot as and sharing a common wall with commercial uses are also multifamily dwellings. Multifamily dwellings are not middle housing.

Number. The singular number includes the plural, and the plural the singular.

Oath. "Oath" includes affirmation.

Official time. When certain hours are named, they mean the standard of time as set out in ORS 187.110.

Or; and. "Or" may be read "and" and "and" may be read "or", if the sense requires it.

ORS. Oregon Revised Statutes.

Owner, Property Owner, or Legal Owner. Any person having a legal or equitable interest in the whole or part of land or a building and includes, but is not limited to, a part owner, joint owner, tenant in common, tenant in partnership, joint tenant, tenant by the entirety, receiver or trustee in bankruptcy, mortgagor in possession, or vendee in possession under a land sale contract. The city shall provide notice to the owner of record as shown on the assessment and taxation records of Multnomah County.

Peace officer. A city police officer or other officer specified in ORS 133.005.

Person. A natural person, individual, corporation, cooperation, company, association, governmental entity, joint venture, joint association, joint stock company or association, business, organization, club, firm, partnership, limited liability company, estate, trust, or similar entity, or any group or combination acting as a unit.

Person Responsible or Person in Charge of Property. The owner, contract purchaser, occupant, agent, property manager, or other person or entity with actual or apparent authority to represent the property owner's interest in the subject property, or other person having possession of the property. If no person is in possession of the property, then the person in control of the use of the property, or in control of the development of the property.

Personal property. Every type of property, except real property as defined below.

Preceding; following. Next before and next after, respectively.

Process. A writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. Both real and personal property.

Public Health and Safety. Includes, but is not limited to, protecting, maintaining and promoting the life, health, safety and welfare of humans, property, wildlife and the environment.

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Public Rights-Of-Way. Includes, but is not limited to, streets, roads, highways, bridges, alleys, sidewalks, and all other public ways, including the subsurface under and air space over these areas under the jurisdiction of the city.

Public Safety Officer. A law enforcement officer, deputy fire marshal, fire officer or firefighter.

Public Works Standards. The council adopted design and construction requirements and drawings applicable to all public and privately financed public works projects.

Real property. Lands, tenements, and hereditaments.

Shall; may. "Shall" is mandatory, and "may" is permissive.

Sidewalk or Public Sidewalk. Any paved or unpaved walkway not open to public vehicular traffic and capable for the use of pedestrians located within a public right-of-way, within a public access easement, within a dedicated public access way, or the land located between the curb line or outside edge of the shoulder of any road, street or highway and the adjacent property line.

Signature. "Signature" includes "subscription" or "mark" when the signer cannot write, the signer's name being written near the mark by a witness who signs near the signer's name. A signature by subscription or mark as acknowledged serves as a signature to a sworn statement only when two witnesses sign their own names.

State. The state of Oregon.

Street, Road or Highway. The portion of a public right-of-way open, used or intended for use of the general public for vehicles or vehicular traffic, including bridges, viaducts, other structures and any paved, graveled or dirt shoulder.

Tenant or Occupant. A person, either alone or with others, who has possessory rights in, or control over, the whole or part of land or a building.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

To. "To" means "to and including" when used in reference to a series of sections of this code or the Oregon Revised Statutes.

Week. Seven consecutive days.

Writing. "Writing" includes any form of recorded message capable of comprehension by ordinary visual means. When a notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Year. A calendar year, except where otherwise provided.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1574, Amended, 8/14/2003; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

1.05.015 Substitute Officers.

Unless this code provides to the contrary, the manager, attorney and city department heads, or their authorized representatives or deputies, may exercise a power granted by this code. The manager, attorney and department heads remain responsible for the performance of such acts.

1.05.020 Service and Notice.

(1) Except when this code provides a specific procedure for giving notice, when oral or written notice is required by this code, the notice may be given either by personal delivery to the person to be notified or by deposit in an official mailbox in a sealed, postage prepaid envelope, addressed to the last known business or residence address of the person to be notified. The time when the notice is

deposited in a mailbox is the time when the notice is given.

(2) Proof of giving notice may be made by the certificate of an officer or employee of the city or by affidavit of a person 18 years of age or older.

1.05.025 Appeals to Council.

(1) Authorization of an Appeal to Council.

(a) The council shall review decisions if the applicable code section provides for an appeal. A person requesting review shall be the “appellant” and shall follow the procedures established in this section.

(b) The appeal procedures of this section shall not apply to decisions relating to personnel matters, land use, Measure 37 or Measure 49 claims, matters subject to charter provisions, or to the extent the applicable code section provides for specific procedures.

(2) Filing an Appeal. Within 10 calendar days of the date of decision from which appeal is requested, the appellant shall file with the manager a written notice of appeal. If the written decision is not mailed within three calendar days of the date of decision, the appeal period shall commence on the date written notice of decision is mailed. An appellant who fails to file an appeal as provided by this section waives all objections to the decision and any appeal shall be summarily dismissed.

(3) Content of an Appeal. The appeal shall state:

- (a) the name and address of the appellant,
- (b) the nature of decision being appealed,

(c) a written statement of the reason for requesting the reversal, revocation or modification of the decision, and

(d) a written statement of the desired results of the appeal.

(4) Appointment of a Hearings Officer. Council may request the city attorney to appoint a hearings officer to hear the appeal pursuant to GRC 7.50.030 in which case the decision of the hearings officer shall be final.

(5) Manager Reconsideration. The manager may elect to reconsider the decision prior to the council hearing.

(6) Scheduling the Hearing. A hearing shall be scheduled as soon as practical after receipt of the notice of appeal. The manager shall notify the appellant and other persons who have an interest in the subject matter of the time and place of the hearing and the manner in which written documents can be submitted for the record. Notice shall be mailed at least 10 calendar days prior to the date written documents are to be submitted for inclusion in the hearing record.

(7) Submission of Written Material. Not later than the Monday two weeks prior to the hearing date, or if the Monday is a city holiday, the previous business day, the city, appellant and other interested persons who received notice shall submit all written documents to the city recorder for inclusion in the hearing record.

(8) Conduct of the Hearing. The hearing shall be on the record and no new testimony or evidence will be allowed unless the code provision provides otherwise or as authorized by council. If the hearing is on the record, the appellant, the city, and such other persons as authorized by council, may make arguments personally or by counsel. If the hearing is de novo, the appellant, the city, and such other persons as authorized by council, may present witnesses, offer evidence, and make arguments personally or by counsel. The rules of evidence as used by courts of law do not apply and cross examination is only allowed if authorized by council. Testimony and argument at the hearing is limited to oral presentations unless otherwise authorized by

council. No new written material is permitted to be submitted at the hearing unless otherwise approved by council.

(9) Decision. Council shall make written findings, recommendations, or orders on any matter heard by it, and the manager shall send a copy to the appellant as soon as practical after adoption of the decision.

(10) Burden of Proof. If the appeal is from a denial of a license or permit, the appellant shall carry the burden of proving entitlement to the license or permit and how the city erred in its denial. If the appeal is from a revocation or suspension of a license or permit, the city shall carry the burden of proving that the revocation or suspension was proper. In all other cases, the burden of presenting evidence to support a fact or position by the preponderance of the evidence rests on the proponent of the fact or position.

(11) Effective Date. If a notice of revocation of a license or permit is the subject of the appeal, the revocation shall not take effect until final determination of the appeal. If authorized by the code, an immediate, summary and/or emergency suspension shall take effect upon issuance of, or such other time stated in, a notice of suspension.

(12) Fees. Council may establish, by resolution, fees for filing an appeal.

(13) Costs. If the city prevails in whole or in part on appeal, the decision-maker may elect to assess the cost of the hearing to the appellant.

(14) Exhaustion of Remedies. Before seeking judicial review of a city decision, a person must exhaust all administrative remedies.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1494, Amended, 02/15/2000)

1.05.030 Construction.

The provisions of this code and proceedings under it are to be construed so as to effect its objectives and to promote justice.

1.05.035 Continuation of Ordinances.

Provisions of this code that are the same as those of the prior code sections existing at the time of the effective date of this code shall be considered continuations and not new enactments.

1.05.040 Effect of Repeal.

(1) The repeal of the prior code does not revive any ordinance in force before or at the time the prior code took effect. The repeal of the prior code does not affect a penalty incurred before the repeal took effect, or a legal action pending at the time of the repeal.

(2) The repeal or amendment of this code does not affect a penalty incurred before the repeal or amendment took effect, or a legal action pending at the time of the repeal or amendment.

(3) The manager may continue and complete an enforcement process commenced prior to the amendment of this code pursuant to the enforcement process of the amended code. Notices issued prior to the amendment shall constitute notice under the amended code.

(Ord. No. 1702, Amended, 03/03/2011; Ord. No. 1534, Amended, 11/01/2001)

1.05.045 Severability.

The sections, subsections, paragraphs, provisions, clauses, phrases, and words of this code and any ordinance enacted to amend, add or repeal existing provisions of this code are severable. If a section, subsection, paragraph, provision, clause, phrase, or word of this code or ordinance is declared by a court of competent jurisdiction to be unconstitutional or invalid, the judgment shall not affect the validity of the remaining portions of this code or ordinance. Every other section, subsection, paragraph, provision, clause, phrase or word of this code or ordinance enacted, irrespective of the enactment or validity of

the portion declared unconstitutional or invalid, is valid.

(Ord. No. 1534, Amended, 11/01/2001)

1.05.050 Section Catchlines.

The catchlines of the code sections indicate the contents of each section and are not a part of the substance of the section. The catchlines are not affected by amendments or re-enactments.

1.05.055 Amendment and Repeal.

This code is the general and permanent law of the city. The council may enact three types of general ordinances to affect this code.

Ordinances may (1) amend existing provisions, (2) add new provisions, or (3) repeal existing provisions. General ordinances shall specifically amend or repeal particular sections of this code. General ordinances creating new code sections shall integrate the new sections into the numbering system and organization of this code.

1.05.060 Publication.

In preparing revisions of the code for publication and distribution, the attorney may make editorial changes and corrections to this code, provided such changes shall not alter the sense, meaning, effect, or substance of an ordinance. Changes and corrections may include the following: the attorney may renumber sections and parts of sections, change the wording of catchlines, rearrange sections, change reference numbers to agree with renumbered chapters, sections, or other parts, substitute the proper subsection, section, or chapter or other division numbers, strike out figures or words that are merely repetitious, change capitalization for the purpose of uniformity, and correct clerical, grammatical, or typographical errors.

(Ord. No. 1700, Amended, 03/03/2011)

1.05.065 Repeal.

The Gresham Code enacted by Ordinance No. 885 is repealed.

1.05.070 Exclusions.

This Gresham Revised Code does not repeal or amend any special ordinance; any ordinance relating to or resulting from annexation, naming of streets and public places, property acquisition or disposal of property, vacation of streets, public places or plats; any ordinance relating to budgets; any ordinance granting a franchise, license, or permit; nor any planning, zoning or land development ordinance.

1.05.075 City Seal.

The seal of the city consists of an impression one and seven-eighths inches in diameter with the words "City of Gresham, Oregon" on the outer rim, and the words "Corporate Seal" in the center.

(Ord. No. 1750, Amended, 05/07/2015)

1.05.080 References to Other Laws.

All specific references to the Multnomah County Code, Oregon Revised Statutes, Oregon Administrative Rules, United States Code, Code of Federal Regulation, or other laws and rules are to the provisions in effect as of August 20, 2015. All general references shall include amendments after the date of adoption by the city.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Enacted, 10/19/2000)

1.05.085 Filing or Submittal.

Unless specified by a code, notice or otherwise, any item that must be filed or submitted to the city by a date certain must be physically received by the appropriate official no later than 5:00 p.m. on the applicable date or, in the case of weekends and holidays, the next business day.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Enacted, 01/02/2003)

1.05.090 Nuisance.

A violation of any provision of this code is a nuisance.

(Ord. No. 1561, Enacted, 01/02/2003)

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- 2.98.010 Purpose.
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- 2.99 REQUIREMENTS AND PROCEDURES FOR FILING AND REVIEWING CLAIMS FOR COMPENSATION
- PURSUANT TO ORS 195.300 to 195.336 (MEASURE 49) FOR PROPERTY LOCATED, IN WHOLE OR IN PART, INSIDE THE CITY OF GRESHAM
- 2.99.010 Purpose.
2.99.020 Definitions.
2.99.030 Claim for Compensation.
2.99.040 Claim Filing, Completeness and Processing Deadlines.
2.99.050 Criteria, Recommendation and Decision.
2.99.060 Notice of Hearings Officer and Council Hearings and Notice of Council Decision.
2.99.070 Processing Fee.
2.99.080 Burden of Proof.
2.99.090 Ex Parte Contacts, Conflict of Interest and Bias.
2.99.100 Procedural Error.
2.99.110 Availability of Funds to Pay Demands.
2.99.120 Severability.
2.99.130 Applicable State Law, No Independent Rights Created by this Article.
2.99.140 Judicial Review.

Article 2.01
ELECTIONS

Special Election. A city election not held on the date of a regular election.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011)

Sections:

2.01.010 Definitions.

2.01.010 **Definitions.**

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Articles 2.01 through 2.08, the following mean:

Candidate. An individual whose name is or is expected to be printed on the official ballot.

Election Official. The person appointed by the manager to perform functions in connection with elections.

Elective City Position. The position of mayor or councilor.

Initiative. A proposed legislative enactment for the city, or a proposition or question for the electors submitted to the electors by a petition of qualified electors.

Measure. A legislative enactment by the council, a proposed legislative enactment for the city, or a proposition or question for the electors.

Prospective Petition. Information required for a completed petition, except for signatures and other identification of petition signers.

Qualified Elector/Elector. An individual qualified to vote under Section 2, Article II, Oregon Constitution, registered to vote and a resident of the city.

Referendum. A proposed legislative enactment submitted to the electors by the council or by a petition of qualified electors, or a proposition or question submitted to the electors by the council.

Regular Election. A city election held at the same time as a primary or general biennial election for electing federal, state and county officers.

Article 2.05

INITIATIVE, REFERENDUM AND REFERRAL

Sections:

- 2.05.010** [Petition Requirements.](#)
- 2.05.015** [Ballot Title.](#)
- 2.05.020** [Explanatory Statement Preparation.](#)
- 2.05.030** [Ballot Title and Explanatory Statement Challenge.](#)
- 2.05.040** [Signature Requirements.](#)
- 2.05.050** [Date of Election.](#)
- 2.05.060** [Council Referral of Measures.](#)
- 2.05.070** [Effective Date of Measures.](#)
- 2.05.080** [Unlawful Acts.](#)
- 2.05.090** [Penalties.](#)

2.05.010 Prospective Petition Requirements.

(1) Chief petitioners of a proposed City of Gresham ballot measure must be electors of the city.

(2) All election petitions intended for circulation shall conform with the requirements of state law and the Oregon Secretary of State.

(3) The election official shall review the prospective petition for compliance with applicable state and city election laws and regulations and,

(a) If the prospective petition complies with such requirements, including the ballot title process for initiatives, the election official shall issue written authorization for the circulation of the petition;

(b) If the prospective petition does not comply with the requirements of state and city law and regulation, the election official shall notify the petitioner in writing by certified mail.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Renumbered [formerly GRC 2.04.010 and 2.04.020(2)] and Amended, 08/20/2015)

2.05.011 Appeal of Election Officer Decision

(1) Any qualified elector dissatisfied with a determination of the election official may petition the city council seeking to overturn the determination of the election official.

(2) If the elector is dissatisfied with a determination that the initiative measure meets the requirements of Section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the petition must be filed not later than the seventh business day after the ballot title is filed with the city elections official.

(3) If the elector is dissatisfied with a determination that the initiative measure does not meet the requirements of Section 1 (2)(d) and (5), Article IV of the Oregon Constitution, the petition must be filed not later than the seventh business day after the written determination is made by the city elections official.

(4) The review by the city council shall be the first and final review and shall be conducted expeditiously in compliance with ORS 250. (Ord. No. 1842, Enacted, 12/21/2023)

2.05.015 Petition Ballot Title and Explanatory Statement.

(1) If the prospective petition meets the requirements of 2.05.010, the election official will transmit one copy of the prospective petition to the city attorney.

(2) In compliance with state law, the city attorney shall prepare a ballot title for the proposed measure, and may prepare an explanatory statement, for the voter's pamphlet.

(3) After the city attorney has provided the ballot title and, if authored, explanatory statement to the election official, the election official shall provide a copy of the ballot title, and explanatory statement, to the chief petitioners.

(4) Upon receipt of the ballot title, and

explanatory statement, from the city attorney, the election official shall publish in the next edition of a newspaper of general circulation in the city a notice of receipt of ballot title, and explanatory statement, including notice that a qualified elector may file a petition for review of the ballot title, and/or explanatory statement, not later than seven business days after the ballot title and explanatory statement was filed with the election official.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Renumbered [formerly GRC 2.04.030] and Amended, 08/20/2015)

2.05.030 Petition Ballot Title and Explanatory Statement Challenge.

(1) Any elector dissatisfied with an initiative's ballot title or explanatory statement may petition the council seeking a different ballot title or explanatory statement by stating in writing the reasons the ballot title or explanatory statement is insufficient, not concise, or unfair. The petition shall be filed not later than the seventh business day after the ballot title is filed with the election official.

(2) The council shall review the ballot title or explanatory statement, and the measure referred, hear arguments from interested persons, if any, and certify to the election official a ballot title or explanatory statement for the measure that meets the requirements of state law.

(3) The review by the council shall be the first and final review, and shall be conducted expeditiously to ensure the orderly and timely circulation of the petition or conduct of the election at which the measure is to be submitted to the electors.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Renumbered [formerly GRC 2.04.050] and Amended, 08/20/2015)

2.05.050 Prospective Petition Date of Election.

If the city election official determines a petition contains the required number of verified signatures, as provided by state law, a measure election shall be held at the next regular election

that is not sooner than the 90th day after the petition was filed with the election official, unless an earlier election date is approved by the council.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Renumbered [formerly GRC 2.04.080(2) and 2.04.100] and Amended, 08/20/2015)

2.05.060 Council Referral of Measures.

(1) Council may directly refer to the electors a proposed ordinance or resolution; an ordinance or resolution adopted by council; proposed amendments, revisions or repeal of the Gresham Charter or portion thereof; and any proposed property tax or bond measure.

(2) The city attorney shall prepare a ballot title and may prepare an explanatory statement that conforms to the requirements of state law. The council will certify the ballot title and explanatory statement and file them with the election official.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Enacted, 08/20/2015)

2.05.061 Ballot Title and Explanatory Statement Challenge of Council Referred Measures

(1) Any qualified elector dissatisfied with the ballot title or explanatory statement approved by the council and filed with the election official may petition the council seeking a different ballot title or explanatory statement by stating in writing the reasons the ballot title or explanatory statement is insufficient, not concise, or unfair. The petition shall be filed not later than the seventh business day after the ballot title is filed with the election official.

(2) The council shall review the ballot title or explanatory statement, and the measure to be referred, hear arguments from interested persons, if any, and certify to the election official a ballot title or explanatory statement for the measure that meets the requirements of state law.

(3) The review by the city council shall be the first and final review and shall be conducted expeditiously in compliance with ORS 250.296.

(Ord. No. 1842, Enacted, 12/21/2023)

2.05.070 Effective Date of Measures.

A measure submitted to the electors shall take effect when approved by a majority of the electors voting upon it, unless the measure provides for another effective date. A measure shall have no effect while it is subject to a referendum.

(Ord. No. 1756, Renumbered [formerly GRC 2.04.140] and Amended, 08/20/2015)

2.05.080 Unlawful Acts.

Any act by an individual, city officer or city employee that violates Oregon law or the Oregon Secretary of State regulation shall be prohibited.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Renumbered [formerly GRC 2.04.170] and Amended, 08/20/2015)

2.05.090 State Law Applies.

State law to control in absence of local provision.

Exception:

City elections must conform to state law, except as the City of Gresham City Charter and city ordinances provide otherwise. The provisions of the City Charter and city ordinances relating to elections prevail over any conflicting provisions of state law.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1756, Renumbered [formerly GRC 2.04.180] and Amended, 08/20/2015)

Article 2.08
CANDIDATES

Sections:

- 2.08.010** [Eligibility.](#)
- 2.08.020** [Nomination Petition or Declaration of Candidacy.](#)
- 2.08.030** [Petition or Declaration Contents.](#)
- 2.08.040** [Filing.](#)
- 2.08.050** [Deficient Petitions.](#)
- 2.08.060** [Withdrawal of Candidacy; Refund of Filing Fee.](#)
- 2.08.070** [Certificate of Nomination.](#)
- 2.08.080** [Applicability of State Law.](#)

2.08.010 Eligibility.

A qualified elector who has resided in the city during the 12 months immediately preceding the election may be a candidate for an elective city position.

2.08.020 Nomination Petition or Declaration of Candidacy.

(1) An eligible elector may become a candidate for an elective city position by filing a nomination petition or a declaration of candidacy in a form prescribed by the Secretary of State and available in the office of the election official.

(2) In order to be filed, a declaration of candidacy shall be accompanied by the filing fee established by council resolution.

(3) In order to be filed, a nomination petition shall contain signatures of not fewer than 20 city qualified electors as follows:

- (a) No elector may sign more than three petitions. If more than three are signed, the signature shall be valid only on the first three valid petitions filed.
- (b) The signatures need not all be attached to one paper, but each separate paper of the petition shall be attached to an affidavit

of the circulator, indicating the number of signers and stating that each signature on it is the genuine signature of the person whose name it purports to be.

(c) Each signature shall have next to it the signer's place of residence, identified by its street and number or other description.

(d) The signatures contained in the nomination petition shall be certified for genuineness by the election official by comparing the signatures of electors and the other required information with the elector registration cards on file with the county election division.

(e) The election official shall verify signatures within 10 days from the date the petition was filed with the election official, and shall attach to the petition a certificate stating the number of signatures believed to be genuine.

(Ord. No. 1756, Amended, 08/20/2015)

2.08.030 Petition or Declaration Contents.

(1) A nomination petition or declaration of candidacy shall contain:

- (a) the name by which the candidate is commonly known. A candidate may use a nickname in parentheses in connection with the candidate's full name;
- (b) the residence address of the candidate;
- (c) the office or position number for which the candidate seeks nomination;
- (d) a statement by the candidate that he or she is willing to accept the office if elected;
- (e) a statement that the candidate will qualify if elected;
- (f) a statement of the candidate's occupation, educational and occupational

background and prior governmental experience; and

(g) the signature of the candidate.

(2) A declaration of candidacy shall include a statement that the required fee is included with the declaration.

2.08.040 Filing.

(1) A nomination petition or declaration of candidacy shall be filed with the election official.

(2) Immediately upon filing, a nominating petition, declaration of candidacy, withdrawal or other document required to be filed shall be dated and time stamped by the election official.

(3) A nomination petition or declaration of candidacy shall be filed not sooner than the first day of January of the election year and not later than 75 days before the date of the election.
(Ord. No. 1756, Amended, 08/20/2015)

2.08.050 Deficient Petitions.

If a nomination petition is not signed by the required number of qualified electors, or the declaration of candidacy is not complete, the election official shall notify the candidate within five days after the filing. The election official shall return it immediately to the candidate, certifying in writing how the petition is deficient. The deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the regular time for filing petitions.
(Ord. No. 1756, Amended, 08/20/2015)

2.08.060 Withdrawal of Candidacy; Refund of Filing Fee.

(1) A candidate who has filed a nomination petition or declaration of candidacy may withdraw not later than the 67th day before the date of the election by filing a statement of withdrawal with the election official with whom the petition or declaration was filed. The statement shall be made

under oath and state the reasons for the withdrawal.

(2) Upon request received not later than the 67th day before the date of the election, the election official shall refund the filing fee of a candidate who dies, withdraws or becomes ineligible for the nomination.
(Ord. No. 1756, Amended, 08/20/2015)

2.08.070 Certificate of Nomination.

The election official shall certify the nominations to the county's director of elections in accordance with the time requirements of state law, stating the offices and the terms of office for which the candidates are nominated.
(Ord. No. 1756, Amended, 08/20/2015)

2.08.080 Applicability of State Law.

When the city charter and this code do not provide a method of procedure regarding elections, state law shall apply.

Article 2.10

MAYOR, COUNCIL PRESIDENT AND COUNCILOR DUTIES

Sections:

- 2.10.010** [Mayor Duties.](#)
- 2.10.020** [Council President Duties.](#)
- 2.10.030** [Councilor Duties.](#)

2.10.010 Mayor Duties.

(1) The mayor is chairperson of the council and the political head of the government of the city.

(2) The duties of the mayor include the following:

- (a) preside over all council deliberations and have authority to preserve order, enforce rules of the council, and determine council order of business;
- (b) vote on all questions before the council;
- (c) sign all records of proceedings approved by the council;
- (d) meet with manager to prepare council agendas and review items for presentation to the council;
- (e) represent the city at county, regional, state and other meetings of elected officials;
- (f) appoint city committees and commissions with the consent of council;
- (g) appoint council liaisons to city committees;
- (h) respond to correspondence directed to the mayor or council on topics relating to council policy; and

(i) work with council president and manager to develop council budget.
(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1383, Enacted, 03/07/1996)

2.10.020 Council President Duties.

(1) The council president is a member of the council elected from its membership at its first meeting each year.

(2) The duties of the council president include the following:

- (a) attend and participate at council meetings;
- (b) vote on all questions before council;
- (c) preside at council meetings in the absence of mayor;
- (d) act as mayor whenever the mayor is unable to perform the functions of that office;
- (e) represent city in absence of mayor;
- (f) attend committee meetings when another councilor is unable to attend or delegate to another councilor to ensure council representation;
- (g) coordinate agendas for policy development council meetings; and
- (h) work with mayor and manager to develop council budget.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1383, Enacted, 03/07/1996)

2.10.030 Councilor Duties.

(1) Each councilor is a member of the council.

(2) The duties of each councilor include the following:

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(a) attend and participate at council meetings;

(b) vote on all questions before council;

(c) represent council as liaison at committee meetings; and

(d) represent city in absence of mayor and council president.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1383, Enacted, 03/07/1996)

Article 2.12

COUNCIL PROCEDURE

Sections:

- 2.12.010** [Meetings.](#)
- 2.12.020** [Presiding Officer.](#)
- 2.12.030** [Voting.](#)
- 2.12.040** [Suspension of Rules.](#)
- 2.12.050** [Reconsideration.](#)
- 2.12.060** [Resolutions.](#)
- 2.12.070** [Motions, Debate, and Withdrawal.](#)
- 2.12.080** [Ordinances.](#)
- 2.12.090** [Rules of Order.](#)

2.12.010 Meetings.

The council shall meet at least twice each month in the Gresham Civic Center, unless another location or method is approved by council.

(Ord. No. 1842, Amended, 12/21/2023; Ord. No. 1722, Amended, 11/20/2012)

2.12.020 Presiding Officer.

The mayor shall be the presiding officer, preserve order, and enforce the council rules. The council president shall preside in the absence of the mayor.

2.12.030 Voting.

All decisions shall be voted on by affirmation and the result of all votes recorded in alphabetic order. Councilors present when a question is called shall vote unless excused by the council.

2.12.040 Suspension of Rules.

No council rule may be added, amended, rescinded or suspended, except by the vote of a majority of council members present at the meeting at which the action is taken.

(Ord. No. 1475, Amended, 06/01/1999)

2.12.050 Reconsideration.

When a question has been decided, any councilor who voted in the majority may move for a reconsideration. Any motion to reconsider shall be made prior to adjournment of the meeting at which final action is taken on the matter in question.

2.12.060 Resolutions.

Resolutions shall be in writing and numbered consecutively in the order in which they are received. A resolution shall become effective immediately upon adoption unless an alternative date is provided within the body of the resolution. (Ord. No. 1534, Amended, 11/01/2001)

2.12.070 Motions, Debate and Withdrawal.

Motions shall be distinctly stated by the maker or presiding officer and may be debated without being seconded. Motions shall be read by the manager when required by the council. A motion may be withdrawn at any time before amendment.

2.12.080 Ordinances.

(1) All ordinances shall be prepared by the attorney. No ordinance may be prepared for presentation to the council unless directed by a majority of the council, requested by the mayor or manager, or prepared by the attorney with the approval of the mayor or manager.

(2) Unless otherwise required by the Gresham Charter, the first and second readings of every ordinance may be by title. (Ord. No. 1647, Amended, 09/20/2007)

2.12.090 Rules of Order.

All cases not specifically provided for in this code or in the city charter shall be governed by Robert's Rules of Order, Newly Revised.

Article 2.16

HEARINGS

Sections:

- 2.16.010** [Impartiality of Hearings.](#)
- 2.16.020** [Disqualification of Members.](#)
- 2.16.030** [Participation by Interested Officers or Employees.](#)
- 2.16.040** [Ex Parte Contacts.](#)
- 2.16.050** [Abstention or Disqualification.](#)
- 2.16.060** [Rights of Disqualified Member.](#)

2.16.010 Impartiality of Hearings.

(1) Except for legislative hearings conducted by the council, a party to a hearing or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. Except for good cause shown, a challenge shall be delivered by personal service to the manager not less than 48 hours preceding the time set for public hearing.

(2) Prior to the meeting, the manager shall attempt to notify the person whose qualifications are challenged. The challenged person shall have an opportunity to respond orally and in writing to the challenge. The challenge and the response shall be incorporated into the record of the hearing.

2.16.020 Disqualification of Members.

Except for legislative hearings conducted by the council, a member of a hearing body shall not participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

(1) The following have a direct or substantial financial interest in the proposal: the hearing body

member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

(2) The member owns property within the area entitled to receive notice of the public hearing.

(3) The member has a direct private interest in the proposal.

(4) For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

2.16.030 Participation by Interested Officers or Employees.

No officer or employee of the city who has a financial or other private interest in a proposal may participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

2.16.040 Ex Parte Contacts.

Except for legislative hearings conducted by the council, the general public has a right to have hearing body members free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, hearing body members shall reveal any significant prehearing or ex parte contacts with regard to any matter at the commencement of the public hearing on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with GRC 2.16.050.

2.16.050 Abstention or Disqualification.

Except for legislative hearings conducted by the council, disqualification for reasons other than the member's own judgment may be ordered by two-thirds of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.

2.16.060 Rights of Disqualified Member.

(1) An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents a personal interest at a hearing may do so only by abstaining from voting on the proposal, vacating the seat on the hearing body, physically joining the audience, and making full disclosure of his or her status and position at the time of addressing the hearing body.

(2) If all members of a hearing body abstain or are disqualified, all members present, after stating their reasons for abstention or disqualification, shall be requalified and proceed to resolve the issues.

(3) Except for legislative hearings conducted by the council, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

Article 2.18

COMMISSIONS, COMMITTEES AND TASK FORCES – COUNCIL CREATED ADVISORY BODIES

Sections:

- 2.18.000 Philosophy.
- 2.18.010 Creation of Council Advisory Bodies Generally.
- 2.18.020 Structure of Advisory Bodies.
- 2.18.030 Appointment and Removal of Advisory Body Member, Participation and Attendance, and Residency Requirements.
- 2.18.040 Suspension or Dissolution.
- 2.18.050 Term of Membership, Term Limits and Vacancies.
- 2.18.060 Officers; Terms of Office.
- 2.18.070 Council and Staff Support.
- 2.18.080 Purpose; Meetings; Reporting; and Other Responsibilities.

2.18.000 Philosophy.

The council recognizes the importance of the public deliberative process and the contributions citizens may offer through a structured citizen involvement process. As the recipients of government services, citizens may best be able to identify where efficiencies and improvements may benefit the city. To that end, council has created a system of advisory bodies designed to foster the relationship between the city and its citizens and ensure that the city considers and appropriately weighs the needs and interests of all Gresham citizens.

(Ord. No. 1651, Enacted, 03/20/2008)

2.18.010 Creation of Council Advisory Bodies Generally.

(1) Commissions, committees, task forces, and other advisory bodies, including those of a temporary nature or created for a specific purpose, shall be established by ordinance or by direction of the council. Council may establish and maintain, as part of the adopted Council Rules,

separate and additional operating policies, rules and guidelines pertaining to advisory bodies. Unless expressly stated to the contrary, all commissions, committees, task forces and other advisory bodies created under this provision shall be subject to the provisions of this article and the adopted policies, rules and guidelines. Changes to the adopted operating policies, rules and guidelines shall require formal council action.

(2) For the purpose of this article, a standing advisory body shall be defined as any commission, committee, or subcommittee that is expressly created by the legislative action of the council as part of the Gresham Revised Code.

(3) The manager may establish such commissions, committees, task forces, or other advisory bodies, to investigate, evaluate and recommend to the manager, such areas of administration and operations as is of interest to the manager. Other than this section, nothing in this article shall apply to committees, commissions, task forces or other advisory bodies created or established under the authority of the city manager.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1355, Enacted, 05/04/1995)

2.18.020 Structure of Advisory Bodies.

(1) Every commission, committee, task force or other advisory body created under GRC 2.18.010(1) shall have a specific statement of purpose, powers and duties that identify the general mission, charge and responsibility by which its activities are to be governed. All advisory bodies created under GRC 2.18.010(1) are subject to the provisions of GRC Article 2.18 as well as the relevant enabling legislation. The structure and purpose of advisory bodies will be reexamined periodically by the council to determine need and effectiveness.

(2) Every commission, committee, task force or other advisory body member appointed under the authority of GRC 2.18.030(1) shall be subject to the Code of Ethics adopted by and applicable to members of the council.

(3) Council may establish Council Citizen Advisory Committees and Commissions (CCACs) by council legislative action to address functional areas of policy as is of interest to the council.

(4) Council may establish standing citizen advisory subcommittees (CA subcommittees) to work under a specific CCAC. These CA subcommittees are created by council legislative action and shall have a specific statement of purpose.

(5) Council may establish, by resolution, such task forces or other advisory bodies to investigate, evaluate, and recommend to council, such areas of policy as is of interest to council.

(6) CCACs may recommend task forces or other advisory bodies as needed to complete the work plan of the CCAC or otherwise advise and assist the CCAC or council. Any such advisory body recommended by a CCAC, including its membership, must be approved by council, shall serve for a specific purpose and targeted time frame, and be dissolved upon completion of the stated project or purpose.

(a) A CCAC must appoint a liaison to each advisory body established and operating under its jurisdiction.

(b) The total number of advisory bodies established and operating at any one time under a CCAC may not exceed the number of members on the CCAC.

(c) The provisions of this subsection do not apply to any subcommittee that a CCAC may appoint made up entirely of its own members.

(7) Each CCAC with subcommittees shall have a Coordinating Committee comprised of the CCAC chair, CA subcommittee chair(s), together with the council liaison(s) and staff liaison(s). The Coordinating Committee shall meet at the call of either the CCAC Chair, council liaison, staff liaison, or two members of the Coordinating Committee. The Coordinating Committee shall assist in the development of the annual CCAC

work plan; coordinate the work of the CCAC, CA subcommittees, and any task force or other advisory body operating under its umbrella; monitor project milestones; and provide input regarding the annual Council Work Plan.

(8) The chairs and vice-chairs of all advisory bodies, together with the council liaison(s) and staff liaison(s) shall hold a joint meeting at the call of the Mayor, Council President, or manager. The purpose of a joint meeting is to review and coordinate work plans and projects to avoid duplication of effort and discuss the proper assignment of resources, explore cross functional interests and activities, and provide input regarding the annual Council Work Plan.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1656, Amended, 09/01/2008; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1355, Enacted, 05/04/1995)

2.18.030 Appointment and Removal of Advisory Body Members, Participation and Attendance, and Residency Requirements.

(1) Members of all commissions, committees, task forces, and other advisory bodies created under GRC 2.18.010(1) shall be appointed by the mayor with the consent of the council. Members of all commissions, committees, task forces and other advisory bodies serve as volunteers and shall not be monetarily compensated for their participation.

(2) Members shall be recruited and selected by an open, well publicized public process.

(3) Except as may be required by law or written agreement, individual or representative members appointed to any commission, committee, task force or other advisory body may be removed by a consensus of the council for any reason and at any time during the member's term of appointment.

(4) Participation and Attendance.

(a) Unless expressly stated to the contrary elsewhere in the Gresham Revised

Code or Oregon law, failure of any commission, committee, task force or other advisory body member to attend three consecutive meetings of the commission, committee, task force or other advisory body to which he/she has been appointed will result in automatic termination of the member's appointment if recommended by the council liaison and staff liaison; provided, however, that council may waive automatic termination if warranted by individual circumstances.

(5) Residency Requirements.

(a) Unless otherwise approved by council or required by state law, all members of the Council Citizen Advisory Committees created under GRC 2.18.010(1) must reside within the Gresham city limits or urban growth area identified for annexation.

(b) Unless otherwise provided in this article or approved by council, members of any standing CA subcommittee established by the council, task force and other advisory body members, may reside outside the Gresham city limits. In making subcommittee appointments, the mayor may give preference to Gresham residents.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1355, Enacted, 05/04/1995)

2.18.040 Suspension or Dissolution.

The mayor and council may suspend or dissolve any commission, committee, task force or other advisory body created under GRC 2.18.010(1), except those required by state law.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1355, Enacted, 05/04/1995)

2.18.050 Term of Membership, Term Limits and Vacancies.

(1) Unless otherwise expressly provided or required by state law, the term of appointment to any standing commission, committee, or

subcommittee created under GRC 2.18.010(1), shall be for a period of three years or until the appointment of the successor by the mayor with consent of the council, whichever is later. Council may shorten this period if necessary for transition of committee membership.

(a) In the event it is necessary to shorten an appointment term for the purpose of membership transition, every effort will be made to avoid multiple term expirations in any single year.

(2) The term of appointment to a task force or other advisory body created under the provisions of this article shall run until the work of the task force or other advisory body has been completed or a period of two years, whichever is shorter, unless a longer term is expressly approved by council.

(3) Unless otherwise approved by council, no individual shall serve on the same CCAC for more than two consecutive membership terms. A member seeking to serve on a CCAC beyond a second consecutive term shall be subject to the recruitment process set out by any applicable city rule, policy or guideline.

(4) No individual shall serve on more than one CCAC created under GRC 2.18.010(1) at a time unless expressly authorized and approved by the council. This provision shall not apply to CA subcommittees, task forces, or other advisory bodies operating under the umbrella of a CCAC or other advisory bodies that are created by council for a specific purpose or that are of a temporary nature.

(5) Vacancies created due to the mid-term resignation or removal of a member shall be filled in accordance with the process set forth in the operating rules, policies and guidelines adopted by council, including appointment by the mayor and the consent of the council, and shall be for the remainder of the vacant term. Appointment to a vacancy mid-term shall not be considered in calculating maximum membership term limits unless the term of appointment exceeds two years, in which case appointment to the vacancy may be

considered in calculating maximum membership terms.

(Ord. No. 1803, Amended, 02/20/2020; Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1656, Amended, 09/01/2008; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1548, Amended, 06/06/2002; Ord. No. 1539, Enacted, 01/10/2002)

2.18.060 Officers; Terms of Office.

(1) Unless otherwise directed by council, in July of each year, every commission, committee, task force or other advisory body created under GRC 2.18.010(1), for which the term of chair or vice-chair is expired, shall elect a new chair or vice-chair each of whom shall hold a term of office of two years or until the successor is elected or appointment. The terms of the chair and vice-chair shall be staggered with the chair to be elected every even numbered year and the vice-chair elected every odd numbered year. In the event a vacant officer position is not filled within a reasonable time, the Mayor may appoint an individual to fill the vacancy subject to the consent of the council.

(2) Unless otherwise approved by council, no member may serve more than two terms in any one office. Election to a vacant term of office as set forth in GRC 2.18.060(3), shall not be considered in calculating office term limits.

(3) Vacancies in office due to the mid-term resignation, election to another office or removal of the officer shall be filled by election of the membership and shall be for the remainder of the vacant term of office.

(Ord. No. 1803, Amended, 02/20/2020; Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1548 Amended, 06/06/2002; Ord. No. 1539, Enacted, 01/10/2002)

2.18.070 Council and Staff Support.

(1) Council Liaison. At least one member of the council will be appointed by the mayor as a liaison to each Council Citizen Advisory Committee or Commission (CCAC), and each Citizen Advisory Subcommittee. The mayor may appoint one or more members of the council as a liaison to a task force, or other advisory body.

(a) Council liaisons will facilitate the work of the advisory body, communicate council direction to the advisory body, receive advisory body reports and provide insight to the advisory body through the CCAC Coordinating Committee in an effort to maintain alignment with council goals, work plans and specific project objectives. Liaisons will review the Council Work Plan with the advisory body to which they have been appointed liaison, and inform the committee of Council meeting agenda items and of Council decisions that may be of interest to the committee. Liaisons will also encourage committee members to attend Council meetings to keep abreast of Council action, policy matters and the activities of the city organization.

(b) A council liaison may express opinions to the advisory body but shall not attempt to direct debate, lobby, or otherwise influence the direction or decisions of any advisory body.

(2) City Staff Support. In consultation with each CCAC coordinating committee and council, the manager shall assign staff persons to provide technical information, guidance and clerical support for each CCAC as well as any CA subcommittee, task force or other advisory body created under the provisions of GRC 2.18.010(1). The primary staff person(s) assigned to an advisory body will be designated as the staff liaison(s) and will be responsible to ensure compliance with public meeting laws. Staff liaisons may actively participate in discussions of an advisory body where appropriate and/or necessary or when requested by the advisory body.

(3) Council liaisons and staff liaisons shall not be eligible to vote.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1707, Amended, 11/17/2011; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539; Enacted, 01/10/2002)

**2.18.080 Purpose; Meetings; Reporting;
Other Responsibilities.**

(1) Unless otherwise required by law or written agreement, every commission, committee, task force or other advisory body created under GRC 2.18.010(1) shall have a specific statement of purpose, powers, and duties that identify the general mission, charge and responsibilities by which its activities are to be governed. Projects or activities beyond these statements or annual work plan must be approved in advance by the coordinating committee and council.

(2) Unless otherwise expressly provided or required by law, meeting schedules shall be established by the relevant coordinating committee as needed to address the relevant annual work plan and conduct the business of the commission, committee, task force or other advisory body.

(3) Quorum.

(a) A majority of voting members will constitute a quorum.

(b) Vacant positions will not be counted in determining the existence of a quorum; provided, however, in no event shall a quorum be established and/or official business be conducted by a commission, committee, task force or other advisory body created under GRC 2.18.010(1) that has vacant positions:

(i) with less than three voting members present, one of whom must be the chair or vice-chair, for standing committees with membership codified at seven members or less; and

(ii) with less than five voting members present, one of whom must be the chair or vice-chair, for standing committees with membership codified at more than seven members.

(4) Meetings of all advisory bodies shall be conducted as provided by the Oregon Public Meeting Law.

(5) Within the first year of appointment as a member to any commission, committee, task force, or other advisory body created under GRC 2.18.010(1), all members shall participate in a program of city law training for volunteers or otherwise demonstrate knowledge and familiarity with state and local laws and rules governing the conduct of public officials.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539; Enacted, 01/10/2002)

Article 2.20

PLANNING COMMISSION

Sections:

- 2.20.010 [Planning Commission.](#)
- 2.20.020 [Term of Appointment.](#)
- 2.20.030 [Officers.](#)
- 2.20.040 [Purpose, Powers and Duties.](#)
- 2.20.050 [Meetings.](#)
- 2.20.060 [Staff Assistance.](#)
- 2.20.070 [Citizen Advisory Subcommittees.](#)

2.20.010 Planning Commission.

The City Planning Commission shall consist of nine members. The Planning Commission is established pursuant to GRC 2.18.010(1) and ORS 227.010 et. seq.

The commission shall represent a broad range of professions, and contain no more than two members who are engaged in the same kind of occupation, business, trade, or profession. At least one member, but no more than two, may be engaged principally in buying, selling, or developing real estate. In making appointments to the planning commission, the council shall encourage, but not require, geographic distribution of members from throughout the city. (Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1479, Amended, 09/07/1999)

2.20.020 Term of Appointment.

Notwithstanding GRC 2.18.050, each member of the commission is appointed to serve a four-year term. (Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002)

2.20.030 Officers.

The chair and vice-chair of the Planning Commission shall be elected or appointed as provided in GRC 2.18.060. (Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1316, Amended, 07/07/1994)

2.20.040 Purpose, Powers and Duties.

(1) Purpose. The Planning Commission is the primary advisory body to the council on long range, comprehensive planning for the city. Thinking comprehensively, it serves as the steward of the Gresham Community Development Plan (“Plan”), and recommends amendments and new policies when needed. It will also conduct hearings as needed on broad planning issues and projects. The Planning Commission also serves an important role in the community by engaging citizens in discussions related to the future of Gresham and the role of planning in achieving these goals. The Planning Commission will help ensure that the city meets all state land use goals while helping the community to balance values such as enhanced livability, economic development and protection of the environment.

(2) Powers and Duties. The commission is subject to ORS 227.010 et. seq., and shall have the following responsibilities:

(a) Maintain the Plan adopted by the council as an official guide to public and private uses of land. In performance of this duty the commission may, among other things, monitor the development of the city in relation to the Plan. Where the commission sees an issue not anticipated by the Plan, the commission may notify the council and, at the direction of the council, study the issue. If an amendment, refinement or clarification of the Plan appears advisable the commission shall recommend amendment of the Plan to the council.

(b) Review, and prepare at council direction, legislation designed to implement

the purposes of the Plan. Conduct hearings, prepare findings of fact, and take such actions concerning such legislation as may be required by state and city law.

(c) Review the capital improvement programs each year for consistency with the Plan.

(d) Recommend plans and policies to the council for orderly and coordinated development, growth management and enhancement of the city.

(e) Monitor Metro's plan and code and recommend city Plan amendments to implement Metro changes as required.

(f) Work on planning issues related to an adequate supply of affordable housing.

(g) Recommend plans to the council and other public authorities for promotion, development and regulation of industrial, commercial and other economic activities in the city.

(h) Recommend and make suggestions to the council and to other public authorities regarding the regulation of future growth, development, transportation and other public facilities and services, establishment of zones or districts, design and other land use issues.

(i) Study and propose land use measures for the promotion of the public interest, health, safety, convenience and welfare of the city, adjacent communities and the urban growth areas identified for annexation into the city.

(j) Conduct quasi-judicial hearings, prepare findings of fact, and take such actions concerning specific land development proposals as may be required by state and city law as provided for in the Gresham Community Development Code.

(k) Advance relationships with other planning entities to encourage the coordination of public and private planning

and development activities affecting the city and its environs.

(l) Consider the proposals of council advisory committees and other council created bodies related to land use issues, priorities, decisions, and Plan amendments, and make recommendations to the council on these proposals.

(m) Act as the coordinating entity for all council committees, and commissions in so far as the work of these bodies relates to land use.

(n) Receive regular reports from staff regarding Metro activities and the plans and actions of other regional partners relating to land use.

(o) Receive regular reports regarding the cases, matters and decisions under consideration by the city land use hearings officer(s).

(p) May appoint a subcommittee of the commission itself to study or act upon such matters as the commission feels suited to consideration by a smaller group, or as council may delegate through ordinance, resolution or other direction.

(q) Monitor avenues of citizen involvement in land use planning and advise council on such matters to ensure effective citizen involvement relating to land use matters.

(r) Encourage and facilitate expanded public participation in all aspects of the land use planning process by designing a user-friendly process to educate and inform the public about the engagement opportunities in the land use arena.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1656, Amended, 09/01/2008; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1479, Amended, 09/07/1999; Ord. No. 1355, Amended, 05/04/1995)

2.20.050 Meetings.

The commission holds regular meetings at least once each month at City Hall. A majority of the members of the commission constitutes a quorum. The quorum provisions of GRC 2.18.080(3) apply to the operation of the planning commission.

(Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1479, Amended, 09/07/1999)

2.20.060 Staff Assistance.

Staff assistance to and participation in the work of the planning commission is governed by GRC 2.18.070(2).

(Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002)

2.20.070 Citizen Advisory Subcommittees.

The following standing CA Subcommittees are created under the umbrella of the Planning Commission.

(1) Design Commission.

(a) Membership. The Design Commission shall consist of seven members and is established pursuant to GRC 2.18.010. The Design Commission shall include a minimum of five members who are design professionals (e.g. architects, landscape architects, urban designers) or who work with the built environment (e.g. planners, civil or structural engineers, land developers, building constructors) with no more than two in the same discipline.

(b) Purpose. The Design Commission is the primary advising subcommittee to council on design excellence for the built environment of the city. As such, it will assist in the development and application of design standards and guidelines, and will conduct hearings as necessary to ensure that proposed public and private projects achieve these standards. The Design Commission serves an important role in the community by engaging citizens in discussions related to the built environment while being ambassadors for design excellence. The Design Commission will also

advise the Planning Commission on design issues, when requested.

(c) Powers and Duties. The Design Commission shall have such powers and have such duties as described in this article, this code, other ordinances and resolutions of the city, and state law. The Commission powers and duties include:

(i) Recommending the establishment, amendment, or removal of a design district to the council;

(ii) Recommending design principles, standards and guidelines for adoption by council for design districts;

(iii) Carrying out assigned duties regarding reviewing major developments within design districts and other land use requests as provided for in the Gresham Community Development Code.

(iv) Providing advice on design matters to the manager, hearings officer, Planning Commission and city council as requested.

(d) Meetings. The Design Commission holds regular meetings at the call of the chair, council liaison, staff liaison, or two members of the Design Commission at City Hall. A majority of the members of the Design Commission constitutes a quorum. The quorum provisions of GRC 2.18.080(3) apply to the operation of the Design Commission.

(2) Community Development and Housing Citizen Advisory Subcommittee (CDHC).

(a) Membership. The Community Development and Housing Citizen Advisory Subcommittee (CDHC) shall consist of a minimum of seven to a maximum of 11 members and is established pursuant to GRC 2.18.010. Members shall have an interest in the development of the community and housing to meet the needs of the low and moderate income population of Gresham. Members shall be selected from groups that

are representative of a broad spectrum of the population. These groups may include, but are not limited to, low and moderate income residents, residents of prequalified areas, minorities, persons associated with neighborhood organizations, agencies, churches, and persons affiliated with the industrial, real estate or financial sectors.

(b) Purpose. The general purpose/mission of the CDHC is to advise the council on community development and housing goals, objectives, policies, programs, projects and budgets to assist low and moderate income persons. The CDHC will gather citizen comments, make recommendations to the council, and provide leadership in promoting public education and understanding on matters pertaining to community development and housing for low and moderate income persons.

(c) To carry out its purpose, the CDHC will:

(i) Furnish citizens with information concerning amount of funds available, eligible uses of funds, and recommended programs and projects.

(ii) Review applications for potential funding, conduct meetings and hearings, and make recommendations to the council regarding the use of available funds.

(iii) Prepare updates, make recommendations to the council and publish proposed community development and housing policies and objectives for the benefit of low and moderate income persons. The CDHC is responsible for recommending the Community Development Plan and the Comprehensive Housing Affordability Strategy, or their successors, to the Planning Commission or council as appropriate.

(iv) Coordinate its activities as they relate to the general purpose/mission with

other council advisory committees, and countywide and regional bodies.

(v) Assist in preparation, review and recommendation to the council, countywide and regional policies related to community development and housing activities for low and moderate income persons in the city.

(d) The CDHC shall meet at the call of the chair, council liaison, staff liaison, or two members of the CDHC at a time and place designated by the CDHC.

(3) Council Transportation Advisory Subcommittee (CTAS).

(a) Membership. The Council Transportation Advisory Subcommittee shall consist of nine members and is established pursuant to GRC 2.18.010(1). In recruiting and appointing members, concerted efforts will be made to secure representation on behalf of the disabled community and persons who represent the interests of the cycling/pedestrian community. The quorum provisions of GRC 2.18.080(3) apply to the operation of CTAS.

(b) Purpose. The purpose and function of the CTAS is to advise council in the on-going development of a comprehensive transportation network that will improve the safety and livability of Gresham. CTAS shall also serve as the city's Traffic Safety Commission. The responsibilities of CTAS may include:

(i) Providing advice to council on transportation and traffic issues, federal, state and local policies, standards, plans, and capital programs.

(ii) Reporting to council on issues relating to transportation planning work and public involvement in transportation programs.

(iii) Researching and evaluating ways to continually improve the transportation

system, expand the bicycle and pedestrian network, and improve bicycle and pedestrian safety and accessibility throughout the city.

(iv) Reviewing and recommending annual "Gresham Transportation Action Plans" and make recommendations regarding modal objectives, capital priorities, funding opportunities and objectives, and a transportation work plan based on adopted local, regional, and state plans.

(v) As the Traffic Safety Commission, assist and advise council in the research, development, and implementation of traffic safety programs, the education of the public on traffic safety, and reduction of traffic accidents, injuries, and deaths in the public right-of-way. With the approval of its council liaisons and the assistance of staff, the Traffic Safety Commission will review and recommend to council proposed safety projects eligible for grant funding and seek grant monies for implementation of such projects.

(vi) When authorized by the council liaison(s), and in coordination with city staff, advocate for transit improvements throughout East Multnomah County. This includes both service and capital improvements that will encourage greater transit use.

(c) Meetings. The CTAS shall meet at the call of either the chair, council liaison, staff liaison, or two members of the CTAS at a time and place designated by the committee. The quorum provisions of GRC 2.18.080(3) apply to the operation of CTAS.

(4) Historic Resources Subcommittee.

(a) Membership. The Historic Resources Subcommittee shall consist of seven members. The members shall have a demonstrated interest, knowledge or competence in historic preservation. Before a

prospective member is confirmed, the city shall give the State Historic Preservation Office an opportunity to review the individual's qualifications. The city will make an effort to include preservation professionals on the subcommittee, such as historians, restoration specialists and archeologists.

(b) Purpose. The purpose of the Historic Resources Subcommittee is to advise council and the Planning Commission on matters relating to the city's inventory of historic landmarks and the preservation of historic and cultural resources within the city.

(c) Duties and responsibilities include making recommendations regarding:

(i) Designation and preservation of historic or cultural landmark properties that meet criteria set forth in the Gresham Community Development Code, and inclusion of designated property in the city's list of classified landmarks.

(ii) Removal of a landmark property from the city's list of classified landmarks, or a change in the status of a landmark classification under the Gresham Community Development Code.

(iii) The need to audit and/or update the historic and cultural property inventory.

(iv) The review of proposed nominations to the National Register of Historic Resources and directly transmitting the subcommittee recommendations to the State Historic Preservation Office regarding whether a proposal meets the applicable federal criteria for listing.

(v) How to maintain the city's status as a Certified Local Government.

(d) The subcommittee may also:

(i) Assist in the regulation and protection of Class 1 and Class 2 landmarks by reviewing proposed landmark alterations or demolition in accordance with applicable criteria.

(ii) Develop a program of public education relating to cultural and historic properties including technical and economic information relating to specific properties and the general value of the community's historic and cultural resources and landmarks.

(e) Meetings. The Historic Resources Subcommittee shall meet at the call of either the chair, council liaison, staff liaison, or two members of the Historic Resources Subcommittee at a time and place designated by the committee. The quorum provisions of GRC 2.18.080(3) shall apply to the operation of the Historic Resources Subcommittee.

(5) Urban Forestry Subcommittee (UFS).

(a) Membership. The Urban Forestry Subcommittee shall consist of seven members. The subcommittee is established pursuant to GRC 2.18.010(1). Five of the Subcommittee members shall have expertise associated with trees. This includes, but is not limited to, professional arborists, nursery operators, foresters, and landscape architects.

(b) Purpose. The Urban Forestry Subcommittee is the advising subcommittee to the Planning Commission on Urban Forestry issues. As such, it will advise on all activities related to the health, protection and extent of the city's urban tree canopy. In addition, the UFS will advise and make recommendations to the council, the Planning Commission, Hearings Officer and the manager regarding preservation, protection and restoration of trees. The Subcommittee is also responsible for recommending the designation of significant trees and the maintenance and updating of the significant tree list. Through various displays and publications, the subcommittee may also engage in public education. The

subcommittee will also advise on all activities related to obtaining and maintaining Tree City USA status.

(c) Meetings. The Urban Forestry Subcommittee shall meet at the call of either the chair, council liaison, staff liaison, or two members of the subcommittee at a time and place designated by the subcommittee.

(Ord. No. 1778, Amended, 11/02/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1697, Amended, 01/06/2011; Ord. No. 1656, Amended, 09/01/2008; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002)

Article 2.22

LAND USE HEARINGS OFFICER

Sections:

- 2.22.010** [Establishment of Land Use Hearings Officer; Purpose.](#)
- 2.22.020** [Appointment.](#)
- 2.22.030** [Hearings Officer Unavailability.](#)
- 2.22.040** [Hearings.](#)
- 2.22.050** [Powers and Duties.](#)
- 2.22.060** [Reports, Advice, Joint Meetings, and Coordination.](#)

2.22.010 Establishment of Land Use Hearings Officer; Purpose.

There shall be a land use hearings officer (hearings officer) to perform most quasi-judicial reviews of land use applications.

(Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1264, Enacted, 11/19/1992)

2.22.020 Appointment.

The land use hearings officer shall be appointed by and serve at the pleasure of the council. The council may appoint one or more hearings officers or one or more alternates to serve as hearings officer. The terms of appointment may be set forth by a professional services contract.

(Ord. No. 1264, Enacted, 11/19/1992)

2.22.030 Hearings Officer Unavailability.

In the event a hearings officer is not available to conduct hearings, whether due to non-appointment, conflict of interest, absence, or other reason, the planning commission shall automatically assume the powers and duties of the hearings officer.

(Ord. No. 1264, Enacted, 11/19/1992)

2.22.040 Hearings.

The hearings officer shall conduct hearings as necessary to review and make decisions on land use applications and other land use matters. The

time and place of all hearings shall be scheduled by the manager.

(Ord. No. 1264, Enacted, 11/19/1992)

2.22.050 Powers and Duties.

The hearings officer shall exercise such powers and have such duties as are described in this article, this code, other ordinances and resolutions of the city, and state law. The hearings officer has the power to request, receive, and examine available information, enter upon any land, and make examinations and surveys, and place and maintain necessary monuments and markers, conduct public hearings, prepare a record, enter findings and conclusions, and exercise such other powers as are necessary to carry out the assigned duties of the hearings officer.

(Ord. No. 1264, Enacted, 11/19/1992)

2.22.060 Reports, Advice, Joint Meetings, and Coordination.

The hearings officer shall make such reports on the hearings officer's activities as the council and planning commission may require. The hearings officer shall advise the council and the planning commission concerning any problem or issue related to the powers and duties of the hearings officer. The hearings officer shall meet from time to time in joint public meetings with the council and planning commission. The hearings officer shall cooperate and coordinate with the council, planning commission, and city officers and staff.

(Ord. No. 1264, Enacted, 11/19/1992)

Article 2.24

**GRESHAM REDEVELOPMENT
COMMISSION**

Sections:

2.24.010 [Gresham Redevelopment
Commission.](#)

2.24.010 **Gresham Redevelopment
Commission.**

(1) The council finds that blighted areas, as defined in ORS 457.010, exist in the city and that there is a need for an urban renewal agency in the city.

(2) The corporate name of this agency is the "Gresham Redevelopment Commission." Its purpose is to act as an urban renewal agency in the City of Gresham as necessary and as provided for by charter, ordinance, state and federal law.

(3) The council appoints itself to exercise the powers of the Gresham Redevelopment Commission.

(4) The Gresham Redevelopment Commission may elect officers and adopt bylaws to govern its procedures.

(Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002)

Article 2.36

CITIZEN ENGAGEMENT

Sections:

2.36.005 Citizen Engagement.

2.36.005 Citizen Engagement.

Council may establish, by resolution, such Citizen Engagement task forces as needed to investigate, evaluate, and recommend to council methods to development, implement, and maintain programs designed to facilitate citizen engagement and the deliberative process by promoting citizen engagement in all aspects of governance.

(Ord. No. 1778, Enacted, 11/02/2017)

Article 2.40

FINANCE COMMITTEE

Sections:

- 2.40.010 [Finance Committee.](#)
- 2.40.020 [Purpose, Powers, and Duties.](#)
- 2.40.025 [Compensation Board \(Mayor\).](#)
- 2.40.027 [Compensation Board \(City Councilors\).](#)
- 2.40.030 [Term of Appointment.](#)
- 2.40.050 [Meetings.](#)
- 2.40.060 [Suspension of Provisions.](#)

2.40.010 Finance Committee.

The Finance Committee is established pursuant to GRC 2.18.010(1) and shall have seven members. The appointed committee members must be electors residing within the City of Gresham.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1512, Amended, 1/16/2001)

2.40.020 Purpose, Powers and Duties.

(1) Purpose. The general purpose of the Finance Committee is to advise council on matters relating to financial management practices and policies designed to improve performance and accountability in city government. In addition, it facilitates citizen involvement by offering a venue where innovative ideas directed at increasing revenues, improving service outcomes, and increasing returns on tax dollar spending can be vetted.

(2) Powers and Duties. The Finance Committee shall:

- (a) Serve as the seven appointed citizen members of the Gresham Budget Committee as required by city charter.
- (b) Exercise the powers and duties identified in this article, the Gresham Revised Code and council resolutions.
- (c) Periodically explore, evaluate and recommend financial policy and performance

improvements.

(d) Periodically examine financial components of significant initiatives and programmatic changes undertaken by the council.

(e) Review and offer recommendations to council on interim changes to the adopted budget that may be proposed by the city manager through the supplemental budget process, and offer recommendations to council.

(f) Review and make recommendations related to the annual external auditor’s report and audit.

(g) Review; make comment and/or recommendations related to the annual Comprehensive Annual Financial Report (CAFR).

(h) Review the performance of the city’s investment portfolio pursuant to the requirements of the Investment Policy guidelines and make comment and/or recommendations as appropriate.

(i) On a biennial schedule, review, make comment and/or recommend changes to the Investment Policy guidelines.

(j) Annually review the capital improvement plans for alignment with the five year Capital Improvement Program (CIP), the annual budget and the city’s long-term financial plans. Make comments and/or recommendations regarding any significant deviations from or misalignments with the identified references.

(k) On a biennial schedule, review the city’s long-term financial plans and make comment and/or recommendations regarding key areas of the plan that are falling short of or exceeding expectations.

(l) Foster citizen understanding, discourse and engagement in the budgetary process and identify for recruitment

individuals for subcommittees and special assignments who possess special expertise in local government and/or financial management practices.

(m) Conduct best practices research as necessary relating to programs that are designed to increase revenue from existing sources as well as programs designed to develop new and/or alternate revenue sources.

(n) On a biennial schedule, evaluate the financial aspects and potential impacts on the city's capital improvement program (CIP) and city's long-term financial plans of the policy elements identified in Volume 2 of the Gresham Community Development Plan for alignment to the city's long-term financial plan.

(o) Review, comment and/or make recommendations on proposals of other CCACs and council created committees or task forces that may impact or relate to budget and financial management issues, on an as needed basis.

(p) Receive regular reports from staff regarding state, federal and regional legislative actions, activities and plans that may impact the city's economic health and welfare.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1355, Amended, 05/04/1995)

2.40.025 Compensation Board (Mayor).

The Gresham Finance Committee shall provide oversight and control over the Mayor's compensation and shall annually prepare and approve a compensation schedule for the Mayor of the City of Gresham. The salary shall not exceed 45% of the compensation paid to the Chair of the Multnomah County Board of Commissioners.

(Measure 26-166, Enacted, 06/18/2015)

2.40.027 Compensation Board (City Councilors).

The Gresham Finance Committee shall provide oversight and control over the compensation of City Councilors and shall annually prepare and approve a compensation schedule for the elected councilors of the City of Gresham. The salary shall not exceed 45% of the compensation paid to an elected Metro councilor.

(Measure 26-167, Enacted, 06/18/2015)

2.40.030 Term of Appointment.

Terms of appointment to the Finance Committee are subject to GRC 2.18.050.

(Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1539, Amended, 01/10/2002)

2.40.050 Meetings.

(1) The Finance Committee shall meet at the call of either the chair, council liaison, staff liaison, or two members of the committee at a time and place designated by the committee.

(2) The quorum provisions of GRC 2.18.080(3) apply to the operation of the Finance Committee.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002)

2.40.060 Suspension of Provisions.

At the discretion of council, the provisions of GRC 2.40.050 and the relevant operating policies, rules and procedures, may be suspended in whole or in part during the time the Finance Committee is sitting as the citizen component of the Gresham Budget Committee.

(Ord. No. 1651, Enacted, 03/20/2008)

Article 2.50

PUBLIC SAFETY

Sections:

2.50.005 [Public Safety.](#)

2.50.005 **Public Safety.**

Council may establish, by resolution, such public safety task forces or other advisory bodies, as needed to investigate and evaluate public safety issues and recommend to council methods to improve deterrence, prevention and enforcement of public safety issues, including but not limited to, law enforcement, fire/life/safety, emergency medical services, emergency management, and disaster preparedness.

(Ord. No. 1778, Enacted, 11/02/2017)

Article 2.52

**NATURAL RESOURCES AND
SUSTAINABILITY**

Sections:

2.52.005 [Natural Resources and Sustainability.](#)

2.52.005 **Natural Resources and Sustainability.**

Council may establish, by resolution, such natural resources, sustainability, and parks and recreation, task forces or other advisory bodies, to investigate, evaluate, and recommend to council methods to improve the protection, restoration, and enhancement of natural resources, watershed health, water quality, fish and wildlife habitat; the development, improvement, and expansion of city parks, trails, and green space for present and future generations; stormwater, wastewater, water, environmental, solid waste, and recycling services programs, policies, and needs.

(Ord. No. 1778, Enacted, 11/02/2017)

Article 2.55

YOUTH ADVISORY COUNCIL

Sections:

- 2.55.010** [Youth Advisory Council.](#)
- 2.55.020** [Purpose, Powers and Duties.](#)
- 2.55.030** [Meetings.](#)
- 2.55.040** [Term of Appointment.](#)

2.55.010 Youth Advisory Council.

(1) The Youth Advisory Council shall consist of a maximum of 20 youth members in grades 9-12 who reside in school districts or attend schools that service the City of Gresham. A member may reside outside of the Gresham city limits.

(2) Appointments will be made by the mayor with the consent of the council in accordance with GRC 2.18.030.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1778, Enacted, 11/02/2017)

2.55.020 Purpose, Powers and Duties.

(1) Purpose. The Youth Advisory Council shall advise the council on issues that affect youth in the community and to also advise the city on other issues from the perspective of youth.

(2) Powers and Duties. The Youth Advisory Council shall:

(a) serve as the primary communications link for youth to government, business and the community on a variety of subjects and issues;

(b) identify and advocate for the needs of youth in our community; and

(c) identify and carry out events and activities for the community which are important to youth.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1778, Enacted, 11/02/2017)

2.55.030 Meetings.

The Youth Advisory Council holds regular meetings at the call of the chair, council liaison, staff liaison, or two members of the Youth Advisory Council at city. The quorum provisions of GRC 2.18.080(3) apply to the operation of the Youth Advisory Committee.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1778, Enacted, 11/02/2017)

2.55.040 Term of Appointment.

(1) Members shall serve until they graduate unless extension of the term is approved by council.

(2) The Youth Advisory Council shall elect a chair, vice-chair, and a secretary from among its members. Officers shall serve a one-year term, or shall serve until a successor to each is elected and takes office.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1778, Enacted, 11/02/2017)

Article 2.60

NEIGHBORHOOD ASSOCIATIONS

Sections:

- 2.60.010 [Purpose.](#)
- 2.60.020 [Neighborhood Association.](#)
- 2.60.040 [Standards.](#)
- 2.60.050 [Association Responsibility.](#)
- 2.60.060 [City Responsibility.](#)
- 2.60.070 [Termination of Recognition.](#)
- 2.60.080 [Coalition of Gresham Neighborhood Associations.](#)

2.60.010 Purpose.

The purpose of neighborhood associations is to provide a formal way for neighborhoods to communicate with the city. The existence of neighborhood associations does not inhibit citizens or groups from communicating with the city.

(Ord. No. 1698, Amended, 12/07/2010)

2.60.020 Neighborhood Association.

A neighborhood association is a volunteer group of people organized within a geographical area for the purpose of acting on issues affecting neighborhood and community livability. Such associations are separate and distinct entities from each other and the City of Gresham.

(Ord. No. 1698, Amended, 12/07/2010; Ord. No. 1539, Amended, 01/10/2002)

2.60.040 Standards.

A neighborhood association must be recognized by the City of Gresham. To be recognized, a neighborhood association must satisfy the standards listed below, as well as administrative procedures established by the manager. The manager determines when an association has met these standards.

(1) Membership in associations is not limited by race, creed, color, sex, age, heritage, national origin, or income. Any resident, business owner

or owner's representative, non-profit organization, or property owner within the recognized boundary of an association is entitled to membership. Contributions may be collected only on a volunteer basis.

(2) Boundaries of associations are determined by the association members. Boundaries must be mutually exclusive of other formally recognized associations. Association boundaries shall be logical, contiguous, and follow identifiable physical features such as streets, property ownership boundaries, topographic features, boundaries of political jurisdictions, or public rights-of-way. The manager shall maintain a current map of the association boundaries.

(3) Associations must adopt and execute written by-laws that provide:

- (a) annual election of officers;
- (b) meetings shall be conducted in conformance with administrative procedures established by the manager;
- (c) a current list of the names and addresses of the officers are kept on file with the manager;
- (d) a minimum of two general association meeting each year, with the time, place and purpose well publicized throughout the neighborhood prior to the meeting.

(4) Associations must provide an executed copy of the neighborhood association's by-laws to the manager to be kept on file. Notice and copies of all amendments to the bylaws shall also be provided to the manager by the associations.

(Ord. No. 1698, Amended, 12/07/2010; Ord. No. 1539, Amended 01/10/2002)

2.60.050 Association Responsibility.

An association meeting the standards of GRC 2.60.040 may make official recommendations to the council, its commissions, committees, and the manager on any matter affecting livability of the neighborhood, including but not limited to, land use, community facilities, traffic and

transportation, and police and fire service. When making official recommendations, associations shall provide a record of meetings held, including a record of attendance and results of any vote.

2.60.060 City Responsibility.

The manager shall provide a recognized association with the following:

(1) Timely notice of council, planning commission, and council advisory committee meetings whose decisions may affect the neighborhood;

(2) General information regarding city services and activities as requested;

(3) Assistance in educational efforts related to citizen participation in city activities;

(4) Information about the activities of other associations; and

(5) Other resources as may be determined by the manager.

(Ord. No. 1539, Amended, 01/10/2002)

2.60.070 Termination of Recognition.

The formal recognition of an association may be terminated by the council if the association fails to abide by the standards in GRC 2.60.040 as well as administrative procedures established by the manager. The formal recognition of the Coalition may be terminated by the council if the Coalition fails to abide by the standards in GRC 2.60.080 as well as administrative procedures established by the manager. Before the council terminates recognition, it must hold a public hearing to determine the standards or administrative procedures violated and allow representatives of the association or Coalition a reasonable opportunity to be heard.

(Ord. No. 1698, Amended, 12/07/2010; Ord. No. 1539, Amended 01/10/2002)

2.60.080 Coalition of Gresham Neighborhood Associations.

There has been established in the City of Gresham a Coalition of Gresham Neighborhood Associations which is a volunteer group made up of the elected board members of all recognized Gresham neighborhood associations. The purpose of the Coalition is to provide structure and support for the leaders of Gresham's neighborhood associations to enable more effective cooperation among Gresham's neighborhood associations. Like the neighborhood associations the Coalition is a separate and distinct entity from the City of Gresham. The Coalition is recognized by the City of Gresham. The standards for Coalition recognition are:

(1) The Coalition shall provide that membership in the Coalition is not limited by race, creed, color, sex, age, heritage, national origin, or income. Contributions may be collected only on a volunteer basis.

(2) The Coalition shall serve as a liaison between the neighborhood associations and city offices and departments designated by the City.

(3) The Coalition may make official recommendations to the council, its commissions, committees, and the manager on any matter affecting livability of the neighborhoods, including but not limited to, land use, community facilities, traffic and transportation, and police and fire service. When making official recommendations, the Coalition shall provide a record of meetings held, including a record of attendance and results of any vote.

(4) The Coalition must adopt and execute written by-laws that provide:

(a) annual election of officers;

(b) meetings shall be conducted in conformance with administrative procedures established by the manager;

(c) a current list of the names and addresses of the officers are kept on file with the manager;

(d) a minimum of two general Coalition meetings each year, with the time, place and purpose well publicized throughout the neighborhoods prior to the meeting.

(5) The Coalition must provide an executed copy of the Coalition's by-laws to the manager to be kept on file. Notice and copies of all amendments to the bylaws shall also be provided to the manager by the Coalition.

(Ord. No. 1698, Enacted, 12/07/2010)

Article 2.72

MANAGER

Sections:

- 2.72.010** [Personnel Rules.](#)
- 2.72.020** [Enforcement of Gresham City Codes.](#)

2.72.010 Personnel Rules.

The manager may adopt personnel rules and regulations for city employees. A copy of the rules and regulations shall be provided to the council.

2.72.020 Enforcement of Gresham City Codes.

(1) The manager, and any other person appointed in writing by the manager, is the enforcement officer designated to enforce the Gresham Revised Code and the Gresham Community Development Code.

(2) The building official of the City of Gresham and any other person appointed in writing by the building official, is the enforcement officer designated to enforce GRC Articles 10.05 Building Codes and 10.60 Marinas and Floating Structures.

(3) The fire chief of the City of Gresham, and any other person appointed in writing by the fire chief, is the enforcement officer designated to enforce GRC Article 10.25 Fire and Life Safety Code.

(4) Proceedings for violations of the charter, ordinances or provisions of any code of the city may be initiated by filing a citation with the Circuit Court located in Gresham, Oregon.

(5) No citation for the purpose of enforcing the charter, ordinances, or code provisions of the city may be commenced by a private party, and enforcement may only be commenced by duly designated enforcement officers.

(6) Designated enforcement officers may enforce the provisions of the codes of the city through the administrative, abatement, civil action, civil penalty, citation, and other procedures in GRC Article 7.50 or as otherwise authorized by law.

(7) The manager is authorized to determine whether city owned or controlled real property should be open to the public and to post “No Trespassing” signs as appropriate for the purpose of enforcing the criminal trespassing laws of the State of Oregon and GRC 7.10.220, Unlawfully Remaining on Posted City Property.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

Article 2.76

CITY ATTORNEY

Sections:

- 2.76.010 [Office of City Attorney.](#)
- 2.76.020 [Duties.](#)
- 2.76.030 [Senior Assistant City Attorney.](#)
- 2.76.040 [Records.](#)
- 2.76.050 [Attorney-Client Relationship.](#)
- 2.76.060 [Settlements.](#)

2.76.010 Office of City Attorney.

(1) The city has an office of the city attorney consisting of the city attorney and such additional staff as recommended by the city attorney and determined and approved through the annual budget process. The city attorney is appointed and may be removed from office by a majority vote of the entire council. The terms and conditions that apply to the staff of the city attorney are the same personnel rules and regulations that govern management, supervisory and confidential employees not covered by collective bargaining agreements.

(2) The council annually reviews the salary and performance of the city attorney. Compensation and salary adjustments for the city attorney will be based upon market factors and determined by council.

(a) The city attorney will annually review the performance of attorney's staff in accordance with the existing city performance management program. Compensation and salary adjustments for attorney's staff will follow the guidelines in place for management, supervisory and confidential employees.

(3) The city attorney receives retirement benefits, vacation, holiday, sick leave benefits, other fringe benefits and working conditions not less than those applicable to comparable city positions.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1663, Amended, 12/16/2008)

2.76.020 Duties.

The city attorney is the full time chief legal officer of the city and has the following duties:

(1) Give legal advice and opinions orally and in writing to the council, mayor, manager, or any other person authorized by the council or manager to obtain advice and opinions.

(2) Review and approve as to form written contracts, bonds issued by the city, real property instruments, and other legal documents to which the city is a party.

(3) Prepare ordinances, resolutions, orders, and other documents of council decisions.

(4) Represent and defend the city and its commissions, committees, officers, and employees. The city attorney shall not represent persons whom the council determines are: (a) acting outside the scope of their employment or duties; (b) committing malfeasance in office; or, (c) willfully neglecting their duty.

(5) The city attorney may institute legal actions for the city in a court or tribunal to enforce city codes, and institute legal actions for the city in a court or tribunal as directed by the council. The city attorney may institute appeals on behalf of the city in a case in which another party has first appealed. The city attorney shall institute other appeals as directed by the council.

(6) Subject to approval by the council, select and retain outside legal counsel employed by the city. The city attorney coordinates and supervises all services performed by such counsel, and approves all city fees prior to payment.

(7) Present proposed office of attorney budget to the council for review and comment as part of the annual city budget.

(8) Submit quarterly reports to the council concerning the status of all tort claims and legal actions in which the city is a party and significant office activities.

(9) Review and approve as to form any financial assurance required to be submitted to the city.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1663, Amended, 12/16/2008; Ord. No. 1574, Amended, 08/14/2003)

2.76.030 Deputy City Attorney.

The city attorney is authorized to name the Deputy City Attorney as acting city attorney in the city attorney's absence, and the acting city attorney shall have and exercise all the powers and authority of the attorney. In the absence of both the city attorney and the deputy city attorney, the city attorney shall name a senior assistant city attorney as acting city attorney. When possible, the city attorney shall notify the council in writing in advance of any anticipated absence, and shall include the time period during which the designation shall be effective.

(Ord. No. 1845, Amended, 04/18/2024; Ord. No. 1663, Amended, 12/16/2008; Ord. No. 1561, Amended, 01/02/2003)

2.76.040 Records.

(1) The city attorney has physical control of the office of attorney and custody of all legal papers pertaining to that office.

(2) The city attorney maintains a set of pleadings of all pending legal actions in which the city or any department, official, or city employee is a party. When such actions are conducted by outside legal counsel retained by or for the city, the attorney shall keep those records which the city attorney deems advisable.

(3) The city attorney maintains a record of all significant written opinions furnished to the city or to any department, official, or employee.

(Ord. No. 1663, Amended, 12/16/2008)

2.76.050 Attorney-Client Relationship.

The city and the city attorney have an attorney-client relationship, and the city is entitled to all the benefits of such relationship.

(Ord. No. 1663, Amended, 12/16/2008)

2.76.060 Settlements.

Legal claims and actions, by or against the city, any official, employee or agent may be settled as follows:

(1) The city attorney may delegate the authority to settle claims for not more than \$1,000,

(2) After appropriate consultation with the affected city department, the city attorney may settle claims or legal actions by or against the city for not more than \$50,000. For settlements of \$25,000 or more, the city attorney shall consult with the manager and notify the council prior to settlement. The authority to settle insured claims or legal actions shall be subject to the applicable insurance policy.

(3) After appropriate consultation with the city attorney, the manager may settle employment related claims or legal actions against the city.

(4) Settlement of uninsured liability claims and other legal actions by or against the city for more than \$50,000 shall be reviewed by the council prior to settlement by the city attorney.

(5) The city attorney shall have authority to settle workers' compensation claims as may be necessary under the Workers' Compensation Act. For settlements of \$25,000 or more, the city attorney shall consult with the manager and notify council prior to settlement.

(6) After appropriate consultation with the affected city department, the city attorney shall have authority to dismiss or settle actions for the enforcement of any code requirement, including payment of any city fee, fine, penalty, late payment charge, or interest.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1663, Amended, 12/16/2008; Ord. No. 1583, Amended, 01/15/2004; Ord. No. 1561, Amended, 01/02/2003)

Article 2.80

CONTRACTS AND PURCHASES

Sections:

- 2.80.010 LOCAL CONTRACT REVIEW BOARD.
- 2.80.015 Applicable Law.
- 2.80.020 Purpose.
- 2.80.025 Definitions.
- 2.80.030 Authority of Manager.
- 2.80.040 General Policy.
- 2.80.045 Contracts.
- 2.80.050 Exemptions.
- 2.80.060 Hearing.
- 2.80.080 Award and Approval of Contracts.
- 2.80.100 PURCHASES OF MATERIALS, SUPPLIES, SERVICES AND ASSETS.
- 2.80.105 Federally-funded Purchases or Contracts.
- 2.80.110 General.
- 2.80.120 Minor Purchases. (\$0 - \$10,000)
- 2.80.130 General Purchases. (More than \$10,000 - \$100,000)
- 2.80.140 Major Purchases. (More than \$100,000)
- 2.80.200 CONTRACTS FOR PERSONAL SERVICES.
- 2.80.210 General.
- 2.80.215 Direct Appointment.
- 2.80.220 Minor Personal Service Contracts. (\$0 - \$25,000)
- 2.80.225 General Personal Services Contracts. (More than \$25,000 - \$100,000)
- 2.80.230 Major Contracts for Personal Services. (More than \$100,000)
- 2.80.300 CONTRACTS FOR PUBLIC IMPROVEMENTS.
- 2.80.310 General.
- 2.80.320 Minor Contracts for Public Improvements. (\$0 - \$10,000)
- 2.80.330 General Contracts for Public Improvements. (More than \$10,000 - \$100,000)
- 2.80.340 Major Contracts for Public Improvements. (More than \$100,000)
- 2.80.350 Contract Incentive.

- 2.80.400 BIDDING PROVISIONS.
- 2.80.480 Qualification of Bidder.
- 2.80.600 TEMPORARY RULES.
- 2.80.900 FEES.

2.80.010. LOCAL CONTRACT REVIEW BOARD

The council is designated as the local contract review board and for all city purchasing and contract concerns has all the powers granted by state law.

2.80.015. Applicable Law.

(1) GRC Article 2.80 is adopted pursuant to the Gresham City Charter and ORS 279A.070.

(2) All public contracting by the city is subject to the Oregon Public Contracting Code and the Oregon Administrative Rules adopted pursuant to such code, except as provided otherwise by GRC Articles 2.80 and 2.81.

(3) Personal services contracting shall be subject to Oregon Revised Statutes Chapter 279B and Oregon Administrative Rules adopted pursuant to such statutes except as provided otherwise in GRC Articles 2.80 and 2.81.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1601, Enacted, 03/01/2005)

2.80.020. Purpose.

The council, as the local contract review board, has adopted GRC Articles 2.80 and 2.81 to implement applicable laws and to provide for the systematic and uniform administration of all matters relating to contracts for the city. The purpose of GRC Articles 2.80 and 2.81 is to ensure that contracts, including purchases, improvements, and sales are in the best interest of the public and the city and accomplished in a cost effective manner.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1507, Amended, 10/19/2000)

2.80.025 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 2.80 the following definitions apply:

Approve. The signing, including electronic sign-off, of any documents relating to a contract.

Award. Selection of a vendor or contractor.

Competitive Bidding. A selection process that involves an advertised public notice (invitation to bid), issuance of a written solicitation document inviting persons to submit written, signed, and sealed bids that are received by the manager and publicly opened at a designated time and place, and results in an award of the public contract to the lowest responsible bidder whose bid substantially complies with the requirements and criteria set forth in the invitation to bid and with all prescribed public contracting requirements.

Competitive Proposals. A selection process that involves an advertised public notice (request for proposal), issuance of a written solicitation document inviting persons to submit written, signed, and sealed proposals that are received by the manager and which may or may not be publicly opened at a designated time and place, and results in an award of the public contract to the responsible proposer whose proposal is the most advantageous to the contracting agency based on the evaluation process and evaluation factors described in the request for proposals.

Competitive Quotations. A verbal or written response to a city solicitation, not including responses to competitive bidding and competitive proposals.

Contract. Public contracts as defined in the Oregon Public Contracting Code, agreements, purchase orders, procurements for goods and services, intergovernmental agreements, memorandums of agreement and memorandums of understanding and similar documents.

Personal Services Contract. A personal service contract is a contract primarily for the provision of services that require specialized technical,

creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the quality of the service depends on the attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, attorneys, appraiser, accountant, auditors, medical professionals and other licensed professionals, artists, designers, computer programmers, performers, photographer, consultants and property managers.

Procurement. The act of purchasing, leasing, renting or otherwise acquiring goods or services. Procurement includes each function and procedure undertaken or required to be undertaken by the city to enter into a public contract, administer a public contract and obtain the performance of a public contract under the Oregon Public Contracting Code.

Public Contract. Public contracts as defined in the Oregon Public Contracting Code, purchase orders, procurements for goods and services, and other similar documents.

Solicitation. A request by the city for prospective contractors, vendors, or consultants to submit offers including competitive quotations, competitive bids, or competitive proposals. (Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Enacted, 01/02/2003)

2.80.030 Authority of Manager.

The manager is designated as the procurement authority for the City of Gresham. The manager shall:

(1) Ensure that all contracts comply with applicable ordinances, laws and rules.

(2) Review and approve all contracts to which the city is a party.

(3) Establish and amend procedures for the efficient and economical management of contracts. Procedures shall be in writing and on file in the office of the manager as a public record.

(4) Maintain accurate and sufficient records concerning all contracts.

(5) Make recommendations to the council concerning amendments to GRC Articles 2.80 and 2.81.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

2.80.040 General Policy.

(1) All contracts are subject to GRC Article 2.80 and the city's Nondiscrimination Policy.

(2) No contractor, vendor or supplier may be awarded public contracts in excess of \$75,000 in any one fiscal year without competitive quotations, competitive bidding, or competitive proposals, unless authorized by the manager or exempted by GRC 2.80 or applicable law.

(3) Reasonable attempts shall be made to obtain competitive quotations even though they may not be specifically required.

(4) No public contract or purchase may be arranged, fragmented or divided with the purpose or intent to circumvent these rules.

(5) Reasonable attempts shall be made to publicize general and major anticipated purchases or public contracts to known vendors, contractors and suppliers.

(6) When it is advantageous to the city, the manager may award and approve annual public contracts for goods, services, supplies, and personal services that are regularly purchased, consumed or utilized by the city.

(7) No payment or partial payment for goods and supplies may be made without approval of the operating department and the manager.

(8) The manager is authorized to develop and implement an electronic solicitation system that includes posting electronic advertisements, issuing electronic solicitations, receiving electronic offers, awarding contracts electronically, approving contracts electronically,

and other related procedures necessary to be undertaken by the city to enter into a public contract, administer a public contract and obtain the performance of a public contract.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1589, Amended, 09/02/2004; Ord. No. 1507, Amended, 10/19/2000)

2.80.045 Contracts.

(1) Except for contracts approved by council, a contract is not valid or effective without the written approval of the manager.

(2) A contract may not be approved by the manager unless reviewed for legal sufficiency and approved by the attorney.

(3) A contract will be deemed executed only when a requisite approval has been obtained.

(4) No purchase may be contracted for or made unless sufficient funds have been appropriated in the current fiscal year unless the council approves the unanticipated purchase or contract and authorizes a transfer of funds under local budget law for the purchase or contract.

(5) A contract that includes any city payment or performance obligation for succeeding fiscal years shall be subject to the appropriation of funds for the obligation.

(6) If funds for city payment of performance are not appropriated for a subsequent fiscal year, the manager shall cancel the contract.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Enacted, 04/01/2005)

2.80.050 Exemptions.

(1) Exemptions from public contracting requirements shall be granted pursuant to ORS 279B.075 (sole source), ORS 279B.080 (emergency), ORS 279B.085 (special procurement), and ORS 279C.335 (public improvement).

(2) The manager may determine if a public contract is exempt as a sole source or emergency.

(3) The manager may approve special procurements for public contracts for goods and services and personal services.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1612, Amended, 10/06/2005; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1338, Amended, 12/01/1994)

2.80.060 Hearing.

When a hearing is required to exempt a public improvement contract from the competitive bidding process, the city attorney shall hold the hearing and report the results of the hearing to council prior to adoption of the exemption findings.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1507, Amended, 10/19/2000)

2.80.080 Award and Approval of Contracts

(1) All contracts must be awarded and approved by council except as delegated to the manager by the Charter, Gresham Revised Code, resolution, or motion.

(2) The manager is delegated authority to award and approve contracts as follows:

(a) Contracts for the budgeted purchase of:

(i) materials and supplies that are regularly purchased, consumed or utilized by the city, and

(ii) equipment, vehicles, construction equipment, and assets that are \$150,000 or less.

(iii) services (except personal services) of \$150,000 or less.

(b) Contracts for budgeted personal services of \$150,000 or less.

(c) Contracts for personal services

relating to the design or construction of public improvements that are included in the Capital Improvement Plan as funded and within budgeted expenditures.

(d) Contracts for budgeted Public Improvements of \$150,000 or less.

(e) Contracts for the construction of public improvements that are included in the Capital Improvement Plan as funded and within budgeted expenditures.

(f) Contracts related to the financing of assessments, system development charges, accounts receivables and other amounts owed to the city.

(g) Grant and loan agreements for which the funds are included in the budget and includes grants where the city will either donate or receive funds. The manager may submit applications to receive grants and loans.

(h) Contracts by which the city receives materials or services at minimal cost or substantially less than fair market value.

(i) Contracts for the construction of improvements by the city on behalf of property owners when the property owner will pay all costs (except to the extent of a public benefit) and it is in the best interest of the city to coordinate the private project with the construction of public improvements.

(j) Contracts for the city to provide services for which the city will be paid if such contract does not significantly impact the city's ability to provide services within its own boundaries.

(k) Contracts that describe the respective roles, responsibilities and authorized functions of the city and other parties that do not include a cash expenditure by the city unless such expenditure has been budgeted or will be reimbursed by the other party.

(l) Contracts for the purchase of insurance and other contracts relating to providing employee benefits within budgeted expenditures.

(m) Contract provisions by which the city agrees to indemnify another party to the extent such provision does not significantly expand the city's liability for the city's actions.

(n) Minor modifications to council approved contracts where such modification has no significant policy impact.

(o) Contracts for which council has specifically delegated authority to the manager by motion or resolution.

(3) Amendments and Change Orders.

(a) The manager is delegated authority to amend any contract listed in GRC 2.80.080(2).

(b) In addition, the manager is delegated authority to approve:

(i) Change orders and contract amendments if the total amount of the contract after revision does not exceed 110 percent of the current contract price and funds are included in the budget.

(ii) Change orders and contract amendments to change the completion date of a contract if funds are included in the budget.

(iii) Contract renewals pursuant to the terms and conditions of the existing contract or subject to terms and conditions substantially similar to the existing contract. The renewal price may be increased to no more than 110 percent of the current contract price if funds are included in the budget.

(4) The attorney is delegated authority to award and approve contracts as follows:

(a) Contracts for the purchase of

insurance and other contracts related to providing property, liability, workers' compensation and other policies or services necessary to protect the city's assets within budgeted expenditures.

(b) Contracts of \$50,000 or less related to the duties of the attorney as provided in GRC Article 2.76.

(5) The manager may approve contracts awarded by council. The manager may elect to refer any contract to council for award or approval.

(6) The manager, in consultation with the city attorney, may terminate any contract if termination is in the best interest of the city.

(Ord. No. 1817, Amended, 07/15/2021; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1589, Enacted, 09/02/2004)

2.80.100 PURCHASES OF MATERIALS, SUPPLIES, SERVICES AND ASSETS

2.80.105 Federally-funded Purchases or Contracts.

Purchases or contracts of more than \$10,000, funded in whole or in part with federal funds, are required to obtain competitive bids or quotes.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1770, Enacted, 03/23/2017)

2.80.110 General.

(1) Materials, supplies, equipment, services and assets include, but are not limited to, office supplies, janitorial supplies, maintenance contracts for repairs to equipment, asphalt, printing services, postage, fertilizers, pipes, fittings, uniforms, office equipment, vehicles, construction equipment and services that are not subject to GRC 2.80.200. These items are normally budgeted as materials and services and capital outlay in the annual city budget.

(2) The selection of a vendor or contractor for the purchase of materials, supplies, services and

assets, may take into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility. The contract need not be awarded to the contractor submitting the least costly quotation or proposal.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1534, Amended, 11/01/2001)

2.80.120 Minor Purchases. (\$0 - \$10,000)

Purchases of goods or services of \$10,000 or less may be made by direct appointment without competitive quotations. Competitive quotations shall be obtained when practical, considering the time spent. Usually, these purchases are routine in nature and obtaining competitive quotations generally consumes more time than worthwhile.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

2.80.130 General Purchases. (More than \$10,000 - \$100,000)

Except for personal services and public improvements, when an order for goods and services is more than \$10,000, but \$100,000 or less, at least three written or oral competitive quotations shall be obtained. The manager may require competitive bidding or competitive proposals for general purchases.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

2.80.140 Major Purchases. (More than \$100,000)

Except for personal services and public improvements and unless otherwise exempted, purchases of goods and services for more than \$100,000 are subject to competitive bidding or competitive proposals.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended,

09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

2.80.200 CONTRACTS FOR PERSONAL SERVICES

2.80.210 General.

(1) The selection of personal service contracts shall be based on an evaluation of the services needed, the abilities of the contractors, the uniqueness of the service, and the general performance of the contractor. The contract need not be awarded to the contractor submitting the least costly quote or proposal.

(2) All personal service contracts shall clearly itemize the hourly rates or other method of computing charges for services rendered, plus any anticipated costs and expenses.

(3) Personal service contracts are subject to the award and selection procedures of ORS 279B.050 to 279B.085, except as contained in GRC 2.80.200 to 2.80.230. The manager may determine which contracts are personal service contracts.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

2.80.215 Direct Appointment.

Personal services contracts may be made by direct appointment without first obtaining competitive quotations or proposals if the personal services to be performed consist of, or are related to, personal services that have been substantially described, planned or otherwise previously studied in an earlier contract with the same consultant; are rendered for the same project as the personal services rendered under the earlier contract; and the original selection of the consultant used the required procedure set forth in GRC 2.80.015(3 and GRC 2.80.230.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1681, Enacted, 11/19/2009)

**2.80.220 Minor Personal Service Contracts.
(\$0 - \$25,000)**

Personal service contracts for \$25,000 or less may be made by direct appointment without first obtaining competitive quotations or proposals. If practical, considering time spent, reasonable attempts should be made to solicit quotations or proposals and make known to contractors the required request for services.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1589, Amended, 09/02/2004; Ord. No. 1561, Amended, 01/02/2003)

**2.80.225 General Personal Services
Contracts. (More than \$25,000
- \$100,000)**

When a personal service contract is more than \$25,000, but \$100,000 or less, at least three written or oral competitive quotations shall be obtained. The manager may require competitive proposals.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Enacted, 09/20/2007)

**2.80.230 Major Contracts for Personal
Services. (More than \$100,000)**

(1) When a contract for personal services is more than \$100,000, a competitive proposal, specifying the nature of the service needed, a detailed description of the work to be performed, the minimum qualifications of contractors, and any other relevant information on which a selection can be made, must be prepared. Proposals shall be solicited from known contractors, and, if possible, at least three competitive proposals obtained. The manager shall place appropriate notices and advertisements in at least one trade magazine or a newspaper of general circulation.

(2) All proposals submitted must be in writing or in an electronic format as specified in the proposal notice. The contract need not be awarded to the contractor submitting the least costly proposal. The reasons for selecting the

recommended contractor must be stated in writing.

(3) When a contract for an architect, engineer, photogrammetric mapping, transportation planner or land survey is estimated to exceed \$100,000, it is subject to selection procedures set forth in ORS 279C.100 through 279C.125.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1589, Amended, 09/02/2004; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

**2.80.300 CONTRACTS FOR PUBLIC
IMPROVEMENTS**

2.80.310. General.

(1) Contracts for public improvements are for the construction, reconstruction or major renovation of buildings and structures, streets, parks, water, stormwater and wastewater systems, but do not include emergency work, minor alterations and ordinary repair or maintenance necessary to preserve a public improvement.

(2) Contracts for public improvements are subject to the Public Works Standards, unless otherwise provided in the contract.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005)

**2.80.320 Minor Contracts for Public
Improvements. (\$0 - \$10,000)**

When a contract for public improvement is for \$10,000 or less, competitive quotations are not required. The manager may obtain competitive quotations if it is in the best interest of the city.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1601, Amended; 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

**2.80.330 General Contracts for Public
Improvements. (More than
\$10,000 - \$100,000)**

When a contract for public improvements is more than \$10,000, but \$100,000 or less, a competitive solicitation is required resulting in at least three

written or oral competitive quotations. The contract need not be awarded to the contractor submitting the least costly proposal. A written record of the source and amount of the quotations must be kept. The manager may require competitive bids or competitive proposals.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

2.80.340 Major Contracts for Public Improvements. (More than \$100,000)

When a contract for a public improvement is more than \$100,000, competitive bidding is required.

(Ord. No. 1834, Amended, 12/15/2022; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001)

2.80.350. Contract Incentive

(1) A contract may authorize an incentive for early completion of major public improvements. When an incentive is offered, the contract shall include:

- (a) a time-schedule, and
- (b) liquidated damages.

(2) The amount of the incentive shall be equal to the amount of liquidated damages for each day ahead of schedule the project is completed. A project is deemed complete if it meets the test of "substantial completion" as defined in the City Standard Specifications. The incentive shall be paid when retainage is released.

(Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1327, Enacted, 09/15/1994)

2.80.400 BIDDING PROVISIONS.

2.80.480 Qualification of Bidder.

(1) The manager may require persons desiring to submit bids or proposals for a contract or class of contract to be prequalified based on the

applicable standards of responsibility. If prequalification is not required, the manager shall determine that the lowest bidder or most advantageous proposer has met the applicable standards of responsibility before the award of the contract.

(2) If prequalification is required for a contract, the manager shall determine the time for submitting prequalification applications. If prequalification is required for a class of contract, the manager shall determine the type and nature of the contracts that are subject to prequalification.

(3) The manager may adopt a standard form of qualification application for public improvements.

(4) Written notice of the prequalification decision shall be given to the applicant at least five days prior to bid opening. The manager shall inform the applicant of any conditions that may be imposed on the qualification.

(5) Disqualification from consideration of award for goods, services, and personal services are subject to ORS 279B.120, 279B.125, and 279B.130. Disqualification from consideration and award of public improvement contracts is subject to ORS 279C.430, *et seq.*

(6) Any person who is prequalified shall notify the manager promptly if there has been any substantial change in conditions or circumstances that would make any statement contained in the qualification application no longer applicable or untrue.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1590, Amended 09/16/2004; Ord. No. 1507, Amended, 10/19/2000)

2.80.600 TEMPORARY RULES

The manager may adopt temporary rules for the purpose of implementing applicable law. Temporary rules shall only be effective for 60 days, or until adopted as permanent regulations by the council.

2.80.900 FEES

The council, by resolution, may set fees relating to purchasing and contracting.

Article 2.81

DISPOSITION OF PROPERTY

Sections:

- 2.81.010 [Definitions.](#)
- 2.81.020 [Transfers and Donations.](#)
- 2.81.030 [Trade-Ins.](#)
- 2.81.040 [Auction Sales.](#)
- 2.81.050 [Other Sales.](#)
- 2.81.060 [Disposal.](#)

2.81.000 DISPOSITION OF PROPERTY

GRC Article 2.81 is adopted pursuant to the Gresham Charter and ORS 279A.185. (Ord. No. 1601, Renumbered and Amended, 03/01/2005; Ord. No. 1345, Amended 02/02/1995)

2.81.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 2.81, the following definitions apply:

Surplus Property. Personal property purchased by the city and used until worn out or no longer useful, property for which the intended use no longer exists, property found and unclaimed, or property that has been seized and forfeited. The manager may declare real property as surplus property. (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1601, Renumbered, 03/01/2005; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1372, Amended, 09/05/1995; Ord. No. 1345, Amended, 02/02/1995)

2.81.020 Transfers and Donations.

(1) The manager may transfer surplus property, without competitive bid, for no or only nominal remuneration to:

- (a) another public agency; or
- (b) any sheltered workshop, work activity center or group care home that operates under contract or agreement with, or grant from, any state agency and that is certified to receive

federal or state surplus property; or

(c) any recognized non-profit activity that is certified to receive federal or state surplus property; or

(d) any person that would recycle or reuse the surplus property and has been identified as a recycler or reuser by the Metro Recycling Information Center or the City of Gresham Solid Waste Program; or

(e) any recognized non-profit entity for educational, social or health service activities.

(2) If the property has a depreciated capital asset value of \$5,000 or more, the manager shall:

- (a) document that the transfer is in the public interest; and
- (b) determine that the transfer is the most efficient and cost-effective method for disposing of the property.

(3) The city shall maintain a record of all transfers, donations or sales authorized by this section.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Renumbered, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1345, Amended, 02/02/1995)

2.81.030 Trade-Ins.

Surplus property may be traded in on similar new property if the manager determines that it would be more beneficial to the city to trade it in than to sell it outright.

(Ord. No. 1601, Renumbered, 03/01/2005)

2.81.040 Auction Sales.

(1) Surplus property may be sold at auction if the manager determines that the auction will probably result in a higher net return than if the property were sold by competitive written bid. The auction may be held separately by the city or in cooperation with another governmental agency.

(2) The manager may elect to use an Internet auction service as a means to satisfy this requirement.

surplus property through the appropriate solid waste licensee or at a solid waste transfer station.

(Ord. No. 1601, Renumbered, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

(3) Surplus property may not be transferred to a city employee or their relatives except through auction.

(Ord. No. 1601, Renumbered, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

2.81.050 Other Sales.

Items for sale not sold at auction shall comply with the following:

(1) when the depreciated capital asset value per item is deemed to be less than \$5,000, the manager may establish the terms of the sale including the minimum selling price, publicly announce a sale date, and sell to the first qualified buyer meeting the sale terms. If no buyer offers the minimum selling price, the manager may accept the best offer; or

(2) when the depreciated capital asset value per item is deemed to exceed \$5,000, the property must be offered for competitive written bid and be advertised in accordance with ORS 279B.055. If no bids are received or if a determination is made that the market value of the property exceeds the offer of the highest responsible bidder, all bids may be rejected and the city may negotiate a sale subject to the following conditions:

(a) an appraisal of the market value of the property is obtained and documented and the negotiated sale price exceeds the market value; or

(b) the sale amount exceeds the highest bid received through the bidding or auction process.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Renumbered and Amended, 03/01/2005)

2.81.060 Disposal.

If unable to transfer, donate, trade in, or sell surplus property, the manager may dispose of

Article 2.82

INVENTORY SEARCHES

Sections:

- 2.82.010 [Definitions.](#)
- 2.82.020 [Contraband.](#)
- 2.82.030 [Personal Property Inventory.](#)
- 2.82.040 [Inventories of Impounded Vehicles.](#)
- 2.82.050 [Inventories of Persons in Police Custody.](#)

2.82.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 2.82, the following definitions apply:

Closed Container. A container whose contents are not exposed to view.

Contraband. Any illegal controlled substance or other property which one may not legally possess, in custody of the police which is not needed as evidence and is not subject to order of the court.

Open Container. A container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

Police Custody. Either:

- (1) The imposition of restraint as a result of an "arrest" as that term is defined at ORS 133.005(1);
- (2) The imposition of actual or constructive restraint by a police officer pursuant to a court order;
- (3) The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 426; or
- (4) The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for

the involuntary confinement of persons pursuant to Oregon law.

Police Officer. Any officer of the Gresham Police Department.

Valuables. Cash money of an aggregate amount of \$50 or more; or individual items of personal property with a value of over \$500.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Enacted, 10/19/2000)

2.82.020 Contraband.

Contraband shall be destroyed at the direction of the manager by incineration, flushing, or burying, as appropriate. The destruction shall be witnessed by a minimum of two police officers, of whom at least one shall be of command rank. Nothing in this section shall prevent the immediate destruction of bombs, explosives, or other property which the manager believes constitutes an immediate threat to public health or safety.
(Ord. No. 1507, Enacted, 10/19/2000)

2.82.030 Personal Property Inventory.

Personal property inventory provisions shall exclusively apply to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional rights that police officers may employ to search persons or search or seize possessions for other purposes.
(Ord. No. 1507, Enacted, 10/19/2000)

2.82.040 Inventories of Impounded Vehicles.

(1) The contents of all vehicles impounded by a police officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

- (a) if there is reasonable suspicion to believe that the safety of either the police

officer or any other person is at risk, a required inventory will be done as soon as safely practical; or

(b) if the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

(2) The purpose for the inventory of an impounded vehicle shall be to:

(a) promptly identify property to establish accountability and avoid spurious claims to property;

(b) assist in the prevention of theft of property;

(c) locate toxic, dangerous, flammable or explosive substances; or

(d) reduce the danger to persons and property.

(3) Inventories of impounded vehicles shall be conducted according to the following procedure:

(a) an inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats; and

(b) in addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers shall also be conducted in the following locations;

(i) any other type of unlocked compartments that are a part of the vehicle including but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

(ii) any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

(c) A closed container left either within the vehicle or any of the vehicle's compartments will have its contents inventoried only when:

(i) the closed container is to be placed in the immediate possession of a person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure law enforcement holding room;

(ii) a person requests that the closed container be with him/her in the secure portion of a police vehicle or a secure law enforcement holding room; or

(iii) the closed container is designed for carrying money and/or valuables, including but not limited to, closed briefcases, closed purses, closed coin purses, closed wallets and closed fanny packs.

(d) Upon completion of the inventory, the police officer will complete a report as directed by the chief of police.

(e) Any valuables located during the inventory process shall be listed in a property receipt. A copy of the property receipt shall either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the chief of police.

(Ord. No. 1507, Enacted, 10/19/2000)

2.82.050 Inventories of Persons in Police Custody.

(1) A police officer shall inventory the personal property in the possession of a person taken into police custody and such inventory shall be conducted whenever:

(a) such person will be either placed in a secure law enforcement holding room or transported in the secure portion of a police vehicle; or

(b) custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 430.399 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.

(2) The purpose of the inventory of a person in police custody shall be to:

(a) promptly identify property to establish accountability and avoid spurious claims to property; or

(b) fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or

(c) assist in the prevention of theft of property; or

(d) locate toxic, flammable or explosive substances; or

(e) locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or

(f) reduce the danger to persons and property.

(3) Inventories of the personal property in the possession of such persons shall be conducted according to the following procedures:

(a) An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

(b) To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

(c) A closed container in the possession of such person will have its contents inventoried only when:

(i) the closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure law enforcement holding room;

(ii) such person requests that the closed container be with him/her in the secure portion of police vehicle or a secure law enforcement holding room; or

(iii) the closed container is designed for carrying money and/or valuables on or about the person including, but not limited to, closed briefcases, closed purses, closed coin purses, closed wallets and closed fanny packs.

(4) Valuables found during the inventory process will be noted by the police officer in a report as directed by the chief of police.

(5) All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, shall be handled in the following manner:

(a) a property receipt shall be prepared listing the property to be retained in the possession of the police department and a copy of that receipt shall be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;

(b) the property will be dealt with in such manner as directed by the chief of police.

(6) All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in GRC 2.80.874(5) will be released to the facility or agency accepting custody of the person so that they may:

(a) hold the property for safekeeping on behalf of the person in custody, and

(b) prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

(Ord. No. 1507, Enacted, 10/19/2000)

Article 2.84

RECORDS

Sections:

2.84.010 [Records Retention and Destruction.](#)

2.84.020 [Fees for City Documents.](#)

2.84.010 Record Retention and Destruction.

(1) City employees are required to keep city records for the time periods established by state law.

(2) No financial records may be destroyed until an independent post-audit has been made covering the period to which the records pertain.

2.84.020 Fees for City Documents.

The manager may set fees for:

(1) providing, comparing, and certifying copies of documents, reports, or other materials; and

(2) providing special services or the use of city property beyond the scope of services or property use generally provided to the public.

Article 2.88

REAL PROPERTY TRANSACTIONS

Sections:

- 2.88.010** [Council Approval.](#)
- 2.88.020** [Manager Approval.](#)
- 2.88.030** [Public Improvement Documents.](#)
- 2.88.040** [Execution of Documents.](#)

2.88.010 Council Approval.

Council approval shall be required for all real property transactions except as described in GRC 2.88.020.
(Ord. No. 1513, Amended, 02/06/2001)

2.88.020 Manager Approval.

The manager is authorized to negotiate and approve the following real property transactions:

- (1) Easements and rights-of-way for streets, trails, and utilities (city may be the grantor or grantee) if donated or purchased for 120 percent or less of either the real market value determined by the County Assessor or the appraised value.
- (2) Plat dedications required by the Community Development Code.
- (3) Purchase and Sale Agreements which are subject to council approval (city may be the grantor or grantee) before closing.
- (4) Acquisition of donated property if part of an approved master plan or land use permit.
- (5) Licenses or permits to use real property (city may be the licensor or licensee).
- (6) Acquisition or disposition of small parcels to consolidate ownership, resolve encroachments, or improve access to city property if the value is less than \$15,000.

(7) Quitclaim deeds releasing utility easements that are not in use and do not benefit the general public.

(8) Acquisition of property in lieu of payment of Park System Development Charges if value is documented by an appraisal.

(9) Such other real property transactions as council may delegate to the manager.
(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1513, Enacted, 02/06/2001)

2.88.030 Public Improvement Documents.

The manager is authorized to approve the following documents relating to public improvements:

- (1) Acceptance of public improvement projects constructed to city standards.
- (2) Agreements for property owners to contribute to the construction of public improvements required by the Community Development Code but to be constructed at a later date.

(3) Financing agreement related to System Development Charges, Local Improvement Districts, and public improvements.
(Ord. No. 1513, Enacted, 02/06/2001)

2.88.040 Execution of Documents.

Documents approved by the council or manager shall be executed by the manager and recorded with Multnomah County if required or permitted. No real property transaction document may be approved by the manager unless reviewed for legal sufficiency and approved as to form by the attorney.
(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1513, Enacted, 02/06/2001)

Article 2.90

deposits before providing the service.
(Ord. No. 1770, Enacted, 03/23/2017)

ADMINISTRATIVE SERVICE FEES

Sections:

2.90.010 [Fees for Services.](#)

2.90.020 [Application Fees.](#)

2.90.010 Fees for Services.

(1) The manager may set fees to reimburse the city for the cost of providing:

(a) services and equipment associated with public use of land and buildings, excluding parks; and

(b) special services beyond the services generally provided to the public; and

(c) public records.

(2) The manager shall establish a rate for administrative overhead using federal cost allocation guidelines for indirect costs of providing labor, materials & services, equipment, and construction services.

(3) Fees for services generally provided to the public shall be set by council resolution.

(4) Fees for services not otherwise provided for in the Gresham Revised Code or the Gresham Community Development Code shall be set by the manager.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1395, Amended & Renumbered, 08/15/1996)

2.90.020 Application Fees.

(1) Failure to submit an application fee will constitute an incomplete application. The manager shall not process an application until the application fee is fully paid.

(2) For any fee based on the actual cost of providing services, the manager may require

Article 2.92

LIENS AND COLLECTIONS

Sections:

- 2.92.010 Interest for Financing; Late Payment Charge on Receivables.
- 2.92.020 Attorney Fees and Collection Costs.
- 2.92.030 Liens.
- 2.92.040 Refunds and Accounts Payable.
- 2.92.050 Release of Lien.
- 2.92.060 Form of Payment.
- 2.92.070 Collection.
- 2.92.080 Adjustment of Accounts.
- 2.92.090 Crediting of Utility Payments.
- 2.92.100 Issuance of Permits, Licenses and Other Approvals.
- 2.92.210 Audit of Books, Records or Persons.

2.92.010 Interest for Financing; Late Payment Charge on Receivables.

(1) The council, by resolution, may set a rate to be applied to all receivables owed the city as a late payment charge. The late payment charge shall be added to any lien for the receivable. Unless otherwise provided, the late payment charge will be compounded monthly and shall accrue from the date of the invoice if not paid by the date due.

(2) The manager may set interest rates to be applied to finance agreements offered by the city. (Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1540, Enacted, 03/07/2002)

2.92.020 Attorney Fees and Collection Costs.

In addition to a late payment charge, the actual cost of collection, including attorney fees, may be charged to each receivable account. The council, by resolution, may establish a charge in lieu of actual collection costs to be applied to all

delinquent accounts. The collection cost or charge shall be added to any lien for the receivable. (Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1540, Enacted, 03/07/2002)

2.92.030 Liens.

(1) There shall be an on-line electronic medium to be known as Gresham Liens on Line (LIONs) by which the lien dockets of the City of Gresham can be accessed.

(2) The city may, by ordinance, authorize the manager to create a lien by recording the lien in a lien docket.

(3) The manager shall record in the city’s lien dockets:

(a) all liens on real property in favor of the city, including but not limited to, liens for:

- (i) assessments for local improvements,
- (ii) assessments for Economic Improvement Districts,
- (iii) system development charges,
- (iv) delinquent utility bills,
- (v) civil penalties,
- (vi) nuisance abatements,
- (vii) liens created by GRC Article 10.30, and
- (viii) consensual liens.

(b) All releases, satisfactions, assignments, apportionments, amendments and modifications of liens recorded in a lien docket. No transfer or assignment of any certificate of purchase of real property sold under ORS 223.505 to 223.590 is valid unless the recorder has noted an entry of such transfer or assignment in the appropriate lien docket.

(c) Documents that provide notice regarding potential obligations of property including, but not limited to, backwater valve building drain separation variance, backwater prevention device waiver, reimbursement agreements, reimbursement district resolutions, agreements relating to future obligations to build or fund public improvements, and private stormwater operations and maintenance agreements. The recording of such documents shall not create a lien. The document and the lien docket shall prominently state "NOTICE OF POTENTIAL OBLIGATION."

(d) Such other documents required or permitted by law to be recorded, filed, or noted in a lien docket maintained by the city.

(4) In addition to recording liens and notices in a lien docket, the manager may record the lien in the Multnomah County deed records. The informational recording shall include a clear statement of the purpose of the recording and a reference to how LIONS can be accessed.

(5) Each lien record recorded in a lien docket shall consist of:

(a) the effective date of recording,

(b) a reference to the location of source documents or files,

(c) a description of the real property affected by the recording including the county "R" number, state identification number and a description meeting the requirements of ORS 93.600,

(d) the lien account number or other account identifier,

(e) the amount of the original lien or obligation, and

(f) the current amount of principal balance.

(6) Each lien record for the purpose of an assessment for local improvements shall also include the name or number of the local improvement, a description of each lot or parcel of

land or other property against which the final assessment is made, or which bears or is chargeable for a portion of the actual cost of the local improvement, with the name of the owner and the amount of the unpaid final assessment.

(7) Payments of installments, interest, penalties, and late payment charges for assessments for local improvements shall be noted in the lien docket as they are received, with the date of payment. The payments so made and entered shall discharge the lien to the amount of the payment and from the date of the payment.

(8) If the lien record was previously recorded in one of the indices maintained by the County Clerk under ORS Chapter 205, in addition to the information above the lien record shall include the original recording date and a reference to the location of the original recording.

(9) Each lien record shall be a lien in favor of the city against each lot or parcel of land or other property identified, until paid, for the following:

(a) for the amounts of the unpaid principal amount docketed, with interest at the rate determined by the city; and

(b) for any additional penalties or collection charges imposed by the city with respect to any amounts that are not paid when due.

(10) Unless otherwise provided in this code, when a lien remains unpaid for 60 days after it has been recorded in the city's lien docket, the lien may be foreclosed in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law.

(11) Any reference in state law or city code to the "recorder of the governmental unit" or similar phrases shall mean the Title, Liens and Collection Coordinator of the Finance and Management Services Department.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1540; Enacted; 03/07/2002)

2.92.040 Refunds and Accounts Payable.

Except for fees collected pursuant to the Oregon Structural Specialty Codes, any account payable or refund of money held by the city but that is owed to a person with a delinquent city account, shall be applied to the delinquent account. If the delinquent account is in dispute, the account payable or refund shall be held until the dispute is resolved.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1561, Enacted, 01/02/2003)

2.92.050 Release of Lien.

The city shall collect an administrative fee, as set by council resolution, for the release of any lien issued by the city.

(Ord. No. 1602, Enacted, 04/01/2005)

2.92.060 Form of Payment.

In the discretion of the manager, any payment may be required to be made by money order, cashier's check or similarly secure form of payment.

(Ord. No. 1602, Enacted, 04/01/2005)

2.92.070 Collection.

(1) Any tax or fee required to be paid by any person to the city, or collected by a person and paid to the city, under the provisions of the Gresham Revised Code, Gresham Community Development Code or otherwise, shall be deemed a debt owed by the person to the city.

(2) In addition to any other collection method, any charge due to the city that is not paid when due may be recovered by sending the account to a collection agency.

(3) Any person owing money to the city under the provisions of city codes shall be liable to an action brought in the name of the City of Gresham for the recovery of such amount.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Enacted, 04/01/2005)

2.92.080 Adjustment of Accounts.

The manager may write off accounts receivable balances if in the best interest of the city and may write off credit balances, unless the customer requests otherwise, if the cost of making the refund would exceed the amount of the credit balance.

(Ord. No. 1602, Enacted, 04/01/2005)

2.92.090 Crediting of Utility Payments.

Payment for utility bills shall be applied in the following order: any late payment charge, any collection cost charge, charges pursuant to GRC Article 2.97, stormwater user charges in the order incurred, wastewater user charges in the order incurred, and water user charges in the order incurred.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Enacted, 04/01/2005)

2.92.100 Issuance of Permits, Licenses and Other Approvals.

In addition to any other collection method, if an applicant, or any person or firm affiliated with the applicant, seeking a permit, license or other approval from the city has any charge due to the city that is not paid when due, the manager may withhold the issuance until such time as the past due amount is paid. This section shall not apply to approvals pursuant to the Oregon Structural Specialty Codes.

(Ord. No. 1602, Enacted, 04/01/2005)

2.92.210 Audit of Books, Records or Persons.

The manager, for the purpose of determining the correctness of any tax or fee imposed, or for the purpose of an estimate of taxes or fees due, may examine or may cause to be examined by an agent or representative designated by the city for that purpose, any books, papers, records, or memoranda, including copies of a person's state and federal income tax return, bearing upon the matter of the tax or fee. All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the manager or an authorized agent of the

manager. If any person refuses to voluntarily furnish any of the foregoing information when requested, the manager may immediately seek a subpoena from the circuit court to require that the person or a representative of the person attend a hearing or produce any such books, accounts and records for examination.

(Ord. No. 1750, Enacted, 05/07/2015)

Article 2.96

REWARDS FOR INFORMATION

Sections:

- 2.96.010** [Rewards.](#)
- 2.96.020** [Ineligibility.](#)
- 2.96.030** [Apportionment of Reward.](#)
- 2.96.040** [Amount.](#)

2.96.010 Rewards.

A person who communicates information to the city leading to the arrest and conviction of a person for damaging city property, equipment, signs, or parks may be given a reward, in an amount to be determined by the council.

2.96.020 Ineligibility.

A public official or city employee may not claim reward for the performance of a service which was the duty of the person to perform.

2.96.030 Apportionment of Reward.

When several persons contribute information leading to arrest and conviction, the reward may be apportioned among those contributing according to the value of the contributions, as determined by the council.

2.96.040 Amount.

The amount of the reward may be determined and payment approved by a motion of the council.

Article 2.97

POLICE, FIRE AND PARKS FEE

Sections:

- 2.97.010 [Purpose of Police, Fire and Parks Fee.](#)
- 2.97.020 [Definitions.](#)
- 2.97.030 [Establishment of Police, Fire and Parks Fee.](#)
- 2.97.040 [Amount of the Police, Fire and Parks Fee.](#)
- 2.97.050 [Dedicated Funds.](#)
- 2.97.060 [Billing.](#)
- 2.97.070 [Payment Due Date.](#)
- 2.97.080 [Adjustment of Accounts.](#)
- 2.97.090 [Delinquency.](#)

2.97.010 Purpose of Police, Fire and Parks Fee.

The purpose of the Police, Fire and Parks Fee is to provide funding for police, fire and park services. Police, fire and park services safeguard, facilitate, and encourage the health, safety, and welfare of the residents and enterprises of the City of Gresham. Stable and reliable police, fire and park services provide a multitude of economic and social benefits to the public, including, but not limited to:

- Protection of life and property
- Reduction in the incidence of fire and crime;
- Dependable response by law enforcement
- Reliable fire and emergency medical aid
- Promotion of business and industry
- Promotion of community health, community spirit and growth

The Gresham City Council finds and determines the necessity of this Police, Fire, and Parks Fee to provide a funding mechanism to help pay for the benefits of police, fire and parks services and to provide an acceptable level of service.

(Ord. No. 1739; Amended, 07/04/2014; Ord. No. 1723, Enacted, 12/04/2012)

2.97.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 2.97, the following mean:

Premise. A parcel or portion of a parcel of land within the corporate limits of the City of Gresham that receives a direct or indirect benefit from police, fire and park services. It is presumed that a Premise receives a direct or indirect benefit from police, fire and park services if the Premise is developed. A Premise is presumed to be developed if served by city water, stormwater, and/or wastewater utility. A Premise is not developed if no city utility serves the Premise.

Non-Residential Unit. A Premise or a portion of a Premise not used for personal, domestic accommodation in independent living facilities. A non-residential unit includes, but is not limited to, governmental, not-for-profit, business, commercial and industrial enterprises. Each portion of a non-residential Premise that has permanent provisions for distinct and defined access to an individual enterprise shall be considered as a separate non-residential unit.

Residential Unit. A Premise or a portion of a Premise with one or more rooms in a building or portion thereof designed for or that provides complete independent living facilities for one or more persons and includes permanent provisions for sleeping, cooking and sanitation. An accessory or ancillary residential unit on a Premise shall be considered as a separate residential unit. In Premises with two or more apartments, condominiums, mobile homes, or other residential units, each residential unit shall be considered as a separate residential unit for purposes of calculating the Police, Fire and Parks Fee. Portions of Premises primarily used for transient lodging whose occupants are subject to GRC Article 9.60 (Transient Lodging Tax) shall not be considered a residential unit.

(Ord. No. 1723, Enacted, 12/04/2012)

2.97.030 Establishment of Police, Fire and Parks Fee.

(1) Effective Dates.

(a) Effective February 1, 2013, and ending on June 30, 2014, a Police, Fire and Parks Fee is established and imposed upon all city utility accounts within the Gresham city limits.

(b) Effective July 5, 2014, the Police, Fire and Parks Fee is renewed and will continue to be imposed upon all city utility accounts within the Gresham city limits.

(2) The Police, Fire and Parks Fee for each utility account shall be based on a monthly amount applied to the number of residential units and non-residential units allocated to that utility account. The Police, Fire and Parks Fee shall be prorated based on utility billing cycles and, for utility accounts that are opened or closed during the period the Police, Fire and Parks Fee is in effect, the date the utility account is opened or closed.

(3) Residential and Non-Residential Units that are the basis for calculating the Police, Fire and Parks Fee do not in any way create an obligation of the property or Premise and the obligation to pay the Police, Fire and Parks Fee is a personal obligation of the customer responsible for payment of the city utility account. No lien will attach to any Premise because of the nonpayment of the Police, Fire and Parks Fee.

(4) All developed property receives a direct or indirect benefit from police, fire and park services. The Police, Fire and Parks Fee applies to all City of Gresham utility accounts, including those that serve local, state and federal governments, and to city utility accounts that serve Premises that are entitled to an exemption from or deferral of ad valorem property taxes.

(Ord. No. 1739, Amended, 07/05/2014; Ord. No. 1723, Enacted, 12/04/2012)

2.97.040 Amount of the Police, Fire and Parks Fee.

(1) The amount of the Police, Fire and Parks Fee shall be \$15.00 per month for each residential and non-residential unit, subject to the following adjustment:

(a) For a Premise or portion of a Premise with four or more attached residential units, the fee shall be reduced by 4.1%, which is the average Troutdale / Fairview / Wood Village / Gresham area vacancy rate as reported by the Metro Multifamily Housing Association Apartment Report, Fall 2012, Volume 17.

(Ord. No. 1846, Amended, 05/16/2024; Ord. No. 1839, Amended, 06/20/2023; Ord. No. 1824, Amended 02/03/2022; Ord. No. 1812, Amended, 10/06/2020; Ord. No. 1723, Enacted, 12/04/2012)

2.97.050 Dedicated Funds.

(1) There shall be a Police, Fire and Parks Fund. All Police, Fire and Parks Fee revenues imposed and collected under this article shall be deposited in the Police, Fire and Parks Fund.

(2) Money in the Police, Fire and Parks Fund shall be used for the purposes of operation and administration of city police, fire and parks services. Ninety-five percent of the Police, Fire and Parks Fund shall be dedicated to police and fire services, and five percent to parks services. The Police, Fire and Parks Fee shall not be used for any other governmental or proprietary functions of the city.

(3) The City Council may designate a portion of the fee to provide financial assistance to low income individuals.

(Ord. No. 1739, Amended, 07/05/2014; Ord. No. 1723, Enacted, 12/04/2012)

2.97.060 Billing.

(1) The customer responsible for paying the city utility account is responsible for payment of the Police, Fire and Parks Fee.

(2) The city shall collect the Police, Fire and Parks Fee by adding the Police, Fire and Parks Fee

to the utility bill of each customer in the City of Gresham. The city will bill the Police, Fire and Parks Fee on a schedule approved by the manager.

(3) If a Premise has more than one utility account, the Police, Fire and Parks Fee for the Premise shall be calculated based on the total number of residential units and non-residential units on the Premise. The residential units and non-residential units may be combined into one account or allocated to each account.

(4) Charges for water, wastewater, stormwater, and the Police, Fire and Parks Fee may be billed on the same utility bill. Payment shall be applied first to the Police, Fire and Parks Fee.

(Ord. No. 1723, Enacted, 12/04/2012)

2.97.070 Payment Due Date.

The Police, Fire and Parks Fee shall be paid within 26 days from the service period ending date on the utility bill.

(Ord. No. 1723, Enacted, 12/04/2012)

2.97.080 Adjustment of Accounts.

(1) Customers who believe their Police, Fire and Parks Fee, as applied to their Premise, is not within the intent of this article may request, in writing, a review of their Police, Fire and Parks Fee by the manager. The manager may initiate a review of a customer's Police, Fire and Parks Fee.

(a) If a customer's charge is reduced as a result of this review, the corrected Police, Fire and Parks Fee shall begin with the next billing and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

(b) If a customer's charge is increased as a result of this review, the corrected Police, Fire and Parks Fee shall begin with the next billing and the customer may be billed for the increase retroactively, not to exceed one year from the last billing.

(2) If an existing customer has not been billed for the Police, Fire and Parks Fee, the

Police, Fire and Parks Fee shall begin with the next billing and the customer may be billed retroactively, not to exceed one year.

(3) Customers not satisfied with the results of the review by the manager may protest the manager's decision to an independent hearings officer. GRC 7.50.030(1) to (10) shall apply to any protest.

(4) The manager may write off closed accounts and retroactive bills if in the best interest of the city and may write off refunds, unless the customer requested otherwise, if the cost of making the refund would exceed the amount of the refund.

(Ord. No. 1723, Enacted, 12/04/2012)

2.97.090 Delinquency.

(1) A Police, Fire and Parks Fee is delinquent if payment in full is not received by the city within 26 days from the service period ending date on the regular bill.

(2) If a customer's utility account for Police, Fire and Parks Fee is delinquent, the city may discontinue all water services billed on that account. The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid. The city will follow the procedures identified in GRC 5.99.040.

(3) The city may discontinue all of a customer's current water services at any time the city discovers that the customer has a delinquent Police, Fire and Parks Fee at any property in the city.

(4) The council may set by resolution fees for extra services required in collecting delinquent customer accounts for Police, Fire and Parks Fee. (Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1723, Enacted, 12/04/2012)

Article 2.98

REVIEW OF DEMANDS FOR
COMPENSATION UNDER OREGON
REVISED STATUTES CHAPTER 197
AS AMENDED BY BALLOT MEASURE
37 PASSED NOVEMBER 2, 2004

funds; preserve and protect the interests of the community by providing for public input into the process of reviewing demands; and, establish a record of decisions capable of withstanding legal review.

(Ord. No. 1595, Enacted, 12/02/2004)

Sections:

- 2.98.010 Purpose.
- 2.98.020 Definitions.
- 2.98.030 Pre-filing Conference.
- 2.98.040 Demand Requirements.
- 2.98.050 Demand Review Process.
- 2.98.060 Conditions of Approval,
Revocation of Decision and
Transfer of Approval Rights.
- 2.98.070 Ex Parte Contacts, Conflict of
Interest and Bias.
- 2.98.080 Attorney Fees on Delayed
Compensation.
- 2.98.090 Availability of Funds to Pay
Claims.
- 2.98.100 Severability.
- 2.98.110 Applicable State Law, No
Independent Rights Created by
this Article.

2.98.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of this article the following definitions shall apply:

Appraisal. Means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, the term “appraisal” additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by written certificate.

Demand. Means the “written demand for compensation” required to be made by an “owner” of “real property” under Ballot Measure 37. Demands shall not be considered “made” under Ballot Measure 37 until the city accepts the demand after the requirements for making a demand under this article are fulfilled by the owner of real property.

Exempt land use regulation. Means:

(a) a regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, including Gresham Revised Code Chapter 7, as amended from time to time, and the criminal laws of Oregon and the City of Gresham;

(b) a regulation restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

2.98.010 Purpose.

The purpose of this article is to accomplish the following regarding demands for compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004:

Process demands for compensation quickly, openly, thoroughly, and consistently with the law; enable present real property owners making demands for compensation to have an adequate and fair opportunity to present their demands to the city’s decision-maker; provide the city’s decision-maker with the factual and analytical information necessary to adequately and fairly consider demands for compensation, and take appropriate action under the alternatives provided by law; preserve and protect limited public

(c) a regulation required to comply with federal law;

(d) a regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(e) a regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

Family member. Means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

Land use regulation. Means any comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of the City of Gresham.

Owner. Means the present owner of real property that is the subject of the demand for compensation, or any interest therein. The owner must be a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

Property. Means any private real property or interest therein. It includes only a single parcel or contiguous parcels in single ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

Reduction in Value. Means the difference in the fair market value of the property before and after

enactment, enforcement or application of a land use regulation.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1595, Enacted, 12/02/2004)

2.98.030 Pre-filing Conference.

(1) Before submitting a demand for compensation, the owner must schedule and attend a pre-filing conference with the manager to discuss the demand. The pre-filing conference shall follow the procedure set forth by the manager and may include a filing fee, and notice to neighbors, other organizations and agencies. The filing fee shall be set by council resolution.

(2) To schedule a pre-filing conference, the owner must contact the manager and pay the appropriate conference fee. The pre-filing conference is for the owner to provide a summary of the owner's demand to the manager, and for the manager to provide information to the owner about regulations that may affect the demand. The manager may provide the owner with a written summary of the pre-filing conference within 10 days after it is held.

(3) The manager is not authorized to settle any demand at a pre-filing conference. Any omission or failure by staff to recite to an owner all relevant applicable regulations will not constitute a waiver or admission by the city.

(4) A pre-filing conference is valid for six months from the date it is held. If no demand is filed within six months of the conference, the owner must schedule and attend another conference before the city will accept a demand. The manager may waive the pre-filing requirements if, in the manager's opinion, the demand does not warrant that step.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.040 Demand Requirements.

(1) Form, Completeness, Completeness Review, Extension and Tolling of Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, 180-Day Period.

(a) A demand shall only be submitted and accepted for review upon forms established by the manager. A demand shall consist of all materials required by this article. A demand will not be accepted until found to be complete by the manager after all materials required by this article have been submitted.

(b) The manager shall conduct a completeness review within 15 days after submittal of the demand and shall advise the owner, in writing, of any material remaining to be submitted. The owner shall submit the material needed for completeness within 30 days of the written notice that additional material remains to be submitted. If the owner fails to provide the materials necessary to make the demand complete within the 30 day period the demand shall not be accepted for filing.

(c) The 180-day period required to pass prior to any cause of action being available to owner in circuit court specified in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, shall only commence on the date the manager deems the demand complete, and accepts it for filing. The manager shall note the date of completeness and filing, in writing, upon the demand.

(d) The owner may request an extension for filing a complete demand. A request for an extension or continuance shall be deemed a waiver of the commencement of the 180-day period required to pass prior to any cause of action being available to the owner in circuit court specified in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and this article.

(2) Information and Other Matters Required to be Submitted as Part of the Demand. A demand shall be for a single property and shall be submitted on forms established by the manager, and shall consist of all materials required by this article. A demand will not be accepted for filing without all of the following information:

(a) Fee. An application fee to be paid in advance of acceptance for filing to cover the costs of completeness review and demand processing. This fee shall be established by council resolution. The demand processing fee shall be refunded if the city or an appellate body determines that just compensation should be paid.

(b) Form. A completed demand form.

(c) Identification of Owner. Identification of the name, physical address, street address, and phone number of the owner. If the applicant is not the owner, this information must also be provided for the owner and authorization to act on behalf of the owner must be provided.

(d) Property Description. A legal description of the property as well as a common address for the property.

(e) Proof of Present Property Ownership. Proof, acceptable to the manager, that the property is in the exclusive fee simple ownership of the owner or that the owner has the consent of all owners in the property. The name and mailing address of all owners other than the owner making the demand must be provided.

(f) Nearby Property Owner Information. The names and addresses of all owners of property within 300 feet of the property.

(g) Listing of Nearby Owned Property. Identification of any other property owned by the owner within 300 feet of the boundary of the property.

(h) Title Report. A title report, including the title history, a statement of the date the owner acquired ownership of the property, and the ownership interests of all owners. The title report must also specify any restrictions on use of the property unrelated to the land use regulation including, but not limited to, any restrictions established by Covenants, Conditions and Restrictions (CC&Rs), other

private restrictions, or other regulations, restrictions or contracts.

(i) Copy of Existing Regulation. A copy of the land use regulation that the owner making the demand claims restricts the use of the property, or interest therein, that has had the effect of reducing the fair market value of the property, including the date the owner claims the land use regulation was first enacted, enforced or applied to the property.

(j) Copy of Prior Regulations. A copy of the land use regulation in existence, and applicable to the property, when the owner became the owner of the property, and a copy of the land use regulation in existence immediately before the regulation that was enacted or enforced or applied to the property, that the owner claims restricts the use of the property and, the owner claims, caused a reduction in fair market value due to the regulation described in item (i) above being more restrictive.

(k) Appraisals. A copy of a written appraisal or appraisals by an appraiser, qualified as such in the State of Oregon, indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after enactment, enforcement or application of the land use regulation described in item (i) above, and explaining the rationale and factors leading to that conclusion. If the demand is for more than \$10,000, copies of two appraisals by different appraisers must be included. If the demand is for \$10,000 or less, one appraisal must be provided.

(l) Narrative. The owner shall provide a narrative describing the history of the owner and/or family member's ownership in the property, the history of the relevant land use regulations applicable to the demand, and how the enactment, enforcement or application of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

(m) Statement Regarding Exceptions. A statement by the owner making the demand of why the following exceptions to the requirement for compensation for restrictions or prohibitions on activities or uses found in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, do not apply:

1. commonly and historically recognized public nuisances under common law;

2. protection of public health and safety;

3. regulations required to comply with federal law;

4. use of property for the purpose of selling pornography or performing nude dancing; or,

5. the subject land use regulation was enacted prior to the date of the acquisition of the property by the owner, or prior to acquisition by a family member of the owner who owned the subject property prior to the acquisition or inheritance by the owner [if "family member" status is claimed it must also be addressed in the title report required by item (h) above].

(n) Statement of the Owner's Understanding of the Effect of Any Modification, Removal or Non-Application of Land Use Regulation. A statement by the owner explaining their understanding of what effect a modification, removal or non-application of the land use regulation would have on the potential development of the property, stating the greatest degree of development that the owner believes would be permitted on the property if the identified land use regulation were modified, removed or not applied.

(o) Copies of Prior Permit Applications and Description of Enforcement and/or Application Actions by the city. Copies of any land use actions, development applications or

other relevant applications for permits that have previously been filed in connection with the property and the action taken. Any such actions that represent the required “enforcement” and/or “application” of the land use regulation that are prerequisites to making a demand must be described and identified as such.

(p) Site Plan and Drawings. A copy of the site plan and drawings related to the expected use of the property should the land use regulation be modified, removed or not applied in a readable/legible 8 ½ by 11-inch format.

(q) Statement of Relief Sought. A statement of the relief sought by the owner.
(Ord. No. 1595, Enacted, 12/02/2004)

2.98.050 Demand Review Process.

(1) The manager shall assess any demand for compensation and make a recommendation to the city council on the disposition of the demand.

(2) The manager shall mail notice of the demand to the owner and to all owners of record of property, and to all owners of property within three hundred (300) feet of the property that is subject of the notice, as listed on the most recent property tax assessment roll where such property is located. Additional mailed notice shall be sent to the Oregon Department of Land Conservation and Development, Oregon Department of Justice, Metro and such others as the city may designate by council resolution.

(3) The manager’s notice under subsection (2) of this section shall:

(a) state the basis of the demand, the amount of the compensation sought and the regulation that causes the compensation to be alleged to be due;

(b) identify the property by the street address or other easily understood geographical reference;

(c) state that persons noticed may provide written comments on the demand, and provide the date written comments are due or, if a hearing has been requested, the date, time and location of the hearing. Include a general explanation of the requirements for submission of written comments or, if a hearing is to be held, the requirements for submission of testimony and evidence and the procedure for conduct of hearings;

(d) identify the city representative and telephone number to contact to obtain additional information; and

(e) state that a copy of the demand and the supporting documents submitted by the owner are available for inspection at no cost, and that copies will be provided at reasonable cost.

(4) Before the manager may make a recommendation on the demand, the manager shall provide notice of the demand in accordance with the provisions of subsections (2) and (3) of this section.

(5) Written comments regarding a demand may be submitted to the manager. Any such comments must be received by the manager within 14 days from the date identified in paragraph (3), above. The owner shall have an additional 7 days after the deadline set in paragraph (3), above, to respond to any written comments received by the manager. It is the duty of the owner to determine if comments have been received by the manager.

(6) The manager shall hold a public hearing on the demand if requested by:

(a) the applicant in the initial written demand; or

(b) another person entitled to notice under subsection (2) of this section, provided that person makes the request within seven days from the date provided under subsection (3)(b) of this section.

If the owner requests a hearing, the initial notice under subsections (2) and (3) of this section shall provide the date, time and location of the hearing.

If a hearing is requested by other persons entitled to notice a new notice by the manager shall be issued to the remaining persons entitled to notice giving the date, time and location of the hearing.

(7) If a hearing is conducted:

(a) All documents or evidence relied upon by the owner shall be submitted to the manager as a part of the demand. Persons other than the owner may submit documents or evidence at the hearing.

(b) Any staff report used at the hearing shall be available at least 7 days prior to the hearing.

(c) When the manager reopens a record to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

(d) The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings if the city can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(8) The manager shall make a recommendation, applying the standards of Oregon Revised Statutes Chapter 197 as amended by Ballot Measure 37, passed November 2, 2004, to the city council based on all of the information presented. Should compensation be recommended by the manager, the recommendation to the city council may include establishing any relevant conditions for compensation. The manager will consider the city council criteria for decision and may recommend the city council take any of the actions set forth in subsection (11), of this section.

(9) The manager may, in the manager's discretion, retain the services of an appraiser to appraise the property and evaluate the demand to assist in determining the validity of a demand.

(10) Within 21 days from the date of the close

of the period for written comments or the conclusion of the hearing, if one is requested, the manager shall make a recommendation to the city council as to whether compensation shall be paid, the amount of compensation to be paid, and/or whether any specific land use regulation should be modified, removed or not applied to the property.

(a) A copy of the manager's recommendation and notice of the date, time, and place of the city council meeting at which the recommendation will be reviewed shall be sent by mail to the owner, and to all individuals that provided written comments and/or participated in the manager's hearing, not less than 7 days before the scheduled city council meeting, provided a mailing address was previously provided to the manager as part of the review or hearing process.

(11) Review of the Manager's Recommendation and Decision on the Demand by the city council. Review by the city council shall be on the record of the manager's review or hearing, and limited to the completed demand filed with the manager, together with any and all documents and testimony submitted in connection with any review or hearing before the manager. Any staff report by the manager used at the city council review shall be available at least 4 days prior to the city council meeting. The city council shall consider written and/or oral arguments based on the record of the manager's review or hearing made by the owner, and any party entitled to receive notice of the city council review. In making its decision, the city council will consider the standards of Oregon Revised Statutes Chapter 197 as amended by Ballot Measure 37, passed on November 2, 2004; the benefit(s) accruing to the public arising as a result of application of the regulation; and the burden to the public in paying compensation to the owner(s), taking into consideration the available financial resources of the city. The city council may take, but is not limited to taking, any one or more of the following actions on a demand:

(a) Deny the demand based on, but not limited to, any one or more of the following findings:

1. the land use regulation does not

restrict the use of the private real property;

2. the fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;

3. the demand was not timely filed;

4. the owner failed to comply with the requirements for making a demand as set forth in this article;

5. the owner is not the present property owner, or the property was not owned by a family member if that is required for compensation, or was not the property owner at the time the land use regulation was enacted, enforced or applied;

6. the land use regulation is an exempt regulation as defined in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004;

7. the land use regulation in question is not an enactment of the city;

8. the city has not taken final action to enact, enforce or apply the land use regulation to the property;

9. the owner is not entitled to compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, for a reason other than those provided herein.

(b) Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record, subject to the availability and appropriation of funds for that purpose.

(c) Modify the regulation.

(d) Remove the regulation.

(e) Not apply the regulation.

(f) Take such other actions as the city council deems appropriate consistent with Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004.

(12) The owner shall bear the burden of proof relating to the demand and entitlement to just compensation. The city shall bear the burden of proof to show that the regulation is exempt under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004. The standard of proof shall be by a preponderance of the evidence.

(13) This article shall be interpreted in a manner consistent with Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and other implementing statutes or regulations and as interpreted by Oregon appellate courts.

(14) The final decision on a demand shall be made by the city council. After review the city council shall, under the standards of Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and the factors enumerated in subsection (11) of this section, determine whether compensation is granted, the amount of compensation if any, whether any exceptions to the requirement for compensation apply or whether the regulation should be modified, removed or deemed not to apply to the property. A copy of the city council decision shall be sent by mail to the owner and to each individual or entity that participated in the manager or city council review process, provided a mailing address was provided to the city as part of the review process.

(Ord. No. 1595, Enacted, 12/02/2004)

**2.98.060 Conditions of Approval,
Revocation of Decision and
Transfer of Approval Rights.**

(1) The city council may establish any relevant conditions of approval for compensation,

should compensation be granted, or for any other action taken under GRC 2.98.050(11).

(2) Failure to comply with any condition of approval is grounds for revocation of the approval of the compensation for the demand, grounds for recovering any compensation paid and grounds for revocation of any other action taken under GRC 2.98.050(11).

(3) In the event the owner, or the owner's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the conditions of approval, the city may institute a revocation or modification proceeding before the city council under the same process for manager and city council review of a demand under this article.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1595, Enacted, 12/02/2004)

2.98.070 Ex Parte Contacts, Conflict of Interest and Bias.

The following rules govern any challenges to the manager's or member of the city council's participation in the review and recommendation motion, or hearings regarding demands:

(1) Any factual information obtained by the manager or a member of the city council outside the information provided by city staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. The manager or a member of the city council that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and the manager or member of the city council.

(2) Whenever the manager or a member of the city council, or any member of their immediate family or household, has a financial interest in the outcome of a particular demand or lives within the area entitled to notice of the demand, that manager or member of the city council shall not participate in the deliberation or decision on that application.

(3) All decisions on demands must be fair, impartial and based on the applicable review standards and the evidence in the record. Any manager or member of the city council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.080 Attorney Fees on Delayed Compensation.

If a demand under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and this article is denied or not fully paid within 180 days of the date of filing a completed demand, the owner's reasonable attorney fees and expenses necessary to collect compensation will be added as additional compensation provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, within 180 days of the date of filing a completed demand, and the owner commences suit or action to collect compensation, if the city is the prevailing party in such action, then city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees. In the event the city is the prevailing party and is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in Gresham, Oregon for the type of legal services performed.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.090 Availability of Funds to Pay Claims.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.100 Severability.

If any phrase, clause, or other part or parts of this article is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.110 Applicable State Law, No Independent Rights Created by this Article.

For all demands filed the applicable state law is those portions of Oregon Revised Statutes Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed on November 2, 2004 and/or as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any demand that has not been processed completely under this article shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this article shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. This article is adopted solely to address demands filed under the authority of those provisions of Oregon Revised Statutes Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed November 2, 2004. No rights independent of said provisions are created by adoption of this article.

(Ord. No. 1595, Enacted, 12/02/2004)

Article 2.99

**REQUIREMENTS AND PROCEDURES
FOR FILING AND REVIEWING
CLAIMS FOR COMPENSATION
PURSUANT TO ORS 195.300 to 195.336
(MEASURE 49) FOR PROPERTY
LOCATED, IN WHOLE OR IN PART,
INSIDE THE CITY OF GRESHAM**

Sections:

- 2.99.010 [Purpose.](#)
- 2.99.020 [Definitions.](#)
- 2.99.030 [Claim for Compensation.](#)
- 2.99.040 [Claim Filing, Completeness and Processing Deadlines.](#)
- 2.99.050 [Criteria, Recommendation and Decision.](#)
- 2.99.060 [Notice of Hearings Officer and Council Hearings and Notice of Council Decision.](#)
- 2.99.070 [Processing Fee.](#)
- 2.99.080 [Burden of Proof.](#)
- 2.99.090 [Ex Parte Contacts, Conflict of Interest and Bias.](#)
- 2.99.100 [Procedural Error.](#)
- 2.99.110 [Availability of Funds to Pay Demands.](#)
- 2.99.120 [Severability.](#)
- 2.99.130 [Applicable State Law, No Independent Rights Created by this Article.](#)
- 2.99.140 [Judicial Review.](#)

2.99.010 Purpose.

The purpose of this article is to implement the provisions of ORS 195.300 to 195.336, (Ballot Measure 49) enacted by the voters on November 6, 2007. These provisions are intended to establish a prompt, open, thorough and consistent process that provides claimants an adequate and fair opportunity to present their claims for compensation to the city.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, the definitions set forth in ORS 195.300, are by this reference, incorporated herein. As used in this process, the following words and phrases mean:

(1) Ballot Measure 49. Means the measure enacted by the voters at the November, 2007, general election and codified at ORS 195.300-195.336.

(2) City Council. Means the city council of the city of Gresham.

(3) Claimant. Means the person or persons who have filed a claim or demand for compensation pursuant to ORS 195.312 (7) and (8).

(4) Department. Means the Urban Design & Planning Department of the city of Gresham or successor entity designated by the council.

(5) Director. Means the Urban Design & Planning Director of the Urban Design & Planning Department, or designee, or a successor city official designated by the council.

(6) Hearings Officer. Means the Land Use Hearings Officer appointed and serving under the provisions of GRC Article 2.22, or a successor designated by the council.

(7) Land Use Regulation. Means as defined in ORS 195.300(14)(c) “a provision of a city comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use.”

(8) Manager. Means the city manager appointed by the council or the manager's designee.

(9) Person. Includes a public or private entity.

(10) Zoned for Residential Use. Means, as defined in ORS 195.300(25), “zoning that has as its primary purpose single-family residential use.” (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1667, Effective, 12/06/2007)

2.99.030 Claim for Compensation.

A person seeking to file a claim for compensation shall do so by delivery of said claim to the director in person or by U.S. Mail. The minimum requirements for making a claim are specified in ORS 195.310. The city council will make the final decision on all claims.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.040 Claim Filing, Completeness and Processing Deadlines.

(1) Filing. The filing date is the date the claim and required processing fee is received by the director.

(2) Claim form. Claimant shall file a completed claim form provided by the city and supply all information specified in ORS 195.312 and all supplemental information specified in ORS 195.310.

(3) Only one claim for each property may be filed for each land use regulation.

(4) Completeness and processing time limits. To be complete the claim must address all informational and review requirements of ORS 195.300 through 195.336. The city shall:

(a) determine whether a claim is complete within 60 days after receiving the claim;

(b) notify the claimant in writing of any missing information or if the required processing fee has not been paid within 60 days after receiving the claim;

(c) after providing notice of the missing information, deem the application complete if:

(i) the claimant provides the missing information and the required processing fee; or

(ii) the claimant provides a written notice that some or all of the missing information will not be provided and the required processing fee.

(d) deem the application complete when filed if the city fails to notify the claimant of missing information or that the fee is missing from the claim within 60 days after receiving the claim;

(e) deem the application withdrawn if the claimant fails to provide the missing information or fee or a written statement that some or all of the missing information will not be provided or fee within the time specified in the notice of missing information; and

(f) issue a final determination on a claim within 180 days from the date the claim is deemed complete.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.050 Criteria, Recommendation and Decision.

(1) Claims review process. Upon receipt of a filing, the city shall follow the claims review process as set forth in ORS 195.300 to 195.336 and this article.

(2) The criteria applicable to the claim shall be those set forth in ORS 195.300 – 195.336. These criteria, which the owner must prove, include, but are not limited to, the following:

(a) a city land use regulation or regulations enacted after January 1, 2007, and after the property was acquired by the claimant, restricts the residential use of the claimant’s private real property;

(b) the land use regulation or regulations have the effect of reducing the fair market value of the property;

(c) the highest and best use of the property at the time the property was acquired was residential and the person's desired use of the property is residential;

(d) the land use regulation is not an exempt land use regulation;

(e) the time limitation for filing a claim specified in ORS 195.312(4) requiring filing within five years from the date the land use regulation was enacted has not been exceeded;

(f) pursuant to ORS 195.324(1) if the owner submitted an application for a comprehensive plan or zoning amendment and the city approved the amendment the owner is not entitled to relief under ORS 195.300 to 195.336 with respect to a land use regulation enacted before the date the application was filed;

(g) pursuant to ORS 195.324(2) if the owner filed a petition to initiate annexation to the city and the city approves the petition, the owner is not entitled to relief under ORS 195.305 to 195.336 with respect to a land use regulation enacted before the date the petition was filed;

(h) all other requirements of law have been met.

(3) Steps in claims review process.

(a) Director recommendation. Upon receipt of a claim the director shall determine whether the necessary information to make the claim is present and whether the claim is complete. If the claim is complete the director shall produce a staff report which will summarize the information regarding the claim and include a recommendation to the hearings officer on whether to:

(i) determine that the claim is not eligible for compensation pursuant to ORS 195.300 – 195.336, and deny the Claim; or

(ii) determine that the claim is valid pursuant to ORS 195.300 – 195.336, and that the claimant be compensated for the reduction in the fair market value of the property; or

(iii) determine the claimant should be authorized to use the property without application of the subject land use regulation to the extent necessary to offset the reduction in the fair market value of the property. The recommendation should include as statement of the number of dwellings and lots that may be approved if the land use regulation(s) are waived. The decision to allow the claimant to use the property without application of the subject land use regulation or to compensate the claimant shall be based on a determination of whether the public interest would be better served by compensating claimant or by allowing the use without application of the subject land use regulation. A decision to waive a land use regulation shall in no way impact any obligation of claimant to demonstrate compliance with any regulations not expressly provided for in the decision or to obtain any required approvals or permits. The council may waive some regulations specified in the claim and deny waiver of others. The council is not limited to those regulations listed in the claim and may impose any conditions of approval that it deems reasonable and appropriate to protect the public interest. Failure to comply with any condition of approval is grounds for revocation of the approval of the compensation and waiver for the claim, grounds for recovering any compensation paid, and grounds for revocation of any other action taken under this article. A use authorized by a waiver has the legal status of a lawful nonconforming use in the same manner as provided under ORS 215.130.

The staff report will be available at least seven calendar days prior to the scheduled date of the hearings officer hearing.

(b) Hearings officer public hearing and recommendation. Upon receipt of the director's recommendation the hearings officer shall conduct a hearing on the claim. After conducting the hearing the hearings officer and shall provide a written recommendation to the manager of one of the three options set forth in subsection (2)(a) of this section.

(c) Manager review and recommendation. The manager shall receive the written recommendation of the hearings officer and, based solely on the hearings officer's written recommendation and the record of the hearing, shall make a written recommendation to the council of one of the three options set forth in subsection (2)(a) of this section. The manager's written recommendation will be available at least seven calendar days prior to the scheduled date of the council hearing.

(d) Council hearing on the record and final decision. The final decision on the claim shall be made by the council after a hearing on the record of the hearings officer hearing and recommendation and manager's recommendation. The council shall make a written decision in accordance with one of the three options set forth in subsection (2)(a) of this section.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.060 Notice of Hearings Officer and Council Hearings and Notice of Council Decision.

(1) Notice of Hearings. Written notice shall be provided at least 30 days prior to the hearings officer and council hearings. The notice shall include such information as set forth in this section. A notice of public hearing and an opportunity to submit written comments on the claim shall be sent to:

- (a) all owners identified in the claim;
- (b) all property owners of record of property on the most recent property tax

assessment roll within 100 feet of the subject property;

(c) the recognized city neighborhood association within whose boundaries the subject property is located;

(d) the Board of County Commissioners of Multnomah County;

(e) Metro; and

(f) the Department of Land Conservation and Development.

(g) the notice shall describe the claim and contain:

(i) for the hearings officer hearing, that the hearings officer will hold a public hearing on the claim and the date, time and location of the hearing and the final date for submission of written evidence and arguments relating to the claim; for the council hearing that the council will hold a public hearing on the record established by the hearings officer and the date, time and location of the hearing and the final date for submission of written arguments based on the record, relating to the claim;

(ii) the address, if any, and the assessor's map and tax lot number of the property that is the subject of the claim;

(iii) a statement of the claimant's desired use of the property for residential use;

(iv) the number of dwellings, lots or parcels sought by the claimant, as well as the specific regulations alleged to restrict the use of the property;

(v) a statement that the claim and any information submitted by the claimant is available at the department for inspection or copying at cost and the phone number of a city staff contact;

(vi) for the hearings officer hearing a statement that all persons may submit oral or written comments at or prior to the close of the hearings officer public hearing and/or record on the claim; for the council hearing a statement that all persons may submit oral or written arguments, but not new evidence, at or prior to the close of the council public hearing and/or record on the claim. If the hearings officer or the council chooses to hold the hearing record open, they may specify that only written comments may be made during that period;

(vii) a statement that judicial review of the final determination on the claim is limited to the oral and written evidence and arguments submitted to the city at or prior to the close of the hearings officer public hearing and/or record on the claim and to the arguments submitted to the city at or prior to the close of the council hearing and/or record on the claim;

(viii) a statement that prior to the close of testimony at the hearings officer hearing, the claimant may request an additional seven days to respond to oral testimony or written submittals by submitting written evidence or arguments in response. The claimant must make this request before the close of the hearing;

(ix) a statement that judicial review is available only for issues that are raised with sufficient specificity to afford the public entity an opportunity to respond; and

(x) any other information as deemed necessary by the director.

(2) Notice of Final Council Decision. The city shall mail a copy of the council's decision to the claimant. Notice of the council's final decision shall also be mailed to any person who submitted arguments to the council before the close of the argument record of the council hearing. The notice shall contain a brief

description of the decision, and, if the claim is granted any compensation to be awarded or a listing of all regulations that the council has decided to not apply and the specific number of dwellings, lots or parcels authorized by the waiver. The notice shall also state that a claim has been, or may need to be, filed with the State, if the council thinks that a state regulation is implicated. The city shall forward to the county, and the county shall record, a memorandum of the final determination in the deed records of the county in which the property is located.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.070 Processing Fee.

The fee for processing a claim for compensation shall be in an amount not to exceed the actual and reasonable cost of reviewing the claim. The claimant shall deposit a minimum amount to be set by council resolution. Upon receipt of the deposit, the city shall:

(1) The city shall keep a record of all time, materials and expenditures spent processing the claim. If the costs involved in processing the claim do not exceed the deposit, the city shall return the unused portion of the deposit to the claimant. If the costs of processing the claim exceed the amount of the deposit, claimant will receive an invoice for the excess costs, and shall be responsible to reimburse the city for all amounts in excess of the deposit prior to issuance of a final decision by the city on the claim.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.080 Burden of Proof.

Claimants shall have the burden of proof on all matters under this article and under ORS 195.300 to 195.336. The claimant bears sole responsibility for ensuring that the record before the city contains all information and evidence necessary to support the claim.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.090 Ex Parte Contacts, Conflict of Interest and Bias.

(1) The following rules govern any challenges to any member of the council's participation in the review of claims:

(a) Any factual information obtained by a member of the council outside the information provided by city staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. Any member of the council that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and any member of the council.

(b) Whenever a member of the council, or any member of their immediate family or household, has a direct financial interest in the outcome of a particular claim or lives within the area entitled to notice of the claim, that member of the council shall not participate in the deliberation or decision on that application.

(c) All decisions on claims must be fair, impartial and based on the applicable review standards and the evidence in the record. Any member of the council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.100 Procedural Error.

No procedural defect in processing a claim shall invalidate any proceeding or decision unless the party alleging the error demonstrates prejudice to a substantial right. Inadvertent failure to provide notice or complete notice shall not be grounds for invalidating a decision.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.110 Availability of Funds to Pay Demands.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.120 Severability.

If any phrase, clause, or other part or parts of this article is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.130 Applicable State Law, No Independent Rights Created by this Article.

For all claims filed with the City of Gresham, the applicable state law is Measure 49 (ORS 195.300 to 195.336) as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any claim that has not been processed completely under this article shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this article shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. This article is adopted solely to address claims filed under the authority of the provisions of Measure 49 (ORS 195.300 to 195.336). No rights independent of said state law provisions are created by adoption of this article.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.140 Judicial Review.

Judicial review of the city's decision shall be as provided in ORS 195.318.

(Ord. No. 1667, Effective, 12/06/2007)

Chapter 3
STORMWATER

Articles:

3.20 STORMWATER

- 3.20.011 Purpose.
- 3.20.015 Definitions.
- 3.20.025 Findings.
- 3.20.035 Policy.
- 3.20.045 City Responsibilities.
- 3.20.055 Private Responsibilities.

3.22 STORMWATER REGULATIONS

- 3.22.010 Findings.
- 3.22.020 Stormwater Manuals.

3.23 DISCHARGE REGULATIONS

- 3.23.010 Discharge of Pollutants.
- 3.23.015 Discharge in Violation of Permit.
- 3.23.020 Illicit Connections and Illicit Discharges.
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Article 3.20

STORMWATER

Sections:

- 3.20.011 [Purpose.](#)
- 3.20.015 [Definitions.](#)
- 3.20.025 [Findings.](#)
- 3.20.035 [Policy.](#)
- 3.20.045 [City Responsibilities.](#)
- 3.20.055 [Private Responsibilities.](#)

3.20.011 Purpose.

The purpose of GRC Articles 3.20 to 3.60 is to provide for the effective management of stormwater and drainage, and to maintain and improve water quality in the public stormwater system and to protect beneficial uses of groundwater and waters of the state or the United States.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1579, Enacted, 01/01/2004)

3.20.015 Definitions.

In addition to the definitions set forth in GRC 1.05.010, unless the context requires otherwise, for purposes of GRC Articles 3.20 through 3.60, the following mean:

Approved Drainage System. A system approved by the manager that adequately infiltrates, collects, conveys, treats and/or disposes of stormwater runoff. Approved drainage systems shall meet all requirements and specifications of GRC Articles 3.20 to 3.60 and any design documents adopted by the city.

Best Management Practices (BMPs). Procedures, practices, prohibition of practices, activities, educational activities used to prevent or reduce the discharge of pollutants directly or indirectly to groundwater or waters of the state or the United States. BMPs include but are not limited to treatment requirements, operating and maintenance procedures, practices to control site runoff, spillage or leaks, waste disposal, and drainage of materials from storage; and the prohibition of specific activities, practices, and

procedures.

Building Footprint. The area enclosed by the perimeter walls of the house and other covered structures (e.g., garage, carport, patio) for residential, or the perimeter walls of all structures for non-residential.

Clean Water Act (CWA). Federal Water Pollution Control Act enacted by Public Law 92-500 as amended by Public Laws 95-217, 95-576, 96-483, and 97-117 (33 USC § 1251 et seq.).

Customer/User. The owner, renter, or lessee of property served directly or indirectly by the public stormwater system.

Development. Physical improvement to real property, including the construction of structures or the placement of pavement or other impervious surfaces that result in an increase in the area of impervious surface on the property.

Discharge. Any direct or indirect release into or that ultimately reaches the public stormwater system, surface water or groundwater.

Drainage Residential Unit (DRU). One drainage residential unit is the impervious surface area which is estimated to place approximately equal demand on the public stormwater system as that placed by an average single detached dwelling unit. One DRU equals 2,500 square feet of impervious surface.

Groundwater. Water located below the ground surface or surface water which has infiltrated into the ground.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to: a) public health and safety, b) pets and wildlife, or c) the environment, when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Connection. An illicit connection is defined as either of the following:

(1) Any physical connection to the public stormwater system, which has not been approved by the public entity responsible for the operation and maintenance of the system.

(2) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the public stormwater system including but not limited to any conveyances which allow sewage, process wastewater, wash water, or non-stormwater pollutants to enter the public stormwater system and any connections to the public stormwater system from indoor drains and sinks with potential to introduce pollutants to the public stormwater system.

Illicit Discharge. Any discharge to the public stormwater system that is not entirely stormwater, not covered under a Municipal or Industrial NPDES permit, or not exempted in this chapter.

Impervious Area. The calculated or measured area of impervious surfaces on a site, including sidewalks located in the public right-of-way adjacent to the site.

Impervious Surface. Any structures or surface improvements that prevent or retard infiltration of water into the surface of the soil. Common impervious surfaces include, but are not limited to rooftops, sidewalks, streets, walkways, patio areas, driveways, parking lots or storage areas, or other surfaces that similarly impede the natural infiltration or increase runoff patterns.

Improved Property. Any property, public or private, which the manager determines has been altered such that the net stormwater runoff from the site is greater than that which could be expected without the alteration. Improved property shall not include highways and roads within the State of Oregon or City of Gresham rights-of-way.

Industrial Discharger. Discharger of stormwater associated with industrial activity as defined by 40 CFR 122.26.

Industrial NPDES Stormwater Discharge Permits. General, group, or individual permits issued by Oregon DEQ regulating facilities defined in 40

CFR 122.26 which engage in industrial activity pursuant to the Clean Water Act.

Major Storm Event. A rain or snow storm, or combined rainfall and snow melt event which produces stormwater runoff equivalent to that produced by a 10-year or larger rainfall event.

Municipal Separate Storm Sewer System (MS4). MS4 means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is: 1) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a wastewater district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the state or the United States; 2) designed or used for collecting or conveying stormwater; 3) which is not a combined wastewater; or 4) which is not a part of a publicly owned treatment works as defined at 40 CFR 122.2.

Municipal NPDES Stormwater Discharge Permits. Permits issued by EPA or its state delegate as defined by CWA Section 402 (b) and 40 CFR Part 123 regulating stormwater discharge to the waters of the state or the United States from MS4.

Net Stormwater Runoff. The increment of stormwater runoff from a property that is attributable to development on that property.

Non-Stormwater Discharge. Any discharge to the public stormwater system that is not entirely stormwater.

On-Site Stormwater Management. The management of stormwater as close to the impervious source as possible. For public streets, on-site stormwater management is defined as management within the public right-of-way. For

non-residential buildings, on-site stormwater management is defined as management within the individual tax lot. For residential development, on-site stormwater management is defined as management within the collective boundary of the individual tax lots.

Open Drainageway. A natural or human-made path, swale, ditch, or channel which has the specific function of conveying natural stream water or stormwater runoff.

Pollutant. Anything which causes or contributes to pollution.

Pollution. The degradation of the physical, thermal, chemical, biological or radioactive properties of the public stormwater system or the waters of the state or the United States. Pollution also means the discharge of any pollutant into the public stormwater system or the waters of the state or the United States, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to: a) public health and safety, b) the environment, or c) both; or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses.

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

Public Stormwater System. All public facilities or improvements that infiltrate, collect, convey or control the flow of stormwater or that improve or control the water quality of stormwater. The public stormwater system includes the municipal separate storm system; the waters of the state; the waters of the United States; all creeks; natural drainageways; inlets; culverts; dams; levees; desilting, detention, retention, and recharging basins or structures; stormwater management facilities located on public property or within dedicated easements on private property; groundwater; outfall structures; underground injection controls; wetlands; and equipment and appurtenances necessary to operate any of the above.

Stormwater. Surface runoff and drainage associated with rainstorm events and snow melt.

Stormwater Connection. A connection of stormwater from private property to the public stormwater system, including weep holes through a curb.

Stormwater Connection Charges. All charges required for the right to connect to the public stormwater system, including stormwater connection fee and system development charges.

Stormwater Customer. The person responsible for the improved property receiving stormwater services. The State of Oregon shall not be considered stormwater customers for any highway or road improvements within its rights-of-way. The State shall be stormwater customers for all other property they own within Gresham.

Stormwater Management Facilities. Facilities that the manager has determined reduce net stormwater runoff from an improved property and/or reduce pollution into the surface water and groundwater. These facilities shall include stormwater detention, retention, and water quality treatment systems to mitigate additional runoff and associated pollutants produced from increased impervious areas, including public facilities that were constructed without public resources.

Stormwater Service. The operation of the city's stormwater utility in providing programs and facilities for maintaining, improving, regulating, collecting, and managing stormwater quantity and quality within the city's service area. This includes meeting regulatory requirements for protecting, monitoring, and reporting on water quality and on species listed under the Endangered Species Act.

Stormwater User Charge. A reoccurring charge paid by the stormwater customer for the use of the public stormwater system or for the provision of stormwater service by the city.

Surface Water. Water which travels over the ground surface to the public stormwater system, a private stormwater facility, or to any waters of the state or United States.

Total Maximum Daily Load (TMDL). A calculation of the allowable pollutant loading that a body of water can receive from all contributing point and non-point sources. The calculation includes a measure of safety to ensure that the body of water complies with Section 303 of the Clean Water Act which is established by the DEQ or EPA.

Toxic Chemicals. A toxic chemical is any chemical or waste that when ingested or absorbed is harmful or fatal to living organisms as recognized by any state or federal agency.

Underground Injection Control (UIC). A drywell, soakage trench, infiltration vault or chamber, improved sinkhole, sewage drain hole, subsurface fluid distribution system or other system of groundwater point source used for the subsurface emplacement or discharge of fluids.

Water Pollution Control Facility (WPCF) Permit. A permit issued by Oregon DEQ to regulate discharges to groundwater.

Waters of the United States. Surface watercourses and water bodies as defined in 20 CFR Section 122.2.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1709, Amended, 01/01/2019; Ord. No. 1773, Amended, 07/01/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1579, Amended, 1/1/2004; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1400, Amended, 10/03/1996; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1359, Amended, 05/18/1995; Ord. No. 1334, Amended, 11/03/1994; Ord. No. 1317, Amended, 07/01/1994; Ord. No. 1293, Enacted, 07/01/1994)

3.20.025 Findings.

Effects of Stormwater Runoff

(1) All real property within Gresham drains into either surface waters or the groundwater. The flow volumes of surface water and the amount of nonpoint source pollution are directly related to development of property and the creation of impervious surface.

(2) The city's growth and development has and will continue to increase the volume of stormwater runoff and the amount of stormwater pollution into the public stormwater system, except where sufficient on-site stormwater management, green infrastructure, and/or low impact development practices are used.

(3) Stormwater runoff may cause property damage and erosion. It can carry concentrations of nutrients, sediments, heavy metals, oils and toxic materials, and other pollutants into receiving waters and ground water.

(4) Poorly maintained conveyance systems contribute to flooding hazards and property damage. Stormwater discharged into public rights-of-way, if not properly managed, will cause damage to the public rights-of-ways and will create hazards for the travelling public. Therefore, the proper disposal of stormwater is an obligation of the occupants of the property or those who engage in activity upon real property that directly or indirectly discharges stormwater into the public stormwater system, groundwater, or waters of the state or the United States.

Benefits of Public Stormwater System

(5) Stormwater runoff must be managed in a manner that protects public health and safety, pets, wildlife, and the environment.

(6) The city provides a valuable public service by improving the quality of stormwater discharges and maintaining a public stormwater system that collects and disposes stormwater discharged from impervious surfaces and public rights-of-way within the city. The services provided are necessary to ensure compliance with state and federal laws pertaining to stormwater discharges. Effective management of stormwater infiltration and flow helps to keep public rights-of-way free of flooding, thereby improving personal and emergency access for all users of the city's transportation system and helps to protect property, groundwater, and waters of the state and United States.

Private Responsibilities

(7) Every person that uses property has an obligation to minimize or eliminate detrimental impacts on other persons or property that result from such use. If a user of property alters the property in any way that increases the flow or pollutant load of water from the property, the user must provide on-site mitigation facilities to control the flow and quality of stormwater runoff and must maintain such facilities in accordance with GRC Articles 3.20 to 3.60.

Existing Public Stormwater System Not Adequate

(8) The existing public stormwater system cannot adequately address stormwater runoff quantity and quality issues. There is a need for additional funding to provide for adequate construction, operation, and maintenance of the public stormwater system.

Stormwater Utility

(9) As a condition of issuance of an NPDES permit the Environmental Protection Agency (EPA) requires public agencies to identify a permanent source of funding for the stormwater program to ensure compliance with the permit. EPA's recommended method of funding, nationally, is the stormwater utility concept and the use of user charges for stormwater service.

(10) The public stormwater system constitutes a public utility owned and operated by the city. The utility exists to provide a municipal service that is essential to: a) public health and safety, b) the environment, or c) both.

(11) Users of property who use stormwater services are charged rates that recover the cost of construction, operation, and maintenance of the public stormwater system. Users of property who undertake the installation of facilities on their property that reduce pollution and eliminate the discharge of runoff into the public stormwater system should be given a credit, in proportion to the degree of reduction, against stormwater user charges that would otherwise be due.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1790 Amended, 01/01/2019; Ord. No. 1750, Amended,

05/07/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1579, Amended, 1/1/2004; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1293, Enacted, 07/01/1994)

3.20.035 Policy.

(1) The council declares its intention to acquire, own, construct, reconstruct, equip, operate, regulate, and maintain within the city limits, and outside the city limits when consistent with the council's adopted policies or intergovernmental agreements, a public stormwater system, and to require persons responsible to construct, reconstruct, maintain, and extend the public stormwater system.

(2) The construction of both the public stormwater system and private stormwater treatment facilities through or adjacent to a new development shall be provided by the person responsible for the development. Improvements shall comply with all applicable city ordinances, policies, and standards, including but not limited to the Public Works Standards, the Oregon Plumbing Specialty Code, and the *Stormwater Management Manual* that establishes standards and guidelines implementing Best Management Practices designed to meet the objectives and requirements of GRC Articles 3.20 to 3.60. Except as permitted by the manager as provided by the *Stormwater Management Manual*, required on-site stormwater management facilities for stormwater detention, retention, and water quality treatment shall be located on private properties and shall be owned and maintained by the benefited property.

(3) No portion of this chapter, subsequent interpretations of this chapter, or policies adopted to implement this chapter shall relieve any property owner of assessments levied against real property for a local improvement project or for abating conditions on the property that violate any provision of this code.

(4) Stormwater shall be managed as close as is practicable to development, and shall mimic the natural hydrologic cycle by prioritizing infiltration techniques as set forth by the *Stormwater Management Manual*. Stormwater management

shall avoid a negative impact on adjoining properties, nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met prior to facility use. Surface water discharge from on-site stormwater management facilities shall be conveyed via an approved drainage system.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1579, Amended, 01/01/2004; Ord. No. 1293, Enacted, 07/01/1994)

3.20.045 City Responsibilities.

The city shall manage the public facilities and improvements that are part of the public stormwater system. These facilities and improvements include but are not limited to:

(1) Open drainageways on public property or within a public drainage easement.

(2) Piped drainage systems and their related appurtenances which have been designed and constructed expressly for use by the general public and accepted by the city, including all drainage sumps located in the public rights-of-way or designed and located to serve the streets and public facilities.

(3) Roadside drainage ditches along unimproved city streets, but not access drive culverts.

(4) Flood control and water quality treatment facilities such as levees, dikes, overflow channels, detention systems, retention systems, dams, pump stations, groundwater recharging basins, water quality facilities such as ponds, swales, and filters, that have been designed and constructed expressly for use by the general public and accepted by the city.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1293, Amended, 07/01/1994)

3.20.055 Private Responsibilities.

(1) Stormwater facilities to be managed by the persons responsible for property include but are not limited to:

(a) Stormwater facilities which are not part of the public stormwater system, including portions of private stormwater facilities in public easements, located on private property and designed to serve the property.

(b) Private parking lot storm drains.

(c) Roofs, footings, or area drains.

(d) All Underground Injection Control facilities (UICs) and associated water quality appurtenances located on private property and designed to serve the specific property.

(e) Non-public open drainageways and culverts.

(f) Access drive culverts and roof drains in the public right-of-way.

(g) On-site private stormwater management facilities constructed as a condition of development without public resources including any detention, retention, and water quality treatment systems.

(2) Persons responsible for property shall keep non-public open drainageways which they possess or control cleared of debris and vegetation which impede the drainage function. If removal of vegetation would result in open soils that may erode, adequate vegetation to prevent erosion shall be maintained. Large woody debris that has fallen naturally or was anchored for habitat pursuant to a permit shall not be removed from a stream, natural pond, natural or constructed wetland. If naturally fallen large woody debris is deemed to pose public safety concerns, the responsible persons shall seek approval from the manager prior to removal.

(3) Persons responsible for property shall maintain non-public stormwater facilities on any property which they possess or control so as:

(a) to prevent flooding or damage to other property,

(b) to prevent injury to any person or property,

(c) to prevent erosion of the watercourse, sedimentation, pollution or contamination of surface water or groundwater, and

(d) to continue to provide the stormwater detention, retention, and water quality treatment that was required at the time of project approval.

(4) The failure of persons responsible for property to comply with the obligations stated in GRC 3.20.055(1), (2), or (3) is a violation of this chapter.

(5) The conditions on private property which may result in situations proscribed by GRC 3.20.055(2) or (3) are declared to be a danger to: a) public health and safety, b) the environment, or c) both, and therefore are a nuisance to be abated as provide in GRC Chapter 7.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1579, Amended, 01/01/2004; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1293, Amended, 07/01/1994)

Article 3.22

STORMWATER REGULATIONS

Sections:

- 3.22.010 [Findings.](#)
- 3.22.020 [Stormwater Manuals.](#)

3.22.010 Findings.

(1) The purpose of GRC Articles 3.22 through 3.28 is to authorize rules and regulations for the development and maintenance of the public and private storm and surface water system, to provide a comprehensive enforcement program, and to provide a process for appeals, in order to protect surface water and groundwater.

(2) The Federal Clean Water Act (CWA), as implemented by the Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) regulations make necessary plans and programs for stormwater management meeting specified criteria.

(3) The CWA requires that all large and medium sized municipalities must:

- (a) prohibit non-stormwater discharge into the public stormwater system; and
- (b) require controls to reduce the discharge of pollutants from stormwater to the maximum extent practicable.

(4) Johnson Creek, Fairview Creek, Kelly Creek, Burlingame Creek, the Columbia Slough and their natural tributaries are considered waters of the United States pursuant to the CWA.

(5) The CWA requires states and the Environmental Protection Agency (EPA) to identify certain sub-standard waters and to set "total maximum daily loads" (TMDL's). The Oregon Department of Environmental Quality has and will continue to establish TMDL's for water bodies within the City of Gresham. The City of Gresham seeks to comply with all TMDL requirements.

(6) The City of Gresham seeks to comply with the Endangered Species Act (ESA) and associated Section 4(d) Protective Regulations.

(7) The City of Gresham seeks to comply with all provisions of the federal law by implementing a stormwater management plan, in conjunction with other co-permittees.

(8) The City of Gresham seeks to comply with all provisions of the Safe Drinking Water Act and Divisions 40 and 44 of Chapter 340 of the Oregon Administrative Rules pertaining to Underground Injection Control facilities.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1579, Amended, 01/01/2004; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1400, Amended, 10/03/1996)

3.22.020 Stormwater Manuals.

(1) Council, by resolution, may adopt and amend, as needed, the following manuals as necessary to comply with the requirements of the federal Clean Water Act, Safe Drinking Water Act, state law, and to protect: a) public health and safety, b) the environment, or c) both; and welfare.

(a) *Erosion Prevention and Sediment Control Manual* to establish standards and guidelines implementing Best Management Practices to provide erosion prevention and sediment control from construction sites.

(b) *Stormwater Management Manual* to establish standards and guidelines implementing Best Management Practices to reduce pollutants from development.

(2) The manager may make minor modifications to the manuals. Council shall approve any modifications that have a significant policy impact.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Enacted, 03/03/2011)

Article 3.23

DISCHARGE REGULATIONS

Sections:

- 3.23.010 [Discharge of Pollutants.](#)
- 3.23.015 [Discharge in Violation of Permit.](#)
- 3.23.020 [Illicit Connections and Illicit Discharges.](#)
- 3.23.025 [Waste Disposal Prohibitions.](#)
- 3.23.030 [General Discharge Prohibitions.](#)

3.23.010 Discharge of Pollutants.

The commencement, conduct, or continuance of any non-stormwater discharge to the public stormwater system is prohibited and is a violation of this article, except as described below.

(1) The prohibition shall not apply to any non-stormwater discharge permitted or approved under an Industrial or Municipal NPDES permit, waiver, or discharge order issued to the discharger and administered by the DEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or discharge order and other applicable laws or regulations and provided that written approval has been granted by the city for any discharge to the municipal separate storm wastewater system (MS4).

(2)

(a) Except as provided in subsection (3), the prohibition shall not apply to the following non-stormwater discharges to the public stormwater system, as long best management practices are utilized to control or remove pollutants, as applicable: water line/reservoir flushing, fire hydrant flushing, dye testing in accordance with manufacturers recommendations, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)) to the municipal separate storm sewer system (MS4), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water

from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, street and pavement wash water, flows from fire-fighting, and treated water from investigation, removal, and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.

(b) "Street wash water" is defined for purposes of this section to be water that originates from publicly-financed street cleaning activities consistent with the city's NPDES municipal stormwater permit where BMPs are applied to protect water.

(c) Discharge of flows to the public or private stormwater system from private washing of sidewalks, streets and parking lots are discouraged to the maximum extent practicable.

(3) The manager may require best management practices to reduce pollutants, or may prohibit a specific discharger from engaging in a specific activity identified in subsection (2) if at any time the manager determines that the discharge is, was, or will be a significant source of pollution.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1579, Amended, 1/1/2004; Ord. No. 1400, Enacted, 10/03/1996)

3.23.015 Discharge in Violation of Permit.

Any discharge that would result in or contribute to a violation of an existing or future Municipal NPDES Permit and any amendments, revisions, or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the persons causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the city in any administrative or judicial enforcement action against the permit holder relating to such discharge.

(Ord. No. 1400, Enacted, 10/03/1996)

3.23.020 Illicit Connections and Illicit Discharges.

It is prohibited to establish, use, maintain, or continue illicit connections to the public stormwater system, or to commence or continue any illicit discharges to the public stormwater system.

(Ord. No. 1400, Enacted, 10/03/1996)

3.23.025 Waste Disposal Prohibitions.

(1) No person or business shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, catch basin, inlet, or other component of the public stormwater system, materials that may cause or contribute to pollution or polluted runoff, including but not limited to: waste/wash waters, process by-products or waste, hazardous or toxic materials leaks, drips and spills, refuse, rubbish, garbage, litter, recycling materials, yard debris, landscape materials, compost, topsoil, bark, gravel, sand, dirt, sod, sediment or sediment-laden runoff from construction or landscaping activities, hazardous or toxic materials, or other discarded or abandoned objects, articles, and accumulations.

(2) Runoff from non-residential related to washing of equipment, vehicles, retail products, or waste & recycling storage areas or containers shall not discharge directly to a private or public stormwater system or waters of the state or United States. Runoff from these activities shall be collected and/or diverted into the sanitary wastewater collection system, unless adequate BMPs can be used for the manager to approve an alternate discharge location.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1400, Amended, 10/03/1996)

3.23.030 General Discharge Prohibitions.

No person or person in charge of property shall discharge or cause to be discharged into a private or public stormwater system any non-stormwater

discharge not expressly allowed under GRC 3.23.010, including, but not limited to:

(1) Any discharge having a visible sheen, or containing floating solids or discoloration (except dye testing as permitted in GRC 3.23.010(2)(a));

(2) Any discharge having a pH of less than 6.5 or greater than 8.5;

(3) Any discharge which causes or may cause damage, interference, nuisance or hazard to the public stormwater system or the city personnel; or

(4) Any discharge containing human sanitary waste or animal feces.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1579, Enacted, 01/01/2004)

Article 3.24

REGULATIONS AND REQUIREMENTS

Sections:

- 3.24.010 [Compliance with Industrial NPDES Stormwater and WPCF Permits.](#)
- 3.24.015 [Compliance with State, Local, and Federal Regulations.](#)
- 3.24.020 [Conflicts with Existing and Future Regulatory Requirements of Other Agencies.](#)
- 3.24.021 [Accidental Spill Prevention and Control.](#)
- 3.24.025 [Notification of Spills.](#)
- 3.24.030 [Requirement to Eliminate Illicit Connections.](#)
- 3.24.035 [Requirement to Remediate.](#)
- 3.24.040 [Requirement to Monitor and Analyze.](#)
- 3.24.045 [Stormwater Treatment.](#)
- 3.24.050 [Design and Performance Criteria for Stormwater Detention and Water Quality Treatment Facilities.](#)

3.24.010 Compliance with Industrial NPDES Stormwater and WPCF Permits.

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES or WPCF permit issued by the Oregon DEQ, from which pollutants may enter the public or private stormwater system, shall obtain and comply with all provisions of such permits, including notification to and cooperation with local entities as required by state and federal regulations. Proof of compliance with said permits may be required in a form acceptable to the manager prior to issuance of any grading, building, occupancy permits or business license. At the manager’s request, the discharger shall submit a copy of Discharge Monitoring Reports required by NPDES or WPCF permits to the city. (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1579, Amended, 1/1/2004; Ord. No. 1400, Enacted, 10/03/1996)

3.24.015 Compliance with State, Local, and Federal Regulations.

All users of the public stormwater system and any person or entity whose actions may affect the system shall comply with all applicable federal, state, and local laws. Compliance with the requirements of this chapter shall in no way substitute for or eliminate the necessity for compliance with applicable federal, state, and local laws. (Ord. No. 1400, Enacted, 10/03/1996)

3.24.020 Conflicts with Existing and Future Regulatory Requirements of Other Agencies.

Any provisions or limitations of this chapter and any rules adopted pursuant hereto are superseded and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto, which are more stringent than the provisions and limitations contained herein. Any provision of this chapter and rules adopted pursuant hereto which are more stringent than any such applicable federal, state, or local requirement shall prevail and shall be the standard for compliance by the connectors to and the discharges to the public stormwater system. (Ord. No. 1400, Enacted, 10/03/1996)

3.24.021 Accidental Spill Prevention and Control.

When the primary function of a business is to handle, store, use, dispose or recycle chemicals or materials that have the potential to cause or contribute to stormwater pollution, especially as defined in GRC 3.23.025, the business is required to:

- (1) Keep a spill containment and cleanup kit within the chemical handling or usage area;
- (2) Store materials onsite in a manner that prevents or limits contact with precipitation on anything but clean, non-leaking disposal, recycling, or product containers;

(3) Prepare, submit, and maintain an Accidental Spill Prevention Plan, upon written request by the manager.

If other laws or regulations require an Accidental Spill Prevention and Control Plan, a plan that meets the requirement of those other laws and regulations will satisfy the requirement of this section.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1579, Enacted, 01/01/2004)

3.24.025 Notification of Spills.

As soon as any person in charge of a facility or responsible for emergency response for a facility becomes aware of any suspected, confirmed, or unconfirmed release of material, pollutants, or waste creating a risk of discharge to the public stormwater system, such persons shall:

(1) begin containment and cleanup procedures;

(2) notify emergency personnel in case of an emergency;

(3) notify appropriate city officials if a spill enters the public stormwater system;

(4) notify Oregon Emergency Response System if a spill enters a water body; and

(5) follow-up with the city regarding compliance and modified practices to minimize future spills, as appropriate.

The notification requirements of this section are in addition to any other notification requirements set forth in Federal, state, or local regulations and laws. The notification requirements do not relieve the person of necessary remediation.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1400, Enacted, 10/03/1996)

3.24.030 Requirement to Eliminate Illicit Connections.

(1) The manager may require by written notice that a person responsible for an illicit

connection to the public stormwater system comply with the requirements of this chapter to eliminate the illicit connection or secure approval for the connection by a specified date.

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

(Ord. No. 1400, Enacted, 10/03/96)

3.24.035 Requirement to Remediate.

Whenever the manager finds that a discharge of pollutants is taking place or has taken place which will result in or has resulted in pollution of stormwater or the public stormwater system, the manager may require by written notice to the responsible person that the pollution be remediated and the affected property restored, to the standards established by the manager, within a specified time.

(Ord. No. 1400, Enacted, 10/03/1996)

3.24.040 Requirement to Monitor and Analyze.

Whenever the manager determines that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or illicit discharges to the public stormwater system, the manager may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the manager may deem necessary to demonstrate compliance with this chapter. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses

and reports within the time frames set forth in the order.

(Ord. No. 1400, Enacted, 10/03/1996)

3.24.045 Stormwater Treatment.

The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, based on the following criteria:

(1) On-site stormwater management facilities for water quality required for development shall be designed, installed and maintained in accordance with the *Stormwater Management Manual* and the Oregon Plumbing Specialty Code, as applicable.

(2) Land use activities of particular concern as pollution sources shall implement additional Best Management Practices for pollution control, including but not limited to, those management practices specified in the *Stormwater Management Manual*.

(3) Development in a watershed that drains to streams with established Total Maximum Daily Load limitations, as provided under the Federal Clean Water Act, Oregon Law, Administrative Rules and other legal mechanisms shall assure that on-site mitigation facilities for water quality control meet the requirements for pollutants of concern.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1579, Enacted, 01/01/2004)

3.24.050 Design and Performance Criteria for Stormwater Detention and Water Quality Treatment Facilities.

(1) All on-site stormwater management facilities including stormwater detention, retention, and water quality treatment facilities required by the City of Gresham shall be designed and constructed to meet the *Stormwater Management Manual* and Oregon Plumbing Specialty Code, as applicable. Stormwater facilities that will be publicly maintained shall also meet Public Works Standards.

(2) Except as permitted by the manager as provided by the *Stormwater Management Manual*, facilities designed to manage stormwater from private properties shall not be located on property that is or will become a public right-of-way, public stormwater easement, or is within a future street plan.

(3) Except as permitted by the manager as provided by the *Stormwater Management Manual*, once constructed, the on-site stormwater management facilities shall be privately owned, operated and maintained. Maintenance shall include all elements of the stormwater detention, water quality treatment, and conveyance system up to the point of connection with a drainage structure or waterway of the public stormwater system. Such connection shall be subject to city approval.

(4) Maintenance is required to be performed following requirements in the *Stormwater Management Manual*. Stormwater facilities that do not have standard operation and maintenance guidelines included in the *Stormwater Management Manual* shall be specified in an operation and maintenance plan submitted to and approved by the manager prior to the time of project acceptance. When a specific operation and maintenance plan is required, the developer or applicant shall enter into an agreement with the city to ensure the implementation of the operation and maintenance plan and a memorandum of agreement shall be recorded in the Multnomah County deed records.

(5) Private stormwater detention and water quality treatment facilities are subject to periodic inspection by the city to ensure proper maintenance and performance.

(6) Failure to properly operate or maintain on-site mitigation facilities for stormwater detention, retention, and water quality treatment according to operation and maintenance requirements in the *Stormwater Management Manual*, a recorded maintenance agreement, or GRC Articles 3.20 to 3.60 is a violation.

(Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1579, Renumbered, 01/01/2004)

Article 3.28

EROSION PREVENTION

Sections:

3.28.010 [Compliance.](#)

3.28.015 [Inspection.](#)

3.28.010 Compliance.

Any person performing construction work in the city shall comply with the provisions of this chapter and shall provide and maintain erosion and sediment controls that prevent discharges of pollutants to the public stormwater system. Any person performing construction work in the city shall comply with the *Erosion Prevention and Sediment Control Manual*.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1400, Enacted, 10/03/1996)

3.28.015 Inspection.

The manager may make periodic inspections in accordance with GRC 7.50.500 through GRC 7.50.520 to ensure compliance with the requirements of the *Erosion Prevention and Sediment Control Manual*.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1400, Enacted, 10/03/1996)

Article 3.30

CONSTRUCTION PERMIT

Sections:

- 3.30.015** [Permit Required.](#)
- 3.30.025** [Permit Time Limitation.](#)
- 3.30.035** [Stormwater System Use Permit and Inspection Fee.](#)

3.30.015 Permit Required.

(1) No person shall uncover, make any connections with or openings into, increase the use of, alter, or disturb any public stormwater facility without first obtaining a permit. Any work done prior to issuance of the permit shall require an additional charge as set by council. Payment of this additional charge does not excuse full compliance with all provisions of this chapter or other applicable regulations.

(2) Permit applications shall be made in a manner determined by the city and shall be made by the owner or owner’s agent. The permit application shall be supplemented by plans, specifications, agreements, or other information as required by the manager.

(3) A permit is specific to the property for which it is issued and is not transferable to other property.

(4) A permit shall not be issued until all charges have been paid.

(5) Prior to or concurrent with obtaining a permit, the applicant shall also obtain any permits that may be required for street or highway opening and use.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1293, Enacted, 07/01/1994)

3.30.025 Permit Time Limitation.

(1) A permit is valid for 180 calendar days from the date the permit is issued.

(2) Upon written request by the applicant, the manager may extend the permit.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1293, Enacted, 07/01/1994)

3.30.035 Stormwater Connection Fee.

Applicants constructing a new stormwater connection shall pay to the city the stormwater connection fees and other related fees and charges. Connection fees shall be set by council resolution. (Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1293, Enacted, 07/01/1994)

Article 3.60

STORMWATER USER CHARGE

Sections:

- 3.60.015** [Stormwater User Charge.](#)
- 3.60.025** [Basis of Charge.](#)
- 3.60.035** [Calculation of Charge.](#)
- 3.60.045** [Reducing Stormwater Charges.](#)
- 3.60.055** [Stormwater Utility Fund.](#)
- 3.60.065** [Billing.](#)
- 3.60.075** [Payment.](#)
- 3.60.080** [Property Liens.](#)
- 3.60.085** [Adjustment of Accounts.](#)
- 3.60.095** [Delinquency.](#)
- 3.60.097** [Tenant Accounts.](#)
- 3.60.100** [Administrative Regulations.](#)
- 3.60.120** [Recovery of Delinquent Charges.](#)

3.60.015 Stormwater User Charge.

Stormwater customers who use the public stormwater system or who cause or permit the discharge of net stormwater runoff directly or indirectly into the public stormwater system shall pay a stormwater user charge. It is presumed that stormwater services are used whenever the stormwater customer's property is an improved property. The State of Oregon is exempt from the stormwater user charge for all highway and road improvements within its rights-of-way. The State shall pay stormwater user charges for all other property it owns within Gresham.

(1) Stormwater user charges and methodology shall be established by council resolution.

(2) User charges shall reflect actual costs of operation, maintenance, replacement, and capital improvements needed to serve existing development.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1359, Amended, 05/18/1995; Ord. No. 1293, Enacted, 07/01/1994)

3.60.025 Basis of Charge.

Stormwater user charges shall be based on the amount of the impervious surface on the

stormwater customer's property. Council may take into consideration water quality as well as water quantity when establishing the charge.

(1) The city will assume that the impervious area for single detached dwelling units existing prior to July 1, 1994, is 2,500 square feet.

(2) The city will assume that the impervious area for all other development, other than new single detached dwelling units, is the actual measured impervious area.

(3) The city will assume that the impervious area for new single detached dwelling units is the approximate impervious area determined by a formula based on the area of the building footprint.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1334, Amended, 11/03/1994; Ord. No. 1293, Enacted, 07/01/1994)

3.60.035 Calculation of Charge.

(1) Stormwater user charges for all new development and for existing improved properties shall be calculated by dividing the impervious area on the stormwater customer's property by one drainage residential unit (2,500 square feet) and multiplying that number by the rate set for one drainage residential unit.

(a) The impervious areas for improved properties, other than for single detached dwelling units, existing on July 1, 1994, which was the original effective date of this section, were individually measured through the use of any combination of the following: aerial photographs and computer analysis, actual measurement of impervious area, and calculations from city approved site plans. Single detached dwellings, were assigned one drainage residential unit of impervious area.

(b) For all multifamily and non-residential uses, the applicant shall calculate the impervious area from city-approved site plans. The city shall review and approve the calculations.

(c) For new single detached dwelling units and middle housing units, impervious area shall be calculated in accordance with the adopted Council fee resolution.

(d) A stormwater customer may submit to the manager a request to be charged based on actual measured impervious area. The city shall charge the customer the associated administrative costs of measuring the actual impervious area and the cost of applying the charge.

(e) The city may choose to base a customer's stormwater user charge on actual measured impervious area.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1334, Amended, 11/03/1994; Ord. No. 1293, Enacted, 07/01/1994)

3.60.045 Reducing Stormwater Charges.

(1) Reducing Stormwater Charges. Stormwater customers may reduce their stormwater charges by:

(a) Eliminating the impervious area on their property. The city will reduce a stormwater customer's user charges if the customer is able to demonstrate to the manager's satisfaction that effective impervious area of a site has been decreased through the removal of impervious area and/or impervious area has been replaced with an approved impervious area reduction technique (i.e., installation of pervious pavement).

(b) Installing city-approved on-site stormwater management facilities. The on-site portion of the stormwater fee will be

reduced if the stormwater customer can demonstrate to the manager's satisfaction:

(i) that their property retains all of the net stormwater runoff on-site and discharges no net stormwater runoff to the public stormwater system, even during major storm events, and

(ii) that they do not adversely affect groundwater, surface water, or stormwater quality directly or indirectly as a result of on-site activities or the improper use of on-site stormwater management facilities.

(c) By other means as described in the current applicable fee resolution.

(2) Application to Reduce Stormwater Charges. Stormwater customers interested in reducing their stormwater charges shall submit to the manager appropriate evidence as to why their stormwater charges should be reduced. The customer shall pay an application fee established by council resolution. When a site is being fully developed or redeveloped and is infiltrating 100%, the reduction will be applied administratively without an application process or fee.

(a) Any reductions shall continue until the condition on the property is changed or until the city determines the property no longer qualifies for the reduction.

(b) All on-site stormwater management facilities eligible for discount must be designed, constructed, and maintained to standards contained in the *Stormwater Management Manual* and the Oregon Plumbing Specialty Code, as applicable.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1317, Amended, 07/01/1994; Ord. No. 1293, Enacted, 07/01/1994)

3.60.055 Stormwater Utility Fund.

(1) There shall be a stormwater utility fund. Except for system development charges, all charges imposed and collected under this chapter shall be deposited in the stormwater utility fund.

(2) Money in the stormwater utility fund shall be used for planning, designing, and constructing the public stormwater system; for the regulation, maintenance, and administration of the public stormwater system; for providing all stormwater services, including the repayment of any

indebtedness incurred before or after the effective date of this ordinance; and for all expenses related to the operation and management of the stormwater utility.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1293, Enacted, 07/01/1994)

3.60.065 Billing.

(1) The city shall bill user charges on a schedule approved by the manager.

(2) Stormwater user charges may be billed on the same bill with water user charges and wastewater user charges, but shall not be combined.

(Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1293, Enacted, 07/01/1994)

3.60.075 Payment.

(1)

(a) Initial stormwater user charges begin when a building permit is issued or impervious surface is constructed, whichever is first. Charges shall be based on the planned or constructed impervious area. The manager may delay the commencement of these charges if the customer demonstrates hardship or special circumstances that warrant a delay.

(b) For existing multifamily and non-residential uses annexed into the city on or after January 1, 2006, stormwater user charges begin concurrently with the obligation to connect to sanitary sewerage system as provided in GRC 4.15.010(1). The manager may phase in the amount of the user charge based on the level of service provided. The stormwater user charges for single detached dwellings and middle housing units existing at the time of annexation will be treated as development existing prior to 1994.

(2) When the customer changes, user charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the user charge shall begin

with the next billing and the new customer may be billed retroactively, not to exceed one year.

(3) If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

(4) Payments shall be applied as provided by GRC 2.92.090.

(5) Stormwater user charges shall be paid within 26 days from the service period ending date on the regular bill.

(6) Closing bills shall be computed within two weeks after the stormwater customer notifies the city that he or she is no longer the person responsible for the charge.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1293, Enacted, 07/01/1994)

3.60.080 Property Liens.

(1) If the stormwater customer is also the owner of the property, user charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city for cleaning, repair, or replacement work caused by violation of this chapter, and any other stormwater charges incurred related to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred, the lien for the closing bill shall attach as of the day preceding the sale or transfer.

(2) When a bill for stormwater service remains unpaid for 60 days after it has been entered in the customers billing record or other city stormwater record, and recorded in the city's lien docket, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Enacted, 01/02/2003)

3.60.085 Adjustment of Accounts.

Stormwater customers may request in writing a review of their user charge if they feel they are being incorrectly charged. The manager may initiate the review of a customer's stormwater user charge.

(1) If a customer's charge is reduced as a result of this review, the corrected stormwater user charge shall begin with the next billing and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

(2) If a customer's charge is increased as a result of this review, the corrected stormwater user charge shall begin with the next billing and the customer shall be billed for the increase retroactively, not to exceed one year from the last billing.

(3) If a customer receives other than the normal number of days of storm water services, the city shall prorate the storm water user charge.

(4) The manager may write off closed accounts and retroactive bills if in the best interest of the city and may write off refunds, unless the customer requested otherwise, if the cost of making the refund would exceed the amount of the refund.

(5) If a customer has not been billed for stormwater service, the stormwater user charge shall begin with the next billing and the customer shall be billed, retroactively, not to exceed one year.

(Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1293, Enacted, 07/01/1994)

3.60.095 Delinquency.

(1) Stormwater user charges are delinquent if payment in full is not received by the city within 26 days from the service period ending date on the regular bill.

(2) If a customer account for stormwater user charges is delinquent, the city may discontinue any city provided water service billed to that

customer. The city will follow the procedures identified in GRC 5.99.040.

(3) The council may establish by resolution fees for extra services required in collecting delinquent customer accounts for user charges.

(4) The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1293, Enacted, 07/01/1994)

3.60.097 Tenant Accounts.

(1) The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date of the notice of delinquency is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

(2) The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the tenant agree to a plan for repayment of unpaid utility bills.

(3) The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Enacted, 04/01/2005)

3.60.100 Administrative Regulations.

The manager may adopt such rules and regulations as are necessary for the administration of the duties required by this chapter and for the: a) public health and safety, b) the environment, or c) both; and welfare.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1293, Enacted, 07/01/1994)

3.60.120 Recovery of Delinquent Charges.

For those accounts where the city does not have the ability to collect stormwater charges in connection with or as part of the charge for another service or utility that can be curtailed to secure collection, the city may certify to the tax assessor of Multnomah County the amount of any delinquent user charges, fees for collecting delinquent user charges, and billing service charges. When so certified, they shall be assessed against the premises served in the same manner as other taxes are certified, assessed, collected, and paid.

(Ord. No. 1750, Enacted, 05/07/2015)

Article 3.99

ENFORCEMENT

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- 3.99.030** [Acts Resulting in Violation of Federal Law.](#)
- 3.99.040** [Fines, Penalties and Other Enforcement Tools.](#)
- 3.99.050** [Disclaimer of Liability.](#)

3.99.010 Violation.

A violation shall have occurred when any requirement or provision of GRC Articles 3.20 to 3.60 has not been complied with. Violation of any provision of GRC Articles 3.20 to 3.60 may be subject to enforcement action by the manager. (Ord. No. 1700, Enacted, 03/03/2011)

3.99.020 Authority to Inspect.

(1) The manager may enter any property, building or premises in accordance with GRC 7.50.500 through GRC 7.50.520, to perform an inspection to ensure compliance with any provision of GRC Articles 3.20 to 3.60.

(2) As used in this section, inspection includes, but is not limited to, physical inspection, sampling, metering or recording on site activities, or reviewing and copying records, all as necessary to ensure compliance with GRC Articles 3.20 to 3.60. (Ord. No. 1700, Enacted, 03/03/2011)

3.99.030 Acts Resulting in Violation of Federal Law.

Any person who violates any provision of GRC Articles 3.20 to 3.60 or the Stormwater Management Manual, or any provision of any stormwater-related permit issued by DEQ, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist

order, prohibition, or effluent limitation, also may be in violation of the federal Clean Water Act, Safe Drinking Water Act or the Endangered Species Act and may be subject to the sanctions of these Acts including civil and criminal penalties. (Ord. No. 1700, Enacted, 03/03/2011)

3.99.040 Fines, Penalties and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of GRC Articles 3.20 to 3.60 is a threat to: a) public health and safety, b) the environment, or c) both. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of GRC Articles 3.20 to 3.60 may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any provision of GRC Articles 3.20 to 3.60 may be subject to a fine or penalty in the maximum amount of \$5,000.

(4) Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty. (Ord. No. 1750, Amended, 05/06/2015; Ord. No. 1700, Enacted, 03/03/2011)

3.99.050 Disclaimer of Liability.

The degree of protection required by GRC Articles 3.20 to 3.60 is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and compliance does not ensure that there will be no unauthorized discharge of pollutants into the public stormwater system. GRC Articles 3.20 to 3.60 shall not create liability on the part of the city, any agent or employee thereof for any damages that result from reliance on GRC Articles 3.20 to 3.60 or any administrative decision lawfully made thereunder. (Ord. No. 1700, Enacted, 03/03/2011)

Chapter 4
WASTEWATER

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Article 4.05

DEFINITIONS

Sections:

4.05.010 Definitions.

4.05.010 **Definitions.**

In addition to the definitions set forth in GRC 1.05.010, as used in this chapter, sanitary sewer, sewer, and wastewater have the same meaning. Unless the context requires otherwise, for purposes of GRC Articles 4.05 to 4.60 the following mean:

Act. The Clean Water Act (33 U.S.C. 1251 et seq), as amended.

Actual Cost. Labor, materials, equipment, construction services, and administrative overhead.

Applicable Pretreatment Standards. Any federal, state, or city discharge prohibition or standard, whichever is the most stringent.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the limitations listed in GRC 4.45.010. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical Oxygen Demand (BOD). The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Centigrade, expressed in milligrams per liter.

Building Drain. That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning five feet outside the building wall.

Building Sewer. A private sanitary sewer beginning five feet outside the building and extending to the property line or public easement line, connecting to the building service lateral.

Building Service Lateral. A public sanitary sewer beginning at the property line or public easement line, and extending to the sanitary sewer main.

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Section 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter I, Subchapter N, Parts 405-471, incorporated herein by reference.

Collector Sewer. The portion of the public sewerage system that is primarily installed to receive wastewater directly from individual residences and other individual public or private structures.

Combined Sewer. A sewer that is designed as both a sanitary and a stormwater sewer.

Customer/User. The owner, renter, or lessee of property served by the sanitary sewerage system.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant over the course of a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Development. Any human-made change to improved or unimproved real property, including but not limited to construction, installation, or alteration of a building or other structure; condominium conversion; land division; establishment or termination of a right of access; storage on real property; tree cutting; drilling; and site alteration such as that due to land surface mining, dredging, grading, paving, excavation, or clearing.

Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Industrial User. Any user of the sanitary sewerage system who is the source of a nondomestic discharge.

Industrial Wastes. Solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery, or processing of natural resources.

Infiltration. The intrusion of groundwater into the sanitary sewerage system through defective pipes, pipe joints, connections, or manholes in the sanitary sewerage system or building sewers.

Inflow. A direct flow of water other than wastewater that enters the sanitary sewerage system or building sewers from such sources as, but not limited to: roof leaders; cellar, yard, area, and foundation drains; uncontaminated or non-contact cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm drains; catch basins; stormwaters; surface runoff; and street wash waters.

Interceptor (Trunk) Sewer. A sanitary sewer primarily intended to receive wastewater from a collector sewer, another interceptor sewer, an existing major discharge of raw or inadequately treated wastewater, or a water pollution control facility.

Interference. Discharge that, alone or in conjunction with discharges by other sources, inhibits or disrupts the wastewater treatment plant; its treatment processes or operations; or its sludge processes, use, or disposal; and

(1) causes a violation of any requirement of the NPDES permit including an increase in the magnitude or duration of a violation; or

(2) causes the sludge or sludge disposal to violate any of the following requirements:

(a) state or local regulations,

(b) permits, or

(c) the following statutory provisions and regulations or permits issued thereunder:

(i) Section 405 of the Clean Water Act,

(ii) the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), or

(iii) state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, the Clean Air Act, the Toxic Substance Control Act, and the Marine Protection, Research and Sanctuaries Act.

Milligram Per Liter (mg/L). A mass-to-volume ratio. The milligram per liter value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. "Milligram per liter" shall be considered as equivalent to parts per million (ppm).

National Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c) of the Act applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.

Natural Waters. Any watercourse, stream, creek, pond, ditch, lake, or other body of surface water or groundwater that supports wildlife or serves as a source of drinking water for humans or animals, or any water that may be hydrologically connected to such waters.

New Source.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of

the Act. The Pretreatment Standards will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(a) the building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) the building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (1)(b) and (1)(c) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) begun, or caused to begin as part of a continuous on-site construction program;

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement,

assembly, or installation of new source facilities or equipment; or

(b) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nondomestic Discharge. The discharge or the introduction of pollutants into the sanitary sewerage system from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

Non-Significant Industrial User. Any industrial user which provides a service or one connected with commerce which is not classified as a Significant Industrial User.

NPDES. National Pollutant Discharge Elimination System permit program of the U.S. Environmental Protection Agency.

O & M (Operation and Maintenance). Activities required to ensure the dependable and economical functioning of the sanitary sewerage system.

(1) Maintenance: The preservation of the functional integrity and efficiency of the sanitary sewerage system. This includes preventive maintenance, corrective maintenance, and the replacement of any portion of the sanitary sewerage system.

(2) Operation: The control of the unit processes and equipment that make up the sanitary sewerage system. This includes keeping financial and personal management records, laboratory control, process control, safety and emergency operation planning, employment of attorneys and consultants, payment of court costs, and payment of any costs or fees reasonably associated with any of the above.

Oils and Grease. Any oil and/or greases of mineral or petroleum origin.

Other Wastes. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and other substances except sewage and industrial wastes.

Parcel of Land. A lot, parcel, block, or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinance.

Pass Through. Discharge that exits the city's wastewater treatment plant into the waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

pH. The logarithm (base 10) of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant. Any substance discharged into the sanitary sewerage system, except water, including any items identified in a resolution adopted by council.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants properties in wastewater to a less harmful state prior to or instead of discharging or otherwise introducing the pollutants into the sanitary sewerage system.

Pretreatment Requirement. Any substantive or procedural requirements related to pretreatment, other than categorical standards and prohibitive discharge standards, imposed on an industrial user.

Private Wastewater Disposal System. A privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

Properly Shredded Garbage. The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow

conditions normally prevailing in the sanitary sewer, with no particle being greater than one-half inch in any dimension.

Public Sanitary Sewer. Any sanitary sewer owned, operated and maintained by the public.

Publicly Owned Treatment Works (POTW). Treatment works as defined by section 212 of the Clean Water Act, hereafter (the Act) , which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works. The POTW is inclusive of the Public Sanitary Sewer, Sanitary Sewer Main, Sanitary Sewerage System, and Wastewater Treatment Plant.

Renewal. Any application to validate an expired or voided permit.

Replacement. Obtaining and installing equipment accessories or appurtenances that are necessary during the design or useful life, whichever is longer, of the sanitary sewerage system to maintain the capacity and performance for which the system is designed and constructed.

Sanitary Sewer. A pipe or conduit for carrying sewage and industrial wastes.

Sanitary Sewer Connection. A connection of the building service lateral to the sewer main or a connection of the building sewer to the building service lateral.

Sanitary Sewer Connection Charges. All charges required for the right to connect to the sanitary sewerage system, including sanitary sewer connection fee and system development charges.

Sanitary Sewer Main. A public sanitary sewer that collects all of the building service laterals and transmits wastewater.

Sanitary Sewerage System. All publicly owned facilities for collecting, pumping, treating, and disposing of wastewater.

Sewage. Water-carried wastes from residences, business buildings, institutions, and industrial establishments, except industrial wastes.

Significant Industrial User. Any Industrial User of the sanitary sewerage system who:

(1) Is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N, except as provided in (1)(a) of this definition.

(a) The manager may determine that an Industrial User subject to categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N, is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(i) the Industrial User, prior to the manager's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

(ii) the Industrial User annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and

(iii) the Industrial User never discharges any untreated concentrated wastewater.

(2) has a nondomestic flow of 25,000 gallons or more per average work day;

(3) contributes more than five percent of the average dry weather hydraulic, organic, or solids handling load to the sanitary sewerage system; or

(4) is determined by the manager to have a reasonable potential for adversely affecting the wastewater treatment facility's operation by either upset, inhibition, pass through of pollutants, sludge contamination, or other means, or for violating a pretreatment standard or requirement.

(5) Upon a finding that an Industrial User meeting the criteria in paragraph (2 – 4) of this section has no reasonable potential for adversely affecting the wastewater treatment plant's operation or for violating any Pretreatment Standards or requirement, the manager may at any time, on their own initiative or in response to a petition received from an Industrial User or wastewater treatment plant, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

Significant Noncompliance (SNC).

(1) A Significant Industrial User, (or any Industrial User which violates paragraphs (c), (d), or (h) of this section), is in significant noncompliance if its violation meets one or more of the following criteria:

(a) chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6 month period exceed (by any magnitude) numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);

(b) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS,

fats, oil, and grease, and 1.2 for all other pollutants except pH);

(c) any other violation of a pretreatment Standard or Requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the manager determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of sanitary sewerage system personnel or the general public);

(d) any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the manager's exercise of their emergency authority to halt or prevent such a discharge;

(e) failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) failure to accurately report noncompliance; or

(h) any other violation or group of violations, including a violation of Best Management Practices, that the manager determines will adversely affect the operation or implementation of its pretreatment program.

Slug Discharge. Any discharge to the sanitary sewerage system of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the city's

regulations, local limitations, or Permit conditions.

Storm Drain. A pipe or conduit which carries storm and surface waters, but excludes sewage and industrial wastes, other than unpolluted water.

Surcharge. The charge in addition to the user charge, which is charged to those customers whose wastes are greater in strength than the concentration values established by the city.

Suspended Solids. Solids that either float on the surface of or are suspended in wastewater which are removable by laboratory filtering.

Toxic Pollutants. Those pollutants, or combination of pollutants, including disease-causing agents, that after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the manager, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations, in such organisms or their offspring. "Toxic pollutants" include those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to Section 307 of the Act (33 USC § 1317).

Unpolluted Water or Liquids. Any water or liquid containing none of the following: free or emulsified grease or oil; acids or alkalis; substances that may impart taste, odor, or color characteristics; toxic or poisonous substances in suspension, colloidal state, or solution; odorous or otherwise obnoxious gases. It shall contain not more than 1.0 milligrams per liter each of suspended solids or biochemical oxygen demand.

Upset. An exceptional incident in which a discharge unintentionally and temporarily is in a state of noncompliance with categorical Pretreatment Standards due to factors beyond the reasonable control of the industrial user, and excluding noncompliance to the extent caused by

operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User Charge. A charge paid by a customer of the sanitary sewerage system for the customer's proportionate share of the cost of operation and maintenance, including replacement, of the system.

Wastewater. Water carried wastes from residences, commercial buildings, industrial plants, and institutions. May include incidental quantities of ground, storm, and surface waters that are not admitted intentionally.

Wastewater Treatment Plant. The arrangement of devices and structures used for treating wastewater.

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Amended, 07/01/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1411, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1333, Amended, 11/03/1994; Ord. No. 1307, Amended, 05/05/1994)

Article 4.10

CONSTRUCTION PERMIT

Sections:

- 4.10.010 [Permit Required.](#)
- 4.10.020 [Permit Time Limitations.](#)
- 4.10.040 [Sanitary Sewer Charges.](#)
- 4.10.050 [Sanitary Sewer Connection Charge Liens.](#)
- 4.10.060 [Sanitary Sewer Connection Inspection.](#)
- 4.10.070 [Dye Test Inspection Fees.](#)

4.10.010 Permit Required.

(1) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer without first obtaining a permit. Any work done prior to issuance of the permit shall require an additional charge as set by council. Payment of this additional charge does not excuse full compliance with all provisions of this chapter or other applicable regulations.

(2) Permit applications shall be made in a manner determined by the city and shall be made by the owner or owner’s agent. The permit application shall be supplemented by plans, specifications, agreements, or other information as required by the manager.

(3) A permit is specific to the property for which it is issued and is not transferable to other property.

(4) A permit shall not be issued until all charges have been paid.

(5) Prior to or concurrent with obtaining a permit, the applicant shall also obtain any permits that may be required for street or highway opening and use.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001)

4.10.020 Permit Time Limitations.

(1) A permit is valid for 180 calendar days from the date the permit is issued.

(2) Upon written request by the applicant, the manager may extend the permit.

(3) Sanitary sewer construction permits for existing buildings issued pursuant to the mandatory connection portion of GRC 4.15.010(1) shall be valid for 180 calendar days from the date the permit is issued or until the end of the mandatory connection period, whichever is later.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1379, Amended, 12/07/1995)

4.10.040 Sanitary Sewer Charges.

(1) Applicants constructing a new sanitary sewer connection must pay to the city the sanitary sewer connection fee in addition to all other applicable fees and charges. Connection fees shall be set by council resolution.

(a) If a property was connected to the sanitary sewerage system prior to January 1, 1980, the city will assume that all sanitary sewer connection charges were paid for the existing connection.

(b) The city will consider that a property was connected to the sanitary sewerage system prior to January 1, 1980, if the property is connected and if the buildings on the property were constructed and the sanitary sewer main was installed and available for connection prior to that date.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1333, Amended, 11/03/1994)

4.10.050 Sanitary Sewer Connection Charge Liens.

(1) Upon notice to a property owner to pay any sanitary sewer connection charges, or after expiration of the 12 month period identified in

GRC 4.15.010(1) the manager shall enter in the docket of city liens a statement of the amounts charged against each lot, parcel of land, or portion of land, together with a description of the improvement, the name of the owners, and the date the charges were due. Upon entry in the city lien docket or recording in the Multnomah County Deed Records, the amount entered shall become a lien against the lots, parcels of land, or portions of land that have been charged for the improvement.

(2) All sanitary sewer connection charge liens of the city shall be superior and prior to all other liens or encumbrances on the property that are not granted a priority by state law. The city may foreclose on property to collect delinquent sanitary sewer connection charge liens. The sanitary sewer connection charge lien may be foreclosed in any manner provided by state law or city code.

(Ord. No. 1700, Amended, 03/03/2011)

**4.10.060 Sanitary Sewer Connection
Inspection.**

Work related to public sanitary sewer construction, including but not limited to notice, materials, practices and inspection, shall be in accordance with the Public Works Standards.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1534, Amended, 11/01/2001)

4.10.070 Dye Test Inspection Fees.

The city may charge a fee for performing a dye test inspection. The city council shall set by resolution a fee for dye test inspection.

Article 4.15

CONNECTION TO SANITARY SEWERAGE SYSTEM REQUIRED

Sections:

- 4.15.010 [Connection to Sanitary Sewerage System.](#)
- 4.15.020 [Extension of Public Sanitary Sewers.](#)
- 4.15.040 [Prohibited Connections.](#)
- 4.15.050 [Disconnection from Sanitary Sewerage System.](#)
- 4.15.060 [Application to City Service Area.](#)

4.15.010 Connection to Sanitary Sewerage System.

(1) The owner of any building is required to connect the building sewer to the sanitary sewerage system in accordance with the provisions of this chapter. This obligation begins when the building generates waste discharge and is located on property where a public sanitary sewer is available as defined in subsection (2). The owner must connect within 12 months after the city notifies the owner to connect.

(2) A public sanitary sewer is available to a property if the building sewer located or to be constructed on the property can be connected to the sanitary sewerage system without an extension of the appropriate sanitary sewer main. The appropriate sanitary sewer main is the main which the property will likely connect to, as determined by the manager, when the property is fully developed for the uses and density allowed by the community development plan.

(3) No person shall discharge, or permit to be discharged, any wastewater onto public or private property.

(4) The manager shall develop a program to defer a property’s obligation to connect based on the age, cost, location, and functioning of onsite septic systems.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1616, Amended, 02/02/2006; Ord. No. 1358, Amended, 05/18/1995)

4.15.020 Extension of Public Sanitary Sewers.

(1) Before a property owner connects a building sewer to the sanitary sewerage system, the property owner shall construct his or her appropriate share of the public sanitary sewer to and through the property to provide for the logical continuation of the sanitary sewerage system.

(2) The manager may allow the property owner to defer construction of the public sanitary sewer if the property owner agrees in writing to pay the property's appropriate share of the cost of constructing that public sanitary sewer when the public sanitary sewer is constructed.

(3) The manager may allow the property owner to defer construction of the public sanitary sewer if the property owner pays the city the estimated amount of the property's appropriate share of the cost of constructing that public sanitary sewer when the public sanitary sewer is constructed. This option shall be at the discretion of the city.

4.15.040 Prohibited Connections.

No person shall connect any storm drain, stormwater system, stormwater facility or cooling water system to the sanitary sewerage system without permission of the manager.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011)

4.15.050 Disconnection from Sanitary Sewerage System.

Property may be disconnected from the sanitary sewerage system only if the buildings on the property are demolished or otherwise unfit for habitation. The owner must obtain written approval from the city to disconnect from the sanitary sewerage system. After approval by the city and upon disconnection, the property will not be charged any additional user charges.

4.15.060 Application to City Service Area.

(1) GRC Articles 4.05 through 4.55, and GRC 4.60.010 shall apply to all areas within the Gresham Sewerage Service Area and to all areas served by the city's sanitary sewerage system, even if such areas are not within city boundaries.

(2) Extraterritorial Connection.

(a) Connection to the sanitary sewerage system from property outside the city shall be allowed at the discretion of the city, and at the location and on such conditions as the manager finds appropriate for proper functioning and maintenance of the city sanitary sewerage system. No connection from property outside the city limits will be permitted that, in the opinion of the manager, may overload the sanitary sewerage system.

(b) A person connecting a property outside of the city to the city's sanitary sewerage system shall enter into an agreement with the city if required by the manager. The city may enter into an intergovernmental agreement to authorize the sanitary sewerage system of another jurisdiction to flow to the city.

(c) Extraterritorial connection to the sanitary sewerage system shall comply with all requirements of this chapter.

(3) Connection to Other Jurisdictions.

(a) The city may enter into an intergovernmental agreement with a jurisdiction that operates a sanitary sewer system to authorize sewerage from property inside the city to flow to that jurisdiction.

(b) Connection from property inside the city that ultimately flows to the sanitary sewerage system of another jurisdiction may be allowed at the discretion of the city. Connection shall be at the location and subject to such conditions as the manager finds appropriate for proper functioning and maintenance of the sanitary sewerage system of the city and the other jurisdiction. No such

connection will be permitted if, in the opinion of the manager, the connection may not be in the best interest of the city.

(c) In addition to GRC Articles 4.05 through 4.55, and GRC 4.60.010, a property within the city with sewerage that flows to another jurisdiction shall comply with the requirements of any applicable intergovernmental agreement, which may require compliance with the pretreatment code of the other jurisdiction. In case of conflict between the requirements of the city and the other jurisdiction, the more stringent requirement shall apply.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1706, Amended, 10/06/2011; Ord. No. 1657, Amended, 09/20/2007; Ord. No. 1534, Amended, 11/01/2001)

Article 4.20

BUILDING SEWERS

Sections:

- 4.20.010 [City Indemnification.](#)
- 4.20.020 [Separate Services.](#)
- 4.20.030 [Old Building Sewers.](#)
- 4.20.040 [Lifting of Wastewater.](#)
- 4.20.050 [Maintenance Responsibility.](#)
- 4.20.060 [Building Sewer Standards.](#)

4.20.010 City Indemnification.

The owner shall pay all costs and expenses incident to the installation and connection of the building sewer. The owner shall indemnify the city from any losses or damages that may directly or indirectly result from the installation of the building sewer.

4.20.020 Separate Services.

(1) A separate and independent building sewer shall be provided for every building under separate ownership, except as provided in subsection (2) and (3).

(2) Condominiums, Planned Developments served by private streets and non-residential complexes may be served by common building sewers provided the following are found by the manager:

- (a) The building sewer is constructed in accordance with all state and local plumbing regulations.
- (b) A need does not exist or will not exist in the future for a public sanitary sewer to extend to or past the property served by the building sewer.
- (c) The building sewer does not pass through more than two other properties.
- (d) There are easements and maintenance agreements executed between the property owners that allow use of the land for the building sewer and that set forth maintenance

and repair responsibility for the building sewer.

(3) Landlocked parcels may be served by a common building sewer where there is no practical alternative for sewer service other than a common building sewer and subsections (2)(a), (b), (c) and (d) are met.
(Ord No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015)

4.20.030 Old Building Sewers.

Building sewers installed prior to January 1, 1967, may be used in connection with new buildings only when they are examined and tested by the manager and found to meet all requirements of this chapter and the Oregon State Plumbing Specialty Code. The owner shall pay for all testing required.
(Ord. No. 1307, Amended, 05/05/1994)

4.20.040 Lifting of Wastewater.

When possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the building sewer, wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

4.20.050 Maintenance Responsibility.

Maintenance of the building sewer shall be the responsibility of the owner. Maintenance includes, but is not limited to, the removal of any blockage in the building sewer and the prevention of any unpolluted water from entering the sanitary sewerage system.

4.20.060 Building Sewer Standards.

In addition to compliance with this article and other city ordinances, construction of building sewers and related activities shall comply with the Oregon State Plumbing Specialty Code.

Article 4.35

PRIVATE WASTEWATER DISPOSAL

Sections:

- 4.35.010** [Prohibition on Use of Private Wastewater Disposal Systems.](#)
- 4.35.020** [Approval for Private Wastewater Disposal Systems.](#)
- 4.35.030** [Agreements.](#)
- 4.35.040** [Owner Responsibility.](#)

4.35.010 Prohibition on Use of Private Wastewater Disposal Systems.

No person shall construct, maintain, or use a private wastewater disposal system except as provided by this article and the Gresham Community Development Plan.
(Ord. No. 1700, Amended, 03/03/2011)

4.35.020 Approval for Private Wastewater Disposal Systems.

(1) Before construction or replacement of a private wastewater disposal system, the owner shall obtain land use approval required by the Gresham Community Development Code and the Department of Environmental Quality.

(2) The type, capacity, location, and layout of a private wastewater disposal system shall comply with the requirements of the Department of Environmental Quality.

(3) If a private wastewater disposal system is abandoned, it shall be abandoned in accordance with the requirements of the Department of Environmental Quality.
(Ord. No. 1647, Amended, 09/20/2007)

4.35.030 Agreements.

Any person who obtains approval to construct a private wastewater disposal system under the provisions of this article shall enter into such agreement as may be required by the manager.

4.35.040 Owner Responsibility.

The owner shall operate and maintain the private wastewater disposal system in accordance with the regulations of the Department of Environmental Quality.

Article 4.40

USE OF SANITARY SEWERAGE SYSTEM

Sections:

- 4.40.010** [Application for Service.](#)
- 4.40.020** [Discontinuance of Service.](#)
- 4.40.030** [Prohibited Discharges into Natural Waters.](#)
- 4.40.040** [General and Specific Discharge Prohibitions into the Sanitary Sewerage System.](#)
- 4.40.060** [Infiltration and Inflow.](#)
- 4.40.070** [Metered Water Consumption.](#)
- 4.40.080** [Separate Water Meters.](#)
- 4.40.090** [Volume Measurement.](#)
- 4.40.110** [Safety During Inspection.](#)

4.40.010 Application for Service.

(1) Additional agreements may be required prior to the city providing sanitary sewerage service if the manager determines that special circumstances exist.

(2) The city may refuse to provide sanitary sewerage service when the customer has a delinquent sewer, stormwater, or water account at the same or a different property.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1333, Amended, 11/03/1994)

4.40.020 Discontinuance of Service.

(1) A customer may discontinue sanitary sewerage service by notifying the city in advance of the desired date of discontinuance. The customer shall pay the user charges and billing service charges until the date of the discontinuance. A customer may discontinue sanitary sewerage service only if water service to the premises is also discontinued.

(2) If notice is not given, the customer shall pay the user charges and billing service charges until the date the city learns that the customer has vacated the premises. The manager may adjust the

date a maximum of 30 days prior to the date of notification.

(Ord. No. 1602, Amended, 04/01/2005)

4.40.030 Prohibited Discharges into Natural Waters.

No person shall discharge any wastewater into, or allow any wastewater to contaminate or otherwise enter, the surface of the ground, any natural waters, private stormwater system, or public stormwater system except under a permit or waiver from the city, the county sanitarian, or the Department of Environmental Quality.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1379, Amended, 12/07/1995)

4.40.040 General and Specific Discharge Prohibitions into the Sanitary Sewerage System.

No User shall discharge or cause to be discharged, directly or indirectly, any pollutant or wastewater which causes Pass Through or Interference. These general and specific prohibitions apply to all Users of the Sanitary Sewerage System whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

No User shall discharge any of the following substances into the sanitary sewerage system:

(1) Gasoline, benzene, naphtha, fuel oil, any liquids, any solids, or any gases which by reason of their nature or quantity are sufficient either alone or by interaction to cause:

(a) pollutants that create a fire or explosion hazard in the sanitary sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21; or

(b) injury in any other way to the sanitary sewerage system.

(2) Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in a sanitary sewer line or other interference with the operation of the sanitary sewerage system. Such substances include grease, fat, waste, oil (whether or not emulsified), either soluble or n-hexane soluble matter, any substance which may solidify or become discernibly viscous at temperatures above 32 degrees Fahrenheit, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing or fuel or lubricating oil; mud grinding, glass grinding, or polishing wastes; paper dishes, cups, paper packaging, plastic packaging, glass packaging, and metal packaging whether whole or ground.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the city.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction:

(a) to injure or interfere with any wastewater treatment plant process,

(b) to constitute a hazard to humans or animals, or

(c) to exceed the limitations set forth in the Categorical Pretreatment Standards.

(5) Any noxious or malodorous liquids, gases, or solids that either singly or by interaction, are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the public sanitary sewer lines for their maintenance and repair.

(6) Any substance that may cause the sanitary sewerage system's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation

and reuse. No substance may be discharged to the sanitary sewerage system that causes the wastewater treatment plant to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state of Oregon standards applicable to the sludge management method being used.

(7) Any substance that will cause the wastewater treatment plant to violate its NPDES or other disposal system permits.

(8) Any substance with objectionable color not removed in the treatment process, such as dye wastes and vegetable tanning solutions.

(9) Any liquid or vapor having a temperature higher than 65 degrees Centigrade (150 degrees Fahrenheit) or having a temperature that will inhibit biological activity resulting in interference at the wastewater treatment plant. In no case may there be quantities of liquid or vapor in the wastewater, such that the temperature of the wastewater entering the wastewater treatment plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit).

(10) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the sanitary sewerage system.

(11) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(12) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration that exceeds limits established by city, state or federal regulations.

(13) Any trucked or hauled pollutants, except at discharge points designated by the manager.

(14) Any wastewater that causes a hazard to human life or creates a public nuisance.

(15) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated or non-contact cooling water, or unpolluted industrial process water, unless specifically authorized by the manager.

(16) Pollutants that result in the presence of toxic gases, vapors, or fumes within the sanitary sewerage system in a quantity that may cause acute workers' health and safety problems.

(17) Antifreeze.

(18) Wastewater from dry cleaning machines. (Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1411, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1333, Amended, 11/03/1994; Ord. No. 1307, Amended, 05/05/1994)

4.40.060 Infiltration and Inflow.

(1) No person shall construct, allow to be constructed, or allow to exist plumbing or building sewers which contribute to the infiltration or inflow into the sanitary sewerage system.

(2) Should the manager determine that infiltration or inflow into the sanitary sewerage system is being received or could be received from any building drain or building sewer, the owner of the property on which the infiltration or inflow originates shall be notified by certified mail to:

(a) eliminate the cause of the actual or potential infiltration or inflow within 90 days of the notice date;

(b) show cause within 30 days why the elimination should not be required;

(c) be subject to the penalty set forth in GRC 4.99.060.

(Ord. No. 1700, Amended, 03/03/2011)

4.40.070 Metered Water Consumption.

The volume of flow used for computing industrial wastewater user charges shall be the metered water consumption at the premises served as shown in the records of meter readings maintained by the city. Adjustments to the charges based upon metered water consumption may be made by the manager upon evidence by the user that a portion of the water is not discharged into the sanitary sewerage system. If the discharger of industrial waste into the sanitary sewerage system obtains any part, or all, of the water from sources other than the city, all or part of which is discharged into the sanitary sewerage system, the industrial user shall install, maintain, and pay for water meters of a type approved by the manager for purposes of determining the volume of water obtained from these other sources.

4.40.080 Separate Water Meters.

The city may require the owner to install a separate water meter for non-residential uses for the purpose of determining sanitary sewerage user charges.

(Ord. No. 1832, Amended, 09/15/2022)

4.40.090 Volume Measurement.

The owner, after approval by the manager, may install a device for measuring the volume of wastewater discharged instead of using a water meter. The owner shall own, install, and operate the device.

4.40.110 Safety During Inspection.

While performing the necessary work on private property referred to in GRC 4.99.050, the manager shall observe all safety rules applicable to the premises established by the company.

Article 4.45

PRETREATMENT

Sections:

- 4.45.010 [Limitations on Wastewater Discharge Characteristics.](#)
- 4.45.012 [Categorical Standards Compliance Deadline.](#)
- 4.45.015 [Industrial Pretreatment Program Implementation Manual.](#)
- 4.45.020 [Accidental Discharges.](#)
- 4.45.025 [Installation of Pretreatment Technology.](#)
- 4.45.030 [Industrial User.](#)
- 4.45.040 [Charges and Fees.](#)
- 4.45.050 [Industrial Waste Discharge Permits.](#)
- 4.45.060 [Permit Application.](#)
- 4.45.070 [Permit Conditions.](#)
- 4.45.080 [Permit Modifications.](#)
- 4.45.105 [Baseline Reports and Final Compliance Reports.](#)
- 4.45.110 [Reports on Continued Compliance.](#)
- 4.45.115 [Signatory and Certification of Reports.](#)
- 4.45.120 [Monitoring Facilities.](#)
- 4.45.130 [Right of Entry: Inspection and Sampling.](#)
- 4.45.140 [Confidential Information.](#)
- 4.45.150 [Emergency Suspension of Sanitary Sewerage Service and the Industrial Waste Discharge Permit.](#)
- 4.45.160 [Revocation of Industrial Waste Discharge Permit and Termination of Wastewater Treatment Service.](#)
- 4.45.170 [Remedies for Industrial User Noncompliance.](#)
- 4.45.180 [Notice and Appeal for Denial, Suspension, or Revocation of a Permit.](#)
- 4.45.190 [Enforcement.](#)
- 4.45.195 [Enforcement Penalties.](#)
- 4.45.200 [Industrial Pretreatment Enforcement Response Plan.](#)
- 4.45.220 [Levels of Enforcement.](#)
- 4.45.230 [Operating Upsets.](#)

- 4.45.235 [Bypass.](#)
- 4.45.240 [Prohibited Conduct.](#)
- 4.45.250 [Records Retention.](#)
- 4.45.260 [City Recovery of Costs.](#)

4.45.010 Limitations on Wastewater Discharge Characteristics.

- (1) Categorical Standards.

All discharges shall meet the supplementary limitations of subsection (5) and, where applicable, Categorical Standards.

- (2) State Requirements.

State requirements and limitations on discharges to the sanitary sewerage system apply in any case where they are more stringent than federal requirements and limitations or those in this code.

- (3) Right of Revision.

The city reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the sanitary sewerage system if necessary to comply with the objectives of the federal general pretreatment regulations.

- (4) Dilution.

No Industrial User may increase the use of potable or process water in any way, for the purpose of diluting wastewater to achieve compliance with the standards set forth in this code.

- (5) Local Limitations.

No Industrial User may discharge wastewater containing concentrations of the following materials, exceeding the following values:

<u>Pollutant</u> ¹	Daily Maximum Limit (mg/L)
Arsenic (As)	0.48
Cadmium (Cd)	0.50
Chromium (Cr)	1.58
Copper (Cu)	2.00
Cyanide (CN)	1.00
Lead (Pb)	1.00
Mercury (Hg)	0.10
Molybdenum (Mo)	6.58
Oil and Grease ²	100
Nickel (Ni)	3.00
Selenium (Se)	4.48
Silver (Ag)	0.47
Zinc (Zn)	4.00

¹ Limits established for total metals and total cyanide.

² Oil and Grease limit is for total non-polar oils; petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin.

(6) pH Effluent Limitations Under Continuous Monitoring.

(a) Where an Industrial User measures the pH of wastewater pursuant to a permit requirement, the permittee shall maintain the pH of such wastewater within the range set forth in the applicable effluent limitations guidelines, except excursions from the range are permitted subject to the following limitations:

(1) The total time during which the pH values are outside the required range of pH values shall not exceed 7 hours and 26 minutes in any calendar month; and

(2) No individual excursion from the range of pH values shall exceed 60 minutes.

(3) Discharge with pH < 5.0 is prohibited and not subject to excursion allowances.

(4) Discharge with pH ≥ 12.5 is prohibited and not subject to excursion allowances.

(b) For purposes of this section, an excursion is an unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the applicable effluent limitations guidelines.

(7) Additional Limitations.

The manager may apply best professional judgment (BPJ) and impose technical or performance based pollutant concentrations and Best Management Practices, in addition to limits specified in (5) above, on Industrial Users. The manager may impose flow (gallons per day), mass (pounds per day), pH, and/or temperature limitations on Industrial Users. The manager may impose categorical equivalent mass or equivalent concentration limits pursuant to 40 CFR 403.6(c).

(8) The prohibitions of GRC 4.40.040 are incorporated into GRC Article 4.45 by this reference and may be enforced, pursuant to this article, against users subject to GRC Article 4.45. (Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1411, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1333, Amended, 11/03/1994)

4.45.012 Categorical Standards Compliance Deadline.

(1) Existing Sources.

Compliance by existing sources with categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Existing sources which become Industrial Users subsequent to promulgation of an applicable categorical Pretreatment Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source.

(2) New Sources.

New Sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), New Sources shall meet all applicable Pretreatment Standards.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1411, Enacted, 01/16/1997)

4.45.015 Industrial Pretreatment Program Implementation Manual.

The manager may adopt an "Industrial Pretreatment Program Implementation Manual" to carry out the provisions of GRC Article 4.45 and all aspects of the industrial pretreatment program.

(Ord. No. 1385, Enacted, 03/07/1996)

4.45.020 Accidental Discharges.

(1) Each Industrial User shall provide protection from accidental discharge of prohibited or regulated materials or other substances as established by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Industrial User's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the manager for review, and shall be approved by the manager before construction of the facility. Industrial Users shall complete the accidental discharge plan meeting the requirements of 40 CFR 403.8(f)(2)(vi) and submit the plan to the manager within 90 days of being notified. Review and approval of the plans and operating procedures by the manager shall not relieve the Industrial User from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(2) Industrial Users shall notify the manager immediately upon the occurrence of a slug or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time of the discharge, description of the waste, concentration and volume, and corrective actions. Within five

days following an accidental discharge the user shall submit to the manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the sanitary sewerage system, fish kills, or any other damage to person or property; nor shall notification relieve the user of any fines, civil penalties, or other liability that may be imposed by this chapter or other applicable law.

(3) Signs shall be permanently posted in conspicuous places on the Industrial User's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

(Ord. No. 1716, Amended, 05/31/2012)

4.45.025 Installation of Pretreatment Technology.

(1) Industrial Users shall provide wastewater treatment, including pretreatment technology, devices and facilities, as necessary to comply with this chapter and shall achieve compliance within the time limitations specified by EPA, DEQ, or the manager, whichever is more stringent, to meet requirements of this chapter, including:

- (a) limitations on wastewater discharge characteristics;
- (b) general discharge prohibitions into the sanitary sewerage system;
- (c) industrial waste discharge permit requirements, where applicable;
- (d) all categorical pretreatment standards.

(2) Any pretreatment devices and facilities necessary for compliance shall be provided, operated and maintained at the user's expense.

(3) Detailed plans describing such devices and facilities and the operating procedures for such shall be submitted to the manager for review

and shall be acceptable to the manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities or devices as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

(4) Pretreatment devices and facilities shall be located so as to be readily and easily accessible for cleaning, maintenance, and inspection.

(Ord. No. 1716, Amended, 05/31/5012; Ord. No. 1411, Enacted, 01/16/1997)

4.45.030 Industrial User.

(1) If any sampling by an Industrial User indicates a violation of its industrial waste discharge permit or any provision of this chapter, the Industrial User shall notify the manager within 24 hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit results of the repeat analysis and corrective actions required to prevent recurrence of the violation to the manager within 30 days after becoming aware of the violation.

(2) All Industrial Users shall notify the manager prior to any substantial changes in volume or character of pollutants in their discharges, including hazardous wastes.

(3) All Industrial Users shall notify the manager, the EPA Regional Waste Management Division Director, and the Oregon Department of Environmental Quality in writing of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261.

(Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/5012)

4.45.040 Charges and Fees.

The council shall set by resolution charges and fees to compensate the city for the cost of administration of the pretreatment program. These charges and fees may include:

(1) Fees for monitoring, inspections, and surveillance procedures.

(2) Fees for Industrial Waste Discharge Permits, including:

(a) new permit;

(b) permit renewal;

(c) annual permit; and

(d) permit modification (where requested by the Significant Industrial User).

(3) Fees for filing appeals.

(4) Fees for non-return of preliminary reports and surveys required by GRC 4.45.050(4).

(Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1333, Amended, 11/03/1994)

4.45.050 Industrial Waste Discharge Permits.

(1) Significant Industrial User Permits.

All Significant Industrial Users proposing to connect to or to discharge wastewater to the sanitary sewerage system shall obtain an industrial waste discharge permit before connecting to or discharging to the sanitary sewerage system.

(2) Non-Significant Industrial User Permits.

The manager may issue a Non-Significant Industrial Waste Discharge Permit for users that meet the definition of a Non-Significant Industrial User. A Non-Significant Industrial Waste Discharge Permit may, include but is not limited to self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements may include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(3) Non-Significant Categorical Industrial Permits.

The manager may issue a Non-Significant Categorical Industrial Waste Discharge Permit for users meeting the definition of a Non-Significant Categorical Users when deemed such level of

control is protective of the public sanitary sewer system. A permit may include but not be limited to self-monitoring, sampling, reporting, notification, and record-keeping requirements.

(4) Preliminary Reports and Surveys.

The manager may request information from all Industrial Users to determine if the Industrial User is a Significant Industrial User, Non-Significant Industrial User, or Non-Significant Categorical Industrial User. The Industrial Users shall provide the information within 60 days of the date the manager requests the information.

(Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/2012)

4.45.060 Permit Application.

(1) Industrial Users shall file with the manager an Industrial Waste Discharge Permit application in the form prescribed by the manager.

(2) Non-permitted, existing Industrial Users shall apply for an Industrial Waste Discharge Permit within 60 days after being notified by the manager.

(3) Renewals.

(a) Existing permitted Industrial Users shall reapply at least 90 days before the expiration date of their Industrial Wastewater Discharge Permit.

(4) Modifications.

(a) Existing permitted Industrial Users proposing facility expansion, production increase or process modification which may result in a change in the character of pollutants to be discharged or which may result in new or increased discharge which may exceed the condition of their permit shall apply for a new permit at least 90 days prior to changing the discharge to the sanitary sewerage system.

(5) Proposed new Industrial Users shall apply at least 90 days prior to connecting to the sanitary sewerage system.

(6) The applicant for a permit shall provide the following information:

(a) Name, address, and location of the Industrial User.

(b) North American Industry Classification System (NAICS) number according to the NAICS Manual.

(c) Wastewater constituents and characteristics including but not limited to those specified in this chapter. Sampling and analysis shall be performed in accordance with GRC 4.45.110(4).

(d) Time and duration of discharges.

(e) Average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly, and seasonal variations. All flows shall be measured unless other verifiable techniques are approved by the manager due to cost or non-feasibility.

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all building sewers, sanitary sewer connections, inspection manholes, sampling chambers, and appurtenances by size, location, and elevation.

(g) Description of activities, facilities, and plant processes on the premises including all materials that are or may be discharged to the sanitary sewerage system.

(h) For existing plants at time of adoption of this chapter, the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and if not, whether additional operation and maintenance activities and additional pretreatment is required for the Industrial User to comply with this chapter.

(i) Where additional pretreatment and operation and maintenance activities will be required to comply with this article, the

Industrial User shall provide a declaration of the shortest schedule by which the Industrial User will provide such additional pretreatment and implementation of additional operational and maintenance activities. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and others).

(ii) No increment referred to in subparagraph (i)(i) may exceed nine months.

(iii) Not later than 14 days following each date in the schedule and the final date for compliance the Industrial User shall submit a progress report to the manager, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the manager.

(j) Disclosure of the type and amount of raw materials utilized by the Industrial User (average and maximum per day).

(k) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver for a pollutant neither

present nor expected to be present in the discharge based on GRC 4.45.110(7).

(l) Permit applications shall be signed by a principal executive officer of the Industrial User or per GRC 4.45.115(2), and by a qualified engineer, where required.

(m) The permit application shall include the certification statement of GRC 4.45.115(1).

(7) The manager shall evaluate the complete application and data furnished by the Industrial User and may require additional information prior to the manager granting or denying an Industrial Wastewater Discharge permit.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1411, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1307, Amended, 05/05/1994)

4.45.070 Permit Conditions.

(1) Industrial Users shall be subject to the terms and conditions of their Industrial Waste Discharge Permit.

(2) Industrial Waste Discharge Permits shall contain the following terms and conditions:

(a) limits, including Best Management Practices, on the average and maximum wastewater constituents and characteristics;

(b) limits, on average rate, maximum rate, and time of discharge or requirements for flow regulations and equalization. The Industrial User shall notify the manager within two business days after the Industrial User has a reasonable basis to know that the equivalent mass or concentration limits will significantly change within the next calendar month;

(c) requirements for installation and maintenance of inspection and sampling facilities;

(d) specifications for monitoring programs which may include sampling locations; frequency of sampling; number, types, and standards for tests; and reporting schedule;

(e) compliance schedules, including effective date and final compliance date;

(f) requirements for reports on continued compliance, as provided in GRC 4.45.110, and submission of special technical reports or discharge reports;

(g) a statement that the Industrial User shall notify the manager if the Industrial User discovers, through its own sampling, violations of limitations on the wastewater strength or permit standards; and

(h) a requirement to control Slug Discharges, to notify the manager immediately of any changes at its facility affecting potential for a Slug Discharge and to develop a slug control plan or other action, if the manager determines that such a plan or action is necessary as required by 40 CFR 403.8(f)(2)(vi).

(i) Permit duration. Industrial Waste Discharge Permits shall be issued for a period not to exceed five years, subject to amendment or revocation as provided in this chapter, except that the manager may administratively extend an existing permit during the permit renewal process.

(j) Limitations on permit transfer. Industrial Waste Discharge Permits are issued to a specific Industrial User for a specific operation and are non-transferable without, at a minimum, prior notification to the manager and prior written approval of the manager.

(i) If prior written approval for permit transfer is granted, a copy of the existing permit or a new permit, if required, will be issued to the new owner or operator.

(ii) Industrial Waste Discharge Permits are issued for a specific location and are not transferable to any other location.

(k) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, Gresham Revised Code, or the Industrial Waste Discharge Permit requirements.

(l) Recordkeeping requirements.

(m) Other conditions necessary to achieve the requirements of this chapter, as determined by the manager.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1411, Amended, 01/16/1997)

4.45.080 Permit Modifications.

(1) Permit conditions included in an Industrial Waste Discharge Permit shall remain in effect for that permit until it expires, except that the permit conditions may be revised from time to time as the manager deems necessary to effectively manage industrial waste discharges. If the permittee wishes to exceed any conditions of its permit, the permittee shall apply for a modified permit.

(2) After the promulgation of the categorical pretreatment standards, the Industrial Waste Discharge Permit of each Industrial User subject to the standards shall be revised to require compliance with the standards. The manager may amend the Industrial Waste Discharge Permit to assure compliance with applicable laws and regulations.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1440, Amended, 04/16/1998)

4.45.105 Baseline Reports and Final Compliance Reports.

Baseline reports and Final Compliance reports, where required, shall be submitted to the manager in a form prescribed by the manager. Baseline reports and Final Compliance reports shall be

submitted within the time limitations and meet the following requirements.

(a) Baseline report

Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under § 403.6(a)(4), whichever is later, existing Industrial Users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the manager a Baseline report.

At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the Control Authority a Baseline report.

New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs (a) (4) and (5) of this section:

The Baseline report must contain:

(1) Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;

(2) Permits. The User shall submit a list of any environmental control permits held by or for the facility;

(3) Description of operations. The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the wastewater treatment plant from the regulated processes.

(4) Flow measurement. The User shall submit information showing the measured average daily

and maximum daily flow, in gallons per day, to the wastewater treatment plant from each of the following:

(i) Regulated process streams; and

(ii) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR § 403.6(e). (See paragraph (5)(iv) of this section.)

The manager may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(5) Measurement of pollutants.

(i) The user shall identify the Pretreatment Standards applicable to each regulated process;

(ii) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or manager) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the manager or the applicable Standards to determine compliance with the Standard;

(iii) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(iv) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR §

403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR § 403.6(e) this adjusted limit along with supporting data shall be submitted to the manager;

(v) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the manager determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the wastewater treatment plant or other parties, approved by the manager;

(vi) The manager may allow the submission of a Baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(vii) The Baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the wastewater treatment plant;

(6) Certification. A statement, reviewed by an authorized representative of the Industrial User (as defined in (a) (1) of this section) and certified to by a qualified professional (see 4.45.115), indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and

(7) Compliance schedule. If additional pretreatment and/or O and M will be required to meet the Pretreatment Standards; the shortest

schedule by which the Industrial User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(i) Where the Industrial User's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR § 403.7), the combined wastestream formula (40 CFR § 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR § 403.13) at the time the User submits the Baseline report, the information required by paragraphs (a) (6) and (7) of this section shall pertain to the modified limits.

(ii) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR § 403.7), the combined wastestream formula (40 CFR § 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR § 403.13) after the User submits the Baseline report, any necessary amendments to the information requested by paragraphs (a) (6) and (7) of this section shall be submitted by the User to the manager within 60 days after the modified limit is approved .

(iii) The following conditions shall apply to the Compliance schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in paragraph (a) (1) of this section shall exceed 9 months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the manager including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the manager.

(b) Final Compliance report.

Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the wastewater treatment plant, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the manager a report containing the information described in paragraphs (a) (4)-(6) of this section. For Industrial Users subject to equivalent mass or concentration limits established by the manager in accordance with the procedures in 40 CFR § 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(Ord. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1411, Enacted, 01/16/1997)

4.45.110 Reports on Continued Compliance.

(1) Industrial Users shall submit to the manager periodic reports on continued compliance. Monitoring, Sampling Information, and Reporting Requirements shall be reported, as specified by the manager. Reports shall be made on a form approved by the manager.

(2) Industrial Users subject to an applicable pretreatment standard set forth in this chapter, after the compliance date of that pretreatment standard, or, in the case of a new Industrial User, after commencement of the discharge to the city, shall submit to the manager, monthly (or other frequency as specified by the manager), a report indicating the nature and concentration of prohibited or regulated substances in the wastewater which are limited by the pretreatment standards, this chapter, or the user's wastewater discharge permit. In addition, this report shall include a record of all measured average and maximum daily flows during the reporting period. Flows shall be reported on the basis of actual measurement. In cases where the pretreatment standard or local limitation requires compliance with a Best Management Practice (or pollution prevention alternative), the Industrial User shall submit documentation required by the manager of the pretreatment standard necessary to determine the compliance status of the Industrial User.

(3) Reports of Industrial Users shall contain all results of sampling and analysis of the discharge, including the flow, description, nature and concentration of pollutants, or mass where required by the manager. The frequency of monitoring by the Industrial User shall be as prescribed in the industrial waste discharge permit. If an Industrial User monitors more frequently than required by its industrial waste discharge permit, the Industrial User shall notify the manager of the results of all such monitoring according to the reporting requirements of the user's industrial waste discharge permit.

(4) Samples collected to satisfy reporting requirements shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in section (b) and (c) below, the Industrial User shall collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the manager. Where

time-proportional composite sampling or grab sampling is authorized by the managers, the samples shall be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the manager, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in GRC 4.45.105, a minimum of four grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the manager may authorize a lower minimum. For the reports required by GRC 4.45.110(1), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(d) All effluent analysis conducted for reports required by this article, excepting pH, shall be performed by an accredited environmental laboratory.

(5) Significant Industrial Users shall submit to the manager reports on continued compliance no less than once each six months. Categorical SIUs shall submit to the manager reports on continued compliance in the months of June and

December, unless required more frequently in the pretreatment standard or by EPA, DEQ, or the user's wastewater discharge permit. The manager may alter the months for which CIUs continued compliance reports are to be submitted.

(6) Annual certification by Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User pursuant to 40 CFR 403.3(v)(2) shall annually submit the certification statement in 40 CFR 403.12(q), signed in accordance with the signatory requirements in GRC 4.45.115. This certification shall accompany any alternative report required by the manager.

(7) Industrial Users subject to a Categorical Pretreatment Standard may apply for and obtain a waiver to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

(a) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process wastewater.

(b) The monitoring waiver is valid only for the effective period of the Industrial Waste Discharge Permits, but in no case longer than five years. The Industrial User shall submit a new request for the waiver before the waiver can be granted for each subsequent Industrial Waste Discharge Permits.

(c) In making a demonstration that a pollutant is not present, the Industrial User shall provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is

representative of all wastewater from all processes.

(d) The request for a monitoring waiver shall be signed in accordance with GRC 4.45.115(2), and include the following certification statement:

Based on my inquiry of the person or persons directly responsible for managing compliance with the applicable federal Categorical Pretreatment Standards, I certify that, to the best of my knowledge and belief, there has been no increase in the level of the pollutant(s) that have been approved for the monitoring waiver in the wastewaters due to the activities at the facility since filing of the last periodic report under GRC 4.45.110(1).

(e) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(f) Any grant of the monitoring waiver by the manager shall be included as a condition in the Industrial User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver shall be maintained by the city for three years after expiration of the waiver.

(g) Upon approval of the monitoring waiver and revision of the Industrial User's permit by the manager, the Industrial User shall certify on each report with the statement in GRC 4.45.110(7)(d), that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.

(h) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the Industrial User's operations, the User shall immediately: comply with the monitoring requirements of GRC 4.45.110(1), or other more frequent monitoring requirements imposed by the manager, and notify the manager.

(i) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1411, Amended, 01/16/1997)

4.45.115 Signatory and Certification of Reports.

Industrial Waste Discharge Permit Applications, Baseline reports, Final Compliance reports (90-Day Compliance Reports), Continued Compliance reports, and other required reports shall:

(1) Contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations; and

(2) Be signed by a responsible corporate officer, by a general partner or proprietor, or by a duly authorized representative of the Industrial User, as defined under 40 CFR 403.12(1).

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1411, Enacted, 01/16/1997)

4.45.120 Monitoring Facilities.

(1) Each Industrial User shall provide and operate at the Industrial User's own expense a monitoring facility to allow inspection, sampling, and flow measurement of each pipe or conduit which discharges to the sanitary sewerage system. Each monitoring facility shall be situated on the

Industrial User's premises. When such a location would be impractical or cause undue hardship on the Industrial User, the manager may allow the facility to be constructed in the public right-of-way if the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Industrial User shall pay all costs associated with the alternate location.

(2) There shall be ample room in or near the sampling facility to allow accurate sampling and preparation of samples for analysis. The sampling facility, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Industrial User.

(3) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed no later than 120 days of the Industrial User being notified by the manager.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1700, Amended, 03/03/2011)

4.45.130 Right of Entry; Inspection and Sampling.

(1) The manager shall have the right to enter the premises of any Industrial User to determine whether the Industrial User is complying with all requirements of this chapter and any Industrial Waste Discharge Permits or order issued hereunder. Users shall allow the manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where an Industrial User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The manager shall have the right to set up on the Industrial User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

(c) The manager may require the Industrial User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer's recommendations or more frequently as required to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the manager and shall not be replaced. The costs of clearing such access shall be borne by the User.

(e) The Industrial User shall not cause unreasonable delays in allowing the manager access to the User's premises.

(2) If the Industrial User refuses to provide the manager access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the manager is authorized to obtain an administrative inspection warrant and enter the premises in accordance with GRC 7.50.500 through GRC 7.50.520.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1700, Amended, 03/03/2011)

4.45.140 Confidential Information.

(1) Information and data on a user obtained by the manager from reports, surveys, questionnaires, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the manager's inspection and sampling activities, shall be available to the public without restriction, unless the Industrial User specifically requests in writing that it be confidential and demonstrates to the satisfaction of the manager that the release of such information would divulge information, processes, or methods of production entitled to protection as provided by federal or state law. Any such request shall be asserted at the time of submission of the information or data in accordance with the city's established confidentiality procedures. Wastewater constituents and characteristics and other "effluent data" as defined by federal law will not be recognized as confidential information and will be available to the public without restriction.

(2) When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES permit, or pretreatment programs and in enforcement proceedings involving the person furnishing the report.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1411, Amended, 01/16/1997)

4.45.150 Emergency Suspension of Sanitary Sewerage Service and the Industrial Waste Discharge Permit.

(1) The manager may suspend an Industrial User's sanitary sewerage service or suspend an Industrial User's Industrial Waste Discharge Permit when it appears to the manager that an actual or threatened discharge:

(a) presents or may present an imminent or substantial danger to public health and safety,

(b) presents or may present substantial danger to the environment,

(c) interferes with or may interfere with the operation of the sanitary sewerage system, or

(d) violates or may violate any pretreatment limits imposed by this chapter or any Industrial Waste Discharge Permit issued under this article.

(2) Any Industrial User notified of the suspension of sanitary sewerage service or the Industrial User's Industrial Waste Discharge Permit, shall within a reasonable period of time, as determined by the manager, cease all discharges. If the Industrial User fails to comply voluntarily with the suspension order within the specified time, the manager shall take such steps necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the sanitary sewerage system or danger to any individuals. The manager shall reinstate the Industrial Waste Discharge Permit and the wastewater treatment service upon proof by the Industrial User of the elimination of the non-complying discharge.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1602, Amended, 04/01/2005)

4.45.160 Revocation of Industrial Waste Discharge Permit and Termination of Wastewater Treatment Service.

The manager may revoke the industrial wastewater discharge permit of any Industrial User for any of the following reasons:

(1) failure to factually report the wastewater constituents and characteristics of its discharge;

(2) failure to report significant changes in operations, or in the wastewater constituents and characteristics;

(3) refusal of reasonable access to the Industrial User's premises for the purpose of inspection or monitoring; or

(4) violation of conditions of its permit.
(Ord. No. 1716, Amended, 05/31/2012)

4.45.170 Remedies for Industrial User Noncompliance.

When the manager finds that any Industrial User has engaged in conduct which justifies revocation of an industrial wastewater discharge permit, pursuant to GRC 4.45.160, the manager may obtain remedies for noncompliance by any Industrial User as described in the Industrial Pretreatment Enforcement Response Plan.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1307, Amended, 05/05/1994)

4.45.180 Notice and Appeal for Denial, Suspension, or Revocation of a Permit.

(1) Upon denial, suspension or revocation of an Industrial Waste Discharge Permit, the manager shall give notice of such action to the permit holder in writing. Such notice shall include the following:

- (a) a statement explaining the action taken;
- (b) the reasons for the action;
- (c) the date the decision becomes effective; and
- (d) the opportunity to protest the decision as set forth in the Enforcement Response Plan.

(2) Notice of denial, revocation or suspension of any permit issued pursuant to this chapter, shall be sent by regular and certified mail, return receipt requested. In the event the suspension or revocation is effective immediately, notice shall also be delivered by posting it on the property at the location listed on the permit application.

(3) Unless otherwise provided, the action shall be effective 10 days after the date of the notice.

(4) Any permit applicant or holder aggrieved by a denial, suspension, revocation, or non-renewal of a license or permit regulated under this section, may protest such action as set forth in the Enforcement Response Plan.

(5) Unless otherwise provided, submitting a protest of a revocation or suspension of a permit shall stay the effectiveness of the suspension or revocation until the protest is resolved.

(6) A permit may be suspended in the event of an imminent threat to public health and safety and in circumstances in which it is necessary to take immediate action in order to prevent serious harm. Suspension under this section is effective upon the date the notice is posted on the property. Subsection (5), above, does not apply to suspensions under this section.

(Ord. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1590, Amended, 09/16/2004)

4.45.190 Enforcement.

(1) When the manager finds that an Industrial User has violated, or continues to violate, any provision of this chapter, rules adopted hereunder, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the manager may:

(a) take enforcement actions, as set out in the Industrial Pretreatment Enforcement Response Plan, adopted under the authority of GRC 4.45.200;

(b) issue compliance orders;

(c) cause a petition to be filed in the appropriate state or federal court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance or any rule adopted hereunder on activities of the

user. The manager may also seek other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user;

(d) cause an appropriate action to be instituted in a court of competent jurisdiction;

(e) suspend or revoke a permit in accordance with GRC 4.45.150 and GRC 4.45.160; or

(f) take other action the manager deems appropriate.

(2) Annual Publication. A list of all Industrial Users that were in significant noncompliance of applicable pretreatment standards or pretreatment requirements during the 12 previous months shall be annually published by the manager in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the manager.

(3) Reports. If any Industrial User fails, upon demand by the manager, to supply up-to-date, accurate and complete self-monitoring reports and records as required in GRC 4.45.110, the manager, at their discretion, may consider the Industrial User’s monthly discharge to be the Industrial User’s water consumption.

(Ord. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1411, Amended, 01/16/1997; Ord. No. 1385, Amended, 03/07/1996)

4.45.195 Enforcement Penalties.

(1) Violations of this article, the requirements of a wastewater discharge permit, or the requirements of an order issued under this article, may result in:

(a) Assessment of administrative penalties as established by Council Resolution.

(b) Assessment of Civil penalties in at least the amount of \$1,000 a day for each violation by

Industrial Users of Pretreatment Standards and Requirements.

(2) The manager may initiate any other enforcement action as outlined in this chapter and in the Enforcement Response Plan. Each day on which a violation occurs or continues shall be deemed a separate offense. Failure to pay an administrative or civil penalty within 30 days following a final determination regarding the penalty is grounds for permit revocation or termination of an Industrial User's discharge. In addition to the administrative and civil penalties, the manager may recover other costs associated with the enforcement activities, including sampling and monitoring expenses.

(Ord. 1827, Amended, 04/28/2022; Ord. No. 1716, Amended, 05/31/2012; Ord. No.1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1385, Amended, 03/07/1996)

4.45.200 Industrial Pretreatment Enforcement Response Plan.

(1) The council may adopt by resolution an "Industrial Pretreatment Enforcement Response Plan" (Enforcement Response Plan) which shall describe the enforcement procedures that may be used to carry out the provisions of this chapter. The manager may adopt an "Enforcement Response Guide" to carry out the provisions of the Enforcement Response Plan.

(2) The Enforcement Response Plan shall describe in detail the system of escalating levels of penalties described in GRC 4.45.220.

(3) A person challenging an enforcement decision pursuant to GRC 4.45.190 to GRC 4.45.200 and GRC 4.45.260 may protest the enforcement decision as described in the Enforcement Response Plan.

(Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1385, Amended, 03/07/1996)

4.45.220 Levels of Enforcement.

(1) There are three levels of enforcement.

(a) Level I Procedures. This level of enforcement applies to Industrial Users in

violation of this chapter or their discharge permits.

(b) Level II Procedures. This level of enforcement applies to Industrial Users with repeated violations of this chapter or their discharge permits or fails to comply with Level I enforcement actions.

(c) Level III Procedures. This level of enforcement applies to Industrial Users that have not responded to previous enforcement action or to severe or willful violations of the requirements of this chapter.

(2) Alternative Enforcement. This section does not limit the manager's authority to take any other enforcement action against an Industrial User as provided by the code. The manager may follow the provisions of this section and at any time abandon these provisions and proceed with any other enforcement actions provided in the code.

(Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1411, Amended, 01/16/1997; Ord. No. 1385, Amended, 03/07/1996; Ord. No. 1379, Amended, 12/07/1995)

4.45.230 Operating Upsets.

(1) Any Industrial User that experiences an upset in operations that places the Industrial User in a temporary state of non-compliance with the requirements of this chapter or an industrial wastewater discharge permit shall inform the manager as soon as possible, but no later than 24 hours after the first awareness of the commencement of the upset. If the information is given orally, a written follow-up report shall be filed by the Industrial User with the manager within five days. The report shall specify:

(a) description of the upset, the cause of the upset, and the upset's impact on an Industrial User's compliance status;

(b) duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by

which compliance is reasonably expected to occur;

(c) all steps taken or to be taken to reduce, eliminate, and prevent recurrence of the upset or other conditions of noncompliance; and

(d) provide evidence that the facility was at the time of the upset being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(2) A documented and verified operating upset shall be an affirmative defense to any enforcement action brought by manager city against an Industrial User for noncompliance with categorical Pretreatment Standards, which arises out of violations alleged to have occurred during the period of the upset. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards only if all requirements of paragraph (1) above are met.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1411, Amended, 01/16/1997)

4.45.235 Bypass.

(1) For the purpose of this section,

(a) "Bypass" means the intentional diversion of waste streams from any portion of an Industrial User's treatment facility.

(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe

property damage does not mean economic loss caused by delays in production.

(2) An Industrial User may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it is also for essential

maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (3) and (4) of this section.

(3) Prohibition of Bypass:

(a) Bypass is prohibited, and the manager may take enforcement action against an Industrial User for bypass, unless;

(i) the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) the Industrial User submitted notices as required under paragraph (4), below.

(b) The Industrial User may approve an anticipated bypass, after considering its adverse effects, if the manager determines that it will meet the three conditions listed above in paragraph (3)(a) of this section.

(4) Notification of bypass:

(a) Anticipated bypass: If the Industrial User knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass, to the manager.

(b) Unanticipated bypass: The Industrial User shall immediately submit oral notice of unanticipated bypass that exceeds applicable pretreatment standards to the manager within 24 hours from the time the user becomes aware of the bypass. A written submission

shall also be provided to the manager within five days of the time the user becomes aware of the bypass. The written notice shall specify:

(i) a description of the bypass and its cause; including its duration, exact dates and time;

(ii) whether the bypass has been corrected; and

(iii) the anticipated time it is expected to continue; and steps being taken or planned to reduce, eliminate, and prevent a recurrence of the bypass.

(Ord. No. 1716, Enacted, 05/31/2012)

4.45.240 Prohibited Conduct.

(1) No person shall knowingly make any false statements, representations, or certifications in any application, record, plan, or other document filed or required to be maintained pursuant to this chapter.

(2) No person shall falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this chapter.

(Ord. No. 1700, Amended, 03/03/2011)

4.45.250 Records Retention.

All Industrial Users subject to this article shall retain and preserve for no less than three years, all records, books, documents (including documentation associated with Best Management Practices), memoranda, reports, correspondence, and summaries relating to monitoring, sampling, and chemical analyses made by or in behalf of an Industrial User in connection with its discharge. All such records shall be made available for inspection and copying by the manager, DEQ, or EPA. The period of records retention shall be extended when requested by the manager, DEQ, or EPA. All records subject to administrative adjustment or any other enforcement or litigation activities shall be retained by the Industrial User until all enforcement activities have concluded and all appeals have expired.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1647,

Amended, 09/20/2007; Ord. No. 1411, Amended, 01/16/1997)

4.45.260 City Recovery of Costs.

Any Industrial User who violates any of the provisions of this article, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the sanitary sewerage system shall be liable to the city for any expense, loss, or damage caused by the violation or discharge. The city shall bill the Industrial User for the actual costs incurred by the manager, including but not limited to any administrative costs, cleaning, repair, or replacement work caused by the violation or discharge.

(Ord. No. 1716, Amended, 05/31/2012; Ord. No. 1507, Amended, 10/19/2000)

Article 4.50

USER AND BILLING SERVICE CHARGES

Sections:

- 4.50.010** [User Charges.](#)
- 4.50.020** [Billing Service Charge.](#)
- 4.50.030** [Wastewater Utility Fund.](#)
- 4.50.040** [Billing.](#)
- 4.50.050** [Payment.](#)
- 4.50.060** [Delinquency.](#)
- 4.50.070** [Adjustment of Accounts.](#)
- 4.50.080** [Property Liens.](#)
- 4.50.085** [Tenant Accounts.](#)
- 4.50.090** [Recovery of Delinquent Charges.](#)

4.50.010 User Charges.

(1) A user charge for the use of the existing and future sanitary sewerage system shall be paid by each user who is served by the sanitary sewer system.

(2) User charges shall be set by council resolution.

(3) The minimum user charge is the equivalent of that charge for a single detached dwelling unit prorated over the billing period.

(4) Multifamily and non-residential users shall be billed on actual measured discharge, average water consumption, or actual water consumption if the user installs a device for measuring the volume of wastewater discharged or a water meter for measuring water consumption.

(5) User charges shall reflect actual costs of operation, maintenance, inflow and infiltration into the system, and replacement of the sanitary sewerage system. The amount of the user charge paid by a customer shall be the user's proportionate share of the cost of operation, maintenance, and replacement of the sanitary sewerage system.

(6) Each customer shall be notified in conjunction with a regular bill, of the user charge and an explanation of the charges.

(7) The user charge system shall take precedence over any terms or conditions of agreements or contracts inconsistent with the requirements of section 204(b)(1)(A) of the Clean Water Act.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1307, Amended, 05/05/1994)

4.50.020 Billing Service Charge.

The city will charge a billing service charge on each sewer bill to cover handling and processing of the bill for sanitary sewerage service. The billing service charge is in addition to the user charge and shall be set by council resolution.

4.50.030 Wastewater Utility Fund.

(1) There shall be a wastewater utility fund. Except for system development charges, all charges imposed and collected under this chapter shall be deposited in the wastewater utility fund.

(2) Money in the wastewater utility fund shall be used for planning, designing, and constructing the public wastewater system; for the regulation, maintenance, and administration of the public wastewater system; for providing all wastewater services, including the repayment of any indebtedness incurred before or after the effective date of this ordinance; for all expenses related to the operation and management of the wastewater utility.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1561, Amended, 01/02/2003)

4.50.040 Billing.

(1) The city will bill user charges and billing service charges on a schedule approved by the manager.

(2) Closing bills for a single service or single metered account shall be computed within two weeks after sanitary sewerage service is discontinued, or within two weeks of notification to the city, whichever is later. Closing charges for a single service billed on a multiple service account shall be prorated on the next regular bill.

(3) User charges, billing service charges, stormwater user charges, and water use charges may be billed on the same bill. User charges for sanitary sewer, stormwater, and water may not be combined.

(Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1307, Amended, 05/05/1994)

4.50.050 Payment.

(1) For all uses, user charges and billing service charges begin when a functional connection is made from the building plumbing to the sanitary sewerage system. Except, if the property is required to connect to the sanitary sewerage system by GRC 4.15.010, user charges begin at the time of functional connection or one year after notice is given to connect to the system, whichever occurs first. The manager may delay the commencement of these charges if the customer demonstrates hardship or special circumstances which warrant a delay.

(2) When the customer changes, user charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the user charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

(3) If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

(4) Payments shall be applied as provided by GRC 2.92.090.

(5) User charges and billing service charges shall be paid within 26 days from the service period ending date on the regular bill.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1307, Amended, 05/05/1994)

4.50.060 Delinquency.

(1) User charges and billing service charges are delinquent if payment in full is not received by the city within 26 days from the service period ending date on the regular bill.

(2) If a customer account for wastewater user and billing service charges is delinquent, the city may discontinue any city provided water services billed to that customer. The city will follow the procedures identified in GRC 5.99.040.

(3) The council may set by resolution fees for extra services required in collecting delinquent customer accounts for user charges and billing service charges.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000)

4.50.070 Adjustment of Accounts.

(1) If a customer receives other than the normal number of days of sewer service, the city shall prorate the sewer user charge and inflow and infiltration charge.

(2) The city may adjust user charges if water consumption, flow, BOD, suspended solids data, or other information indicates an increase or decrease in the wastewater discharge.

(3) Customers who believe their user charges, as applied to their premises, are not within the intent of GRC 4.50.010 may request in writing a review of their user charges. The written request shall state the actual or estimated average flow of the customer's wastewater, including how the measurements or estimates were made. The manager may initiate the review of a customer's wastewater user charge.

(a) The manager shall review the request and based on revised flow or strength data, shall determine appropriate user charges.

(b) If a customer's charge is reduced as a result of this review, the corrected wastewater user charge shall begin with the next billing and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

(c) If a customer's charge is increased as a result of this review, the corrected wastewater user charge shall begin with the

next billing and the customer shall be billed for the increase retroactively, not to exceed one year from the last billing.

(4) If a customer has not been billed for wastewater service, the wastewater user charge shall begin with the next billing and the customer shall be billed, retroactively, not to exceed one year.

(5) Customers whose sewer is based on water consumption of measured discharge may request an adjustment due to a waterline leak, if the repairs are made within 30 days after the leak is discovered. Request for an adjustment must be received within four months of the date the repairs were made. If a credit is due, the adjustment period will be limited to the bill period during which the leak was repaired, plus one prior bill period.

(6) The manager may write off closed accounts and retroactive bills if in the best interest of the city and may write off refunds, unless the customer requests otherwise, if the cost of making the refund would exceed the amount of the refund. (Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1307, Amended, 05/05/1994)

4.50.080 Property Liens.

(1) If the sewer customer is also the owner of the property, user charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city for cleaning, repair, or replacement work caused by violation of this chapter, and any other wastewater charges incurred relating to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred the lien for the closing bill shall attach as of the day preceding the sale or transfer.

(2) When a bill for wastewater service remains unpaid for 60 days after it has been entered in the customer's billing record or other city sanitary sewer record, and recorded in the city's lien docket, the lien may be foreclosed in

any manner provided by ORS 223.505 to ORS 223.650 or as otherwise provided by law.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1540, Amended, 03/07/2002; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1379, Amended, 12/07/1995)

4.50.085 Tenant Accounts.

(1) The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date the notice of the delinquent status is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

(2) The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the customer agree to a plan for repayment of unpaid sewer bills.

(3) The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Enacted, 04/01/2005)

4.50.090 Recovery of Delinquent Charges.

For those accounts where the city does not have the ability to collect wastewater charges in connection with or as part of the charge for another service or utility that can be curtailed to secure collection, the city may certify to the tax assessor of Multnomah County the amount of any delinquent user charges, fees for collecting delinquent user charges, and billing service charges. When so certified, they

shall be assessed against the premises served in the same manner as other taxes are certified, assessed, collected, and paid.

(Ord. No. 1561, Amended, 01/02/2003)

Article 4.99

ENFORCEMENT

Sections:

- 4.99.010** [Violation.](#)
- 4.99.020** [Fraud and Abuse.](#)
- 4.99.030** [Noncompliance with Regulations.](#)
- 4.99.040** [Right to Administrative Review.](#)
- 4.99.050** [Authority to Inspect.](#)
- 4.99.060** [Fines, Penalties, and Other Enforcement Tools.](#)

4.99.010 Violation.

A violation shall have occurred when any requirement or provision of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.

(Ord. No. 1700, Enacted, 03/03/2011)

4.99.020 Fraud and Abuse.

The city may refuse or discontinue water service, without notice, to a premises to protect itself against fraud or abuse.

(Ord. No. 1700, Enacted, 03/03/2011)

4.99.030 Noncompliance with Regulations.

The city may discontinue water service if the owner or customer fails to comply with this chapter within five days after receiving written notice of the city's intention to discontinue service. If noncompliance affects matters of public health or safety or other conditions that warrant such action, the city may discontinue water service immediately.

(Ord. No. 1700, Enacted, 03/03/2011)

4.99.040 Right to Administrative Review.

In the event of a discontinuation of water service, the customer shall have the right to request an administrative review of the decision pursuant to GRC 5.99.030.

(Ord. No. 1700, Enacted, 03/03/2011)

4.99.050 Authority to Inspect.

(1) The manager may enter any property, building or premises, in accordance with GRC 4.45.130 and GRC 7.50.500 through GRC 7.50.520, to perform an inspection in order to ensure compliance with any provision of this chapter.

(2) As used in this section, inspection includes, but is not limited to, physical inspection of a property or facility, sampling, metering or recording on site activities, or reviewing and copying records, all as necessary to ensure compliance with this chapter.

(Ord. No. 1827, Amended, 04/28/2022; Ord. No. 1700, Enacted, 03/03/2011)

4.99.060 Fines, Penalties, and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50 and the Enforcement Response Plan, or as otherwise authorized by law.

(3) Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty.

(Ord. 1827, Amended, 04/28/2022; Ord. No. 1700, Enacted, 03/03/2011)

Chapter 5
WATER

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Article 5.05

REGULATIONS

Sections:

5.05.010 Definitions.

5.05.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, unless the context requires otherwise, for purposes of GRC Articles 5.05 to 5.65 the following mean:

Actual Cost. Labor, materials, equipment, construction services, and administrative overhead.

City Water System. Water reservoirs and water distribution systems owned, operated, and maintained by the city, including all city waterlines, service connections, city water meters and appurtenances.

Consumption Rates. A charge based on the amount of water used per 100 cubic feet, or a fraction of water used.

Customer. The owner, renter, or lessee of property served by the city water system.

Customer Water Usage Demand. A combination of building fire flow requirements, any internal system fire flow requirements, domestic maximum day demand, and irrigation maximum day demand.

Development. Any human-made change to improved or unimproved real property, including, but not limited to, construction, installation, or alteration of a building or other structure; condominium conversion; land division; establishment or termination of a right of access; storage on real property; tree cutting; drilling; and site alteration such as that due to land surface mining, dredging, grading, paving, excavation, or clearing.

Distribution Waterline. A waterline, exclusive of

service connections, owned by the city.

Double Check Detector Assembly. An assembly approved by both the Oregon Department of Human Services and the city which consists of two independently operating spring loaded check valves, a gate valve on each side of the checks, test cocks to test the check for tightness, a bypass meter, and a double check assembly that detects of low flows.

Fire Flow Demand. The volume of water required to fight a fire for a specified time period. The method and calculation of the rate and duration of fire flow is the responsibility of the city Fire Department.

Fire Protection Metering Device. A city approved device that detects leakage or unauthorized use of water from a private fire protection system, such as a double check detector assembly.

Metering Device. A water meter assembly or a fire protection metering device.

Parcel of Land. A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and includes the yards and other open spaces required under the zoning, subdivision, or other development ordinance.

Potable Water. Water from any source that has been investigated by the health agency having jurisdiction and has been approved for human consumption.

Premises. The property or area, including improvements, to which water service is or will be provided.

Private Fire Protection System. (1) A privately owned fire sprinkler system with pressure or heat operated sprinkler heads; or (2) a fire hydrant service system that uses a private hydrant and fire hose connection installed on private property.

Private Waterline. A waterline located on private property and owned by the property owner. Ownership begins at the outlet end of the service connection.

Service Connection. The service waterline, fittings, valves and metering device necessary to conduct water from the distribution waterline to the private waterline, including the meter box and first fitting on the downstream side of the metering device.

Service Waterline. The waterline from the distribution waterline to the metering device.

Water System Connection Charges. All charges required to be paid to connect to the city water system. These charges include water system connection fees, service connection installation fees, and system development charges.

Water Meter. A city approved metering device that measures all water that flows through the service waterline to the customer at an accuracy level not less than the American Water Works Association approved standard.

Water Service Charge. A charge based on water meter or service waterline size, whichever is largest, for use of the city water system.

Waterline. A pipe or conduit for carrying potable water.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended 11/01/2018; Ord. No. 1773, Amended, 07/01/2017; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1332, Amended, 11/03/1994)

Article 5.10

CONSTRUCTION PERMITS

Sections:

- 5.10.010** [Permit Required.](#)
- 5.10.020** [Metering Device Required.](#)
- 5.10.030** [Permit Time Limitations.](#)
- 5.10.040** [Water Connection Charges.](#)
- 5.10.050** [Water Connection Fee.](#)

5.10.010 Permit Required.

(1) No person shall uncover, make any connections with or opening into, use, alter, or disturb any distribution waterline or any part of the city water system. All work on public water facilities, including water meters and service connections, are completed by authorized city water staff or city appointed contractors following issuance of all related permits, deposits and agreements.

(2) If a premises is connected to the city water system without a permit, the premises may be disconnected without notice to the owner. Any unpermitted work done will require payment of an additional charge set by council resolution. Payment of additional charges does not excuse full compliance with all provisions of this chapter or other applicable regulations.

(3) Permit applications shall be made in a manner determined by the city and shall be made by the owner or owner’s agent. The permit application shall be supplemented by plans, specifications, agreements, or other requirements as specified by the manager.

(4) A permit is specific to the property for which it is issued and is not transferable to other property.

(5) A permit shall not be issued until all charges have been paid.
(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1332, Amended, 11/03/1994; Ord. No. 1283, Amended, 04/27/1993)

5.10.020 Metering Device Required.

(1) All connections to the city water system must be made through an approved metering device.

(2) If a premises is connected to the city water system in a manner other than through an approved metering device, the premises may be disconnected without notice to the owner. Any connection made in a manner other than through an approved metering device will require payment of an additional charge set by council resolution.

5.10.030 Permit Time Limitations.

(1) A water system connection permit is valid for 180 days from the date the permit is issued.

(2) Upon written request by the applicant, the manager may extend the permit.

(3) A permit shall not be issued until all charges have been paid.
(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1379, Amended, 12/07/1995)

5.10.040 Water Connection Charges.

(1) Applicants for a new water system connection must pay to the city the water connection fee in addition to all applicable fees and charges.
(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1379, Amended, 12/07/19/95; Ord. No. 1332, Amended, 11/03/1994)

5.10.050 Water Connection Fee.

Applicants applying for a new water system connection shall pay to the city fees and charges associated with water service installations. The fees shall be set by council resolution.
(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1507, Amended, 10/19/2000)

Article 5.15

SERVICE CONNECTION

Sections:

- 5.15.010** [Service Connection.](#)
- 5.15.030** [Abandoned Service.](#)
- 5.15.040** [Separate Service Connection.](#)
- 5.15.050** [Extraterritorial Connection.](#)
- 5.15.060** [Service Connections and Metering Device Charges.](#)

5.15.010 Service Connection.

(1) The city shall furnish and install all service connections of the size and location the owner requests, provided that the request meets the Public Works Standards. The service connection shall be installed at a point between the curb line and the property line, or within a city right-of-way or city easement. The service connection shall be installed along the public street frontage where the property has its street address, unless otherwise approved by the manager. Multiple service connections to a premise(s) shall be laid out to follow a logical sequence of addresses, to facilitate matching of service connection to building(s). On-site waterlines shall be laid out to facilitate a logical matching of service connection to building and address.

(2) The owner shall install and keep in good condition equipment that may be required for receiving, controlling, and using water. The city shall not be responsible for maintaining the equipment or for any loss or damage caused by the improper installation of the equipment, or the negligence or wrongful act of the owner in installing, maintaining, using, operating, or interfering with the equipment.

(3) The city shall not be responsible for damage to property caused by a spigot, faucet, valve, or other equipment that is open when the water is turned on at the water meter.

(4) An owner making any material change in the size, character, or extent of the equipment or operation using city water service, or whose

change in operations results in a large increase in the use of water, shall immediately give the city written notice of the nature of the change and, if requested, obtain the required permits to upgrade their water meter and service to accommodate the increased demand.

(5) The service connection and water meter, whether located on public or private property, are the property of the city. The city reserves the right to repair, maintain, and replace them.

(6) No owner or customer may provide water service to any other person or property through the water meter without the consent of the city. (Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1440, Amended, 04/16/1998)

5.15.030 Abandoned Service.

If a service connection to a premises has been abandoned, or not used for one year, the city may disconnect the service connection at the distribution waterline or may remove the water meter. A new service connection will be installed only after the necessary permits are issued. (Ord. No. 1822, Amended, 11/08/2021;)

5.15.040 Separate Service Connection.

(1) A separate water meter is required for each property under separate ownership.

(2) A separate water meter may be required for each house or building, even if two or more houses or buildings are under one ownership or on the same lot or parcel of land.

(3) When property with water service is partitioned or subdivided, the water meter shall be considered as supplying the parcel nearest the water meter.

5.15.050 Extraterritorial Connection.

(1) Connection to the city's water system from property outside the city shall be allowed at the discretion of the city, and at the location and on such conditions as the manager finds appropriate for proper functioning and

maintenance of the city water system. No connection from property outside the city limits may be permitted that, in the opinion of the manager, may overload the city water system, or that will require any capital investment or expenditure by the city.

(2) Any person desiring to connect an outside city property to the city's water system under the provisions of this chapter shall enter into an agreement that may be required by the manager.

(3) Extraterritorial connection to the city water system shall comply with all requirements of this chapter.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1647, Amended, 09/20/2007)

5.15.060 Service Connections and Metering Device Changes

The manager shall approve all changes in size, type, and location of the service connections and metering devices. If any person desires a new service connection or a change in the size, type or location of an existing service connection, that person shall pay the actual cost of abandoning the existing service connection and installing the new service connection. A deposit in the amount of the estimated actual cost of abandoning the existing service connection and installing the new service connection shall be collected before the removal and installation is undertaken. All required water system connection charges shall be paid prior to installation of the new service connection or metering device.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1332, Enacted, 11/03/1994)

Article 5.20

WATER METERS

Sections:

- 5.20.010 [Ownership and Maintenance.](#)
- 5.20.020 [Damage to System.](#)
- 5.20.030 [Testing.](#)
- 5.20.040 [Master Metering.](#)
- 5.20.050 [Clear Area.](#)
- 5.20.060 [Control Valves.](#)
- 5.20.070 [Changes in Meter Size.](#)
- 5.20.080 [Size of Meter.](#)

5.20.010 Ownership and Maintenance.

(1) The city shall provide, own, install, maintain, repair, and replace all water meters. The owner shall pay the cost of purchasing and installing new water meters. The cost shall be set by council resolution.

(2) The city shall pay no rent or other charge for a water meter or other equipment located on the owner's property.

(3) The city may seal a water meter at the time of installation, and no seal shall be altered or broken except by authorization of the manager. (Ord. No. 1332, Amended, 11/03/1994)

5.20.020 Damage to System.

(1) The owner shall be liable for any damage to the city's water system that is caused by the owner, or the owner's tenants or agents. Damage includes, among other things, breaking or destruction of seals on or near a water meter, removing the first fitting on the downstream side of a metering device, damage resulting from electrical grounding to cold water pipes, or damage to a water meter by steam from a boiler or heater on the owner's property.

(2) If the owner is liable for damage to the city water system, the city may repair and charge the actual cost against the property served.

(3) The actual cost of repair shall be a lien against the property from the date of entry in the

customer's billing record, or other city water records.

(Ord. No. 1700, Amended, 03/003/2011; Ord. No. 1332, Amended, 11/03/1994)

5.20.030 Testing.

The owner or customer may request that the city test the water meter serving the owner's property.

(1) The owner or customer shall deposit an amount to cover the estimated cost of the test. This deposit shall be returned if the water meter is found to register outside the American Water Works Association (AWWA) standard of 95-102 percent. The amount of the deposit shall be set by council resolution. No deposit shall be required for the first test requested by the owner or customer each calendar year.

(2) The owner or customer may be present when the test is made and shall be given written advance notice of the time, date, and place of the test.

(3) A written report of the results of the test shall be available after completion of the test.

(4) Adjustment of bills for water meter error shall be made according to the provisions of GRC 5.50.050.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1332, Amended, 11/03/1994)

5.20.040 Master Metering.

The city may permit the master metering of more than one water service on a single parcel. The owner shall designate the person who will be responsible for the payment of all water charges and will accept service of all water related notices. If any payment is not made in full when due, the city may terminate service as set forth in GRC 5.99.040 even if partial payment is tendered by other occupants of the premises.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1700, Amended, 03/03/2011)

5.20.050 Clear Area.

(1) No person shall store or maintain any

item, material, or refuse, or install equipment over, under, or within six feet of any water meter.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

(2) No person shall permit shrubs or other landscaping to obstruct the reading of any water meter. Any such obstruction may be trimmed or removed by the city and the owner may be charged for the removal costs.

(3) No person shall park a motor vehicle on public or private property so as to obstruct or prevent access to any water meter.

(4) The owner shall provide a safe passageway to the water meter when it is necessary for the city to enter upon property or to enter a building to read a water meter or work on a service connection.

(Ord. No. 1700, Amended, 03/03/2011)

5.20.060 Control Valves.

The customer shall install a suitable shut-off valve and an approved pressure reducing valve to control the entire water supply from the city as close to the owner's side of the water meter as practical. The operation by the customer of the curb stop in the meter box is prohibited.

(Ord. No. 1307, Amended, 05/05/1994)

5.20.070 Changes in Meter Size.

If the owner requests a larger or smaller service connection than is currently installed, the owner shall pay the actual cost for the removal of the existing service connection and for installing the new service connection.

5.20.080 Size of Meter.

The minimum size of any new water meter, which connects to the city water system, shall be the size specified in the Public Works Standards. The manager may reject an application for connection to the city water system if the manager concludes that the water meter size applied for is inadequate to serve the premises. The city makes no representations concerning the sufficiency of water pressure or volume to be delivered to the premises.

Article 5.25

PRIVATE FIRE PROTECTION SYSTEMS

Sections:

5.25.010 Private Fire Protection System.

5.25.010 Private Fire Protection System.

(1) An owner may connect a private fire protection system to the city water system if the manager determines that there is sufficient capacity in the city water system to service the premises. Prior to connection, the owner must obtain a water system connection permit from the city.

(2) An owner may connect a private fire protection system to the city water system through an approved fire protection metering device, instead of through a water meter, if the private fire protection system is separated from the domestic water system.

(3) An approved back flow prevention assembly will be required on all private fire protection systems.

(4) The city shall, require the owner to construct a suitable meter chamber and install the backflow prevention assembly. The city shall install the approved fire protection metering device and make the connection to the city water system. The chamber shall be located at or near the public right-of-way line.

(5) The owner of the private fire protection system shall furnish and maintain all facilities past the fire protection metering device approved by the city.

(6) Water supplied through a fire protection metering device shall not be used for any purpose except extinguishing a fire or testing and inspection of the system as required by the city. If water use is recorded on the fire protection metering device due to a leak, the city may require the owner, at actual cost to the owner, to repair the

fire protection line. If not repaired in 30 days, the city may shut off the domestic water supply.

(7) The city will charge for all consumption if the private fire protection system is combined with a domestic full flow metering system. The city will not charge the customer for water used in extinguishing a fire or for water used in annual testing and inspection the private fire protection system if the water is supplied through a fire protection metering device and the customer reports the use to the city in writing within 10 days. The city will charge for all other consumption recorded on the fire protection metering device.

(8) If a customer is using water supplied through a fire protection metering device for purposes other than authorized by this section, the city will provide written notice to the customer to stop the unauthorized use of water. The city will bill the customer for the unauthorized use of water as follows:

(a) The private fire protection system will be considered a domestic system. Except for a probe type meter in which case actual use will be charged, consumption measured on the fire protection metering device will be multiplied by 10. Water user charges will be determined as described in GRC 5.50.010.

(b) These water user charges will be in effect until the private fire protection system is repaired and consumption from the fire protection metering device is eliminated.

(9) If unauthorized use of private fire protection system continues for 60 days from the date of the original notice, the city shall install a water meter and convert the fire protection metering device to a domestic service connection. The owner shall pay the actual cost of the water meter installation, the appropriate system development charge and other water connection charges.

(10) All private fire protection systems will be designed based on a maximum water pressure that is 10 psi less than the minimum system static pressure, to a maximum of 60 psi. Owners of

private systems which are designed outside of these guidelines shall be responsible for maintaining private system design pressure. The manager may modify the maximum system static pressure with a deed restriction recorded against the property requiring system improvements if the public system static pressure falls below the private fire protection system's minimum operating design. The deed restriction shall also include a condition that all costs associated with improvements shall be at the property's expense.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1332, Amended, 11/03/1994; Ord. No. 1307, Amended, 05/05/1994)

Article 5.30

FIRE HYDRANTS

Sections:

- 5.30.010 [Use.](#)
- 5.30.020 [Use Permit.](#)
- 5.30.025 [Testing.](#)
- 5.30.030 [Installation and Relocation.](#)
- 5.30.040 [Clear Area.](#)

5.30.010 Use.

(1) No person except authorized city personnel may operate, alter, change, remove, disconnect, connect with, or interfere with in any manner any fire hydrant without first obtaining written approval from the manager.

(2) The manager may approve filling a tank or container with water from a city designated fire hydrant without a fire hydrant use permit. The tank or container shall first pass a safety inspection and be equipped with a backflow protection assembly. A fee for the service shall be set by council resolution.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

5.30.020 Use Permit.

(1) The manager may issue a fire hydrant use permit for the temporary use of a fire hydrant. If the permit is granted, the city shall install a fire hydrant meter. A fee for the use of the fire hydrant meter shall be set by council resolution.

(2) A fire hydrant use permit shall be issued for a specific use, location, and time period. A fee for the permit and a charge for installation by the city of the fire hydrant meter shall be set by council resolution.

(3) The city will install the fire hydrant meter within 48 hours of receiving the permit application provided a fire hydrant meter is available. If the fire hydrant meter is not returned within five working days after the expiration of the hydrant use permit, a fee set by council resolution shall be

charged.

(4) Charges for water consumption shall be the water consumption rates set by council resolution, and there shall be a minimum water charge set by council resolution.

(5) The applicant shall be responsible for the actual cost of repairing damages to the metering device and hydrant.

(6) The manager shall have the authority to revoke a fire hydrant use permit if the applicant violates the conditions of the permit or if emergency conditions exist.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1307, Amended, 05/05/1994)

5.30.025 Testing.

A customer may request that the city conduct a fire hydrant flow test on a fire hydrant. The city shall schedule the test as soon as possible and shall provide a written report of the test results to the customer. No testing will occur between July 1 and September 30. The customer shall pay a fee for the fire hydrant flow test and providing a written report. The fee shall be set by council resolution.
(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1332, Enacted, 11/03/1994)

5.30.030 Installation and Relocation.

The manager shall approve all installations and changes in size, type, and location of city fire hydrants. If any person desires an installation or change in the size, type, or location of a fire hydrant, that person shall pay the actual cost of removing the existing fire hydrant and installing the new fire hydrant.

5.30.040 Clear Area.

(1) No person shall permit shrubs or other landscaping within three feet of a fire hydrant. Any such obstruction may be trimmed or removed by the city and the owner may be charged for the removal costs.

(2) No person shall park a motor vehicle on

public or private property within 10 feet of a fire hydrant.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Enacted, 03/03/2011)

Article 5.45

USE OF SYSTEM

Sections:

- 5.45.010 [Service.](#)
- 5.45.020 [Temporary Shutdown.](#)
- 5.45.030 [Limitations on Use.](#)
- 5.45.040 [Wasteful or Negligent Use.](#)
- 5.45.050 [Excessive Demand.](#)
- 5.45.060 [Large Quantities.](#)
- 5.45.070 [Resale.](#)
- 5.45.080 [Customer Discontinuance of Service.](#)
- 5.45.090 [Use Without Authority.](#)
- 5.45.100 [Unsafe Apparatus.](#)

5.45.010 Service.

(1) Additional agreements may be required prior to the city providing water service if the manager determines that special circumstances exist.

(2) The city may refuse to provide water service when the customer has a delinquent sewer, stormwater, or water account at the same or a different property.

(Ord. No. 1741, Amended, 08/14/2014; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1332, Amended, 11/03/1994)

5.45.020 Temporary Shutdown.

The city may temporarily shut down the city water system for improvements and repairs. When possible, and as time permits, customers affected shall be notified prior to a shutdown. The city shall not be liable for damage resulting from an interruption of service, discontinuance of service, or variation in pressure.

5.45.030 Limitations on Use.

The council may limit the use of water in times of shortage.

5.45.040 Wasteful or Negligent Use.

If wasteful or negligent water use seriously affects the general water service in the city, the city may discontinue the water service to a customer pursuant to GRC 5.99.040 if such conditions are not corrected within five days after the customer is given written notice.

(Ord. No. 1700, Amended, 03/03/2011)

5.45.050 Excessive Demand.

The city may refuse to furnish water and may discontinue water service to premises when excessive demand by one customer will result in inadequate service to others or will damage the city water system.

5.45.060 Large Quantities.

When an abnormally large quantity of water is desired for filling a swimming pool or pond, or for any other purpose, the customer must obtain prior approval from the city. Permission to take water in unusual quantities shall be given only if it can be safely delivered and if other customers will not be inconvenienced.

(Ord. No. 1700, Amended, 03/03/2011)

5.45.070 Resale.

Unless the city approves, no customer may resell water received from the city, nor will the city deliver water to premises other than those specified in the application for water service.

5.45.080 Customer Discontinuance of Service.

(1) A customer may discontinue water service by notifying the city in advance of the desired date of discontinuance. The customer shall pay water user charges until the date of the discontinuance.

(2) If notice is not given, the customer shall pay the water user charges until the date the city learns that the customer has vacated the premises or adjusted a maximum of 30 days from the date of notification.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005)

5.45.090 Use Without Authority.

(1) If water service is discontinued for non-payment of a water account, no one shall turn on or cause to be turned on water service without city authorization. The city may stop water service by shutting water off at the water main, removing the water meter, or any other appropriate method.

(2) The council may set by resolution a fee for turning off water service that was turned on without city approval.

(3) The city will not restore water service to the premises until the discontinuance of service charges and other costs incurred are paid in accordance with GRC 5.99.040.

(Ord. No. 1741, Amended, 08/14/2014)

5.45.100 Unsafe Apparatus.

The city may refuse to furnish water or may discontinue water service to a premises where the actions of the owner or a customer of the private water system have caused or may cause damage to the city water system.

Article 5.50

USER AND BILLING SERVICE CHARGES

Sections:

- 5.50.010** [User Charges.](#)
- 5.50.020** [Fire Protection Service.](#)
- 5.50.025** [Water Utility Fund.](#)
- 5.50.030** [Billing.](#)
- 5.50.040** [Payment.](#)
- 5.50.050** [Adjustment of Accounts.](#)
- 5.50.060** [Property Liens.](#)
- 5.50.065** [Tenant Accounts.](#)
- 5.50.070** [Delinquency.](#)
- 5.50.100** [Overtime Staff Service.](#)
- 5.50.110** [Charges for Other Services.](#)

5.50.010 User Charges.

Water user charges shall include a water consumption charge, a water service charge, and a fire flow charge.

(1) Customers shall pay a water consumption charge based on actual consumption of water. Water consumption charges shall be set by council resolution.

(2) Customers shall pay a water service charge for each service connection to the city water system. Water service charges shall be set by council resolution.

(3) Customers shall pay a fire flow charge for each service connection to the city water system, except for irrigation service connections. The manager may reduce a customer's fire flow requirements if the customer's building has a private fire protection system. Fire flow charges shall be set by council resolution.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1332, Amended, 11/03/1994; Ord. No. 1307, Amended, 05/05/1994)

5.50.020 Fire Protection Service.

(1) Services used exclusively for fire

protection shall be set up as a water account for the purpose of monitoring consumption. Water usage may be charged according to the provisions of GRC 5.25.010.

(2) Services that provide domestic supply and private fire protection systems through the same meter shall be charged the water service charge for the actual meter size.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1307, Amended, 05/05/1994)

5.50.025 Water Utility Fund.

(1) There shall be a water utility fund. Except for system development, all charges imposed and collected under this chapter shall be deposited in the water utility fund.

(2) Money in the water utility fund shall be used for planning, designing, and constructing the public water system; for the regulation, maintenance, and administration of the public water system; for providing all water services, including the repayment of any indebtedness incurred before or after the effective date of this ordinance; for all expenses related to the operation and management of the water utility.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1561, Enacted, 01/02/2003)

5.50.030 Billing.

(1) The city will bill water user charges on a schedule approved by the manager.

(2) Water meters shall be read at regular intervals for the preparation of regular bills and as required for the preparation of opening, closing, and special bills. If a water meter is inaccessible, water consumption shall be estimated.

(3) Closing bills for a single service or single metered account shall be computed within two weeks after water service is discontinued, or within two weeks of notification to the city, whichever is later. Closing charges for a single service billed on a multiple service account shall be prorated on the next regular bill.

(4) The city may bill each water meter on a customer's premises separately or combined on one or more accounts.

(5) Water user charges, sanitary sewer user charges, sanitary sewer billing service charges, and stormwater user charges may be billed on the same bill. User charges for sanitary sewer, stormwater, and water may not be combined.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1307, Amended, 05/05/1994)

5.50.040 Payment.

(1) Water user charges shall be paid within 26 days from the service period ending date on the regular bill.

(2) Payments shall be applied as provided by GRC 2.92.090.

(3) The initial customer shall pay water consumption charges, water services charges, and fire flow charges from the date the meter is installed, turned on, and available for use.

(4) When the customer changes, user charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the user charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

(5) If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

(Ord. No. 1700, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1307, Amended, 05/05/1994)

5.50.050 Adjustment of Accounts.

Customer water accounts shall be adjusted for the following:

(1) If a customer receives other than the normal number of days of water service, the city shall charge for the actual water consumption and

shall prorate the water service charge and fireflow charge.

(2) When a water meter is found to be registering more than two percent high, the city shall refund to the customer the amount of the overcharge beginning with the billing period prior to the current billing period.

(3) When a meter is found to be registering more than five percent low, the city may bill the customer for the amount of the undercharge beginning with the billing period prior to the current billing period.

(4) The city shall bill the customer for water consumed while the meter is not registering. The bill shall be the water service charge and the fire flow charge plus an estimate of water consumption based upon the customer's prior use during the same season of the prior year or upon the available history of the customer's water consumption.

(5) The customer's account may be adjusted if a water leak in the private waterline causes consumption to be more than the normal water consumption for that time period and if repairs are made within 30 days after the leak is discovered. Requests for an adjustment must be received within four months of the date the repairs were made. The adjustment period will be limited to the bill period during which the repair was made plus one prior bill period.

(6) The manager may write off closed accounts and retroactive bills if in the best interest of the city and may write off refunds, unless the customer requests otherwise, if the cost of making the refund would exceed the amount of the refund.

(7) Customers who believe their user charges, as applied to their premises, are not within the intent of GRC 5.50.010 may request, in writing, a review of their user charges. The manager may initiate the review of a customer's water user charges.

(a) If a customer's charge is reduced as a result of this review, the corrected water user charge shall begin with the next billing and a

credit or refund shall be made retroactively, not to exceed one year from the last billing.

(b) If a customer's charge is increased as a result of this review, the corrected water user charge shall begin with the next billing and the customer shall be billed for the increase retroactively, not to exceed one year from the last billing.

(8) If a customer has not been billed for water service, the water user charge shall begin with the next billing and the customer shall be billed retroactively, not to exceed one year.

(Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1412, Amended, 01/16/1997; Ord. No. 1379, Amended, 12/07/1995; Ord. No. 1332, Amended, 11/03/1994; Ord. No. 1307, Amended, 05/05/1994)

5.50.060 Property Liens.

(1) If the water customer is the owner of the property, water user charges, plus billing service charges, late payment charge, charge for collecting delinquent bills, damages and any other water charges incurred relating to the property shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred the lien for the closing bill shall attach as of the day preceding the sale or transfer.

(2) When a bill for water service remains unpaid for 60 days after it has been entered in the customer's billing record or other city water record, and recorded in the city's lien docket, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650 or otherwise provided by law.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1540, Amended, 03/07/2002; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1440, Amended, 04/16/1998; Ord. No. 1379, Amended, 12/07/1995)

5.50.065 Tenant Accounts.

(1) The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of

delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date the notice of delinquent status is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

(2) The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the customer agree to a plan for repayment of unpaid utility bills.

(3) The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Enacted, 04/01/2005)

5.50.070 Delinquency.

(1) Water user charges are delinquent if payment in full is not received by the city within 26 days from the service period ending date on the regular bill.

(2) If a customer account for water user and billing service charges is delinquent, the city may discontinue any city provided water services billed to that customer pursuant to GRC 5.99.040.

(3) The council may set by resolution fees for extra services required in collecting delinquent customer accounts for water user charges.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1307, Amended, 05/05/1994)

5.50.100 Overtime Staff Service.

When a customer requests city staff assistance for

a non-emergency during a time other than the normal operating hours, an overtime charge may be charged. This charge shall be entered on the customer's billing record and collected in accordance with GRC 5.50.070 and GRC 5.50.080. Council may set by resolution a fee for this charge.

5.50.110 Charges for Other Services.

A customer, developer, or other governmental entity requesting or needing the following services shall pay the actual costs of the services provided by the city.

(1) Water Support Services: A request or requirement to provide or a need for the following support services in connection with development: inspection of the city's water system, mapping of the city's water system, provision of customer service, and construction or repair to the city's water system.

(2) Exposing Facilities to the City's Water System: A request to expose facilities of the City's Water System through potholing and excavation.

(3) Relocation and Adjustment of the City's Water System: A request to relocate or adjust any component of the City's Water System.

(Ord. No. 1515, Enacted, 03/08/2001)

Article 5.55

CROSS CONNECTION CONTROLS

Sections:

- 5.55.010 [Definitions.](#)
- 5.55.020 [Cross Connections.](#)
- 5.55.030 [Backflow Prevention Assembly.](#)
- 5.55.035 [Fee for Temporary Use of a Backflow Prevention Assembly.](#)
- 5.55.040 [Cross-Connection Inspection.](#)
- 5.55.050 [Installation Permits.](#)
- 5.55.060 [Access to Premises for Inspection.](#)

5.55.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, unless the context requires otherwise, for purposes of GRC Article 5.55, the following mean:

Air Gap Separation. The physical vertical separation between the free flowing discharge end of a potable water supply pipe line and the open or nonpressure receiving vessel.

Approved Backflow Prevention Assembly. An assembly approved by both the Oregon Department of Human Services and the city for preventing backflow occurrences.

Auxiliary Water Supply. Any supply of water used to augment the supply obtained through the city water system which serves the premises in question.

Backflow. The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any sources other than its intended source, and is caused by backsiphonage or backpressure.

Backflow Preventer. An assembly or method to prevent backflow into the potable water system.

Backflow Prevention Assembly. Any city or state approved assembly used to prevent backflow into a potable water system. The types of assembly

used include:

- (1) Double Check Valve Assembly
- (2) Pressure Vacuum Breaker Assembly
- (3) Reduced Pressure Principle Assembly
- (4) Air Gap Separation.
- (5) Spill Resistant Vacuum Breaker

Backpressure. An elevation of pressure downstream of the distribution system that would cause, or tend to cause, water to flow opposite of its intended direction.

Backsiphonage. A drop in distribution system pressure below atmospheric pressure (partial vacuum), that would cause, or tend to cause, water to flow opposite of its intended direction.

Check Valve. A valve that permits flow in only one direction.

Contaminant. Any physical, chemical, biological, or radiological substance or matter in water that creates a health hazard or potential health hazard.

Contamination. The entry into or presence in a public water supply of any substance that may be injurious to health or quality of the water.

Cross-Connection. Any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

Degree of Hazard. Either pollution (non-health hazard) or contamination (health hazard) determined by an evaluation of hazardous conditions within a system.

Double Check Valve Assembly (DC Assembly). An assembly approved by both the Oregon Department of Human Services and the city which

consists of two independently acting check valves with shutoff valves on each side of the check valve assembly and test ports for checking the water tightness of each check valve. This is the minimum protection required at property line by the City of Gresham.

Hazard, Plumbing. An internal or plumbing type cross-connection in a consumer's potable water system that may be either a pollutional or a contamination type hazard. This includes, but is not limited to, cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines, and lawn sprinkling systems.

Hazard, Low. An actual or potential threat to the physical properties of the city water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

Health Hazard (Contamination). An impairment of the quality of the water that could create an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste or other substances.

Irrigation System. A metered connection intended for seasonal use and delivering water which is not discharged into the sanitary sewerage system.

Pollutant. A substance that creates an impairment of the quality of the water to a degree which does not create a hazard to the public health, but which does adversely affect the aesthetic qualities of the water.

Potential Cross Connection. A cross connection that would most likely occur, but may not be taking place at the time of an inspection.

Pressure Vacuum Breaker Assembly. An assembly approved by both the Oregon Department of Human Services and the city consisting of one or two spring loaded check

valves in the supply line, a spring loaded air inlet on the downstream side of the check valve which will open to atmosphere when the pressure in the assembly drops below one pound per square inch, two shut-off valves, and two test ports for checking water tightness of the check valve.

Public Health Hazard. A condition, device or practice which is conducive to the introduction of water borne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which represents an unreasonable risk to health.

Reduced Pressure Principle Assembly (RP-Assembly). An assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located test cocks and tightly closing shut-off valves at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard.

Safe Drinking Water. Water which has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological, or physical substances so that individuals drinking such water at normal levels of consumption will not be exposed to disease organisms or other substances which may produce harmful physiological effects.

Secondary Contaminant. Those contaminants that at the levels generally found in drinking water do not present an unreasonable risk to health, but do: (1) have adverse effects on the taste, odor, and color of water; (2) produce undesirable staining of plumbing fixtures; or (3) interfere with the treatment process by the public water supply.

Spill Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB). An assembly containing an independently operating, internally loaded check valve and independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with a properly located resilient seated shutoff valve attached at each end of the

assembly. This assembly is designed to protect against a non-health hazard or a health hazard under a back siphonage condition only.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1507, Amended, 10/19/2000)

5.55.020 Cross Connections.

The installation or maintenance of any cross-connection that will endanger the water quality of the potable water supply system of the city is unlawful. The manager may enforce the provisions of this code in the inspection of existing, new, and remodeled buildings. The city shall comply and enforce rules adopted by the Oregon Health Authority, Oregon Administrative Rules Chapter 333, Division 61, related to Cross Connection Control Requirements, except where otherwise noted in this code.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1647, Amended, 09/20/2007)

5.55.030 Backflow Prevention Assembly.

(1) The city shall not install or maintain a water service connection to any premises as listed in subsection (4) unless the water supply is protected as required by this code. The city shall discontinue water service to any premises if a backflow prevention assembly required by this code is not installed, tested, and maintained. The city shall discontinue service if a backflow prevention assembly, that is still required, is removed or by-passed, or if an unprotected cross-connection exits on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) A customer's system shall be open for inspection and tests at all reasonable times to the city to determine whether cross-connections or other violations of this article exist. If a violation is found, the manager may deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer corrects the violation.

(3) Water services to any premises known or found to have such defects and hazards will be disconnected and not restored until such defects

and hazards have been eliminated or until the appropriate backflow assembly as determined by the city has been installed and tested.

(4) A city approved backflow prevention assembly will be installed on each service line to user's water system at or near the property line unless variance is granted by the manager. If a variance is granted, then the backflow prevention assembly will be located immediately inside the building being served but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:

(a) Premises having an auxiliary water supply.

(b) Premises having cross-connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist.

(c) Premises where entry is restricted so cross-connection inspections cannot be made to determine if cross-connections exist.

(d) Premises having a history of repeating the same or similar cross-connections or backflow even though these have been removed or disconnected.

(e) Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters, cooling waters, solar water systems, and private fire systems.

(f) Premises where materials of a toxic or hazardous nature are handled in such a way that if back siphonage should occur, a serious health hazard might result.

(g) Premises having a service connection to another jurisdiction's public water system. Backflow prevention assemblies shall be installed to the standards of the jurisdiction to which the service is connected or to the city's standards, whichever is greater. This

requirement shall also apply to a public line connected to another jurisdiction's public water system.

(h) The following types of facilities will fall into one of the above categories where a backflow prevention assembly is required to protect the public water supply. A backflow prevention assembly shall be installed at these facilities (unless the city determines that no hazard exists) requiring isolation by an approved air gap or reduced pressure principle type of assembly for known health hazards. Refer to Oregon Administrative Rules Chapter 333, Division 61 related to premise isolation requirements.

- Agriculture (e.g., farms, dairies)
- Beverage bottling plants (a Double Check Valve Backflow Prevention Assembly could be used if the city determines there is only a non-health hazard at a beverage bottling plant)
- Car washes
- Chemical plants
- Commercial laundries and dry cleaners
- Premises where both reclaimed and potable water used
- Film processing plants
- Food processing plants
- Medical Centers (e.g., hospitals, medical clinics, nursing homes, veterinary clinics, dental clinics, blood plasma centers)
- Premises with irrigation systems that use the water supplier's water with chemical additions (e.g., parks, playgrounds, golf courses, cemeteries, housing estates)
- Laboratories
- Metal plating industries
- Mortuaries
- Petroleum processing or storage plants
- Piers and docks
- Radioactive material processing plants and nuclear reactors

- Wastewater lift stations and pumping stations
- Wastewater treatment plants
- Premises with piping under pressure for conveying liquids other than potable water and the piping is installed in proximity of potable water piping
- Premises with an auxiliary water supply that is connected to a potable water supply system
- Premises where the water supplier is denied access or restricted access for survey
- Premises where the water is being treated by the addition of chemical or other additives

(i) Any premise considered to be a non-residential use.

(5) Any backflow prevention assembly required by this code shall be an approved backflow prevention assembly.

(6) The type of backflow prevention assembly required shall depend on the degree of hazard that exists consistent with the tables relating to Premises Requiring Isolation and Backflow Prevention Methods in Oregon Administrative Rules Chapter 333, Division 061.

(7) A backflow prevention assembly required shall be inspected and approved by the city upon installation. The customer shall pay a fee for administration and for inspection of each new backflow prevention assembly installed, which shall be set by council resolution.

(8) Backflow prevention assemblies shall be furnished and installed by and at the expense of the customer.

(9) It shall be the duty of the customer at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made after the assembly is installed, and at least once per year or sooner if required by the manager. In those instances where the manager deems the hazard to be great enough,

the manager may require certified inspection at more frequent intervals.

(a) These inspections and tests shall be at the expense of the customer and shall be performed by a certified tester approved by the manager. The manager shall see that these timely tests are made. The customer shall notify the manager 48 hours in advance when the tests are to be undertaken. These assemblies shall be repaired, overhauled or replaced at the expense of the customer whenever they are found to be defective. Records of such tests, repairs, and overhaul shall be kept and copies sent to the manager.

(b) The customer may request that the city perform an annual inspection and operational test for the customer's backflow prevention assemblies and shall pay a fee for each backflow prevention assembly tested. The council shall set by resolution the fee for providing the annual inspection and testing. The customer shall be given advance notice of the date and time of the inspection and testing. A written report of the inspection and test results shall be furnished to the customer. If the city finds the backflow prevention assemblies to be defective, the customer shall repair, overhaul, or replace the assemblies at the customer's expense.

(c) Customer shall be responsible for keeping the area surrounding backflow assemblies clear at all times of landscaping material and structures to allow for inspection, testing and repair.

(10) No irrigation system may be installed without a minimum of a double check valve assembly (DCVA) unless chemical injection is used in which case a reduced pressure backflow assembly (RPBA) is required.(11) All customers required by state law to have backflow prevention assemblies shall pay a charge for each assembly to cover administration of the cross connection program mandated by the state. A cross connection program fee shall be set by council resolution.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended,

03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1332, Amended, 11/03/1994; Ord. No. 1307, Amended, 05/05/1994)

5.55.035 Fee for Temporary Use of a Backflow Prevention Assembly.

A customer, developer or governmental entity may request that the city install a backflow prevention assembly for temporary use of the city water system during construction. The customer, developer or governmental entity shall pay for installing and removing the assembly plus a rental charge for the use of the assembly. The customer, developer or governmental entity shall deposit an amount equal to the estimated installation, rental, and removal cost of the backflow prevention assembly. The amount of the charge for rent, installation, and removal shall be set by council resolution.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1332, Enacted, 11/03/1994)

5.55.040 Cross-Connection Inspection.

(1) The city shall not deliver water to any structure built within the city or within areas served by city water until the premises have been inspected by the city and found free of cross-connections.

(2) Any construction for industrial or other purposes which is classified as hazardous facilities where it is reasonable to anticipate intermittent cross-connections, or as determined by the manager, shall be protected by the installation of one or more backflow prevention devices at the point of service from the public water supply or any other location designated by the city.

(3) The manager may inspect all buildings, structures, or improvements of any nature now receiving water through the city's water system, for the purpose of ascertaining whether cross-connections exist.

5.55.050 Installation Permits.

If backflow prevention devices are found to be necessary, the owner of the property served must apply to the city for a specific installation permit. The council may set by resolution an installation permit fee.

(Ord. No. 1332, Amended, 11/03/1994)

5.55.060 Access to Premises for Inspection.

(1) The city shall have the right of access in accordance with GRC 7.50.500 through GRC 7.50.520 during reasonable hours to all parts of an owner's building or premises for purposes of inspecting the conditions of private waterlines and plumbing fixtures to determine whether cross connections or other structural or sanitary hazards exist and the manner in which water is being used.

(2) If the owner or occupant refuses access or prevents authorized city employees from making such necessary inspections, water service may be refused or discontinued pursuant to GRC 5.99.050.

(Ord. No. 1700, Amended, 03/03/2011)

Article 5.70

WATER CURTAILMENT MEASURES

Sections:

- 5.70.010 [Declaration of Policy.](#)
- 5.70.020 [Authority of Council to Adopt Rules.](#)
- 5.70.030 [Water Curtailment Enforcement.](#)
- 5.70.040 [Authority of Council to Terminate Rules.](#)

5.70.010 Declaration of Policy.

It is the policy of the City of Gresham to provide clean, healthful, and plentiful water to its customers. There may be circumstances beyond the city's control, however, including most particularly weather conditions and the effects of natural catastrophes or the actions of others on the city's water supply sources, that make it necessary to reduce the water regularly used by the city's customers and apportion among the city's customers a restricted supply of water. In those circumstances, the city intends that water be apportioned in a manner that is consistent with these provisions, as determined by the manager to be equitable under the circumstances, and takes into account public health and safety.

(Ord. No. 1257, Enacted, 7/28/1992)

5.70.020 Authority of Council to Adopt Rules.

(1) Authorization. When the council finds that a water shortage exists or is imminent or that any other emergency situation exists which threatens seriously to disrupt or diminish the municipal water supply, the council may adopt rules, procedures, and forms to restrict water use in a manner that accomplishes the policy announced in GRC 5.70.010 and to otherwise implement the provisions of this article.

(2) Procedure.

(a) The council may adopt rules to implement this article. Such rules shall be adopted by resolution. Prior to the adoption

of the rules, the council shall provide an opportunity for public input.

(b) Notwithstanding subsection (2)(a) above, an interim rule may be adopted without following the procedure of that subsection upon a finding by the manager that failure to act promptly will result in serious prejudice to the public interest. Any rule adopted pursuant to this subsection shall be effective for a period of not longer than 90 days.
(Ord. No. 1257, Enacted, 7/28/1992)

5.70.030 Water Curtailment Enforcement.

(1) A violation of a provision of this article may be subject to a fine or penalty in the maximum amount of \$500.

(2) If a customer violates any provisions of this article or rules, the manager may install a flow restrictor on the city side of the customer's water meter. The customer shall pay the cost of installing the flow restrictor.

(3) If a customer violates any provisions of this article or rules, the manager may terminate water service in accordance with GRC 5.99.040.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1257, Enacted, 7/28/1992)

5.70.040 Authority of Council to Terminate Rules.

When the council finds that the remaining water supply, exceeds anticipated demand, and that the water shortage or any other emergency situation no longer exists or is imminent, the council may terminate rules, procedures, and forms that had been adopted to restrict water use.

(Ord. No. 1257, Enacted, 7/28/1992)

Renumbered [formerly GRC 3.65.010], 03/03/2011)

Article 5.75

WELL FIELD PROTECTION

Sections:

5.75.010 [Establishment of Well Field Protection Areas and Well Field Protection Program Reference Manuals.](#)

5.75.020 [Reporting.](#)

5.75.030 [Standards.](#)

5.75.040 [Inspections.](#)

5.75.050 [Violations and Enforcement.](#)

5.75.060 [Building and Site Permit Building and Approval.](#)

5.75.070 [Inspection Fees.](#)

5.75.010 Establishment of Well Field Protection Areas and Well Field Protection Program Reference Manuals.

(1) The council shall establish by resolution well field protection areas in order to regulate the storage, handling, use and transportation of hazardous materials that could contaminate groundwater. The council shall establish or make major revisions to the boundaries of well field protection areas based on the best available information about the dynamics of the aquifers that existing and future wells tap, the time-of-travel of hazardous materials, and other relevant factors. The manager shall publish a map of all designated well field protection areas and shall certify copies to city departments, and shall make such maps available to the public and to all persons within the well field protection areas. The manager may make minor alterations to the boundaries of a well field protection area if the information on which existing boundaries are based is updated.

(2) The council, by resolution, shall adopt and amend one or more Well Field Protection Program Area Reference Manuals. The manager may make minor modifications to the Well Field Protection Program Reference Manuals.

(Ord. No. 1729, Amended, 08/15/2013; Ord. No. 1700,

5.75.020 Reporting.

As required by the Well Field Protection Program Reference Manuals (Reference Manuals), all businesses or persons storing, handling, using or transporting hazardous materials within the well field protection areas shall make reports to the city concerning the types and quantity of hazardous materials stored, handled, used or transported; storage and containment provisions for hazardous materials; a site plan indicating the location of hazardous materials manufactured, generated, stored, handled, used or transported, the location of drains, capacities of containment systems, drainage utility shut-off, and topographical information and such other information as required by the Reference Manuals. To the extent the city requires a similar report for other purposes, reporting requirements and reports may be combined.

(Ord. No. 1719, Amended, 08/15/2013; Ord. No. 1700, Renumbered [formerly GRC 3.65.020], 03/03/2011)

5.75.030 Standards.

Reference Manuals shall set standards for storage, handling, and transportation of hazardous materials within the well field protection areas. The standards shall include the designation of materials as hazardous to water quality, including the quantity of such materials; requirements for the storage, handling, transportation and containment of such materials both inside and outside structures; requirements for equipment and devices to prevent and control spills or releases of such materials beyond containment vessels; the schedule for submitting reports; and such other matters necessary for the purpose of implementing GRC Article 5.75.

(Ord. No. 1729, Amended, 08/15/2013; Ord. No. 1700, Renumbered [formerly GRC 3.65.030], 03/03/2011)

5.75.040 Inspections.

(1) The city may conduct inspections of property and structures where hazardous materials are stored, handled, used or transported to ascertain compliance with GRC Article 5.75, including but not limited to the types, quantities

and locations of hazardous materials, primary and secondary containment facilities, and the existence of spill prevention and spill control equipment or devices.

(2) Inspections may be initiated as the result of a complaint, referral, a routine schedule for inspection, application for a business license, commencement of operations or if there is reason to believe there is a violation. Re-inspection may occur to ensure compliance. Inspections will be used to determine if a person is in compliance with GRC Article 5.75.

(3) Inspections may involve a review of facilities, equipment, structures, practices and operations; records or plan review; interviews with operators; and photo documentation. As such, an authorized person shall allow representatives of the city, at reasonable times and upon presentation of credentials, to:

(a) enter the premises where hazardous materials are being stored, handled, used or transported, or where records may be kept under the provisions of GRC Article 5.75. The owner/operator shall make necessary arrangements to allow access without delay;

(b) inspect any facilities, equipment, structures, practices and operations regulated or required under the provisions of GRC Article 5.75; and

(c) have access to and copy any records that must be kept under the provisions of GRC Article 5.75.

(Ord. No. 1700, Renumbered [formerly GRC 3.65.040], 03/03/2011)

5.75.050 Violations and Enforcement.

(1) Violations.

(a) No person shall store, handle, use or transport hazardous materials in a manner contrary to GRC Article 5.75 or the Reference Manuals.

(b) The storage, handling, use or transport of hazardous materials in a manner

contrary to GRC Article 5.75 or the Reference Manuals is a public nuisance.

(c) Failure to submit a required report or failure to submit a complete report as required by the Reference Manuals shall be a violation.

(d) Failure to comply with the requirements of GRC 5.75.040(3) relating to inspections, shall be a violation.

(e) Failure to develop, obtain approval, or meet the requirements of an approved compliance plan required by GRC 5.75.050(3) shall be a violation.

(2) Enforcement.

(a) A violation of any provision of GRC Article 5.75 may be subject to a fine or penalty in the maximum amount of \$1,000.

(b) The manager may take any enforcement action authorized by GRC Article 7.50.

(c) Should a hazardous material be released as a result of a violation, or as a result of a failure to correct a violation, the person or business responsible for such spill shall be civilly liable for all costs associated with cleaning up such spill and any other action pursuant to GRC Article 5.75 necessary to ensure that the well field is protected from contamination.

(d) To the maximum extent practicable the city will work cooperatively with a person or business to achieve voluntary compliance with the provisions of GRC Article 5.75.

(3) Compliance Plan. Persons not in compliance with GRC Article 5.75 or the Reference Manuals when adopted or amended shall bring their operations into compliance within the timeframe established in the Reference Manuals.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1729, Amended, 07/15/2013; Ord. No. 1700, Renumbered [formerly GRC 3.65.050] and Amended, 03/03/2011)

5.75.060 Building and Site Permit Review and Approval.

Plans for site alterations, construction, alterations, repairs, or other work involving or affecting the storage, handling, use, transportation or containment of hazardous materials shall be reviewed and approved by the manager prior to issuance of a permit for site work or of a building permit. Review shall be for conformance with GRC Article 5.75.

(Ord. No. 1700, Renumbered [formerly GRC 3.65.060], 03/03/2011)

5.75.070 Inspection Fees.

The council, by resolution, shall establish fees for inspection, reinspection, permit review, reporting and other functions that may be required by GRC Article 5.75.

(Ord. No. 1700, Renumbered [formerly GRC 3.65.070], 03/03/2011)

Article 5.99

ENFORCEMENT

Sections:

- 5.99.010** Violation.
- 5.99.020** Authority to Inspect.
- 5.99.030** Fines, Penalties and Other Enforcement Tools.
- 5.99.040** Discontinuation of Water Service.
- 5.99.050** Summary Discontinuation of Water Service.

5.99.010 Violation.

A violation shall have occurred when any requirement, provision, or rules of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.
(Ord. No. 1700, Enacted, 03/03/2011)

5.99.020 Authority to Inspect.

The manager may enter any property, building, or premises in accordance with GRC 7.50.500 through GRC 7.50.520, to perform an inspection in order to ensure compliance with any provision of this chapter.
(Ord. No. 1700, Enacted, 03/03/2011)

5.99.030 Fines, Penalties, and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any provision of this chapter may be subject to a fine or penalty in the maximum amount of \$1,000.

(4) Each day on which a violation occurs or

continues is a separate offense and may be subject to a separate fine or penalty.
(Ord. No. 1700, Enacted, 03/03/2011)

5.99.040 Discontinuation of Water Service.

(1) The city may discontinue any city provided water service billed to the customer in the following circumstances:

(a) If a customer account for water user charge is delinquent and the customer fails to pay the amounts and penalties due and owing within three days from the date a turn-off notice is delivered,

(b) if any other charges that the Gresham Revised Code authorizes collection by discontinuation of water service are delinquent and are not paid within three calendar days from the date a turn-off notice is delivered, or

(c) If the customer is in violation of any provision of this chapter and fails to correct the violation within five calendar days from the date a turn-off notice is delivered.

(2) The manager shall mail or deliver a turn-off notice to the service address and, if different, the billing address. The turn-off notice will state that water service will be disconnected unless the delinquent amounts and penalties are paid or the violations are corrected within the time period specified in the notice. If such amounts are not received by the city, or the violation is not corrected and inspected by a city representative in the time permitted, water service will be discontinued without further notice.

(3) The customer shall have the right to request an administrative review of the decision to discontinue water service by submitting a written request to the manager. The written request must be received by the city within three calendar days of the date the turn-off notice was delivered.

(4) The turn-off notice shall contain:

(a) a reference to the applicable code

provision;

(b) a statement of the basis for the decision to discontinue water service;

(c) the anticipated date the water will be shut off; and

(d) a statement of the customer's right to an administrative review of the decision if the customer submits a written request for an administrative review and it is received by the city within three calendar days from the date the turn-off notice was delivered.

(5) If water service for a multi-tenant building is in the owner's name and the water user charges are delinquent the city shall also mail or deliver a turn-off notice to each tenant prior to discontinuance of service. The city will charge the owner for each notice.

(6) The turn-off notice is considered delivered at the close of business on the date actually delivered or, in the case of mailing, the close of business on the third business day from the date of mailing, including the date of mailing.

(7) The manager shall conduct an administrative review if a customer's request has been submitted timely. The manager may appoint a designee to conduct the administrative review. The manager may, but is not required to, request additional written materials and schedule meetings with interested parties to obtain additional information in aid of a decision. The manager's decision is final.

(8) The council may set by resolution a fee for providing the turn-off notices and for discontinuation of service.

(9) The city shall not be liable for any damage resulting from discontinuation of service.

(10) Subject to subsection (11), the customer owing the water bill shall pay all charges or correct all violations before the city will restore water service.

(11) The manager may restore water

service to a delinquent account upon the acceptance of a plan approved by the manager for the payment of delinquent amounts.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1741, Amended, 08/14/2014; Ord. No. 1700, Enacted, 03/03/2011)

5.99.050 Summary Discontinuation of Water Service.

(1) If noncompliance affects matters of public health or safety or if the city determines it must act to protect itself from fraud or abuse, the city may immediately discontinue water service to a customer.

(2) In the event of such immediate discontinuation of water service, the customer shall have the right to an administrative review of the decision by submitting a written request to the manager. The written request must be received by the city within five calendar days of the date the water was discontinued.

(3) The manager shall conduct an administrative review if a customer's request has been submitted timely. The manager may appoint a designee to conduct the administrative review. The manager may, but is not required to, request additional written materials and schedule meetings with interested parties to obtain additional information in aid of a decision. The manager's decision is final.

(4) The city shall not be liable for any damage resulting from discontinuation of service.
(Ord. No. 1700, Enacted, 03/03/2011)

Chapter 6

PARKS AND STREETS

Articles:

6.10 PARKS

- 6.10.010 Picnic Reservations.
- 6.10.020 Sports Facility Reservations.
- 6.10.030 Special Event Reservations.
- 6.10.040 Fees for Recreational Services.

6.13 VENDING AND CONCESSION
BUSINESSES AT CITY
FACILITIES, PARKS,
TRAILS, AND OPEN SPACES

- 6.13.010 Definitions.
- 6.13.020 Permit Required.
- 6.13.030 Permit Fee.
- 6.13.040 Application.
- 6.13.050 Fire Permits and Inspections.
- 6.13.060 Application Review.
- 6.13.070 Form and Conditions of Permit.
- 6.13.080 Restrictions.
- 6.13.090 Denial or Revocation of Permit.
- 6.13.100 Enforcement.

6.30 UTILITY LICENSES

- 6.30.010 Short Title.
- 6.30.020 Purpose.
- 6.30.030 Definitions.
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- 6.30.100 General License Terms.
- 6.30.110 License Fee and Privilege Tax.
- 6.30.120 Location of Utility Facilities.
- 6.30.130 Coordination of Construction
Activities.
- 6.30.140 General Provisions.
- 6.30.150 Severability and Preemption.

- 6.30.160 Enforcement.
- 6.30.170 Other Remedies.
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- 6.30.190 Compliance with Laws.
- 6.30.200 Consent.
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6.35 JURISDICTION AND MANAGEMENT
OF PUBLIC RIGHTS-OF-WAY

- 6.35.010 Short Title.
- 6.35.020 Definitions.
- 6.35.030 Jurisdiction and Management of
Public Rights-Of-Way.
- 6.35.040 Permits.
- 6.35.042 Wireless Communication Facility
Right-of-Way Permit.
- 6.35.045 Qualification Required.
- 6.35.050 Standards for Work in the Public
Right-Of-Way.
- 6.35.060 Enforcement.

6.40 TRANSPORTATION MAINTENANCE
FEE

- 6.40.010 Purpose.
- 6.40.020 Definitions.
- 6.40.030 Establishment.
- 6.40.040 Dedicated.
- 6.40.050 Billing.
- 6.40.060 Payment Due Date.
- 6.40.070 Adjustment of Accounts.
- 6.40.080 Delinquency.

Article 6.10

PARKS

Sections:

- 6.10.010 [Picnic Reservations.](#)
- 6.10.020 [Sports Facility Reservations.](#)
- 6.10.030 [Special Event Reservations.](#)
- 6.10.040 [Fees for Recreational Services.](#)

6.10.010 Picnic Reservations.

The manager may grant group picnic reservations in city parks on a first come/first served basis upon receipt of a reservation application and payment of the required non-refundable application fee and reservation fee. The city may require security deposits in connection with the reservation application. The city may set different fees for residents and non-residents. The manager may either waive all or part of the application and reservation fees, or discount the application and reservation fees, based on factors identified by council resolution. The amount of the fees shall be set by council resolution.

(Ord. No. 1369, Amended, 09/14/1995; Ord. No. 1331, Amended, 11/03/1994)

6.10.020 Sports Facility Reservations.

(1) Subject to the rights of organized athletic groups to reserve sports facilities, the manager may grant reservations for the use of sports facilities in city parks on a first come/first served basis upon receipt of a reservation application and payment of the required non-refundable application fee and tournament fee, if any. The city may require security deposits in connection with the reservation application. The city may set different fees for residents and non-residents. The manager may either waive all or part of the application and tournament fees, or discount the application and tournament fees, based on factors identified by council resolution. The amount of the fees shall be set by council resolution.

(2) Notwithstanding subsection (1), the council may enter into agreement with groups or

associations for the use of city sports facilities.

(3) The city may require insurance coverage of a type and amount as required by the city attorney. (Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1369, Amended, 09/14/1995; Ord. No. 1331, Amended, 11/03/1994)

6.10.030 Special Event Reservations.

(1) The manager may grant special event reservations for use of city facilities on a first come/first served basis upon receipt of a reservation application and payment of the required non-refundable application fee and reservation fee. The city may require security deposits in connection with the reservation application. The city may set different fees for residents and non-residents. The manager may either waive all or part of the application and reservation fees, or discount the application and reservation fees, based on factors identified by council resolution. The amount of the fees shall be set by council resolution.

(2) For special events sponsored by organizations, the city may charge a fee for each participant in an amount set by council resolution.

(3) If city support staff services are requested or needed for the special event, the applicant shall pay a fee for city support staff services as set by council resolution.

(4) The city may require insurance coverage of a type and amount as required by the city attorney. (Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1369, Amended, 09/14/1995; Ord. No. 1331, Amended, 11/03/1994)

6.10.040 Fees for Recreational Services.

(1) The manager may set fees for providing elective recreational services, including programs and activities.

(2) The council shall set by resolution criteria to be used by the manager to set the fees. (Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1428, Enacted, 07/01/1997)

Article 6.13

VENDING AND CONCESSION
BUSINESSES AT CITY FACILITIES,
PARKS AND TRAIL HEADS

Sections:

- 6.13.010 [Definitions.](#)
- 6.13.020 [Permit Required.](#)
- 6.13.030 [Permit Fee.](#)
- 6.13.040 [Application.](#)
- 6.13.050 [Fire Permits and Inspections.](#)
- 6.13.060 [Application Review.](#)
- 6.13.070 [Form and Conditions of Permit.](#)
- 6.13.080 [Restrictions.](#)
- 6.13.090 [Denial or Revocation of Permit.](#)
- 6.13.100 [Enforcement.](#)

6.13.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 6.13, the following mean:

City Facility. Any public plaza, city parking lot, or city owned building. It also includes Main Street south of Powell Boulevard.

Community Event. Activity specifically approved by the manager granting use of a city facility, park or trail head within a specifically defined area for a specific period of time.

Vendor and concession business. A profit or non-profit business or organization which sells goods or services.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

6.13.020 Permit required.

(1) No person shall conduct a vending or concession business at any city facility, park or trail head without first obtaining a permit from the manager.

(2) Notwithstanding subsection (1), no person may conduct a vending or concession business at

any city trail or open space.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

6.13.030 Permit Fee.

The city may, in lieu of a vending/concession permit, grant permission to conduct a vending or concession business in a contract or permit for use of a city facility, park or trail head. Each application for a permit to conduct a vending or concession business at any city facility, park or trail head shall be accompanied by a nonrefundable fee established by council resolution. The council may, by resolution, require security deposits; require payment of fees for electrical or other services provided, including city support staff services, in connection with a community event; and provide for the waiver of fees.

(1) Permits issued under GRC 6.13.020 are not transferable. However, if a person sells or transfers a business for which permit fees have been paid, the purchaser shall not be required to pay an additional permit fee for the remainder of the term of the permit.

(2) Pursuant to GRC 2.92.010(1), a late payment charge shall be charged to all accounts for each 30 days in which the permit fees are not paid after the original bill is mailed.
(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

6.13.040 Application.

Application for a permit to conduct business at any city facility, park, or trail head shall be made by a form approved by the manager. The application must be submitted to the manager at least 30 days prior to the proposed date for commencement of vending or concession operations. The application shall include, but not be limited to, the following information:

(1) name and address of applicant;

(2) the expiration date of applicant's city business license or for a community event, the proposed start and end dates and times;

(3) type of merchandise or service to be sold;

(4) a valid copy, or proof of request, of all necessary permits, licenses or other documentation required by the city, state or other local authorities and the Oregon Liquor Control Commission;

(5) a signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for damage to property or injury to persons occasioned by any activity carried on under the terms of the permit. Permittee shall secure, maintain, and furnish certificates of insurance coverage of a type and amount as required by the city attorney;

(6) a narrative description of the means to be used in conducting business including, but not limited to, a description of any mobile container or device, to be used for transport or to display merchandise;

(7) the location(s) from which business will be conducted.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1426, Enacted, 07/01/1997)

6.13.050 Fire Permits and Inspections.

Prior to the issuance of any vending or concession permit, vendor shall be responsible for obtaining all necessary fire permits. The fire marshal shall inspect and approve any mobile device or pushcart to be used for cooking or heating to determine if the cooking or heating apparatus is in conformance with the provisions of the city fire code. Additional permits may be required, depending upon type of structure, occupancy and use.

(Ord. No. 1426, Enacted, 07/01/1997)

6.13.060 Application Review.

(1) Upon receipt of an application for a permit, the manager shall review each location applied for to ensure that the concession operations are located in such a way as to minimize the negative impact on surrounding areas and that the use of such location for vending and concession business is compatible with the public interest. In making the determination, the manager may consider the

available space, the size, type or design of the mobile device to be used, and the proximity and location of existing structures and fixtures, including but not limited to signposts, lamp posts, tables, benches and phone booths as well as the presence of bus stops, truck loading or other zones to determine whether the proposed use would result in pedestrian or street congestion.

(2) A permit shall not be issued unless all required documentation, including but not limited to, proof of insurance and other permits, licenses or certificates have been submitted to the manager.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1426, Enacted, 07/01/1997)

6.13.070 Form and Conditions of Permit.

Permits issued shall be in a form prescribed by the manager and shall contain the following conditions:

(1) Each permit shall be issued for a period to coincide with the term of applicant's city business license and shall expire unless both the business license and permit are renewed. For a community event, the permit shall expire as specified by the manager.

(2) The permit issued shall be personal only and not transferable in any manner.

(3) The permit is valid only when used at the location designated on the permit.

(4) The permit is valid only during the hours designated on the permit. The hours of concession operation shall be set by the manager to be compatible with the event or activity, the park or trail site, and the local neighborhood environment.

(5) Each concession location must be attended at all times by a person over 18 years of age who is responsible for the concession operation.

(6) The permit is subject to the conditions and restrictions of this article.

(7) The permit shall be displayed in a prominent and visible manner and the price of all items sold shall be conspicuously posted.

(8) The City shall have the right to preview and approve the concessionaire's signs or other like advertising features to be located at the city facility, park, or trail head.

(9) The permit, as it applies to a given location, may be temporarily suspended by the manager for a period of time as necessary to allow for a community event that would not be compatible with the permitted operation. The manager may elect to temporarily designate another location for operations.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

6.13.080 Restrictions.

(1) No person shall conduct a vending or concession business at a city facility or park in any of the following places:

(a) within 10 feet of a sidewalk, trail or path;

(b) within eight feet of the adjacent property line; and

(c) within 10 feet of any building entrance or doorway, or the extension of a line from such building entrance or doorway to the curb line.

(2) No person shall conduct a vending or concession business on any trail location other than a designated trail head.

(3) All persons conducting a vending or concession business at a city facility, park or trail head shall pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form deposited by any person at the city facility, park or trail head within 250 feet of the place of conducting business. Each person conducting a vending or concession business at a city facility, park or trail head under the provisions of this article shall provide a suitable container for the placement of litter by customers or other persons.

(4) All persons conducting a vending or concession business at a city facility, park or trail head shall obey any lawful order of a police officer

to move to a different permitted location to avoid congestion or obstruction of the city facility, park or trail head or to remove their vending cart entirely from the city facility, park or trail head if necessary to avoid such congestion or obstruction.

(5) No person shall conduct business as defined in this article at a location other than that designated on the permit.

(6) No permittee may make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to the wares or services.

(7) No permitted cart or device shall be left unattended at a city facility, park or trail head, nor remain at the city facility, park or trail head during times other than the permitted hours of operation.

(8) No permittee may conduct business in violation of the temporary permit suspension for a community event.

(9) Degradation or damage to the turf, trees, visual impairment, public safety, or intrusion into the natural habitat of the area will not be permitted. Any repair of the area deemed necessary by the Parks and Recreation Division shall be done at the concession operator's expense.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

6.13.090 Denial or Revocation of Permit.

(1) The manager may deny, revoke or suspend the permit of any person to conduct a vending or concession business at the city facility, park or trail head if the manager finds:

(a) that the person has violated any of the provisions of this article;

(b) any necessary permit or license has been suspended, revoked, or canceled or permittee is in violation of any city, local, state or other law or regulation; or

(c) the permittee does not have a currently effective insurance policy in the minimum

amount provided in GRC 6.13.040(5).

(2) Upon denial or revocation, the manager shall give notice of the action to the permit holder in writing stating the action taken and the reasons for it. If the action of the manager is a revocation based on subsections (1) (b) or (c) of this section, the action shall be effective when the notice is delivered to the permittee. A revocation based on subsection (1)(a) shall be effective 10 days from the date of notice unless protested, in which case the revocation, if upheld, will be effective on the date the decision is delivered to the permittee. The manager's decision may be protested to an independent hearings officer pursuant to GRC 7.50.030. The permittee shall vacate the city facility, park or trailhead immediately upon the effective date of the revocation.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

6.13.100 Enforcement.

(1) The operation of any vending or concession business in violation of the provisions of this article may be subject to a fine or penalty in the maximum amount of \$500. Each day on which a violation occurs or continues is a separate offense.

(2) The operation of any vending or concession business in violation of the provisions of this article is declared to be a nuisance. The manager may cause the removal of the vending or concession business in violation of this article and may store the cart or device until the owner redeems it by paying the removal and storage charges established by the manager. In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1426, Enacted, 07/01/1997)

Article 6.30

UTILITY LICENSES

Sections:

- 6.30.010 [Short Title.](#)
- 6.30.020 [Purpose.](#)
- 6.30.030 [Definitions.](#)
- 6.30.040 [Applicability.](#)
- 6.30.050 [Regulatory Fees and Compensation Not a Tax.](#)
- 6.30.060 [Reserved.](#)
- 6.30.070 [License.](#)
- 6.30.080 [Amendment, Renewal, Transfer of License.](#)
- 6.30.090 [Revocation or Termination of License.](#)
- 6.30.100 [General License Terms.](#)
- 6.30.110 [License Fee and Privilege Tax.](#)
- 6.30.120 [Location of Utility Facilities.](#)
- 6.30.130 [Coordination of Construction Activities.](#)
- 6.30.140 [General Provisions.](#)
- 6.30.150 [Severability and Preemption.](#)
- 6.30.160 [Enforcement.](#)
- 6.30.170 [Other Remedies.](#)
- 6.30.180 [Captions.](#)
- 6.30.190 [Compliance with Laws.](#)
- 6.30.200 [Consent.](#)
- 6.30.220 [Confidentiality.](#)

6.30.010 Short Title.

GRC Article 6.30 shall be known and may be cited as the "Utility License Code" and may be referred to as "this article." If the context requires, "this article" shall also refer to GRC Article 6.35.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.020 Purpose.

The purpose and intent of GRC Articles 6.30 and 6.35 is to:

(1) assure that the city's current and ongoing costs of granting and regulating access to, and the use of, the public rights-of-way are fully

compensated by persons seeking such access and causing such costs;

(2) secure fair and reasonable compensation to the city and its residents for the installation and use of utility facilities in the public rights-of-way;

(3) assure that all utilities providing facilities and/or services within the city, or passing through the city, comply with the ordinances, rules and regulations of the city;

(4) assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its citizens, including but not limited to, the public inconvenience and disruption stemming from the installation, maintenance and operation of utility facilities in the public rights-of-way; and the aesthetic impacts resulting from the installation of such facilities;

(5) comply with the provisions of the Communication Act of 1934, as amended, as they apply to local governments, communications service providers and the services they offer; promote competition on a competitively neutral and non-discriminatory basis in the provision of communications services; and encourage the provision of advanced and competitive communications services on the widest possible basis to business, institutions and residents of the city;

(6) permit and manage reasonable access to the public rights-of-way of the city and conserve the limited physical capacity of those public rights-of-way held in trust by the city, and provide access to the public rights-of-way on a competitively neutral and non-discriminatory basis; and

(7) enable the city to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

(Ord. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.030 Definitions.

In addition to the definitions set forth in, and to the extent not consistent with, GRC 1.05.010 or this

article, words not defined herein shall be given the meaning set forth in the Communications Act of 1934, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, all as amended. If not defined there, the words shall be given their common and ordinary meaning. For the purpose of GRC Articles 6.30 and 6.35 the following terms, phrases, words and their derivations shall have the meaning given herein.

Cable Act. The Cable Communications Policy Act of 1984, 47 USC §521, et seq., as now and hereafter amended.

Cable Service. To be consistent with federal law, the one-way transmission to subscribers of video programming, or other programming service; and subscriber interaction if any, which is required for the selection or use of such video programming or other programming service.

City. The city of Gresham, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

City Engineer. The Director of the Department of Environmental Services or designee.

City Property. All real or personal property or fixtures owned or controlled by the city, including the public rights-of-way as those are defined herein, and all property held in a proprietary capacity by the city. City property includes, but is not limited to: city streets, roads, alleys and bridges in the public rights-of-way; parks, open spaces, trails, paths, and access ways; parking lots, public buildings, and access easements, driveways, or access ways located upon property held in a proprietary capacity. City-owned traffic signals, traffic signal poles, streetlights and streetlight poles shall be considered city property.

Communications Service. Any service providing the electromagnetic, electronic, or optical transmission of information including, but not limited to, voice, video or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself, whether or not the transmission is by the

owner of the utility facility or on behalf of other communications service utilities, and whether or not the transmission medium is wireline. Communications service includes all forms of voice, video, data or information transport, including but not limited to telecommunications services, cable services, information services, broadband services and internet access. Does not include direct broadcast satellite service, radio and television broadcast service, or communications of a customer which takes place exclusively on the customer side of on-premise equipment.

Communications Service Provider. Any person that provides communications services and which directly or indirectly owns, controls, operates, uses, or manages utility facilities in the public rights-of-way that are used to provide communications service within the city. Communications service provider includes a telecommunications utility.

Conduit. Any structure, or section thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or similar utility facilities used for any utility service, owned or controlled, in whole or in part, by one or more utilities.

Construction. Any activity in the public rights-of-way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

Control or Controlling Interest. Actual working control in whatever manner exercised.

Duct. A single enclosed raceway for conductors, wire or cable.

FCC or Federal Communications Commission. The federal administrative agency, or lawful successor, authorized to regulate and oversee communications services and providers on a national level.

License. The grant, on a non-exclusive basis, of permission for a person to use public rights-of-way within the city for a specified and dedicated purpose as provided by GRC Article 6.30.

Overhead or Aboveground Facilities. Utility poles,

wires, cable and other utility facilities above the surface of the ground, including the underground supports and foundations for such facilities.

Private Communications Network. A system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service, by a person for the exclusive use of that person and not for resale, directly or indirectly. "Private communications network" includes services provided by the State of Oregon pursuant to ORS 190.240 and ORS 283.140.

Public Rights-Of-Way. See definition in GRC 1.05.010. As used in GRC Articles 6.30 and 6.35, a public right-of-way includes a public utility easement but does not include city property.

Public Utility Easement. An easement conveyed, granted or dedicated to the city or the public and acquired, established, dedicated or devoted to utility purposes, whether designated as a public easement, utility easement, general utility easement, public utility easement or similar term. Easements acquired for use by the city's public stormwater, wastewater, or water systems shall not be considered public utility easements or public rights-of-way.

State. State of Oregon.

Telecommunications Utility. Shall have the same meaning as ORS 759.005(9).

Underground Facilities. Utility facilities located under the surface of the ground, excluding the underground foundations or supports for "Overhead facilities."

Utility. Any person, or its lessees or trustees of record, that owns, operates, manages or controls all or a part of any utility facility in the city for the production, transmission, delivery, conveyance, distribution or function of gas, heat, steam, light, wastewater, stormwater, water, power, electricity, or communications service. Includes any affiliate of a utility, or any other entity controlled or managed by a utility or its affiliate, that uses utility facilities in the city to provide any utility service; utilities owned or operated by a municipality or

special district; and electricity service supplier as defined by ORS 757.600; and a Private Communications Network.

Utility Facilities. The plant, equipment and property, including but not limited to the poles, pole extensions, pipes, mains, conduits, ducts, cable, wires, brackets, wireless communication devices or other plant, equipment and appurtenance located under, on, or above the surface of the ground within the public rights-of-way of the city and used or to be used for the purpose of providing any utility services.

Utility Service. The provision of gas, heat, steam, light, wastewater, stormwater, water, power, electricity or communications service through utility facilities located in the public rights-of-way. (Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1523, Enacted, 06/14/2001)

6.30.040 Applicability.

(1) GRC Articles 6.30 and 6.35 apply to all governmental, public and private utilities operating within the City of Gresham, except as specifically exempted herein.

(2) GRC Article 6.30 shall also apply to a communications service provider that provides any communications service using utility facilities owned or operated by other utilities.

(3) GRC Article 6.30 shall not apply to the provision of cable service by a person who has been granted a cable franchise subject to negotiation and recommendation by the Mt. Hood Cable Regulatory Commission.

(4) The requirements of GRC Articles 6.30 and 6.35 may be varied or waived by the provisions of a negotiated franchise agreement between the city and a utility entered into after the effective date of this ordinance.

(5) For purposes of GRC Articles 6.30 and 6.35, the city may exercise jurisdiction over public roads as defined by ORS Chapter 368 under the jurisdiction of the State of Oregon to the extent

allowed by law.

(6) GRC Articles 6.30 and 6.35 shall not apply to utility facilities owned or operated by a governmental entity related to the use of the public rights-of-way for transportation purposes. However, for purposes of the undergrounding requirements of GCDC A5.510, transportation facilities shall be considered a utility.

(7) GRC Article 6.30 shall not apply to private utility facilities that are designed and constructed to serve a particular development. Such utility facilities shall not be placed in the public rights-of-way unless a permit is obtained as provided in GRC Article 6.35 and shall be subject to all applicable requirements of the Gresham Community Development Code.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1541, Amended, 03/21/2002; Ord. No. 1523, Enacted, 06/14/2001)

6.30.050 Regulatory Fees and Compensation Not a Tax.

(1) The city council, by resolution, may set such fees as are necessary to implement the provisions of GRC Articles 6.30 and 6.35 and to compensate the city for the use of the public rights-of-way and the use of public infrastructure.

(2) The license fees and cost recovery fees provided for in GRC Articles 6.30 and 6.35 are compensation charged and paid for the use of public rights-of-way, and are separate from, and in addition to, any and all federal, state, local and city fees, taxes and costs as may be levied, imposed or due from a utility or its customers or subscribers, for purposes other than compensation for the use of public rights-of-way.

(3) The city has determined that any fee imposed by or pursuant to this article is not subject to the property tax limitations of Article XI, Sections 11 and 11(b) of the Oregon Constitution. The fees required by GRC Article 6.30 are imposed upon the specific request of the utility to be licensed to use public rights-of-way within the city and as compensation for that utility's use of the

public rights-of-way. The fees required by GRC Article 6.35 are imposed on the owner of the facilities being installed in the public rights-of-way or the owner of property required to construct public improvements in the public rights-of-way pursuant to the owner's specific request to work in the public rights-of-way.

(4) The fees and costs provided for in this ordinance are subject to applicable federal and state laws.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.060 Reserved.

6.30.070 License.

(1) Utility License Required. No person shall construct, install, operate, maintain, or submit a permit application for a utility facility in the public right-of-way without first obtaining a utility license.

(2) License. A license shall be required of any utility that occupies public rights-of-way whether such use is by placing utility facilities in the public rights-of-way, by using utility facilities owned or operated by other utilities, or by attaching or locating utility facilities to, on, upon, or within the utility facilities of another.

(a) A license shall also be required to operate a Private Communications Network or a portion thereof in the public rights-of-way. No person shall operate a utility or Private Communications Network that occupies public rights-of-way without a license. A utility with a utility license is not required to obtain a separate utility license to operate its own Private Communication Network necessary to provide the utility services authorized by the utility license.

(3) Type of Utility Service. A license may authorize a utility to place one or more types of utility facilities on, over or under the public rights-of-way. A licensee shall not place on, over or under the public rights-of-way any type of utility facilities not authorized by the license.

(4) Application. Any person that desires a license must file an application with the manager which includes the following information:

(a) The identity of the applicant.

(b) A general description of the type of utility facilities that will be located by the applicant in the public rights-of-way.

(c) The area or areas of the city the applicant desires to place utility facilities in the public rights-of-way, which may include the entire city or a part of the city, and, if the applicant has not previously served the city, a preliminary construction schedule for build-out of the utility facilities it will locate in the public rights-of-way.

(d) Information to establish that the applicant has obtained all other governmental approvals, authorizations and permits necessary to provide utility services using utility facilities in the public rights-of-way.

(5) Application Fee. An application fee in an amount set by council resolution to recoup the city's costs in processing the application shall be submitted to the city when an application is filed with the city.

(6) Determination by the City. The manager shall issue a written determination granting or denying the application in whole or in part. If the application is denied, the written determination shall include the reasons for denial. The application shall be evaluated based on the demonstrated ability of the applicant to comply with the terms of this ordinance and if denied, the applicant may appeal to the council pursuant to GRC 1.05.025. Factors to be considered include:

(a) The continuing capacity of the public rights-of-way to accommodate the applicant's proposed utility facilities.

(b) The applicant's compliance with the requirements of this article.

(c) Applicable federal, state and local laws, rules and policies.

(7) Rights Granted. No license granted pursuant to this article shall convey any right, title or interest in the public rights-of-way, but shall be deemed a grant to use and occupy the public rights-of-way for the limited purposes and term, and upon the conditions stated in the license. The person granted the license shall have no property interest or other right in the license except as provided by this article. A license granted pursuant to this article is not a contract.

(8) Term of Grant. Unless otherwise specified in a license, a license granted hereunder shall be in effect until June 30th of the year which is 10 years from the year of issuance of the license.

(9) License Territory. Unless otherwise specified in a license, a license shall be for the entire city and the public rights-of-way necessary to serve the entire city.

(10) Additional Terms and Conditions. The manager and applicant may negotiate additional terms and conditions to clarify, enhance, expand, waive or vary the provisions of this article. The additional terms and conditions may conflict with the terms of GRC Articles 6.30 and 6.35, but only with the review and approval of council. Such additional terms and conditions shall be in writing and signed by both the city and applicant.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1523, Enacted, 06/14/2001)

6.30.080 Amendment, Renewal, Transfer of License.

(1) Amendment of Grant. Conditions for amending a license:

(a) In the event the license area does not include the entire city, an application shall be required of any licensee that desires to extend or locate utility facilities in public rights-of-way which are not included in a license previously granted under this article. Issuance of an amended license shall be subject to the provisions of this article.

(b) If ordered by the city to locate or relocate its utility facilities in public rights-of-way not included in a previously granted license, the city shall grant an amendment without further application.

(c) An application shall be required of any licensee that desires to occupy public rights-of-way to provide a type of utility service that was not included in a franchise or license previously issued by the city. Issuance of a license to occupy public rights-of-way for the new type of utility service shall be subject to the provisions of this article. A license shall be issued only if the licensee is in compliance with its existing franchise or license.

(2) Renewal Determinations. An application shall be required of any licensee that desires to renew its existing license. Within 90 days after receiving a complete application, the city shall issue a written determination granting or denying the renewal application in whole or in part. If the renewal application is denied, the written determination shall include the reasons for non-renewal. Renewal shall be based on the same factors as provided by GRC 6.30.070(6).

(3) Obligation to Cure as a Condition of Renewal. No license shall be amended or renewed until any on-going violations or defaults in the grantee's performance of any license or agreement, or of the requirements of this article, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the city.

(4) Transfers of License. A license may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the licensee, by operation of law or otherwise, nor shall control of a licensee be assigned or transferred to another person, without notice to the city at the time of transfer.

(a) The proposed assignee or transferee of the license shall agree, in writing, to assume and abide by all of the provisions of the license, shall assume all liabilities or obligations of its predecessor under the license, whether known or unknown, occurring prior to such transfer, and shall obtain and file with the

city the bonding and insurance requirements of this article.

(b) Any transfer of a license without notice to the city and written acceptance of the license as required under this section shall be cause for revocation of the license.

(5) Unless otherwise provided in the license or consent or by applicable law, the grantee shall reimburse the city for all direct and indirect fees, costs, and expenses reasonably incurred by the city in considering an amended or renewal license. Any application required by this section shall include an application fee in an amount set by council resolution.

(Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523)

6.30.090 Revocation or Termination of License.

(1) A license to use or occupy public rights-of-way of the city may be revoked for the following reasons:

(a) Construction in the public rights-of-way without a permit required by GRC 6.35.040.

(b) Construction or operation at an unauthorized location.

(c) Failure to comply with GRC 6.30.080 herein with respect to amendment, renewal or transfer of a license.

(d) Misrepresentation by or on behalf of a licensee in any application to the city.

(e) Abandonment of utility facilities in the public rights-of-way unless authorized by the city.

(f) Failure to relocate or remove utility facilities as required.

(g) Failure to pay taxes, compensation, fees or costs when and as due the city under this article, unless there is a bona

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vide dispute as to the amount to be paid, and then only to the extent of the dispute.

(h) Violation of a material provision of this article.

(i) Violation of a material term of a license.

(2) Notice and Duty to Cure. In the event that the manager believes that grounds exist for revocation of a license, the manager shall give the licensee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the licensee a reasonable period of time not exceeding 30 days to furnish evidence that:

(a) corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;

(b) rebuts the alleged violation or noncompliance; and/or

(c) it would be in the public interest to impose some penalty or sanction less than revocation.

(3) In the event that a licensee fails to provide evidence reasonably satisfactory to the manager as provided in subsection (2), the manager shall determine if the license should be revoked or establish some lesser sanction.

(4) Standards for Revocation or Lesser Sanctions. If the licensee has violated or failed to comply with one or more of the reasons in subsection (1), the manager shall determine whether to revoke the license, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors. Whether:

(a) The misconduct was egregious.

(b) Substantial harm resulted.

(c) The violation was intentional.

(d) There is a history of prior violations of the same or other requirements.

(e) There is a history of overall non-compliance.

(f) The violation was voluntarily disclosed, admitted or cured.

(5) The manager's decision may be appealed to council on the record pursuant to GRC 1.05.025. (Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1523, Enacted, 06/14/2001)

6.30.100 General License Terms.

(1) Licensee, as used in GRC 6.30.100, shall include any person that operates a utility and locates any utility facilities in the public rights-of-way, including a person that operates without a currently valid and unexpired license.

(2) Maps. Upon request, and in a generally recognized format acceptable to the city, each licensee shall provide the city with an accurate map(s) certifying the horizontal and vertical location, size and type of material of all of licensee's underground utility facilities within the public rights-of-way or a portion thereof. The map(s) need not include details of the nature of the utility facilities. The map(s) shall show the horizontal and vertical location of the utility facilities to the extent such information is available. A Licensee shall not be required to 'pothole' or conduct 'vertical locates' to satisfy a mapping request unless reasonably required for the design of a city public improvement project.

(3) Damage to Licensee's Utility Facilities. Unless directly and proximately caused by willful, intentional or malicious acts or negligence by the city, the city shall not be liable for any damage to or loss of any utility facility within the public rights-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public rights-of-way by or on behalf of the city, or pursuant to a permit issued by the city, or for any consequential losses resulting directly or indirectly therefrom.

(4) Duty to Provide Information. Within 60 days of a written request from the city, each licensee shall:

(a) Furnish the city with information sufficient to demonstrate that licensee has complied with all requirements of this article.

(b) Make available for inspection by the city at reasonable times and intervals all maps, diagrams, plans and other documents, maintained by the licensee that describe or locate utility facilities within the public right-of-way.

(5) Licensee Insurance. Unless otherwise provided in a license, each licensee shall, as a condition of the grant, secure, maintain and furnish certificates of insurance coverage of a type and amount as required by the city attorney. Licensee may provide proof of self-insurance, satisfactory to the attorney, as an alternative means of meeting this requirement.

(6) General Indemnification. Each license includes, to the extent permitted by law, licensee's express undertaking to defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the licensee or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance, repair or removal of its utility facilities, and in providing or offering utility services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this article or by a license issued pursuant to this article.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1541, Amended, 03/21/2002; Ord. No. 1523, Enacted, 06/14/2001)

6.30.110 License Fee and Privilege Tax.

(1) License Fee.

(a) Each license granted pursuant to this article shall be subject to the condition that the licensee pays a license fee in an amount or by a method or methods established from time to time by council resolution which may include payment of a minimum license fee. The city may elect in the resolution establishing the license fee to dedicate all or a portion of the license fee to specific funds, projects or programs of the city.

(b) If a licensee only owns or operates within the city one or more transmission lines that use public rights-of-way and such line or lines' primary purpose is to serve customers outside the city, then the licensee shall not pay a license fee under (1)(a) herein, but shall instead pay a transmission line license fee in an amount or calculated by a method determined by council resolution.

(2) Gas, Electric, Municipal, People's Utility District, Cooperative, Joint Operating Agency, or Special District Utility.

(a) The license fee for gas, electric, municipal, People's Utility District, Cooperative, Joint Operating Agency, or Special District utilities may be a percentage of the gross revenue collected by the licensee for utility operations within the city, or such other method as determined by the council. The gross revenues shall be reduced by net uncollectibles and sales of gas, electricity, or water at wholesale by the licensee to any public utility or public agency where the public utility or public agency purchasing such gas, electricity, or water is not the ultimate consumer. Gross revenue shall include revenue from the use, rental or lease of utility facilities.

(b) Unless the city adopts a volumetric rate, gross revenues for an electric utility shall include electricity provided by the electric utility and an electricity service supplier(s) if bills are consolidated as provided by ORS Chapter 757 related to Direct Access Regulation. If bills are not consolidated, then each electricity service supplier and the distribution utility shall pay their respective

license fee directly to the city.

(c) The city may elect to establish a volumetric rate as provided by state law for electric distribution utilities.

(3) Communications Service Providers.

(a) The license fee for a communications service provider may be a percentage of the gross revenue collected by the licensee currently earned within the boundaries of the City of Gresham or such other method as determined by the council. Gross revenues means all amounts in whatever form and from all sources, less net uncollectibles, earned from the provision of communications service originating or terminating in the city, utilizing the public rights-of-way, and charged to a customer location in the city regardless of where the service is billed or paid. Gross revenues shall also include any and all revenue from leases, licenses, permits, rental agreements, IRU's or any other use of any part of the Grantee's utility facilities in the public rights-of-way.

(b) Notwithstanding subsection (a), a telecommunication utility shall pay a privilege tax on "gross revenues" as provided by ORS 221.515. To the extent that separate fees are charged for use of the public rights-of-way including, but not limited to, license applications, street opening, construction, inspection or maintenance of fixtures or utility facilities, pursuant to ORS 221.515(3), such fees shall be paid by a telecommunication utility but may be deducted from the privilege tax. In lieu of requiring payment of fees by telecommunication utilities, the city may waive or establish a system of internal transfers of revenues for such fees.

(c) The gross revenues of a communications service provider that provides communications services using utility facilities owned or operated by other utilities may be reduced by the amount paid for the use of such utility facilities if the utility that owns or operates the utility facilities reports the amount paid to them for such use as gross revenue as

required by this section.

(d) The license fee for a wireless communication facility in the right-of-way shall be established by council resolution. Notwithstanding 6.30.110(7), all wireless communication facility license fees shall be paid annually, with the prorated first payment due within 30 days of the effective date of the license. Proration shall be done on a calendar day basis. Payment thereafter shall be paid, in advance, per calendar year on or before January 1st of each subsequent year.

(4) A licensee that provides more than one type of utility service shall pay a license fee on each type of utility service as described in an agreement negotiated pursuant to GRC 6.30.070(10).

(5) If a utility is not specifically listed herein, the manager shall determine the most appropriate category and the utility shall pay that license fee.

(6) Privilege Tax.

(a) Any utility that operates without a license for a period of 30 days or more within the city and uses public rights-of-way in the city for other than travel, shall pay a privilege tax in the amount set by council resolution for the use of those public rights-of-way.

(b) Such utility shall include an electricity service supplier(s) using the facilities of an electric utility and that does not consolidate bills with the electric utility and license fees are not paid pursuant to subsection (2)(b) or 2(c).

(7) Payment Schedule:

(a) Except for wireless communications facilities in the right-of-way, as provided in 6.30.110(3)(d), the license fee or privilege tax shall be paid quarterly, in arrears, continuing for each quarter during the term of the license or use of the public rights-of-way on the following schedule:

(i) on or before November 15 for the period extending from July 1 through September 30, inclusive, of the same calendar year;

(ii) on or before February 15 for the period extending from October 1 through December 31, inclusive, of the preceding calendar year;

(iii) on or before May 15 for the period extending from January 1 through March 31, inclusive, of the same calendar year; and

(iv) on or before August 15 for the period extending from April 1 through June 30, inclusive, of the same calendar year.

(b) A licensee or a utility operating without a license that commences operations during a quarter shall make the initial payment on or before the payment date following the quarter during which operations are commenced.

(c) In the event of a termination of a utility's operations in the city, the final payment shall be made on or before the 45th day following the date of such termination.

(d) If the license fee or privilege tax is not paid to the city on or before the date due, a late payment charge shall be owed from the due date to the date on which the city receives payment, compounded monthly. The late payment charge shall be due at the same time that the utility makes the delinquent payment to the city.

(8) Reports and Audits.

(a) Pursuant to the schedule in subsection (7), each utility shall file with the city a report of the gross revenues or other basis on which the fee or tax is determined, setting forth the revenues collected and certified as being true and accurate.

(b) The city may, at any time,

investigate and audit any report or fee payment submitted and determine the accuracy of the amount reported or paid. The utility shall make available for city investigation and audit all records, including historical records and books of the utility necessary for verification of the report or payment. Such investigation and audit may be done by the city or any person selected by the city. Neither the city's acceptance of payment nor the city's failure to make an investigation shall be deemed to prevent subsequent investigation by the city, or to estop the city from collecting any amount due.

(c) If, upon investigation, audit or otherwise, the fee or tax paid is determined to be excessive, a refund of the excess will be paid. If the fee paid is found to be insufficient, the manager shall notify the utility of the amount of the deficiency and demand payment of the amount.

(d) If a utility fails to properly report or pay the true amount of gross revenue or other basis from all accounts within the city as determined by the city after investigation or audit, a late payment charge will be owed on the under reported gross revenue calculated from the first day of the calendar quarter in which the error occurred to the date on which the city receives payment, compounded monthly. The late payment charge shall be due at the same time that the utility is required to make payment of any insufficiency of the license fee or privilege tax. If the manager determines that the insufficiency is due to fraud, intent to evade the fee or tax, or is greater than 10 percent of the total amount due, a penalty of 25 percent of the amount of the total fee or tax shall be paid in addition to the amount due and the late payment charge.

(e) Within 10 days from the date of any notice by the manager that the license fee or privilege tax paid is insufficient and demands payment, the utility may protest to a hearings officer pursuant to GRC 7.50.030. If no such protest is taken, if the hearings officer decides adversely to the utility, or if the hearings officer decides that any other amount

is due, the manager shall proceed to collect the amount determined to be due and unpaid.

(f) In addition to any other penalties prescribed by law, if a licensee fails to make payment of any deficiency determined to be due and unpaid in accordance with the provisions of this subsection within 10 days of such final determination, the manager may suspend the license issued to the licensee.

(g) If any person operates without a license as required by this article, operates during a period of suspension after licensee has exhausted all due process rights, or materially under reports the license fee or privilege tax which is due, such person shall be liable for an additional penalty, computed at two percent of the gross revenues received by that person for providing utility service in the city during the applicable period, which shall be paid in addition to the applicable license fee or privilege tax.

(9) Refunds. In the event that a utility is ordered to refund any revenues by a governmental entity or agency with jurisdiction to make such an order and such refund will affect the license fee or privilege tax paid pursuant to this section, the calculation of the license fee or privilege tax shall not include the refund except pursuant to a mutually agreed upon schedule. If there is a substantial budgetary impact, such schedule may include spreading the impact of the refund on the future license fee or privilege tax to be paid to the city over a period of time commencing the first full fiscal year following the ordering of the refund. Such schedule shall minimize the administrative impact to the licensee and may include interest on the unpaid refund.

(10) Other City Costs. All licensees shall, within 30 days after written demand, reimburse the city for all reasonable costs and expenses incurred by the city in connection with processing or acting on any modification, amendment, renewal, transfer, termination, or revocation or lesser sanction of the license consistent with applicable state and federal laws. The written demand shall include a detailed statement of such costs and expenses.

(11) Compensation for City Property. If any right is granted by lease, or other manner, to use city property for the installation and operation of utility facilities, the compensation to be paid for such right and use shall be fixed by the city. Such compensation for the use of city property shall be in addition to the license fee or privilege tax as compensation for use of the public rights-of-way unless the use of city property by the utility is, in whole or in substantial part, in order to provide service to city facilities.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1523, Enacted, 06/14/2001)

6.30.120 Location of Utility Facilities.

(1) Location of Utility Facilities. All utility facilities located within the public rights-of-way shall be installed at the expense of the utility and in accordance with the following terms and conditions, unless otherwise specified:

(a) Whenever a utility has existing utility facilities located underground within a portion of public right-of-way, the same utility must also locate its new utility facilities underground within that same portion of right-of-way. This provision does not apply to power facilities which are technically infeasible to underground pursuant to GCDC A5.510, wireless communication facilities which are technically infeasible to underground, such as antennas, or to replacements of any existing utility facilities done solely for maintenance purposes.

(b) To minimize disruption of the public rights-of-way when new or existing utility facilities are located or relocated underground within a public right-of-way, a person that currently occupies the same public right-of-way shall relocate its utility facilities underground concurrently with other affected utilities absent circumstances or hardship as determined by the city and consistent with applicable state and federal law.

(c) The city may require undergrounding of existing utility facilities as otherwise permitted by state and federal law.

(2) Interference with the Public Rights-of-Way. No person shall locate or maintain utility facilities so as to unreasonably interfere with the use of the public rights-of-way by the city, the general public or by other persons authorized to use or be present in or upon the public rights-of-way. All use of public rights-of-way shall be consistent with city codes, ordinances, public works standards and regulations.

(3) Relocation or Removal of Utility Facilities. Except in the case of an emergency as determined by the city, or as otherwise agreed to by the city, within 30 days following written notice from the city, a person shall remove, relocate, change or alter the position of utility facilities installed by that person or that person's predecessor in interest within the public rights-of-way. The person may request additional time to complete the removal or relocation which shall not be unreasonably denied. The city may issue such notices when the city has determined that such removal, relocation, change or alteration is reasonably necessary for:

(a) the construction, repair, maintenance or installation of any city or other public improvement in or upon the public rights-of-way, whether a public work by the city or its contractor, or the construction, repair, maintenance or installation of a public improvement by a person pursuant to the requirements of the city's development code;

(b) the operations of the city or other governmental entity in or upon the public rights-of-way; or

(c) the public interest as determined by the manager.

(4) Removal of Unauthorized Utility Facilities. Except in the case of an emergency, or as otherwise agreed to by the city, within 30 days following written notice from the city, any person that owns, controls or maintains any unauthorized utility facility within the public rights-of-way shall

remove such utility facilities from the public rights-of-way of the city. A person may request that the city permit such utility facilities to be abandoned in place subject to such terms and conditions the city may prescribe. A utility facility is unauthorized and subject to removal in the following circumstances:

(a) One year after the expiration or termination of the person's utility license, franchise or permit. The one-year period shall be stayed if an application for renewal has been submitted or during litigation regarding termination.

(b) Upon abandonment of a utility facility within the public rights-of-way of the city. A utility facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of 90 days or longer unless a longer period is approved by the city, such approval not to be unreasonably withheld. Excess capacity intended for future use shall not be considered abandoned. A utility facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the utility facility is being replaced.

(c) If the utility facility was constructed or installed without the appropriate prior authority at the time of installation and such authority has not subsequently been granted.

(d) If the utility facility was constructed or installed at a location not permitted by license, franchise or other legally sufficient permit and has not subsequently been authorized.

(e) If the utility facility is not removed or relocated as required by subsection (3).

(5) The change, alteration, relocation or removal of utility facilities pursuant to subsections (3) and (4) shall be at no expense to the city. Subject to Oregon law and applicable tariffs approved by the OPUC, the relocation or removal shall be at the expense of the person required to

relocate or remove the facility.

(6) Before commencing removal or relocation, a person shall obtain a permit as required by GRC 6.35.040(3).

(7) If removal or relocation is necessary due to a public improvement under a contract entered into between the city and an independent contractor and the failure to remove or relocate within the time specified results in payment by the city to the contractor of any claim for extra compensation for any work or delay under said contract, the utility shall be liable for payment of the amount paid by the city to the contractor as a direct result of the utility's failure to comply with the time requirements of the city unless the utility's failure is caused by circumstances beyond the utility's control or the action or inaction by the contractor.
(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1523, Enacted, 06/14/2001)

6.30.130 Coordination of Construction Activities.

All utilities are required to make a good faith effort to cooperate with the city.

(1) By March 1 of each year, each licensee shall provide the city with a schedule of their proposed construction activities for the coming year in, around or that may affect the public rights-of-way. Each licensee shall provide the city with updates as available.

(2) When requested by the city, each licensee shall meet with the city to schedule and coordinate construction in the public rights-of-way. At that time, city will provide available information on plans for local, state, and/or federal construction projects.

(3) All construction locations, activities and schedules shall be coordinated, as ordered by the city engineer or designee, to minimize public inconvenience, disruption or damages.
(Ord. No. 1523, Enacted, 06/14/2001)

6.30.140 General Provisions.

(1) Governing Law. Any license or permit granted under GRC Articles 6.30 or 6.35 is subject to the provisions of the constitution, laws, and regulations of the United States, and the State of Oregon, and to the charter, ordinances, and resolutions of the city.

(2) Written License or Permit. No license or permit shall be granted under GRC Articles 6.30 or 6.35 unless the license or permit is in writing.

(3) Nonexclusive Grant. No license or permit granted under this ordinance shall confer any exclusive right, privilege, or permission to occupy or use the public rights-of-way of the city for delivery of services or any other purposes.
(Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.150 Severability and Preemption.

If any section, subsection, clause, phrase, term, provision, condition, covenant or portion of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulations or decision, the remainder of the ordinance shall not be affected thereby but shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this ordinance shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this ordinance, then the provision shall be read to be preempted only to the extent required by law. In the event such federal or state law, rules or regulation is subsequently repealed, rescinded, amended, re-construed or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the city.

(Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.160 Enforcement.

(1) A violation of any provision of this article may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(2) Unless otherwise specified, a violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$1,000. Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1523, Enacted, 06/14/2001)

6.30.170 Other Remedies.

Nothing in GRC Articles 6.30 or 6.35 shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this article.

(Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.180 Captions.

The captions to sections throughout GRC Articles 6.30 or 6.35 are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this article.

(Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.190 Compliance with Laws.

(1) All persons shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the city heretofore or hereafter adopted or established during the entire term of any license or permit granted under GRC Articles 6.30 or 6.35, which are relevant and relate to the construction, maintenance and operation of a utility facility in a public right-of-way.

(2) It is the sole responsibility of the person authorized to construct, install, operate and maintain a utility facility in the public right-of-way to comply with all applicable laws, regulations and

conditions. It is not the responsibility of the city to guarantee compliance with the applicable laws, regulations and conditions during the application for, or the construction, installation, operation or maintenance of, the utility facility. The city is not liable in any way for any failure of the authorized person to carry out its responsibility to comply with all applicable laws, regulations and conditions. Should the authorized person fail to comply with the applicable laws, regulations, and conditions, regardless of cause, the city does not waive its ability to enforce such laws, regulations, and conditions. The city is in no way prevented or otherwise estopped from enforcing such laws, regulations, and conditions, regardless of when noncompliance is discovered.

(Ord. No. 1766, Amended, 08/04/2016; Ord. No. 1523, Enacted, 06/14/2001)

6.30.200 Consent.

Wherever the consent of either the city or of the licensee is specifically required by GRC Articles 6.30 or 6.35 or in a license or permit granted, such consent will not be unreasonably withheld.

(Ord. No. 1523, Enacted, 06/14/2001)

6.30.220 Confidentiality.

Confidential information submitted to the city is exempt from public disclosure to the extent permitted by the Oregon Public Records Law. The city shall use its best efforts to preserve the confidentiality of information submitted to the city, if requested by, and at the cost of, the person claiming the confidentiality of such information.

(Ord. No. 1523, Enacted, 06/14/2001)

Article 6.35

JURISDICTION AND MANAGEMENT OF PUBLIC RIGHTS-OF-WAY

Sections:

- 6.35.010 [Short Title.](#)
- 6.35.020 [Definitions.](#)
- 6.35.030 [Jurisdiction and Management of Public Rights-Of-Way.](#)
- 6.35.040 [Permits and Licenses.](#)
- 6.35.042 [Waivers for Wireless Communication Facilities.](#)
- 6.35.045 [Qualification Required.](#)
- 6.35.050 [Standards for Work in the Public Right-Of-Way.](#)
- 6.35.060 [Enforcement.](#)

6.35.010 Short Title.

GRC Article 6.35 shall be known and may be cited as the "Public Rights-of-Way Ordinance" and may also be referred to as "this ordinance." (Ord. No. 1524, Enacted, 06/14/2001)

6.35.020 Definitions.

(1) The definitions of GRC 6.30.030 shall apply to GRC Article 6.35.

(2) As used in GRC Article 6.35, facilities also means non-utility facilities and public or private improvements located, constructed, or installed in the public rights-of-way by any person.

(3) As used in GRC Article 6.35, and when the context requires "applicant" shall mean the person granted, or who should have obtained a permit, pursuant to this article.

(4) Definitions. For purposes of GRC 6.35, the following mean:

Utility Pole. A streetlight pole, traffic signal pole, or a pole or structure in the public right-of-way that carries transmission or distribution lines of a utility that is subject to either a license issued pursuant to GRC Article 6.30 or a franchise agreement.

Wireless Communication Facility ("WCF"). An unmanned facility, a portion of which is located on a utility pole for the transmission of radio frequency signals for wireless communication, including but not limited to wireless service and broadband service, usually consisting of antennas, radio transceivers, cabinets or other enclosed structure containing electronic equipment, cables, wires, conduits, or other transmission and reception devices.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1524, Enacted, 06/14/2001)

6.35.030 Jurisdiction and Management of Public Rights-Of-Way.

(1) The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city and authority of the city charter, ordinances, and state law.

(2) The city has jurisdiction and exercises regulatory management over public rights-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

(3) No person shall occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use public rights-of-way by licenses and permits as described in GRC 6.35.040.

(4) The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

(5) The city retains the right and privilege to immediately require the person responsible to move or otherwise adjust its facilities located within the public rights-of-way, or, upon consultation with the utility, with its own forces the city may move or otherwise adjust such facilities, as the city may determine to be necessary, appropriate or useful in response to a public health

or safety emergency.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1524, Enacted, 06/14/2001)

6.35.040 Permits and Licenses.

(1) General. No person shall do work of any type, store materials, or construct or install any facility under, on or above the surface of the ground within a public right-of-way except as provided in GRC Article 6.35 and, for utilities, GRC Article 6.30.

(2) Construction Codes. Facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including the National Electrical Code and the National Electrical Safety Code.

(3) Permits Required. No person shall do work of any type, store materials, or construct or install any facility under, on or above the surface of the ground within the public right-of-way of the city without first obtaining a permit except as provided in GRC 6.35.040(5).

(4) Permits and Licenses required in the public right-of-way.

(a) A parade or street closure permit will be issued pursuant to GRC 8.65.060.

(b) An oversized or overweight vehicle permit will be issued pursuant to GRC 10.70.020.

(c) A sidewalk and approach permit will be required for work solely involving a sidewalk or driveway in the public right-of-way. Applicable work includes making, installing, and providing maintenance, removing, replacing, or repairing a sidewalk or a vehicular connection to a public right-of-way.

(i) A sidewalk and approach permit is specific to the property and precise frontage location for which it is issued and is not transferable to other property.

(d) An encroachment permit will be required for placing temporary facilities in the public right-of-way and for certain minor activities in the public right-of-way:

(i) A short-term encroachment permit will be required for placing temporary facilities and storing materials in the public right-of-way for 90 days or less; for work involving planting, trimming, and placing of trees in the public-right-of-way; and for work in rights-of-way that does not alter the ground surface or public infrastructure.

(ii) A long-term encroachment permit will be required for encroachments expected to be greater than 90 days, such as building overhangs and footings placed in the public right-of-way. In addition to a long-term encroachment permit, the Manager may require the applicant to enter into a license to encroach which shall be recorded on the benefitting property at the Multnomah County Recorder's Office.

(e) A utility pole appurtenance permit will be required for work involving installation of new utility pole appurtenances and any subsequent work that increases the linear dimensions or weight or otherwise alters the location or number of appurtenances on utility poles as defined in 6.35.020. For purposes of permit issuance, utility pole appurtenances are attachments to utility poles that include, but are not limited to, antenna, equipment, equipment cabinetry, and transformers. A utility pole appurtenance permit is not required for linear pole attachments such as conduit, cables, wires and other similar facilities.

(f) A general right-of-way permit, also referred to as a street opening permit, will be required for work conducted within the traveled portion of the public right-of-way, including shoulders, and areas intended for parking for which subsections (a) through (e) are not applicable and for work on city utilities.

(g) Utility Licenses will be required pursuant to GRC 6.30.

(5) Exception to Permit Requirements.

(a) Except as noted in subsection 6.35.040(4)(e), no permit is required for work solely in a public utility easement unless such work will impact traffic by affecting a lane of travel, including a bike lane or pedestrian sidewalk.

(b) Except as noted in subsection 6.35.040(4)(e), for work above the surface of the ground, a permit is required only for the installation of new facilities and the maintenance or repair of existing facilities, when the installation, maintenance or repair will impact traffic by affecting a lane of travel, including a bike lane or pedestrian sidewalk.

(c) The manager may establish a system allowing a permit to be applicable to multiple projects.

(d) In case of an emergency, a person may commence work without first obtaining a permit if the person immediately notifies the city of such work and obtains a permit as soon as reasonably practical.

(6) Permit Applications. Applications for permits shall be made in a manner determined by the city. Unless otherwise approved by the Manager, permit applications shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate the following requirements and be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the application complies with these requirements:

(a) The facilities will be constructed in accordance with all applicable codes, rules and regulations, including Gresham's Public Works Standards.

(b) That the facilities will be constructed in accordance with any license issued pursuant to GRC Article 6.30.

(c) Provide the location and route of all facilities to be installed aboveground or on

existing or new utility poles.

(d) To the extent such information is available, provide the location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public right-of-way along any underground route proposed by the applicant.

(e) Provide the horizontal and vertical location, size, type of materials and route of all new facilities on or in the public rights-of-way to be located by the applicant under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction.

(f) Provide the construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

(g) For utility pole appurtenances, provide dimensions of the appurtenances, a photo of the proposed location, and a photo rendering of the location with the proposed facility.

(h) For utility pole appurtenances placed on poles not owned by the applicant, provide written consent of the utility that owns the pole which authorizes its use for the appurtenances and certifies its structural integrity for that use. For city-owned poles, applicants shall enter into a pole attachment agreement with the city and pay associated fees as approved by Council.

(i) Provide a traffic control plan and temporary pedestrian accessibility route plan, if applicable, that conforms with the Gresham Public Works Standards.

(j) Permit applications shall be accompanied by a written construction

schedule which shall include a proposed deadline for completion of construction. The construction schedule is subject to approval by the manager. The city may coordinate construction with other permits to minimize public inconvenience, disruption or damage.

(7) Permit Processing Fee and Administration/Plan Review Deposit.

(a) The application for a permit shall be accompanied by a permit processing fee in an amount set by council resolution. Certain permits require the applicant to supply a deposit to cover the actual cost incurred by the city for administration and plan review. Permits submitted without the required fees and deposits shall be rejected without being processed. The city may establish a separate fee and deposits for permits obtained by utilities licensed pursuant to GRC Article 6.30.

(b) Additional deposits may be required if the city determines expenses will exceed the remaining deposit. Expenses exceeding the deposits will be billed to the applicant and paid before acceptance of the work pursuant to subsection (11). The unused portion of the deposit will be returned to the applicant following acceptance of the work. The manager may establish a system allowing waiver of deposits and billing for permit processing fees and administration/plan review costs for applicants with multiple projects.

(8) Issuance of Permit.

(a) If satisfied that the application, plans and documents submitted comply with all requirements of this ordinance, the city shall issue a permit authorizing construction of the facilities subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the city may deem necessary or appropriate.

(b) If additional information is required by the city to issue the permit, the applicant shall be notified within 10 days of submission or resubmission. The permit shall be approved or denied within 30 days of receipt

of a complete application, including submittals pursuant to 6.35.040(6). Applications that are not approvable within 90 days of the most recent submission shall be deemed incomplete, expired, cancelled, or otherwise terminated and not processed further by the city.

(c) If the applicant is in material violation of a permit previously issued pursuant to GRC Article 6.35; with grading or erosion control requirements as provided by GCDC Section 9.0500; with the erosion control requirements of GRC Article 3.28; or with the standards of GRC 6.35, the city may elect to withhold the issuance of additional permits pursuant to GRC Article 6.35 until such time as the previous violations are resolved to the satisfaction of the city.

(d) No permit application shall be accepted for the construction or installation of utility facilities within a public right-of-way unless the utility has first applied for and received a license pursuant to GRC Article 6.30.

(e) No permit shall be issued if the facility will conflict with existing or previously planned facilities in the public right-of-way.

(f) No permit shall be issued to locate private water, stormwater, or wastewater facilities in the public right-of-way unless the applicant establishes it is in the public interest to do so.

(9) Display of Permit. The permit, or a legible copy thereof, issued pursuant to this section shall be kept at the construction site and made available for inspection at the request of the city. Failure to present the permit when requested shall be reason to issue a stop work order for work in the public right-of-way.

(10) Permit Term. A permit shall be valid for 180 days from the date issued. A permit

may be revoked by mutual consent, by the manager for failure of the applicant to abide by the terms and conditions of the permit or this ordinance, by operation of the law, or in the case of a utility, at the time the utility to which the permit is issued ceases operation. If a person fails to complete installation of the facility covered by a permit, including restoration, within the period specified in the permit, said permit shall be deemed null and void and all privileges and fees thereunder forfeited, unless a written extension of time is obtained from the manager.

(11) Acceptance. Upon completion of the work and payment of any charges pursuant to GRC 6.35.050(10) and before expiration of the permit, all work must be accepted by the city. The city will inspect the work within 14 days of when the city is notified in writing that the work is complete. Unless otherwise provided in the special conditions, the permit shall authorize the facility to remain in the right-of-way for an indefinite period of time from the acceptance date.

(12) Violation. Failure of the applicant to comply with any of the terms and conditions of a permit or the standards of GRC 6.35.050 shall be sufficient cause for not accepting the work or for cancellation of the permit and may result in removal of the facility by the city at the applicant's expense. In addition to any other remedies provided herein, violation of any section of this article may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law. Any stop work order issued pursuant to this section may apply to the right-of-way work, erosion control work, and/or work pursuant to a building permit to the extent authorized by the building official. In addition, any violation of a term or condition of a permit or the standards of GRC 6.35.050 shall be a violation as provided by GRC 6.35.060.

(13) A permit, the privileges granted therein, and the obligations of the applicant created thereby shall be binding upon the successors and assigns of the applicant.

(14) Notwithstanding GRC 6.35.030(3), the permission of the city is not required to use a public street for driving or parking. Notwithstanding GRC 6.35.030(3) and subject to GRC 8.30.030, a

person may:

(a) place a drop box or storage container in the public right-of-way abutting property generating the waste for not more than seven consecutive days and not more than 28 days annually.

(b) place a storage container being utilized exclusively for the temporary storage of personal household items in connection with a residential relocation in the public right-of-way abutting property for no more than 14 consecutive days and not more than 28 days annually.

The owner of the drop box or storage container shall make every effort to place the drop box or storage container on the abutting property prior to placement in the public right-of-way. The uses authorized by this subsection shall be subject to all other applicable laws and regulations.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1541, Amended, 03/21/2002; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1524, Enacted, 06/14/2001)

6.35.042 Waivers of Wireless Communication Facilities.

(1) Application. If wireless communication facility work in the right-of-way requires a permit pursuant to GRC 6.35.040(4), the application shall include information pursuant to GRC 6.35.040(6) and the following:

(a) If the application includes a request for the manager to modify or waive any of the requirements or prohibitions of GRC 6.35 pursuant to GRC 6.35.042(2), the application shall demonstrate that the waiver or modification is necessary to address a regulation that materially inhibits or limits the ability of any applicant or potential applicant to compete in a fair and balanced legal and regulatory environment.

(b) If the application seeks to modify an

existing and eligible wireless communication facility pursuant to 47 U.S.C. 1455(a) and the rules adopted by the Federal Communications Commission to implement 47 U.S.C. 1455(a), including 47 C.F.R. §1.6100, the application shall demonstrate that the modified wireless communication facility meets the applicable provisions of federal law.

(2) Modification or Waiver of Requirements.

(a) For wireless communication facilities, the manager may modify or waive any requirement or prohibition of GRC 6.35 to the extent the applicant demonstrates that the waiver or modification is necessary to address a regulation that materially inhibits or that limits the ability of any applicant or potential applicant to compete in a fair and balanced legal and regulatory environment.

(b) Proposed utility facilities that require a waiver due to exceeding the requirements of Section 2.09 of the Gresham Public Works Standards shall provide written justification in their application for their choice of location selection and lack of available alternatives when the desired location is in one or more of the following areas of right-of-way:

(i) A city street not identified as a major, standard, or minor arterial by the Functional Classification map of the Gresham Community Development Plan, Volume 4: Transportation System Plan in effect at the time of application.

(ii) A view corridor in Volume 1 of the Gresham Community Development Plan.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1810, Amended, 05/21/2020)

6.35.045 Qualification Required.

No permit shall be issued pursuant to GRC 6.35.040 unless the person or contractor performing construction under or on the public right-of-way has met the standards of responsibility as provided by ORS 279C.375(3)(b). The manager may waive the requirement if in the best interest of

the city. If a person is found not to meet the requirement, the person may appeal as provided in ORS 279C.450.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1534, Enacted, 11/01/2001)

6.35.050 Standards for Work in the Public Right-of-Way.

(1) Compliance with Standards. All construction practices and activities shall be in accordance with this article, any permit and the approved final plans and specifications for the facilities. All construction practices and activities relating to public infrastructure systems (streets, water, wastewater, stormwater) of the city shall also be in accordance with the Public Works Standards. The city and its representatives shall be provided access to the work site and such further information as may be required to ensure compliance with such requirements.

(2) Non-complying Work. Subject to the notice requirements in subsection (7)(c), all work which does not comply with the Public Works Standards, this article, any permit relating to the work being conducted in the public right-of-way or the approved final plans and specifications, shall be removed and replaced at no expense to the city.

(3) Completion of Construction. All construction activities shall be promptly completed so as to minimize disruption of the public rights-of-way and other public and private property. All construction within public rights-of-way, including restoration, must be completed within the permit term unless an extension or an alternate schedule has been approved by the city.

(4) No Work During Holiday Season. Except for emergencies, or as otherwise approved by the city, no work shall be conducted in a public right-of-way designated by the manager from 6:00 p.m. the Friday preceding Thanksgiving to 8:00 a.m. on the first business day on the following New Year.

(5) Other Requirements.

(a) Street Surface. Care shall be taken to see that the street surface and improvements beyond the work areas are not damaged. Any

damage resulting from the applicant's operation shall be repaired or replaced by the applicant. Protective measures and devices shall be used on all equipment.

(b) Existing Utilities and Services. Applicant shall not interfere in any manner with the existence or operation of existing utilities and services. Services include but are not limited to transit, solid waste and recycling pickup, United States Postal Service activities and commercial delivery services. All existing utilities and services shall be protected and kept in operation, by the applicant, so far as possible. If it becomes necessary to interrupt service of any utility or service, the applicant will be responsible to notify the proper authorities of the utilities involved, making known to them the applicant's plan of operation so as to avoid all unnecessary inconvenience. Damage to utilities caused by the applicant is the responsibility of the applicant.

(c) Traffic Signal Detector Loops. It shall be the responsibility of the applicant to verify the existence and location of "Signal Detector Loops" before excavating in signalized intersections.

(d) Protection of Survey Monuments. It shall be the responsibility of the applicant to determine the location of and to protect all survey monuments in the vicinity of said installation during construction. If it becomes necessary to disturb a monument or if a monument is inadvertently disturbed or destroyed during the course of the applicant's operation, the applicant shall immediately notify the Multnomah County Office of Survey Records. The applicant shall be responsible for all costs incurred in the restoration or perpetuation of the monuments that may be disturbed due to the applicant's operations.

(e) Drainage. All drainage facilities disturbed as a result of the applicant's construction shall be restored or replaced immediately after the applicant's facility has been placed and shall be subject to inspection by the city.

(f) Signs and Mailboxes. All existing street signs and mailboxes in the way of the work shall be removed and immediately reset temporarily in a position where they will be noticeable and serve their purpose. After the work is completed, the signs and mailboxes shall be permanently reset at their original location and elevation.

(g) Vegetation. It is strictly forbidden to spray within a public right-of-way with selective herbicides unless written permission is first obtained from the manager.

(h) An applicant shall use suitable barricades, flags, flaggers, lights, flares, and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property.

(i) The applicant shall be responsible for relocating or adjusting any utility facilities located on the public right-of-way as required to accommodate the facility applied for by the applicant. Construction of the facility by the applicant, its agent or contractor may commence only after the applicant has furnished the manager with evidence that satisfactory arrangements for said relocation or adjustment have been made with the owner of the affected utility facility.

(j) The manager may impose such additional terms and conditions as necessary to protect the public right-of-way.

(6) Restoration of Public Rights-of-Way.

(a) When an applicant does any work in or affecting any public right-of-way the applicant shall, at no expense to the city, promptly remove any obstructions and restore such rights-of-way to an equal condition unless otherwise directed by the city. The city shall determine in its sole discretion whether the right-of-way has been restored as required.

(b) If weather or other conditions do not permit the complete restoration required by

this subsection, the applicant shall temporarily restore the rights-of-way. Such temporary restoration shall be at no expense to the city and the applicant shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any modification to the construction schedule is subject to approval by the city.

(c) If the applicant fails to restore rights-of-way, the city shall give the applicant written notice and provide the applicant a reasonable period of time, not exceeding 30 days, to restore the rights-of-way. If applicant fails to restore the rights-of-way the city may cause such restoration to be made at the expense of the applicant and may withhold subsequent permit issuance until all restoration is completed.

(7) As-Built Drawings. If requested by the city, the applicant shall furnish the city with two complete sets of plans drawn to scale and certified as accurately depicting the horizontal and vertical location, size and type of material of all facilities constructed. The plans need not include details of the nature of the facilities. These plans shall be submitted to the city within 30 days after completion of construction, in a generally recognized format acceptable to the city.

(8) Moratorium After Major Street Work. The city may restrict or preclude cutting or digging up the surface of any street for a specific period of time after acceptance by the city of a street improvement, capital improvement, or major maintenance work as specific in the Public Works Standards.

(9) Allocation of Costs.

(a) The entire cost of installing, maintaining, repairing, operating or using the sidewalk, pole line, buried cable, pipeline, sign, or other facility installed; and of any other expense whatsoever incidental to the facilities or operations shall be paid by the applicant.

(b) The applicant shall reimburse the city for any reasonable and necessary expense

that the city may incur in connection with the facilities or operations. The applicant shall make the reimbursement to the city within 30 days after receiving an invoice from the manager. The city may also withhold acceptance, in accordance with GRC 6.35.040(11), until all outstanding charges due to the city are paid. These charges may include, but are not limited to, the following:

(i) Emergency repair by persons other than the applicant when authorized by the manager pursuant to subsection (11)(f).

(ii) Emergency traffic control by persons other than the applicant when authorized by the manager.

(iii) Quality testing as required under the terms of a permit, or when ordered by the manager to establish compliance with applicable standards.

(iv) Repair of non-conforming installation (non-emergency) occurring 30 days or more after notification by the manager of a non-conforming installation.

(c) In the event reconstruction or widening of any public right-of-way requires the removal, alteration or reconstruction of an approach lawfully constructed the cost of such removal or replacement to a like width and condition will be borne by the city. Any widening or other improvement of the approach at the applicant's request shall be done only under authority of a new permit and at the expense of the applicant.

(d) The entire cost of maintaining an approach and facilities within the public right-of-way from the outside edge of the shoulder or the back of the curb to the property line, shall be the responsibility of the benefiting property owner. The city will maintain the shoulder area of the street, providing the approach was constructed in accordance with applicable standards.

(10) Maintenance.

(a) The applicant shall repair all impacts to or deterioration of public facilities for the life span of such facilities caused by the activities of the applicant and shall conduct such repairs upon notice from the city.

(b) The applicant shall at all times keep facilities authorized by the permit in a good state of repair both structurally and in the case of non-commercial signs, from the standpoint of appearance.

(c) Prior to performing any maintenance work on a facility that will interfere with or interrupt traffic upon or along the street, applicant shall obtain prior approval of the manager. Applicant may perform minor maintenance work that does not interfere with traffic upon a street without obtaining prior approval.

(d) An approach shall be removed whenever it no longer provides access for vehicles. Upon the removal of an approach, that portion of the street previously occupied by the approach shall be restored as nearly as practicable to a condition comparable to adjacent areas and curbing and sidewalk shall be replaced at the applicant's expense.

(e) In the event the operating pressure of an existing pressure pipeline is to be raised above the "maximum operating pressure" shown in a permit, a new permit or an amendment to the existing permit is required.

(f) Emergency Work. If, in the opinion of the manager, a public right-of-way hazard that poses an imminent danger to public health and safety or a public facility is created by lack of maintenance or need for emergency repair, the manager may:

(i) Order the work to be started by the city and notify the person responsible for the hazard. The city will utilize employees or a contractor qualified for the work being done. If the person responds, their crew may take over from the city or assist as the person decides.

(ii) Notify the person to perform the work. If the person cannot or will not do the work within the timeframe set by the manager, the manager may order the work done by the city. The city will utilize employees or a contractor qualified for the work being done.

In both of the above instances the person responsible for the hazard shall bear the full cost of the work. This cost includes all city costs and shall be paid to the city within 30 days after receipt of written notice of costs incurred by the city and request for payment.

(g) Public Nuisance. If in the opinion of the manager a public nuisance is created by lack of maintenance, the manager may notify the owner to repair this nuisance within 5 days or such other time period as determined by the manager. If the repair is not made within this timeframe the city may declare the unmaintained area a public nuisance. Such nuisance may be abated pursuant to GRC Article 7.50.

(11) Removal or Relocation.

(a) Except in the case of an emergency or as otherwise agreed to by the city, within 30 days following written notice from the city, a person shall, temporarily or permanently remove, relocate, change or alter the position of facilities installed by that person or that person's predecessor in interest within the public rights-of-way. The person may request additional time to complete the removal or relocation, which shall not be unreasonably denied. The city may issue such notice when the city has determined that such removal, relocation, change or alteration is reasonably necessary for:

(i) The construction, repair, maintenance or installation of any city or other public improvement in or upon the public rights-of-way, whether a public work by the city or its contractor or the construction, repair, maintenance or installation of a public improvement pursuant to the requirements of the city's

development code.

(ii) The operations of the city or other governmental entity in or upon the public rights-of-way for governmental purposes; or

(iii) The public interest as determined by the manager.

(b) Before commencing removal or relocation, the applicant shall obtain a permit as required by GRC 6.35.040(3).

(c) If any utility pole, upon which one or more appurtenances is installed, is removed or relocated for any reason, all appurtenances shall also be removed or relocated.

(d) An aboveground facility shall be removed from the public right-of-way within six months of the date it ceases operation. Failure to remove the facility is declared to be a public nuisance and subject to enforcement, including but not limited to abatement, pursuant to GRC Article 7.50.

(e) The relocation or removal of facilities pursuant to this section shall be at no expense to the city. Subject to Oregon law and applicable tariffs approved by the OPUC, the relocation or removal shall be at the expense of the person required to relocate or remove the facility.

(f) Should the applicant fail to remove or relocate the facility, the manager may declare the facility a nuisance. In addition to any other remedies provided herein, violation of any section of this article may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law. If it becomes necessary for the city to commence an action or proceeding in a court of competent jurisdiction for removal or relocation or to recover removal or relocation costs, the prevailing party shall be entitled to recover statutory costs and disbursements and such additional sum as the court may deem reasonable for attorney's fees.

(g) If removal or relocation is necessary

due to a public improvement under a contract entered into between the city and an independent contractor and the failure to remove or relocate within the time specified results in payment to the contractor of any claim for extra compensation for any work or delay under said contract, the applicant shall be liable for payment of the amount paid to the contractor as a direct result of the failure to comply with the time requirements of the city.

(12) Liability and Control.

(a) The applicant shall be responsible and liable for all accidents, environmental clean-up, damages or injuries to any person or property resulting from the construction, maintenance, repair, operation, or use of a facility for which the applicant may be legally liable. The applicant shall indemnify and hold harmless City of Gresham, its City Councilors, and all officers, employees, or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct or operation of the applicant, his agents or employees in connection with the construction, maintenance, repair, operation or use of said facility.

(b) Except for the negligence of the city, the city and its council, manager, officers or employees shall not be held responsible or liable for injury or damage that may occur to facilities or any connection or connections thereto resulting from motorists or otherwise.

(c) The applicant shall employ any and all methods in performing the operations that the manager may require in order to properly protect the public from injury and the public right-of-way from damage.

(d) During the initial installation or construction of a facility, during any future repair, removal, or relocation thereof, or during operations, the applicant shall at all times maintain such flaggers, signs, lights, flares, barricades and other safety devices as required or recommended by the *Manual of Uniform*

Traffic Control Devices with Oregon Supplements, as amended. A traffic control plan or additional traffic control measures may be required if deemed to be reasonably necessary to properly protect traffic upon the street, and to warn and safeguard the public against injury or damage. The applicant may be required to maintain a watchman as required to maintain said signs, lights, flares, barricades and other safety devices during non-work hours, and, if required, shall provide the telephone number and/or address of such watchman.

(e) In the event of an emergency repair the applicant shall so conduct his operations that there will be a minimum of interference with or interruption of the traffic upon and along the street until the manager has approved a plan for the satisfactory handling of traffic. In emergencies, the applicant shall notify the manager as soon as practicable.

(f) All traffic control and safety devices used for protection of the work areas shall conform to the current provisions of the *Manual of Uniform Traffic Control Devices*, with Oregon Supplements, as amended.

(g) To ensure compliance with applicable standards, the manager reserves the right to inspect the job during such periods as the manager deems necessary, to check compliance by the applicant and to require the applicant to correct all deviations from those standards.

(h) Any supervision and/or control exercised by the manager shall in no way relieve the applicant of any duty or responsibility to the general public nor shall such supervision and/or control relieve the applicant from any liability for loss, damage or injury to persons or property.

(13) Performance and Completion Bond; Warranty Bond.

(a) A financial assurance acceptable to the manager equal to at least 110 percent of the estimated cost of reconstructing the impacted

public facilities within the public rights-of-way shall be deposited before construction is commenced.

(b) The financial assurance shall remain in force until 60 days after final completion of the work, and written notification to the city that the work is complete, unless another time period is specified in the special conditions on a permit. Final completion includes, but is not limited to, restoration of public rights-of-way and other property affected by the construction.

(c) The financial assurance shall guarantee, to the satisfaction of the manager:

(i) timely completion of construction;

(ii) construction in compliance with applicable plans, permits, technical codes, Public Works Standards and other applicable standards;

(iii) proper location of the facilities as specified by the manager;

(iv) restoration of the public rights-of-way and other property affected by the construction; and

(v) timely payment and satisfaction of all fees and charges due to the city.

(d) Financial assurance acceptable to the manager for the greater of \$2,500 or 10 percent of the estimated cost of reconstructing the impacted public facilities within the public rights-of-way shall be required prior to acceptance of the work. The financial assurance shall be in effect for a period of two years from the date of acceptance. Repairs required within the warranty period shall be warranted for two years from the date of completion of such repair. The manager may require an additional financial assurance for any repairs done pursuant to the warranty obligation. Such additional financial assurance shall be a period of two years from the date of completion of such repairs.

(e) The financial assurance may be

applicable to multiple projects in an amount and form satisfactory to the manager.

(f) The manager may reduce or waive the financial assurance required if the applicant has demonstrated a history of quality restoration of the public right-of-way.

(g) After the applicant's successful completion of the warranty period obligations, the financial assurance shall be released by the City.

(14) Applicant Insurance. Unless otherwise provided in a permit, each applicant shall, while working in the public right-of-way, secure, maintain and furnish certificates of insurance coverage of a type and amount as required by the city attorney. The applicant may provide proof of self-insurance, satisfactory to the attorney, as an alternative means of meeting the insurance requirement. Applicant's insurance shall cover all work done directly by the applicant and work done by their contractors, subcontractors, and other agents.

(15) Retroactivity. The provisions of GRC 6.35.050(2), (6), (8), (9), (10), (11), and (12) (a), (b) and (c) shall apply to all facilities in the public right-of-way without regard to when those facilities were constructed.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1790, Amended, 01/01/2019; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1615, Amended, 01/01/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1574, Amended, 8/14/2003; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1541, Amended, 03/21/2002; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1524, Amended, 06/14/2001)

6.35.060 Enforcement.

(1) A violation of any provision of this article may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(2) Unless otherwise specified, a violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$1,000. Each day on which a violation occurs or continues

is a separate offense and may be subject to a separate fine or penalty.

(Ord. No. 1810, Amended, 05/21/2020; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1524, Enacted, 06/14/2001)

Article 6.40

TRANSPORTATION MAINTENANCE FEE

Sections:

- 6.40.010 [Purpose.](#)
- 6.40.020 [Definitions.](#)
- 6.40.030 [Establishment.](#)
- 6.40.040 [Dedicated.](#)
- 6.40.050 [Billing.](#)
- 6.40.060 [Payment Due Date.](#)
- 6.40.070 [Adjustment of Accounts.](#)
- 6.40.080 [Delinquency.](#)

6.40.010 Purpose.

The purpose of the Transportation Maintenance Fee is to provide stable and adequate funding to:

- (1) Maintain, preserve and improve existing elements of the city’s transportation system; and
- (2) Reduce the backlog of needed street repairs as measured by the city’s annual pavement condition survey; and
- (3) Acquire, replace, maintain and operate streetlights and streetlight infrastructure.

Transportation Maintenance Fee revenue shall only be used to maintain, preserve and improve the existing street system in the most cost effective manner.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1569, Enacted, 05/01/2003)

6.40.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 6.40, the following mean:

Premise. Means a parcel or portion of any parcel of land within the corporate limits of the City the use of which generates usage of the transportation system, including publicly owned property.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1569, Enacted, 05/01/2003)

6.40.030 Establishment.

(1) The person having possession or control of a Premise shall pay a Transportation Maintenance Fee adopted by Council. The fee shall be calculated by multiplying the per trip rate by the estimated trips generated by the Premise.

(2) Council shall establish by resolution the methodology to calculate the estimated trips generated by each Premise. The methodology shall be based on the relative usage of the city’s transportation system as determined by the estimated trips generated by categories of developed use.

(3) Council shall establish a rate for each trip in such an amount to provide sufficient funds to properly maintain, preserve and improve local streets throughout the City.

(4) Council, from time to time by resolution, may change the rate or methodology based upon revised estimates of the cost of properly maintaining local streets, revised categories of developed use, revised traffic generation factors, and other factors.

(Ord. No. 1569, Enacted, 05/01/2003)

6.40.040 Dedicated.

(1) There shall be a Transportation Maintenance Fund and a Streetlight Fund. All Transportation Maintenance Fee revenues imposed and collected under this article shall be deposited in the Transportation Maintenance Fund and the Streetlight Fund in accordance with the methodology established by council resolution.

(2) Money in the Transportation Maintenance Fund shall be used for the purposes of maintenance, preservation and improvement of the local transportation network of the City, including the administration of maintenance, preservation and improvement projects, and the administration, billing and collection of the Transportation Maintenance Fee. Money in the Transportation Maintenance Fund shall not be used for any operational costs or for the maintenance,

preservation and improvement of County Roads or State Highways.

(3) Money in the Streetlight Fund shall be used for the purposes of acquisition, replacement, maintenance and operation of streetlights and streetlight infrastructure, including the administration of the streetlight program and the administration, billing and collection of the Transportation Maintenance Fee.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1569, Enacted, 05/01/2003)

6.40.050 Billing.

(1) The utility account customer for a Premise shall be deemed to be the person having possession or control of the Premise.

(2) The city shall collect the Transportation Maintenance Fee by adding the Transportation Maintenance Fee to the utility bill of each Premise. The city will bill the Transportation Maintenance Fee charge on a schedule approved by the manager.

(3) If a Premise is not served by a utility account, or if the utility account customer is not the person having possession or control of the parcel and makes other arrangements for payment, the Transportation Maintenance Fee charge shall be billed separately to the person having possession or control of the Premise.

(4) If a Premise has more than one utility account, the city may bill each account separately for the Transportation Maintenance Fee or combine one or more accounts.

(5) Water use charges, sanitary sewer user charges, sanitary sewer billing service charges, stormwater user charges and the Transportation Maintenance Fee may be billed on the same bill.

(Ord. No. 1569, Enacted, 05/01/2003)

6.40.060 Payment Due Date.

Transportation Maintenance Fee charge shall be paid within 26 days from the service period ending date on the regular bill.

(Ord. No. 1569, Enacted, 05/01/2003)

6.40.070 Adjustment of Accounts.

(1) The city may write off closed accounts with a balance amount determined by the manager, and the city may write off refunds with a balance amount determined by the manager, with approval from the manager, unless the customer requests otherwise.

(2) Customers who believe their Transportation Maintenance Fee charge, as applied to their premises, are not within the intent of this article may request, in writing, a review of their Transportation Maintenance Fee charge. The manager may initiate the review of a customer's Transportation Maintenance Fee charge.

(a) If a customer's charge is reduced as a result of this review, the corrected Transportation Maintenance Fee charge shall begin with the next billing and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

(b) If a customer's charge is increased as a result of this review, the corrected Transportation Maintenance Fee charge shall begin with the next billing and the customer shall be billed for the increase retroactively, not to exceed one year from the last billing.

(3) If an existing customer has not been billed the Transportation Maintenance Fee, the Transportation Maintenance Fee charge shall begin with the next billing and the customer shall be billed retroactively, not to exceed one year.

(Ord. No. 1569, Enacted, 05/01/2003)

6.40.080 Delinquency.

(1) A Transportation Maintenance Fee charge is delinquent if payment in full is not received by the city within 26 days from the service period ending date on the regular bill.

(2) If a customer's utility account for Transportation Maintenance Fee charges is delinquent, the city may discontinue all water services billed on that account.

(3) The city may discontinue all of a customer's current water services at any time the city discovers that the customer has a delinquent Transportation Maintenance Fee charge at any other property in the city.

(4) The council may set by resolution fees for extra services required in collecting delinquent customer accounts for Transportation Maintenance Fee charges.

(Ord. No. 1569, Enacted, 05/01/2003)

Chapter 7

OFFENSES AND HEALTH

Articles:

7.05 GENERAL

- 7.05.010 Offenses Outside City Limits.
- 7.05.020 Conspiracy.
- 7.05.030 Attempt to Commit Offenses.
- 7.05.035 Concealment.
- 7.05.050 State Law.

7.10 OFFENSES

- 7.10.010 Definitions.
- 7.10.020 Violating Privacy.
- 7.10.030 Unlawful Confinement of Children in Vehicles.
- 7.10.040 Unlawful Discharge of Firearm.
- 7.10.060 Unlawful Prostitution Procurement Activities.
- 7.10.070 Public Indecency.
- 7.10.075 Public Urination or Defecation.
- 7.10.080 Unlawful Burning.
- 7.10.090 Interfering With Peace Officer.
- 7.10.100 Interfering With Police Dog.
- 7.10.110 Interfering in Emergencies.
- 7.10.120 Public Drinking.
- 7.10.130 Park Hours.
- 7.10.145 City Park, Trail, and Open Space Prohibitions.
- 7.10.153 Person in Charge.
- 7.10.154 Unlawfully Remaining on School Property.
- 7.10.155 Park Exclusion.
- 7.10.156 Protection of Constitutional Rights.
- 7.10.165 Unauthorized Camping.
- 7.10.200 Aggressive Driving.
- 7.10.210 Offensive Physical Contact.
- 7.10.220 Unlawfully Remaining on Posted City Property.
- 7.10.230 Garage/Yard Sales.
- 7.10.240 Invasive Plants.

7.15 NUISANCE CODE

- 7.15.010 Short Title.

- 7.15.020 Definitions.
- 7.15.025 Invasive Plant List.
- 7.15.030 Imminent Nuisance.
- 7.15.040 General Nuisance.
- 7.15.110 Storage Containers on Private Property.
- 7.15.120 Vehicle Repair.
- 7.15.130 Clear Vision Area.

7.17 KEEPING OF CHICKENS

- 7.17.010 Short Title.
- 7.17.020 Definitions.
- 7.17.030 Keeping of Chickens.
- 7.17.040 Enclosures.
- 7.17.050 Inspection.
- 7.17.060 Permit Requirements.
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7.18 BEEKEEPING

- 7.18.010 Short Title.
- 7.18.020 Definitions.
- 7.18.030 Keeping Bees.
- 7.18.040 Exceptions.
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7.20 NOISE CONTROL CODE

- 7.20.010 Noise Control.
- 7.20.020 Policy.
- 7.20.030 Definitions.
- 7.20.040 Prohibitions.
- 7.20.050 Exceptions.
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7.25 SOLID WASTE CONTROL

- 7.25.010 Short Title.
- 7.25.015 Purpose.
- 7.25.020 Definitions.
- 7.25.030 Rules and Regulations.
- 7.25.035 Solid Waste License, Recyclables Collection Registration, or Construction Debris Registration Required.
- 7.25.040 Authorization to Provide Collection Services.
- 7.25.045 Current Licensees and Registrants.

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7.25.050	<u>Recyclables Collection Registration.</u>	7.25.315	<u>Disposal of Collected Solid Waste, Recyclable Materials and Yard Debris.</u>
7.25.057	<u>Construction Debris Registration.</u>	7.25.320	<u>Access for Inspections and Delivery of Notice.</u>
7.25.060	<u>Exemptions.</u>	7.25.400	<u>General Customer Requirements.</u>
7.25.070	<u>Service Areas; Licensing.</u>	7.25.405	<u>Payment Responsibility (Customer).</u>
7.25.080	<u>Term of License.</u>	7.25.410	<u>Notification of Missed Collection or Billing Errors (Customer).</u>
7.25.085	<u>Notice And Comment.</u>	7.25.415	<u>Location of Receptacles and Standards for Collection Areas (Customer).</u>
7.25.090	<u>License and Registration Subject to Police Power.</u>	7.25.420	<u>Set Out Time and Removal of Receptacles (Customer).</u>
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7.25.110	<u>Indemnification, Bond and Insurance.</u>	7.25.427	<u>Preparation and Disposal of Marijuana Waste.</u>
7.25.120	<u>License Fee.</u>	7.25.430	<u>Weight of Receptacles (Customer).</u>
7.25.135	<u>Rates for Collection Service.</u>	7.25.435	<u>Putrescible Waste Storage (Customer).</u>
7.25.145	<u>Ownership of Solid Waste, Recyclable Materials and Yard Debris, and Entry into Receptacles.</u>	7.25.440	<u>Preparation of Recyclable Materials (Customer).</u>
7.25.175	<u>Uncontrollable Event.</u>	7.25.445	<u>Preparation of Yard Debris Materials (Customer).</u>
7.25.185	<u>General Licensee Responsibilities and Restrictions.</u>	7.25.450	<u>Yard Debris Collection Exemption Program (Customer).</u>
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7.25.215	<u>Collection of Solid Waste Recyclable Materials and Yard Debris.</u>	7.25.500	<u>Dispute Resolution.</u>
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7.25.225	<u>Yard Debris Service.</u>	7.25.610	<u>Suspension, Modification or Revocation of License.</u>
7.25.230	<u>Collection of Other Materials.</u>		
7.25.235	<u>Billing Procedures.</u>	7.27	<u>ILLEGAL DUMPING</u>
7.25.240	<u>Termination of Service.</u>	7.27.010	<u>Title.</u>
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7.25.260	<u>Cleanup on Route; Prevention of Leaking and Spilling Loads.</u>	7.27.060	<u>Evidence.</u>
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7.25.275	<u>Compliance with Federal, State and Local Regulations.</u>	7.30	<u>DRUG LABORATORY HOUSE NUISANCE CODE</u>
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7.25.285	<u>Compliance with Zoning Ordinances.</u>		
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- 7.37 [MULTNOMAH COUNTY
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- 7.40 [CURFEW AND TRUANCY
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Article 7.05

GENERAL

and general principles of justification, apply to offenses classified as misdemeanors and made punishable by this chapter.
(Ord. No. 1700, Amended, 03/03/2011)

Sections:

- 7.05.010** [Offenses Outside City Limits.](#)
- 7.05.020** [Conspiracy.](#)
- 7.05.030** [Attempt to Commit Offenses.](#)
- 7.05.035** [Concealment.](#)
- 7.05.050** [State Law.](#)

7.05.010 Offenses Outside City Limits.

Where permitted by Oregon law, an act made unlawful by this chapter constitutes an offense when committed on any property owned or leased by the city, even though outside the corporate limits of the city.

7.05.020 Conspiracy.

No person shall solicit, aid, abet, employ, or engage another, or confederate with another, to violate a provision of this chapter or any other section of this code or an ordinance of the city.
(Ord. No. 1700, Amended, 03/03/2011)

7.05.030 Attempt to Commit Offenses.

A person who attempts to commit any of the offenses mentioned in this chapter or any code section or ordinance of the city, but who for any reason is prevented from consummating such act, shall be considered guilty of an offense.

7.05.035 Concealment.

No person shall cause, permit, aid, abet or conceal a violation of any provision of this chapter or any other section of this code or an ordinance of the city.
(Ord. No. 1700, Enacted, 03/03/2011)

7.05.050 State Law.

Provisions of the Oregon Criminal Code of 1971 relating to defenses and burden of proof, general principles of criminal liability, parties, sentencing,

Article 7.10

OFFENSES

Sections:

- 7.10.010 [Definitions.](#)
- 7.10.020 [Violating Privacy.](#)
- 7.10.030 [Unlawful Confinement of Children in Vehicles.](#)
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- 7.10.130 [Park Hours.](#)
- 7.10.145 [City Park, Trail, and Open Space Prohibitions.](#)
- 7.10.153 [Person in Charge.](#)
- 7.10.154 [Unlawfully Remaining on School Property.](#)
- 7.10.155 [Park Exclusion.](#)
- 7.10.156 [Protection of Constitutional Rights.](#)
- 7.10.165 [Unauthorized Camping.](#)
- 7.10.200 [Aggressive Driving.](#)
- 7.10.210 [Offensive Physical Contact.](#)
- 7.10.220 [Unlawfully Remaining on Posted City Property.](#)
- 7.10.230 [Garage/Yard Sales.](#)
- 7.10.240 [Invasive Plants.](#)

7.10.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, the definitions contained in the Oregon Criminal Code are adopted by reference and made a part of GRC Article 7.10. Except where the context clearly indicates a different meaning, the general definitions and the definitions appearing in the definitional and other sections of particular articles of the Oregon Criminal Code are applicable throughout GRC Article 7.10. In addition, for purposes of GRC Article 7.10, the following mean:

Area. A radius of not less than 10 feet from a peace officer who was making an arrest, taking a person into custody, or stopping a person. The radius may be extended beyond 10 feet when a peace officer reasonably believes that such extension is necessary because there is a substantial risk of physical injury to any person.

Arrest. Actual or constructive restraint for the purpose of charging a person with an offense.

Camp or Camping. To live, cook, sleep, or take overnight shelter in a temporary, motorized vehicle, or non-permanent structure or location, including but not limited to a shack, lean-to, storage shed, tent, travel trailer, recreational vehicle, boat, utility trailer or vehicle of any kind.

Custody. Actual or constructive restraint of a person pursuant to a court order or for other lawful purpose.

Firearm. Any pistol, revolver, gun, rifle, bow, crossbow, or other weapon, by whatever name known, that expels a projectile by gunpowder or any other explosive, by spring, compressed air, or other force.

Garage/Yard Sale. The public sale or offering for sale of new or used goods within the city by an individual or group of individuals from any private or public property, including but not limited to garages, porches, carports, and yards when:

(a) said individual or group is not in the business of selling such goods, or

(b) when the property from which such sale is conducted is not regularly used for business purposes or is not permitted for such purposes.

Offense. Conduct for which a sentence to a term of imprisonment or to a fine is provided by this code or an ordinance of the city.

Park Official. An employee or agent of Gresham Parks and Recreation Division.

Police Dog. A dog used in police work under the control of a peace officer.

Prostitution. Engaging in, offering to engage in, or agreeing to engage in an act of sexual conduct or sexual contact, as those terms are defined in ORS 167.002, with a person not married to the actor, in return for the payment of a fee.

Prostitution Procurement Activity. Any conduct by any person that constitutes a substantial step in furtherance of an act of prostitution. The activity includes, but is not limited to, lingering in or near any street or public place, repeatedly circling an area in a motor vehicle, or repeatedly beckoning to, contacting, or attempting to stop pedestrians or motor vehicle operators.

Public Place. A place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, an highways, streets, schools, places of amusement, parks, trails, open spaces, playgrounds and premises used in connection with public passenger transportation.

School District. The corporate body organized under state law which has jurisdiction over any school which is participating in the exclusion program.

School Official. A principal or other person designated by the principal or school board of a school participating in the exclusion program.

Stop. A temporary restraint of a person's liberty by a peace officer lawfully present in any place when (1) the officer reasonably suspects that such person is committing, or has committed, a criminal offense, or (2) the officer reasonably believes that such person is in need of attention as authorized by ORS 426.215 or ORS 426.460, or (3) the officer reasonably believes that such person is the subject of service of a valid court order.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1625, Amended, 04/20/2006; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1459, Amended, 11/05/1998; Ord. No. 1336, Amended, 11/17/1994; Ord. No. 1295, Amended, 11/25/1993)

7.10.020 Violating Privacy.

(1) No person other than a peace officer performing a lawful duty may enter upon land or into a building not his own, used in whole or in part as a dwelling, without permission of the owner or person entitled to possession of the building and while so trespassing look through or attempt to look through a window, door, or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of another person.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992)

7.10.030 Unlawful Confinement of Children in Vehicles.

(1) No person shall knowingly leave, lock or confine an unattended child under the age of 10 years, or any minor child a public safety officer deems endangered, in any vehicle on the streets, alleys, public ways or public places of this city.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.10.040. Unlawful Discharge of Firearm.

(1) No person shall discharge a firearm.

(2) This section does not apply to:

(a) The discharge of a firearm at a shooting range, shooting gallery or other area approved by the city for the permitted use and built for the purpose of target shooting;

(b) A peace officer acting within the scope of employment;

(c) The firing of blank ammunition at

athletic contests or military ceremonies.

(3) Violation of any provision of this section is a Class B misdemeanor and, in addition to the remedies authorized for misdemeanors, a violation may be subject to a fine or penalty in the maximum amount of \$2,500.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1459, Amended, 11/05/1998; Ord. No. 1268, Amended, 12/17/1992)

7.10.060 Unlawful Prostitution Procurement Activities.

(1) No person shall engage in prostitution procurement activity with an intent to induce, entice, solicit, procure, locate, or contact another person to commit an act of prostitution.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$5,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.10.070 Public Indecency.

(1) No person shall, while in, or in view of, a public place, perform:

- (a) an act of sexual intercourse;
- (b) an act of deviate sexual intercourse;
- or
- (c) an act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$5,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1459, Reenacted, 11/05/1998; Ord. No. 1268, Repealed, 12/17/1992)

7.10.075 Public Urination or Defecation.

(1) No person may urinate or defecate in view of a public place including in view of a residential area.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.10.080 Unlawful Burning.

(1) No person shall:

(a) Burn yard debris or any other type of material on any residential property within the City of Gresham, except when specifically authorized by a valid open burn permit issued by the City Fire Marshal or during a designated burn season.

(b) Burn at any time any human-made material; rubber; plastic; garbage; construction materials; petroleum based materials; or any other product for which burning is prohibited by the Department of Environmental Quality.

(c) Burn any nursery or other agricultural or commercial products or stock on property in the City of Gresham unless a permit authorizing such a burn has been issued.

(d) Conduct any type of burning during a declared fire season.

(e) Set on fire, or cause to be set on fire, any grass, grain, stubble, or other material being or growing on land within the city.

(f) Intentionally or negligently allow fire to escape from the person's own land, or land of which the person is in possession or control.

(g) Accidentally set any fire on the person's own land or the land of another and allow it to escape from control without extinguishing it, or using every reasonable effort to do so.

(h) Know of a fire burning on the person's own land, or land of which the person is in possession or control, and fail or neglect to

make every reasonable effort to extinguish it, regardless of whether or not the person is responsible for the starting of or the existence of the fire.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1642, Amended, 05/03/2007; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.10.090 Interfering With Peace Officer.

(1) No person shall refuse to leave the area of an arrest, custody or stop, or, having left that area, reenter it, after being directed to leave that area by an individual whom the person knows to be a peace officer.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$5,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992)

7.10.100 Interfering With Police Dog.

(1) No person shall refuse to remain at least 10 feet from a police dog who is performing or attempting to perform any lawful duty or function, or, having moved away from the dog, move closer than 10 feet, after being directed to move away by an individual whom the person knows to be a peace officer.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$5,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992)

7.10.110 Interfering in Emergencies.

(1) No person shall stop or remain in the vicinity of a fire, explosion, accident, cave-in, or similar emergency or disaster, or threatened emergency or disaster, or in the vicinity of a riot, altercation or arrest, when the person's presence may be unsafe to the person or others, or

physically interfere with rescue, fire fighting or other emergency aid after being notified by a peace officer to move to a place outside the area of danger or interference.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$5,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992)

7.10.120 Public Drinking.

(1) No person shall drink an alcoholic beverage or possess an open container of an alcoholic beverage in a public place or upon premises open to the public unless the premises are licensed for that purpose by the Oregon Liquor Control Commission.

(2) Special events that are authorized under this code and for which event permits have been properly issued by the City of Gresham and/or the Oregon Liquor Control Commission are not prohibited under GRC 7.10.120.

(3) Violation of any provision of this section is a Class B misdemeanor and, in addition to the remedies authorized for misdemeanors, a violation may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.10.130 Park Hours.

(1) General Park Hours.

(a) All city parks, trails and open spaces shall be considered day use recreational areas, except for areas otherwise designated by the manager.

(b) No person shall be in a city park, trail or open space between 10:00 p.m. to 5:00 a.m. April 1 to September 30, nor between 8:00 p.m. to 6:00 a.m. October 1 to March 31.

(c) Subsection (b) does not apply to:

(i) persons using the paved portions of the Springwater Corridor Trail, Gresham-Fairview Trail, Wy'East Trail and such other trails as designated by the manager; and

(ii) activities subject to a special use permit authorizing after hours use.

(2) Emergency Closure.

(a) The manager is authorized to close to public use any city park, trail or open space or portion thereof, or restrict the times when the same shall be open to such use, or limit or prohibit any use whenever, in the manager's judgment, such actions are necessary to protect the public health, safety or welfare, or for the protection of the park, trail or open space or any of its facilities.

(b) Council shall be notified of any closure beyond seven days.

(c) Reasonable cause for closure or restricted use shall include, but not be limited to, the following:

(i) extreme fire hazard;

(ii) dangerous water or weather conditions;

(iii) protection of water quality;

(iv) construction, maintenance, restoration or repairs;

(v) conservation of habitat for fish and wildlife;

(vi) excessive traffic;

(vii) unsafe or crowded parking or street conditions;

(viii) damage to a park, trail, open space or any of its facilities; or

(ix) any dangerous, unsafe or unhealthful condition.

(d) The manager may, as conditions warrant, close a park, trail, or open space to any new arrivals in order to limit the number of persons using facilities. Any such closure to new arrivals will last so long as the manager believes necessary to prevent overcrowding.

(3) Persons remaining in the park, trail, or open space after the hours established in GRC 7.10.130(1) or after closure pursuant to GRC 7.10.130(2), other than law enforcement or authorized public officials, commit the offense of Unlawfully Remaining in a Park. Vehicles remaining in a city park or parking lot after the hours established by GRC 7.10.130(1) or after closure pursuant to GRC 7.10.130(2) may be towed without notice, subject to the provisions of GRC 8.35.010 et seq.

(4) Violation of any provision of this section is a Class B misdemeanor and, in addition to the remedies authorized for misdemeanors, a violation may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1763, Amended, 03/15/2016; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1625, Amended, 04/20/2006; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1256, Amended, 7/21/1992)

7.10.145 City Park, Trail, and Open Space Prohibitions.

(1) No person shall in a city park, trail, or open space area unless designated for such use:

(a) hunt, trap, molest, feed, injure or capture any wild bird or animal;

(b) hit golf balls;

(c) use any lake, or creek;

(d) operate, park, stand or use any motorized vehicle, drone, or remote-controlled vehicle;

(e) ride or lead a horse;

(f) pick, cut, mutilate or remove flowers,

shrubs, foliage, trees or plant without written permission from the manager;

(g) mutilate, deface, damage, move or remove any park amenities or equipment, including but not limited to tables, benches, railings, buildings, signs, markers, plaques, barriers, fountains, faucets, traffic recorders or other structures or facilities;

(h) dig, dredge, deface or remove any dirt, turf, stones, rocks, artifacts or other substances, make any excavation, quarry stones or other objects, or cause or assist in doing any of the things without written permission from the manager;

(i) dump personal garbage, waste or refuse that is not generated at a city park, trail, or open space in any garbage receptacle provided at such locations. This includes, but is not limited to, refuse generated by home, business, or commercial activities;

(j) use firearms, explosives or any device that includes a projectile of any kind, except in areas designated for such use by the manager; or

(k) use a device to amplify sound without a use permit or as otherwise authorized by the manager in writing;

(l) construct or erect any structure, membrane, tent or lean-to without written permission from the manager.

(i) A rigid framework that supports a fabric membrane may be erected to provide temporary shading if;

- No more than 200 square feet in area and 10 feet in height;
- The interior is visible from at least three sides;
- Not left unattended;
- Dismantled by sunset on the day erected.

(m) smoke or use tobacco in any form:

(i) for purposes of this section, smoking and tobacco are defined to include, but are not limited to, bidis, cigarettes, cigarillos, cigars, clove cigarettes, e-cigarettes, nicotine vaporizers, nicotine liquids, hookahs, kreteks, pipes, chew, snuff, and smokeless tobacco.

(ii) smoking of noncommercial tobacco products for ceremonial purposes in spaces designated for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 USC § 1996, as well as for similar religious ceremonial uses for other cultural groups shall be permitted. "Noncommercial tobacco products" means unprocessed tobacco plants or tobacco by-products used for ceremonial or spiritual purposes by Native Americans.

(n) ignite or maintain a fire of any type, except with a use permit or while using a commercially available grill or camp stove in areas designated for such use by the manager; or

(o) remaining within a locked or barricaded park restroom for more than 30 minutes.

(2) Groups of 15 persons or more may not use a sports fields or picnic shelters as designated by the manager without a use permit.

(3) Motorized and non-motorized vehicles, to the extent permitted to operate in a city park, trail, or open space, shall not exceed 15 miles per hour, and must yield to pedestrians and equestrians.

(4) In addition to any other enforcement action, the manager or any peace officer may expel from a city park, trail, or open space any person in accordance with GRC 7.10.155.

(5) The provisions of GRC 7.10.145(1)(d) shall not apply to authorized personnel operating maintenance or emergency equipment in a city park, trail, or open space, or persons authorized by

the manager.

(6) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1771, Amended, 06/15/2017; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1625, Amended, 04/20/2006; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992; Ord. No. 1256, Enacted, 07/21/1992)

7.10.153 Person in Charge.

For purposes of GRC 7.10.155 and ORS 164.243 through ORS 164.265, any City of Gresham peace officer is a “person in charge” of any city park, trail or open space.

(Ord. No. 1783, Enacted, 05/01/2018)

7.10.154 Unlawfully Remaining on School Property.

(1) The schools participating in the school property exclusion program shall be established by Council resolution. When a school has been identified by resolution to be subject to the exclusion, the school official shall post notice at the school's main access points that the provisions of the school property exclusion will be enforced.

(2) No person shall remain on school property identified in subsection (1) within the city between sunset and sunrise, except for authorized personnel or participants in authorized school activities.

(3) Violation of any provision of this section is a Class B misdemeanor and, in addition to the remedies authorized for misdemeanors, a violation may be subject to a fine or penalty in the maximum amount of \$2,500.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1295, Enacted, 11/25/1993)

7.10.155 Park Exclusion.

(1) In addition to other measures provided for violation of this code, or any of the laws of the

State of Oregon, any peace officer who has probable cause to believe that a person is or was engaging in conduct classified as a felony or misdemeanor, or reasonably suspects a person is engaging in conduct classified as a violation, may exclude such person from a city park, trail, or open space for conduct that:

(a) is classified as an offense under the following chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such offense defined in ORS:

(i) ORS Chapter 162 – Offenses Against the State and Public Justice;

(ii) ORS Chapter 163 – Offenses Against Persons;

(iii) ORS Chapter 164 – Offenses Against Property, including ORS 164.805, Offensive Littering;

(iv) ORS Chapter 165 – Offenses Involving Fraud or Deception;

(v) ORS Chapter 166 – Offenses Against Public Order; Firearms and Other Weapons; Racketeering;

(vi) ORS Chapter 167 – Offenses Against Public Health, Decency and Animals;

(vii) ORS Chapter 475 – Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors;

(viii) ORS Chapter 475B – Cannabis Regulation; or

(b) has resulted in injury to any person or damage to any property; or

(c) is classified as an offense under any of the following provisions of this code:

(i) GRC 7.10.040 – Unlawful Discharge of a Firearm;

(ii) GRC 7.10.060 – Unlawful Prostitution Procurement Activities;

(iii) GRC 7.10.070 – Indecent Exposure;

(iv) GRC 7.10.075 – Public Urination or Defecation;

(v) GRC 7.10.120 – Public Drinking;

(vi) GRC 7.10.130 – Park Hours;

(vii) GRC 7.10.145 – City Park, Trail, and Open Space Prohibitions;

(viii) GRC 7.10.220 – Unlawfully Remaining on Posted City Property;

(vix) GRC 7.40.015(2) – Truancy.

(2) Exclusion under this article shall be for 30 days if the conduct is classified as a violation, 90 days if classified as a misdemeanor, or 180 days if classified as a felony. If multiple exclusions are issued to a person, the effective periods of each exclusion shall run consecutively.

(3) No person shall enter or remain in any city park, trail, or open space at any time during which there is in effect a notice of exclusion issued under this article excluding that person from that city park, trail, or open space. A person who knowingly violates an order of exclusion from a city park, trail, or open space commits the crime of criminal trespass.

(4) Before issuing an exclusion under this article, a peace officer shall first give the person a warning and a reasonable opportunity to desist from the conduct. An exclusion shall not be issued if the person promptly complies with the warning and desists from the conduct. For purposes of exclusion, a warning shall be valid for a period of one year. A warning must include the conduct in which the person was engaged. The warning may also include a general list of other conduct that may result in exclusion.

(5) Notwithstanding the provisions of subsection (4), no warning shall be required if the

person is to be excluded for committing any act that is classified as an offense that:

(a) is punishable as a misdemeanor or felony,

(b) involves alcohol or a controlled substance(s), including, but not limited to, recreational marijuana,

(c) results in a serious physical injury to any person,

(d) results from intentional damage to any property, or

(e) the person has been given an oral or written warning, citation, or exclusion notice for the same conduct or the conduct in the general list described in subsection (4), above, in any city park, trail or open space within the prior one year.

(6) Written notice shall be given to any person excluded from any city park, trail, or open space under this article. The notice shall specify the date, length and place of the exclusion; shall identify the provision of law the person has violated and contain a brief description of the offending conduct. It shall be signed by the issuing peace officer and effective immediately. Warnings of consequences for failure to comply shall be prominently displayed on the notice. The notice shall inform the excluded person of the right to appeal, including the time limit and the place to submit the appeal.

(7) A person receiving notice of exclusion from a city park, trail, or open space may request a hearing before a hearings officer to have the exclusion rescinded or the period shortened. Written notice of the appeal must be filed with the city attorney within 10 calendar days of receipt of the exclusion notice. Failure to file written notice of appeal within 10 calendar days will be deemed a waiver of the right to appeal.

(8) Hearing Procedures.

(a) When an appeal is timely filed, a hearing shall be held before a hearings officer

appointed by the city attorney.

(b) The hearing shall be set and conducted as soon as practicable provided that the hearing will be held within 10 business days of receipt of the request. The hearing may be scheduled for a later date if the person excluded so requests.

(c) At the hearing, the person excluded may contest the validity of the exclusion, the period of the exclusion, and may present evidence. The person may be represented by counsel at their own expense. If the person requesting the hearing does not appear at the scheduled hearing, the hearings officer shall uphold the exclusion,

(d) The city shall have the burden of proving by a preponderance of the evidence the validity of the exclusion. The city may present evidence either by testimony or written report of the officer and other witnesses. If the city's evidence is presented only by written report and the hearings officer cannot resolve a question by information contained in the report, the hearing may be held open for a reasonable time to complete the record.

(e) If the hearings officer finds by a preponderance of evidence that each element necessary to issue the exclusion notice has been proven, and if the exclusion is otherwise in accordance with law, the hearings officer shall uphold the exclusion.

(f) If the hearings officer finds that the city has not met its burden of proof, or that the exclusion is otherwise unlawful, then the hearings officer shall enter an order rescinding the exclusion. If the hearings officer finds that the city has met its burden of proof, but that the length of the exclusion is unreasonable under the circumstances, the hearings officer may issue an order shortening the length of the exclusion.

(g) The hearings officer shall issue the decision as soon as practicable; provided that the decision is issued within 10 business days

of the hearing, unless the person excluded consents to a longer period, or the hearings officer holds the hearing open for a reasonable time for additional evidence to be presented for consideration. The decision of the hearings officer is final.

(9) If an appeal of the exclusion is timely filed, the effectiveness of the exclusion shall be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon the issuance of the hearings officer's decision, unless the hearings officer specifies a later effective date.

(10) If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal, or pending judicial review, should a court stay the exclusion, the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion. If the previous exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the previous exclusion had not been issued.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1731, Amended, 11/14/2013; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1638, Amended, 03/08/2007; Ord. No. 1625, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1295, Amended, 11/25/1993; Ord. No. 1256, Enacted, 7/21/1992)

7.10.156 Protection of Constitutional Rights.

(1) Nothing in GRC 7.10.155 shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or any other rights protected by the state or federal constitutions. However, a person engaged in such protected activity who engages in conduct described in GRC 7.10.155(1) may be subject to exclusion for such conduct.

(2) At any time within a period of exclusion, a person receiving a notice of exclusion may apply in writing to the city attorney for a waiver of some or all of the effects of the exclusion. The application must show good cause for the waiver requested. The waiver request shall be decided by the manager or a hearings officer appointed by the city attorney. If the manager or hearings officer

grants a waiver, the manager or hearings officer shall promptly notify the Gresham Police Department and the Gresham Parks Department of such action. In exercising discretion under this subsection, the manager or hearings officer shall consider the seriousness of the conduct for which the person has been excluded, the particular need of the person to be in the city park, trail, or open space during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the manager or hearings officer determines to be relevant to the determination of whether or not to grant a waiver. Notwithstanding the granting of a waiver, the exclusion will be included for purposes of calculating the appropriate length of exclusions. The decision of the manager or hearings officer to grant or deny, in whole or in part, is final. (Ord. No. 1783, Enacted, 05/01/2018)

7.10.165 Unauthorized Camping.

(1) No person shall camp on public property or public rights-of-way, other than an area approved by the city for the permitted use and built for the purpose of campgrounds or overnight parks.

(2) The following provisions apply to persons experience homelessness:

(a) In accordance with ORS 195.500-530, the City Manager shall adopt an administrative rule developing a policy that recognizes the social nature of the problem of persons experiencing homelessness camping on public property and implement the policy as developed to ensure the most humane treatment for removal of persons experiencing homelessness from campsites on public property. The policy shall, among other things, comply with applicable federal and state law. The Manager shall review the policy annually to ensure compliance with applicable law and post the policy on the City’s website.

(b) A person experiencing homelessness shall not be subject to a fine or penalty as stated in section 7.10.165(4) unless that person has first been offered shelter in accordance with applicable law and City policy.

(c) For the purposes of this section, “persons experiencing homelessness” does not include a person camping on public property or on any public street or right-of-way who has been offered shelter in accordance with applicable law and City policy.

(3) No person in charge of property shall permit camping on such property unless it is occupied and approved as a residential use and the property owner has given written permission to camp, and in no event for more than 72 hours in a 30-day period. Exceptions may be granted under emergency conditions as determined by the manager.

(4) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000. (Ord. No. 1840, Amended, 06/20/2023; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Enacted, 12/17/1992)

7.10.200 Aggressive Driving.

(1) A person commits the crime of aggressive driving if the person is operating a motor vehicle and intentionally harasses, annoys, or alarms another person who is inside a motor vehicle by intentionally or knowingly:

(a) increasing or decreasing the speed of his or her vehicle;

(b) changing lanes;

(c) following the vehicle containing the other person more closely than is reasonable and prudent under the totality of the circumstances;

(d) impeding or obstructing the operation of the vehicle containing the other person; or

(e) operating his or her vehicle in any manner that endangers or would be likely to endanger any person or property.

(2) Violation of any provision of this section is a Class B misdemeanor and, in addition to the remedies authorized for misdemeanors, a violation may be subject to a fine or penalty in the maximum amount of \$2,500.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1469, Enacted, 02/02/1999)

7.10.210 Offensive Physical Contact.

(1) A person commits the offense of Offensive Physical Contact by causing or attempting to cause another person reasonably to apprehend that the other person will be subjected to any offensive physical contact either to his or her person or to personal property in his or her immediate possession.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$2,500.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1469, Enacted, 02/02/1999)

7.10.220 Unlawfully Remaining on Posted City Property.

(1) Except when expressly authorized by the Manager, no person shall enter or remain on city property or city right-of-way posted by the manager as being property subject to this code provision:

(a) outside the time periods designated in the council resolution or posted signage; or

(b) beyond the scope of the permitted use where such use is established by council resolution or posted on the property.

(2) Violation of any provision of this section is a Class B misdemeanor and, in addition to the remedies authorized for misdemeanors, a violation may be subject to a fine or penalty in the

maximum amount of \$2,500.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1471, Enacted, 02/02/1999)

7.10.230 Garage/Yard Sales.

(1) The duration of any single garage or yard sale shall not exceed three consecutive days.

(2) Notwithstanding paragraph (1) above, no single residence or combined group of residences may hold or conduct garage or yard sales for a combined duration of more than 10 cumulative days per calendar year.

(3) All items placed for sale or resale at the garage/yard sale shall be immediately removed from public view or disposed of pursuant to GRC Article 7.25, Solid Waste Control Ordinance, at the conclusion of the relevant sale.

(4) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Enacted, 04/20/2006)

7.10.240. Invasive Plants

No person shall sell, plant, release, or spread any plant that is included in the Invasive Plant List adopted by the manager pursuant to GRC 7.15.025.

(Ord. No. 1700, Enacted, 03/03/2011)

Article 7.15

NUISANCE CODE

Sections:

- 7.15.010 [Short Title.](#)
- 7.15.020 [Definitions.](#)
- 7.15.025 [Invasive Plant List.](#)
- 7.15.030 [Imminent Nuisance.](#)
- 7.15.040 [General Nuisance.](#)
- 7.15.110 [Storage Containers on Private Property.](#)
- 7.15.120 [Vehicle Repair.](#)
- 7.15.130 [Clear Vision Area.](#)

7.15.010 Short Title.

GRC Article 7.15 may be cited as the Gresham Nuisance Code.

7.15.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 7.15, the following definitions apply:

Amenities or Structures. Items, including but not limited to trees, tree wells, benches, tables, and concrete or asphalt walkways, but does not include street lights, public utility facilities, traffic signs or traffic signals.

Attractive Nuisance. A condition that can attract children and be detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned buildings, abandoned wells, shafts, basements, excavations, abandoned freezers or refrigerators with self-latching doors, motor vehicles, structurally unsound fences or structures, lumber, trash, fences, debris, or water feature that may prove hazardous for inquisitive minors.

Clear Vision Area. A triangular area, at the intersections of a street with another street, railroad or driveway, two sides of which are parallel and perpendicular for a distance specified

in this subsection, or, where the intersection has a rounded corner, the sides extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the parcel joining the non-intersecting ends of the other two sides. The purpose of the area is to provide drivers and bicyclists with an unobstructed cross-view for purposes of public safety.

Debris. The remains of something broken down or destroyed, including, but not limited to: scrap metal, paper, plastic or wood; pieces of asphalt, concrete, lumber or other building supplies; or yard clippings or cuttings of plant material.

Development. Any change to real property, including, but not limited to, structures, filling, grading or excavating.

Driveway Approach. The portion of the driveway between the property line and the back of the curb line. If there is no curb, the portion of the driveway between the property line and the back of the curb line extended or outside edge of the shoulder of the roadway.

Fence. A permanent barrier, constructed of manufactured or natural materials, erected to enclose, screen or decorate areas of land, or to prevent ingress or egress. For purposes of this code, fences shall include gates, trellises and such similar devices when they occur above the natural grade.

Fencing Material. Any material commonly used in the construction of fences or walls, or otherwise acceptable by the city, except as otherwise specified herein.

Garbage. Food waste, refuse, rubbish, trash, or other useless material.

Invasive Plant. Any plant included in the Gresham Invasive Plant List.

Junk. Broken, discarded, or accumulated objects, including but not limited to: appliances, building supplies, furniture, vehicles, tires or parts of vehicles.

Livestock. Beef or dairy animals, burros, goats, horses, mules, rabbits, sheep, pigs or llamas. This includes domesticated animals raised for sale and profit.

Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

Person in Charge of Property. An owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of property or any combination of these persons.

Place or Property. Any premises, room, house, building or structure, or any separate part or portion thereof, whether permanent or not, or the ground itself.

Planter Strip. The area, excluding sidewalk, beginning at the back of the curb or outside edge of the shoulder and extending to the property line, lying within the public right-of-way or easement used for public right-of-way purposes. This is also known as a planting strip and parking strip.

Property Agent. A person who represents a property owner, or an agency or property management company retained by a property owner, developer, or tenant, to represent a property owner on any matter pertaining to property, including but not limited to, representation in tenancy, ownership, and legal matters. A property agent need not reside on the property/premises. A property agent shall constitute a person in charge of property as used in this chapter.

Public Right-of-Way. As used in GRC 7.15.040(5), includes the sidewalk, driveway approach, planter strip, and amenities or structures located therein.

Sidewalk. As used in this article, a sidewalk does not include a pedestrian/bicycle accessway on property dedicated or conveyed to the city for public use.

Storage Containers. Portable on Demand Storage (PODS) units and other pre-fabricated storage containers that are designed for temporary storage

of materials and transported by truck. This definition does not include commercial shipping and storage containers.

Water Feature. One or more items from a range of fountain, pools, ponds, cascades, waterfalls, and streams constructed on private or public property. (Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1541, Amended, 03/21/2002; Ord. No. 1458, Amended 11/05/1998)

7.15.025 Invasive Plant List.

(1) The manager is authorized to adopt and maintain an Invasive Plant List. Such a list may include, but is not limited to, non-native plants whose introduction is likely to or does cause economic, environmental harm or general harm to human health and any plant designated by a federal, state, or county government to be injurious to public health, agriculture, recreation, wildlife, or any public or private property.

(2) The manager is authorized to establish education, restoration, and enforcement priorities for the plants included in the Invasive Plant List. (Ord. No. 1700, Enacted, 03/03/2011)

7.15.030 Imminent Nuisance.

(1) No person shall permit, or no person shall cause to exist, any violation of this code that is an imminent threat to public health and safety. An imminent nuisance may be summarily abated as provided in GRC 7.50.210.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1268, Amended, 12/17/1992)

7.15.040 General Nuisance.

A general nuisance is any of the following:

(1) No person in charge of property shall permit or no person shall cause to exist accumulations of solid waste, as defined by GRC 7.25.020, sewage, as defined by GRC 4.05.010, or other debris, garbage, junk, or animal excrement that is not removed within seven days, except as follows:

(a) Junk may be accumulated if authorized by permit or business license.

(b) Yard cuttings, other than grass clippings, may be accumulated on property owned or leased by the person for burning at the first available burn season.

(c) Yard cuttings and other organic material may be accumulated on property owned or leased by the person for composting, but only if it is not visible from a street or sidewalk, is maintained in a manner that does not attract vermin, and does not produce an offensive odor.

(d) Garbage may be accumulated in order to be hauled by a licensed solid waste hauler or to be taken by the person to a landfill in accordance with the provisions of GRC 7.25.435(1). Garbage must be secured within a fly-proof, rodent-proof, water-tight covered container that is kept clean and in good repair, and is removed from the premises at regular intervals not to exceed seven days, unless less frequent service is being provided by the hauler.

(e) Animal excrement from livestock may be accumulated for farm or agricultural purposes as long as it does not become a danger to public health or safety.

(f) Domesticated animal excrement must be picked up within a reasonable time and may not accumulate unless it is secured within a fly-proof, rodent-proof, watertight, covered container that is kept clean and in good repair; provided, however, the contained excrement must be properly disposed of regularly and within a reasonable time. Domesticated animal excrement must be removed immediately when it creates an unsanitary

condition or conditions on a property, causes or contributes to contamination of surface water or groundwater, causes an offensive odor to neighboring property, or interferes with the use of neighboring property.

(2) The person in charge of property within the city shall maintain vegetation within the planter strip and along the street or alley adjacent to the property. No person in charge of property may permit nor cause to exist on their property, in the planter strip, or along the street or alley adjacent to the property any vegetation that:

(a) is a hazard to users of a public sidewalk or a public or private street by impeding passage or vision. The hazards include, but are not limited to:

(i) vegetation that encroaches upon, or overhangs lower than 8 feet, a public sidewalk or other pedestrian way, or encroaches upon, or overhangs lower than 12 feet, a public or private street; and

(ii) vegetation that impedes motorist, bicyclist or pedestrian views of traffic, traffic signs or signals, street lights or name signs, or other safety fixtures or markings placed in the public way.

(b) is included in the Invasive Plant List adopted by the manager pursuant to GRC 7.15.025 or is a hazard to the public or property on or near the property where the vegetation is located, due to the vegetation's disease or deterioration;

(c) impedes access to or use of any public facility;

(d) obstructs drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins, or culverts;

(e) has roots that have entered a wastewater, stormwater, or water line, main or system, and that stops, restricts or retards the flow of wastewater, stormwater, or water, or damages the pipes or connectors;

(f) has roots that have cracked or displaced a sidewalk, curb or street;

(g) extends across a property line, excluding trees;

(h) is herbaceous and is more than 10 inches high, except for:

(i) tended and/or cultivated, decorative, ornamental, or native plants that are not a fire hazard; or

(ii) areas identified by the Gresham Comprehensive Plan or otherwise designated by the manager as open space or natural resource areas; or

(iii) plantings made and maintained in compliance with the Water Quality Manual, Green Development Practices Manual, city programs for naturescaping, xeriscaping, and creation of wildlife habitat, or a restoration plan approved by the city; or

(iv) natural wetlands.

(3) No person in charge of property shall permit and/or no person shall cause to exist on private or public property;

(a) accessible containers with a capacity of more than one cubic foot and a door or lid that locks or fastens when closed and that cannot be easily opened from the inside;

(b) unguarded machinery or piling placed or stored in an unsafe manner;

(c) exposed foundation or portion of foundation;

(d) any residue, debris or other building or structural remains in an unsafe manner after the destruction, demolition or removal of any building or portion of the building; or

(e) any other item that may be or become attractive, dangerous and accessible to children and/or constitute an attractive

nuisance as defined in GRC 7.15.020.

(4) No person in charge of property shall permit and/or no person shall cause to exist a well, cistern, cesspool, pit, quarry, excavation, swimming pool, water feature, or other hole of a depth of four feet or more with a top width of 12 inches or more, unless:

(a) it is fenced or securely covered; or

(b) the excavation is part of an authorized construction project and during the course of construction reasonable safeguards are maintained to prevent injury.

(5) Sidewalks and Rights-of-Way.

(a) No person in charge of property shall permit or cause to exist on a sidewalk, driveway approach, planter strip, or amenities or structures placed therein, adjacent to their property, any of the following:

(i) an accumulation of leaves, snow, ice, rubbish and other litter or any obstruction that impedes or creates a hazard for pedestrian traffic;

(ii) cracks, holes, or unevenness that impedes or creates a hazard for users; or

(iii) drainage across the sidewalk from a rain drain, pipe or other collector; or

(iv) graffiti

(b) The person in charge of property shall maintain the sidewalks, driveway approaches, planter strips, and amenities or structures placed therein, adjacent to their property in good repair and to meet the requirements of GRC 7.15.040(5).

(c) No person in charge of property shall permit or cause to exist on their property a condition to adversely affect the public right-of-way. The person in charge of property shall remediate the condition to eliminate the cause of the adverse effect and shall repair any

damage to the public right-of-way caused by the condition.

(d) The person in charge of property that permits or causes to exist any vegetation that is a nuisance under GRC 7.15.040(2)(d)-(f) shall repair any damage to the public right-of-way caused by the nuisance.

(e) The person in charge of property that permits or causes to exist a condition that adversely affects the public right-of-way, or is responsible for maintaining the adjacent sidewalk, driveway approach, planter strip, and the amenities or structures placed therein, shall be liable to any person injured because of any negligence of the person in charge of property to comply with this GRC 7.15.040(5).

(f) The city shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the defective or dangerous condition of any sidewalk, driveway approach, planter strip, or the amenities or structures placed therein. The person in charge of property shall be liable to the city for any amounts paid or incurred by the city from any claim, judgment or settlement, and for all reasonable investigation costs and attorney fees, resulting from the failure of the person in charge of property to comply with this GRC 7.15.040(5).

(6) No person in charge of property or a development project, or no driver of a vehicle, shall permit and/or cause to exist on a sidewalk or public or private street adjacent to the property, any accumulation, depositing, dumping or storage of dirt, sand, rocks, gravel, barkdust, lumber, personal property, or other similar material.

(7) No person in charge of property shall permit, install, or allow to exist:

(a) a fence with barbed, concertina, or razor wire, or otherwise designed to cause physical injury, unless constructed in compliance with the Gresham Community Development Code, or

(b) a fence constructed with materials such as tarps, sheet metal, chip board, plywood or other sheet materials;

(c) a fence constructed of scrap or dangerous materials which would constitute a blight or hazard to the general public;

(d) an electric fence which is capable of generating an electric shock to persons except for an electric fence that meets the following criteria:

(i) allowed only in industrial land use districts;

(ii) must have an accessible disconnect device using a fire lock box approved by the manager;

(iii) must have an OSHA-approved danger warning sign every 25 feet; and

(iv) if the electrified fence is within six feet of a street, sidewalk, trail, or accessway:

1) a separate electric fence must be at least three feet on the property side of a non-electric perimeter fence; or

2) if located on the perimeter fence, the electrified portion of the fence shall be at least six feet above the ground

(e) Temporary, non-rigid construction fencing is only permitted at active construction sites.

(f) Fences shall be maintained in accordance with GRC 10.30.033(1)(m).

(8) No person shall direct or place on property a weapon or booby trap that may result in harm to a person performing authorized inspections, including meter reading, or performing public safety or fire and rescue duties.

(a) "Booby trap" means: any device or

material, including but not limited to, pit traps, which is designed, constructed or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.

(9) Unless specifically authorized by the Gresham Revised Code to do otherwise, it shall be unlawful to store the following items outside a building that is not wholly enclosed.

(a) Firewood that is not stacked and protected in such a way as to prevent deterioration. "Firewood" is wood that is cut to lengths that will fit a lawfully permitted fireplace or wood stove installed on the property where the building is located;

(b) construction materials, except that stored in a manner to protect its utility and prevent deterioration and which is reasonably expected to be used at the site where the building is located;

(c) yard and garage sale items not displayed for immediate sale from the property;

(d) any other goods, materials, or items that are of a type or quantity inconsistent with normal and usual exterior use of residential property.

(10) Violations of the Gresham Community Development Code (GCDC) may constitute a general nuisance.

(11) Violations of GRC Article 10.30, Property Maintenance Code, may constitute a general nuisance.

(12) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No.

1541, Amended, 03/21/2002; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.15.110 Storage Containers on Private Property.

(1) Storage containers may be placed on property developed with a single detached dwelling or middle housing unit for up to 90 days. The manager may grant an extension subject to criteria adopted by the manager.

(2) Storage containers must be placed in the driveway of the property. Storage containers may not:

(a) extend into the public right-of-way;

(b) block emergency vehicle access; or

(c) otherwise cause a fire or life safety hazard.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Enacted, 12/01/2011)

7.15.120 Vehicle Repair.

No person shall perform vehicle repairs on a property developed with a single detached dwelling or middle housing unit for more than two days within a seven-day period.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1709, Enacted, 12/01/2011)

7.15.130 Clear Vision Area.

(1) The following measurements shall establish the clear-vision areas for streets, railroads, alleys, and driveways along each lot line:

(a) All street intersections and intersection of all streets, and a railroad. 30 feet

(b) At the intersection of alleys. 10 feet

(c) At the intersection of a street and alley and street multifamily or non-residential driveway. 20 feet

(d) At the intersection of a street and single detached dwelling or middle housing unit 10 feet driveway.

(2) Except as provided below, no fence, wall, landscaping, sign, structure, storage container, vehicle or recreational vehicle, that would impede visibility between a height of 3 feet and 10 feet above the center line grades of the intersecting streets, alleys, railroads, or driveways, shall be located within the clear vision area.

(3) This following items are permitted in a clear vision area:

(a) a public utility pole;

(b) a tree trimmed (to the trunk) to a line at least 8 feet above the level of the intersection;

(c) another plant species of open growth habit that is not planted in the form of a hedge and which is so planted and trimmed as to leave at all seasons a clear and unobstructed cross-view;

(d) a supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective;

(e) an official warning sign or signal;

(f) a place where the natural contour of the ground is such that there can be no cross-visibility at the intersection; or

(g) a sign support structure if combined total width is 12 inches or less, and the combined total depth is 12 inches or less.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1709, Enacted, 12/01/2011)

Article 7.17

KEEPING OF CHICKENS

Sections:

- 7.17.010 [Short Title.](#)
- 7.17.020 [Definitions.](#)
- 7.17.030 [Keeping of Chickens.](#)
- 7.17.040 [Enclosures.](#)
- 7.17.050 [Inspection.](#)
- 7.17.060 [Permit Requirements.](#)
- 7.17.070 [Penalty.](#)

7.17.010 Short Title.

GRC Article 7.17 may be cited as the Gresham Chicken Code.
(Ord. No. 1683, Enacted, 02/04/2010)

7.17.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of the Gresham Chicken Code, the following definitions apply:

Chicken: The common domestic fowl (Species: *gallus gallus domesticus*).

Coop: A small enclosure for housing chickens.

Rear Yard. A space extending the full width of the lot or parcel between the primary residence building and the rear lot or parcel line.

Run: An enclosed area where chickens may feed or exercise.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1683, Enacted, 02/04/2010)

7.17.030 Keeping of Chickens.

(1) A person may keep three or fewer chickens with a permit on any one lot or parcel developed with a single detached dwelling. The person must also reside on this lot or parcel.

(2) Only chickens greater than four months old count towards the total of three.

(3) No person shall keep roosters.
(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1683, Enacted, 02/04/2010)

7.17.040 Enclosures.

(1) Chickens must be kept in an enclosed coop or run at all times. The coop and run shall be located in the rear yard of the lot or parcel.

(2) The coop and run must be kept in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, and obnoxious smells and substances.

(3) Chickens must be kept in a covered, enclosed coop between 10:00 p.m. and 7:00 a.m..

(4) The coop shall have at least two (2) square feet of floor space per grown chicken.

(5) The coop and run and chickens therein shall not violate the nuisance code or disturb neighboring residents due to noise, odor, damage, or threats to public health.

(6) The coop shall be located at least 25 feet from residences on a different lot or parcel and at least 10 feet from all property lines.

(7) The run shall be located at least 10 feet from all property lines.

(8) Chicken feed or any other supplement to support chicken health must be stored in a sealed container that is not penetrable by rodents or other animals.
(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1683, Enacted, 02/04/2010)

7.17.050 Inspection.

The manager is authorized to make inspection of property to effectuate the purposes and public benefits of the Gresham Revised Code and enforce GRC Article 7.17. Authorization to inspect shall be pursuant to GRC 7.50.510 and GRC 7.50.520, irrespective of whether a permit has been granted.
(Ord. No. 1683, Enacted, 02/04/2010)

7.17.060 Permit Requirements.

(1) No person shall keep chickens under the provisions of this article without first obtaining a permit to keep chickens on their lot or parcel, and paying the permit fee prescribed.

(2) The permit shall be valid for a two-year period with the permit period commencing on the first day of the month a permit is issued and ends on the first day of the same month two years later.

(3) The permit may be revoked by the manager for any violation of the provisions of this article.

(4) The permit fee shall be established by council resolution.

(5) The permit fee may be changed at any time by the city, and all permit fees required shall be payable in advance at the time of application or renewal.

(6) The permit fee is not refundable under any circumstance.

(7) Applications for a permit shall be made to the city on forms prescribed by the Manager. The application shall include a signed statement that the applicant will comply with the provisions of this article. The manager shall issue a permit when application has been approved and payment of the required fee has been received. The permit shall be exhibited to a police or other officer of the city upon demand.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1683, Enacted, 02/04/2010)

7.17.070 Penalty.

Violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1683, Enacted, 02/04/2010)

Article 7.18

(Ord. No. 1749, Enacted, 04/16/2015)

BEEKEEPING

Sections:

- 7.18.010 [Short Title.](#)
- 7.18.020 [Definitions.](#)
- 7.18.030 [Keeping Bees.](#)
- 7.18.040 [Exceptions.](#)
- 7.18.050 [Inspection.](#)
- 7.18.060 [Penalty.](#)

7.18.030 Keeping Bees.

Honeybees may be kept in the city consistent with the following standards:

(1) Honeybee colonies shall only be kept on a lot or parcel developed with a single detached dwelling. The person must also reside on this lot or parcel.

(2) The number of colonies shall not exceed six.

(3) All portions of the hives/colony enclosures shall be located in side and/or in rear yards;

(4) A flyway barrier at least six feet in height consisting of a solid wall, solid fencing material, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction, unless the adjoining property is undeveloped for a minimum of 25 feet past the property line.

(5) Colonies shall be maintained in movable-frame hives with adequate space and management techniques to prevent overcrowding.

(6) Beekeeper shall maintain an adequate supply of water for colonies located within 25 feet of each hive on the property where the Honeybees are located.

(7) Beekeeper will abide by any disease prevention directives issued by the State of Oregon Department of Agriculture.

(8) Hives must be positioned such that the opening is pointed into the beekeeping property and not toward any adjoining property.

(9) Bee feed or any other supplement used to support bee health must be stored in a sealed container that is not penetrable by rodents or other animals.

(10) Beekeeping appliances shall be kept

7.18.010 Short Title

GRC Article 7.18 may be cited as the Gresham Beekeeping Code.
(Ord. No. 1749, Enacted, 04/16/2015)

7.18.020 Definitions

In addition to the definitions set forth in GRC 1.05.010, for purposes of the Beekeeping Code, the following definitions apply:

Appliances. Any implement or device used in the manipulating of Honeybees or their brood or colony.

Beekeeping (apiculture). The maintenance of honeybee colonies, commonly in hives.

Colony. A group of honeybees.

Disease. Pests, disease or any condition affecting bees or their brood.

Flyway barrier. A barrier which directs the bees quickly into the sky.

Hive. Any receptacle or container made or prepared for use of honeybees, or box or similar container taken possession of by honeybees.

Honeybee. Honey-producing insects of the genus Apis and includes the adults, eggs, larvae, pupae or other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form.

in a clean condition at all times by taking such action as deemed necessary to prevent any condition which may be dangerous or detrimental to the public health, the health of the colony or constitute a nuisance.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1749, Enacted, 04/16/2015)

7.18.040 Exceptions.

Bees being kept on agriculture-use property that are properly registered with the State of Oregon are exempt from this code.

(Ord. No. 1749, Enacted, 04/16/2015)

7.18.050 Inspection.

The Manager is authorized to inspect the property to effectuate the purposes and public benefits of the Gresham Revised Code and enforce GRC Article 7.18. Authorization to inspect shall be pursuant to GRC 7.50.510 and GRC 7.50.520.

(Ord. No. 1749, Enacted, 04/16/2015)

7.18.060 Penalty.

Violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1749, Enacted, 04/16/2015)

Article 7.20

NOISE CONTROL CODE

Sections:

- 7.20.010 [Noise Control.](#)
- 7.20.020 [Policy.](#)
- 7.20.030 [Definitions.](#)
- 7.20.040 [Prohibitions.](#)
- 7.20.050 [Exceptions.](#)
- 7.20.060 [Enforcement.](#)

7.20.010 Noise Control.

GRC Article 7.20 of the code may be cited as the Gresham Noise Control Code.

7.20.020 Policy.

Certain activities essential to the economic, social, political, educational, and technical advancements of the citizens of the city necessarily require the production of sounds that may offend, disrupt, intrude, or otherwise create hardship among the citizenry. The time or manner of sound may constitute a hazard to the health, safety, welfare, and quality of life of residents of the city.

It is the policy of the city to limit and regulate sound deemed to be harmful to the health, safety, welfare, and quality of life of the citizens of the city, and this code shall be liberally construed to effectuate that purpose.

7.20.030 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of the Gresham Noise Control Code, the following mean:

Audio or Visual Equipment. Includes, but is not limited to, audio disc players, phonographs, radios, stereo systems, televisions, and video players.

Noise Sensitive Unit. Real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property

used in industrial or agricultural activity is not noise sensitive property unless it meets the above criteria in more than an incidental manner.

Plainly Audible Sound. Unambiguously communicated sound that is:

- (1) spoken speech;
- (2) music; or
- (3) mechanical or electronic noise.

Premises Open to the Public. Street, parking lot, or other premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

Residential Party. A party held in a place of residence, which is a building regularly or intermittently occupied by a person for dwelling, lodging, or sleeping purposes, whether or not the resident is actually present.

Sound Producing Source. Anything that is capable of making sounds that can be measured by a sound level meter as provided in GRC 7.20.040(1). "Sound producing source" includes, but is not limited to, the following:

- (1) air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles), and swimming pool or hot tub pumps;
- (2) air horns, bells, or sirens;
- (3) audio or visual equipment;
- (4) domestic tools, including chain saws, electric drills, electric saws, hammers, lawn mowers, leaf/snow blowers, and similar tools;
- (5) loudspeakers or public address systems;
- (6) musical instruments;
- (7) spoken speech;
- (8) vehicle engines or exhaust systems, other than regular traffic upon a highway, road or street;

(9) vehicle tires, when caused to squeal by excessive speed or acceleration;

(10) residential parties in a place of residence that are plainly audible to noise sensitive units that are not the source of the party.

Vehicle. Any device in, upon, or by which any person, animal, or property is or may be transported or drawn upon a highway and includes vehicles that are propelled or powered by any means.

Vibration Sensitive Unit. Real property normally used for sleeping, or normally used for schools, churches, hospitals or public libraries. Property used as industrial is not a vibration sensitive unit unless it is conducting vibration sensitive research or manufacturing operations. Agricultural use property is not a vibration sensitive unit unless it meets the following criteria in more than an incidental manner. Vibration Sensitive Units shall be categorized as follows:

Category 1 - Real property normally used for special uses, such as concert halls, television studios, recording studios, vibration sensitive research or manufacturing operations, and hospitals with vibration sensitive equipment.

Category 2 - Real property normally used for residences and buildings where people normally sleep, such as hospitals, hotels and nursing homes.

Category 3 - Real property normally used for institutional uses with primarily daytime use, such as offices, clinics, public libraries, schools and churches. Buildings that are intended for industrial use that also contain offices are not intended to be included in this category.

Wind Energy System. Equipment that converts kinetic energy from the wind to usable forms of energy such as electricity. This equipment includes any foundation, base, blade, vane, rotor, turbine, nose cone, wind generator, tower, transformer, wire, inverter, batteries, mounting hardware, vibration isolators, or other components

used in the system that are essential to the energy generation function. A wind energy system may be a single system which only serves the site on which it is located or may be connected to the grid. Meteorological or wind monitoring towers are not part of this definition.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1726, Amended, 07/18/2013; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992)

7.20.040 Prohibitions.

No person or person in charge of property shall produce or permit to be produced, with a sound producing source, sound that:

(1) When measured at or within the boundary of property on which a noise sensitive unit which is not the source of the sound is located:

(a) exceeds 50 dBA at any time between 10:00 p.m. and 7:00 a.m. the following day; or

(b) exceeds 60 dBA at any time between 7:00 a.m. and 10:00 p.m. the same day.

(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day:

(a) within a noise sensitive unit that is not the source of the sound; or

(b) on a public right-of-way at a distance of at least 50 feet from the source of the sound.

(3) Wind Energy Systems.

(a) In addition to the applicable provisions of the Noise Control Code, the applicable limits specified in ORS Chapter 467 and OAR Chapter 340, Division 35 are hereby adopted as part of the Noise Control Code for all residential, commercial and industrial wind energy systems, and shall only apply to wind energy systems, and no other sound producing sources. GRC 7.20.040(1) and (2) shall not apply to wind energy systems.

(b) A wind energy system shall not produce vibration levels that exceed the

criteria described below when measured at the property line of a property containing a vibration sensitive unit. The measurement will be taken at the vibration sensitive unit property line closest to the wind energy system. The vibration criteria are chosen based on the vibration sensitivity category of the most sensitive category on the property receiving the vibration. All vibration limits are presented in terms of overall root mean square (rms) velocity in VdB (decibels relative to one micro-inch per second). The vibration criteria for the various vibration sensitive units are:

(i) Industrial properties – no vibration level requirements unless adjacent to vibration sensitive unit

(ii) Category 1 - 65 VdB

(iii) Category 2 - 72 VdB

(iv) Category 3 - 75 VdB

(c) Upon written request from the owner or controller of a wind energy system, the manager may authorize an exception to GRC 7.20.040(3)(a) or (b) pursuant to GRC 7.20.050(9) for wind energy systems established in the city prior to the adoption of this code section.

(4) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1770, Amended, 03/23/2017, Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1726, Amended, 07/18/2013; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.20.050 Exceptions.

The following are exceptions to the prohibitions of GRC 7.20.040:

(1) Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools,

churches, and athletic fields. This exception shall not impair the manager's power to declare such event or activity in violation of other laws, ordinances or regulations.

(2) Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles, and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property.

(3) Sounds caused by bona fide use of emergency warning devices and alarm systems.

(4) Sounds regulated by federal law, including, but not limited to, sounds caused by railroad, aircraft, or commercially licensed watercraft operations.

(5) Sounds caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9:00 a.m. and 4:00 p.m. of the same day, excluding weekends.

(6) Sounds caused by industrial, agricultural, or construction activities during the hours of 7:00 a.m. and 10:00 p.m. of the same day.

(7) Sounds caused by regular vehicular traffic upon premises open to the public.

(8) Sounds caused by domestic tools during the hours of 7:00 a.m. and 10:00 p.m.

(9) Sounds caused by a source that has applied for, and received, a variance from the manager. The variance may be issued if the manager determines that granting the variance is consistent with the criteria and procedures established by the manager and GRC 7.20.020. The variance may be subject to such conditions as deemed reasonable by the manager.

(10) Sounds caused by activities associated with the collection of garbage, recyclables, and yard debris, subject to the provisions of GRC 7.25.205.

(11) The noise level produced by a wind energy system may exceed the limits specified in

GRC 7.20.040(3)(a) during short-term events such as utility outages and/or severe storms. The wind energy system noise levels exceeding the limits specified in GRC 7.20.040(3)(a) during such events shall not be allowed for a cumulative total of more than one hour of time between 10:00 p.m. and 7:00 a.m. and no more than 50 minutes out of an hour during any hour between 7:00 a.m. and 10:00 p.m.

During an exception condition, the facility owner shall disengage the wind energy system from the grid or power, engage the braking system, turn off the wind generator, and/or redirect the wind energy to a resistive load if batteries are full, if the noise levels exceed the limits specified in GRC 7.20.040(3)(a) for more time than is allowed under this exception.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1726, Amended, 07/18/2013; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003)

7.20.060. Enforcement.

(1) If the manager reasonably believes that the instrument causing the sound deemed to be a violation likely may be used to persist in causing additional violations of this article, a public safety officer may seize the instrument and impound it.

(2) If property seized in connection with the issuance of a citation or civil penalty is not needed for evidentiary purposes, and if a person having a rightful claim establishes identity and right to possession beyond a reasonable doubt to the satisfaction of the seizing officer, the officer may summarily return the property seized to the rightful possessor.

(3) If the property seized in connection with the issuance of a citation or civil penalty is needed for evidentiary purposes, the court or hearings officer, upon disposition of the issued citation or civil penalty, shall determine whether the property shall be returned to the person having a rightful claim, or deemed contraband subject to GRC 7.50.330(3).

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1268, Amended, 12/17/1992)

Article 7.25

SOLID WASTE CONTROL

Sections:

7.25.010	<u>Short Title.</u>	7.25.260	<u>Cleanup on Route; Prevention of Leaking and Spilling Loads.</u>
7.25.015	<u>Purpose.</u>	7.25.265	<u>Covers for Open Body Vehicles.</u>
7.25.020	<u>Definitions.</u>	7.25.270	<u>Vehicle and Receptacle Identification.</u>
7.25.030	<u>Rules and Regulations.</u>	7.25.275	<u>Compliance with Federal, State and Local Regulations.</u>
7.25.035	<u>Solid Waste License, Recyclables Collection Registration, or Construction Debris Registration Required.</u>	7.25.280	<u>Safety and Maintenance.</u>
7.25.040	<u>Authorization to Provide Collection Services.</u>	7.25.285	<u>Compliance with Zoning Ordinances.</u>
7.25.045	<u>Current Licensees and Registrants.</u>	7.25.290	<u>Promotion and Education.</u>
7.25.050	<u>Recyclables Collection Registration.</u>	7.25.295	<u>Reporting.</u>
7.25.057	<u>Construction Debris Registration.</u>	7.25.300	<u>Spring Cleanup.</u>
7.25.060	<u>Exemptions.</u>	7.25.305	<u>Collection Frequency.</u>
7.25.070	<u>Service Areas; Licensing.</u>	7.25.310	<u>Collection of Extra Receptacles.</u>
7.25.080	<u>Term of License.</u>	7.25.315	<u>Disposal of Collected Solid Waste, Recyclable Materials and Yard Debris.</u>
7.25.085	<u>Notice And Comment.</u>	7.25.320	<u>Access for Inspections and Delivery of Notice.</u>
7.25.090	<u>License and Registration Subject to Police Power.</u>	7.25.400	<u>General Customer Requirements.</u>
7.25.100	<u>Sub-Contracts for Service and Transfer of License.</u>	7.25.405	<u>Payment Responsibility (Customer).</u>
7.25.110	<u>Indemnification, Bond and Insurance.</u>	7.25.410	<u>Notification of Missed Collection or Billing Errors (Customer).</u>
7.25.120	<u>License Fee.</u>	7.25.415	<u>Location of Receptacles and Standards for Collection Areas (Customer).</u>
7.25.135	<u>Rates for Collection Service.</u>	7.25.420	<u>Set Out Time and Removal of Receptacles (Customer).</u>
7.25.145	<u>Ownership of Solid Waste, Recyclable Materials and Yard Debris, and Entry into Receptacles.</u>	7.25.425	<u>General Preparation of Materials (Customer).</u>
7.25.175	<u>Uncontrollable Event.</u>	7.25.427	<u>Preparation and Disposal of Marijuana Waste.</u>
7.25.185	<u>General Licensee Responsibilities and Restrictions.</u>	7.25.430	<u>Weight of Receptacles (Customer).</u>
7.25.195	<u>Customer Service Requirements.</u>	7.25.435	<u>Putrescible Waste Storage (Customer).</u>
7.25.205	<u>Hours of Collection Activity.</u>	7.25.440	<u>Preparation of Recyclable Materials (Customer).</u>
7.25.215	<u>Collection of Solid Waste Recyclable Materials and Yard Debris.</u>	7.25.445	<u>Preparation of Yard Debris Materials (Customer).</u>
7.25.220	<u>Recycling Service.</u>	7.25.450	<u>Yard Debris Collection Exemption Program (Customer).</u>
7.25.225	<u>Yard Debris Service.</u>	7.25.455	<u>Other Solid Waste (Customer).</u>
7.25.230	<u>Collection of Other Materials.</u>	7.25.460	<u>Disposal of Unacceptable Solid Waste Materials (Customer).</u>
7.25.235	<u>Billing Procedures.</u>	7.25.500	<u>Dispute Resolution.</u>
7.25.240	<u>Termination of Service.</u>	7.25.600	<u>Fines and Penalties.</u>
7.25.245	<u>Receptacles.</u>	7.25.610	<u>Suspension, Modification or Revocation of License.</u>
7.25.250	<u>Missed Collection.</u>		
7.25.255	<u>Refusal of Collection Service.</u>		

7.25.010 Short Title.

GRC Article 7.25 shall be known and may be cited as the "Solid Waste Control Ordinance" and may also be referred to as "this ordinance."

7.25.015 Purpose.

The provisions of this article are intended to ensure that the citizens of Gresham receive exceptional service from a solid waste management system that is cost-effective, efficient and encourages waste reduction. These provisions are not intended to restrict the transportation of solid waste, recyclable materials, and yard debris collected in accordance with the article, except as provided by other applicable federal, state and local laws and regulations. The licensing and registration provisions are intended to help the city comply with state recycling requirements and fulfill its responsibility to assist the state and region in meeting recycling goals. Fees collected pursuant to this article are intended for use in administering the licenses and registrations, enforcing the terms of this article, providing state and regionally mandated waste reduction education programs to residences and businesses served by licensees and registrants, and for other municipal purposes.

(Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1586, Amended, 4/15/2004; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1494, Enacted, 02/15/2000)

7.25.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 7.25, the following mean:

Allowable expenses. Shall include all reasonable costs incurred by licensees associated with the provision of solid waste, recyclable materials and yard debris collection services required herein and the cost of complying with all applicable laws, regulations or orders as now or hereafter amended. Allowable expenses as defined shall be presumed to be reasonable if, in the context of overall cost for a licensee, such expenses are comparable with the expenses incurred by a preponderance of similarly situated solid waste, recyclable materials

and yard debris collection companies in the Portland metropolitan area. Allowable expenses shall include, but not be limited to, the following:

(1) costs associated with the disposal and/or processing of all materials collected as required by GRC Article 7.25, including the costs of marketing materials to secondary markets, and all applicable fees;

(2) all labor costs, directly or indirectly associated with and necessary to the provision of services required by GRC Article 7.25, including all costs associated with all contracts and collective bargaining agreements, supervisory labor, workers' compensation and all benefits including, but not limited to health care, pension, and payroll taxes;

(3) all vehicle, equipment, container, and asset costs, including timely replacement, depreciation and interest expenses, lease costs no greater than those that would be charged by an independent third party to provide substantially equivalent equipment, vehicle registration fees, motor fuel, oil, tires and repairs and maintenance for such vehicles and equipment that are reasonably necessary to provide the services defined in GRC Article 7.25;

(4) performance bonds and liability insurance premiums in the amounts of coverage required by the city;

(5) all administrative and management costs and expenses reasonably allocated to the services required under GRC Article 7.25, including, but not limited to, reasonable compensation, management fees, and benefits for officers and employees, payroll taxes, administrative staff, data processing, billing, rent and supplies; provided that there shall be included in allowable expenses only that portion of management fees, compensation and benefits paid by a licensee that is at a level comparable with prevailing industry standards for similar services and positions provided to or at solid waste, recyclable materials and yard debris collection companies in the metro region that are similar in size and operations to those of the licensees', and there shall be excluded from allowable expenses only that portion of

management fees, compensation and benefits paid by the licensees that are in excess of such levels;

(6) utilities;

(7) training and worker safety;

(8) marketing, promotion and public education costs approved by the city;

(9) interest costs such as interest charges on the purchase of equipment or facilities, or on loans for working capital but not interest costs which are otherwise an unallowable expense as defined in this section;

(10) property, equipment or facility rental or lease costs, provided that with respect to any lease entered by a licensee with a related party, the lease costs under such lease shall only be included in allowable expenses to the extent that such lease costs do not exceed those that would be charged by an independent third party to provide the substantially equivalent property, equipment or facilities;

(11) costs for collecting and maintaining information directly and specifically required by GRC Article 7.25, costs of preparing, producing and printing all reports and information required under GRC Article 7.25 (including without limitation, the fees and expenses of accountants and other outside advisors and consultants), and all costs and expenses of participating in, complying with or otherwise being subject to the accounting and regulatory processes associated with or required by GRC Article 7.25, or under law;

(12) license fees, business fees, surcharges, or any other fees collected from licensees by the city;

(13) any expense incurred in the collection, handling, processing, storing, transporting, marketing, or sale or other disposition of recyclable materials and any expense incurred in connection with education, promotion and notice of the opportunity to recycle; and

(14) any other expense determined in advance by the city and the licensees to be reasonable and

necessary to the provision of the services required under GRC Article 7.25, and agreed to in writing.

Allowable expenses as defined above may be provided by affiliates of, or related parties to, a licensee provided that they do not exceed the market rate charged by third parties for similar services. If an expense of a licensee is questioned by the city, that licensee must submit proof that the expense is reasonable.

Bulky wastes. Large items of solid waste such as appliances, furniture, large auto parts, trees, branches greater than four inches in diameter and 36 inches in length, stumps and other oversized wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

Business. Stores; offices, including manufacturing and industrial offices; restaurants; warehouses; schools; colleges and universities; hospitals; and other industrial, manufacturing, and non-manufacturing entities, including public bodies; religious institutions, non-profit organizations and all events open to the general public with at least 250 attendees; but does not include business activities in residential dwellings unless they subscribe to commercial collection services from their franchised hauler.

Business Recycling Service Customer. Any person or business that enters into a service agreement with a waste hauler or recycler for commercial recycling services.

Collection or collection service. Provision of receptacles; storage of solid waste, recyclable materials, food scraps and yard debris in receptacles; transferring of solid waste, recyclable materials, food scraps and yard debris from receptacles into collection vehicles; and transport of solid waste, recyclable materials, and yard debris to a transfer station, landfill, materials recovery facility, or processing facility.

Collection license. A license granted by the city authorizing a person to provide collection service within the city and to use city streets for such purpose.

Commercial. Non-residential uses such as stores; offices, including manufacturing and industrial offices; restaurants; warehouses; schools; colleges and universities; hospitals; and other industrial, manufacturing, and non-manufacturing entities. Includes multifamily only when part of a mixed-use development.

Compactor. Any self-contained, power driven mechanical equipment designed for the containment and compaction of solid waste, recyclable materials or yard debris.

Compensation. (1) any type of consideration paid for service, including, but not limited to rent, membership fees, the proceeds from resource recovery, any direct or indirect provision for the payment of money, goods, services or benefits by tenants, lessees, occupants, members or similar persons; or (2) the exchange of service between persons.

Compostable Materials and Compostable. Yard debris and food scraps when source separated for controlled biological decomposition. Compostable materials do not include food-soiled paper products containing plastic or other materials that inhibit controlled biological decomposition. Other materials may be identified as compostable or non-compostable as determined by the manager.

Construction and demolition debris. Used or discarded construction materials removed from a premise during construction, demolition or renovation of a structure for which a permit has been obtained pursuant to GRC Article 10.05. Under the terms of this article such materials are classified as non-residential in source.

Contaminated Load. A load of source-separated recyclable materials that contains more than five percent non-recyclable materials by weight.

Curbside. A location within three feet of the edge of a public street, excluding such area separated from the street by a fence or enclosure. The "street" may be a public alley if the licensee desires to pick up receptacles from the alley. For residences on a flag lot, or other private driveway, or any private street not meeting the standards,

"curbside" shall be the point where the driveway or private street intersects the public street, or at such other location agreed upon between the licensee and customer or as determined by the city.

Customer. The person that enters into an agreement with a licensee or registrant for the collection of solid waste, source-separated recyclable materials, and/or yard debris.

Depot. A facility for transferring containerized solid waste, recyclable materials or yard debris from one mode of transportation to another. The term also refers to a place for receiving source-separated recyclable material.

Disposal. The process of discarding material at disposal sites as defined by ORS 459.005(8).

Drop box. A single receptacle, usually 10 cubic yards or larger in size, that is used for the storage and collection of solid waste, recyclable materials and/or yard debris.

Fair market value. The cash price (or its equivalent in terms of savings on collection and disposal fees) that is at least equal to the cost of collection and disposal of a recyclable material or group of recyclable materials that would be purchased or exchanged between the hauler of said recyclable material or group of recyclable materials and the generator of said recyclable material or group of recyclable material. Collection includes type, frequency, condition and extent of collection service, together with the education and promotion for said service.

Fair market value exemption. The exemption set forth under ORS 459A.075 wherein a source-separated recyclable material must be purchased from the generator or exchanged between the generator and the licensee with a measurable savings in solid waste collection or disposal cost to the generator resulting, in order to qualify for the exemption.

Food Scraps. Food scraps are solid waste generated from the storage, preparation, cooking, processing, handling, selling, or serving of food for human consumption. Food scraps include, but

are not limited to, excess, spoiled, or unusable food, fruits, dairy products, meats, vegetables, fish, shellfish, nuts, seeds, grains, coffee grounds, breads, dough, incidental amounts of edible oils, and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food scraps do not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly, and accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations. Other compostable materials may be included as food scraps as defined by the Manager.

Force majeure. Acts of god, fire, landslides, lightening, storms, floods, freezing, earthquakes, epidemics, volcanic eruptions, public riots, civil disturbances, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, embargoes, or acts of civil or military authority, breakage, explosions or accident to machines or other materials, pipelines or materials, governmental restraint, unavailability of a disposal site and any other event which could not with reasonable diligence be controlled or prevented by the party affected by the event.

Generator. A generator is a person who last uses a material constituting solid waste, recyclable materials, food scraps, or yard debris and makes them available for disposal or recycling. Solid waste, source-separated recyclable materials and yard debris generated by a tenant, lessee, occupant, member of a cooperative or similar person are generated by such person and not by the landlord, property owner, or agent of either the landlord or property owner.

Gross receipts. The receipts derived by a licensee from fees collected from customers for solid waste, recyclable materials, food scraps and yard debris collection services and other services provided in its service area, together with net receipts from the sale of recyclable materials.

Gross revenue. The accrual based billings by a licensee for collection operations within a

licensee's Gresham licensed service area, together with proceeds from the sale of recyclable materials.

Hauler. The person or entity that provides collection services.

Hazardous waste. The meaning defined in ORS 466.005(7) (or any successor thereto) and/or solid waste that is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" or "dangerous waste," pursuant to any state or federal law, including but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., and the Hazardous Waste Management Act, ORS Chapter 466, as amended, and the regulations promulgated thereunder. Hazardous waste shall not include incidental household hazardous waste or small quantity generator waste which is commingled with solid waste.

Household hazardous waste. A hazardous waste that is a discarded, useless or unwanted chemical, material, substance, or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households. Household hazardous waste includes, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

Landfill. A facility that has a recovery rate of less than 25 percent by weight as determined by an appropriate regulating agency and has, as its primary purpose, the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

Licensee. A person granted a collection license by the city in accordance with the terms of this ordinance.

Marijuana Waste. Marijuana Waste is the unwanted part or parts of a marijuana plant including, but not limited to, trimmings, shake, stems, remnants, by-products or any other vegetative elements of a marijuana plant that a generator wishes to dispose of. Marijuana waste for the purposes of this article does not include part or parts of a marijuana plant that has been treated or contaminated with solvents, or other

chemicals that would be considered household hazardous waste or hazardous waste which shall be disposed of as otherwise provided by applicable law.

Materials Recovery Facility. A solid waste management facility, or discrete portion thereof, that separates materials, for the purposes of recycling, from an incoming solid waste stream using manual and/or mechanical methods. Materials Recovery Facility also means a facility at which previously separated recyclables are collected.

Medical and infectious waste. The meaning assigned thereto in ORS 459.386 and OAR Chapter 340, Division 93.

Multifamily or Multifamily Complex. Any building, group of buildings, housing complex or manufactured home park that contains five or more dwelling units. A multifamily complex is considered a residential generator of solid waste, recyclables and yard debris.

Operating margin. The before-tax net profit that shall be calculated by subtracting the sum of all allowable expenses from gross revenue.

Other solid waste. Solid waste materials including, but not limited to, white goods, bulky waste, tires, and medical and infectious waste.

Placed for collection. Solid waste, recyclable materials, food scraps or yard debris that have been placed by the generator for collection by a licensee in accordance with the terms of this ordinance.

Processing. An operation where collected, source-separated recyclable materials are sorted, graded, cleaned, identified or otherwise prepared for end use markets.

Putrescible Waste. Solid waste containing organic materials that can be rapidly decomposed by microorganism, and which may give rise to foul-smelling, offensive products during such decomposition and/or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

Rates. The amounts of compensation paid by the customer for various levels of collection service of solid waste, recyclable materials and yard debris.

Receptacle. A can, cart, container, compactor or drop box used by the customer to contain solid waste, recyclable materials, food scraps or yard debris for collection service in accordance with the terms of this ordinance.

Recovery Rate. The rate at which a facility recovers materials for recycling, composting, anaerobic or aerobic digestion, remanufacture, or reuse, which is determined by the appropriate regulating agency.

Recycling Facility. A facility that accepts only source-separated recyclable materials.

Recyclable materials. Materials defined as principal recyclable materials in OAR Chapter 340, Division 90, and any others designated by the city.

Recycling. The process of collecting, sorting, cleansing, treating or reconstituting recyclable materials which would otherwise be disposed of in a landfill and returning them to the economy in the form of raw materials for new, reused, or reconstituted products.

Registrant. A person who holds a valid recyclables or construction debris collection registration.

Residential. A single detached dwelling unit or a multifamily dwelling with up to and including four dwelling units on a single tax lot.

Return on gross revenues. The quotient of the operating margin divided by the gross revenues. As a target for rate setting purposes, the return on gross revenues shall be approximately 9 percent with an acceptable range of approximately 8 percent to 10 percent.

Service area. The geographic areas which are granted to each individual licensee by a collection license.

Service level. Any type of regulated service

provided to customers as reflected in the rate schedule.

Single Generator. Defined as one generator.

Solid waste. All useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home appliances, manure, vegetable or animal solid or semisolid materials, dead animals and infectious waste, as defined in ORS 459.386. Solid waste does not include:

(1) materials defined as principal recyclable materials in OAR Chapter 340, Division 90, and any others designated by the city, which have been correctly source-separated and placed for collection or taken to a depot by the generator;

(2) hazardous wastes as defined in ORS 466.005; and

(3) materials used for fertilizer soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals provided the materials are used at or below agronomic application rates.

Source separate. The action of separating recyclable or compostable materials from solid waste which is performed by the generator.

Source separated materials. Any materials separated from solid waste by the generator prior to collection.

Source separated recyclable materials. Any recyclable or food scraps material separated from solid waste prior to collection.

Term. The length of the license, as provided for in this article.

Transfer Station. A fixed or mobile facility, other than a collection vehicle, where solid waste is deposited temporarily after being removed from the site of generation but before being transported to a final disposal location.

Unallowable expenses. Shall include the following:

(1) all charitable and political contributions;

(2) fines and penalties incurred by a licensee;

(3) payments for services provided by related parties to a licensee to the extent that such payments exceed the reasonable cost that would be charged by an independent third party to provide the substantially equivalent service;

(4) accruals for future unknown regulatory changes;

(5) costs associated with purchase of other companies including, but not limited to, employee stock ownership plan payments, goodwill, amortization of goodwill and premiums on key-person life insurance policies;

(6) principal or interest payments on the acquisition of solid waste, recyclable materials and yard debris collection routes; the purchase of equipment and facilities at a price that would be construed to include goodwill or a premium in excess of fair market value at the time of acquisition;

(7) state and federal income taxes;

(8) attorney's fees and related expenses resulting from:

(a) any judicial proceeding in which the city and a licensee are adverse parties, unless the licensee is the prevailing party;

(b) any judicial proceeding in which a licensee is ruled to be liable due to willful misconduct or gross negligence or in violation of law or regulation;

(9) any other expenses defined as

"unallowable" and approved by the council.

Waste evaluation. An evaluation completed by the city or a licensee of a commercial entity's waste management practices, with the purpose of providing guidance to the commercial entity on effective means to reduce waste, increase recycling, and purchase recycled products.

White goods. Kitchen or other large appliances which are "bulky wastes" as defined herein.

Yard debris. Compostable materials including grass clippings, leaves, pruning less than four inches in diameter and less than three feet in length, and similar vegetative materials; but does not include sod, food scraps, stumps or other similar bulky wood materials, rocks or dirt.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1802, Amended, 08/15/2019; Ord. No. 1758, Amended, 11/05/2015; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015, Ord. No. 1752, Amended, 05/05/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1666, Amended, 04/15/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1635, Amended, 01/18/2007; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1593, Amended, 10/07/2004; Ord. No. 1586, Amended, 4/15/2004; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Amended, 05/07/1998; Ord. No. 1399, Amended, 10/03/1996)

7.25.030 Rules and Regulations.

The manager may promulgate rules and regulations pertaining to the administration of this ordinance and to the collection of solid waste recyclable materials and yard debris. Prior to promulgation of such rules and regulations, notice and opportunity for comment will be provided as required by GRC 7.25.085. Copies of these rules and regulations will be filed with the manager.

(Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Amended, 05/07/1998)

LICENSED HAULERS AND REGISTRANTS

7.25.035 Solid Waste License, Recyclables Collection Registration, or Construction Debris Registration Required.

(1) No person shall collect solid waste in the

city without first obtaining a solid waste collection license.

(2) No person shall collect source-separated recyclable materials except in accordance with the terms of a solid waste collection license or recyclables collection registration.

(3) No person shall collect construction debris except in accordance with the terms of a solid waste collection license or construction debris registration.

(4) Violation of GRC 7.25.035 may be subject to a fine or penalty in the maximum amount of \$5,000.

(5) Subsections (1), (2) and (3) do not apply to persons exempt pursuant to GRC 7.25.060 or as otherwise provided in this chapter or by law.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1586, Amended, 4/15/04; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered, 05/07/1998; Ord. No. 1441, Amended, 05/07/1998; Ord. No. 1399, Amended, 09/10/1996; Ord. No. 1357, Amended, 04/04/1995)

7.25.040. Authorization to Provide Collection Services.

(1) *Licensees.* A licensee is the person authorized to collect solid waste, recyclable materials, food scraps, and yard debris from residential, multifamily, and commercial customers in its designated service area(s).

(2) *Recyclable Collection Registrants.* A registrant is authorized to collect source-separated loads of recyclable materials in accordance with the terms of this ordinance.

(3) *Construction Debris Registrants.* A registrant is authorized to collect construction debris in accordance with the terms of this ordinance.

(4) *Self-haulers.* A generator of solid waste, recyclable materials and/or yard debris is authorized to bring such materials from the site of generation to appropriate disposal, recycling

and/or material recovery facilities.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1586, Amended, 4/15/04; Ord. No. 1509, Enacted, 10/03/2000)

7.25.045 Current Licensees and Registrants.

A list of the companies currently licensed and registered to collect solid waste, recyclable materials, food scraps, construction debris and yard debris within the City of Gresham is maintained by the manager.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1441, Enacted, 05/07/1998)

7.25.050 Recyclables Collection Registration.

(1) Registration Required.

(a) Except for licensees operating in their designated service areas or generators who self-haul, any person wishing to collect recyclable materials in the city shall obtain a registration issued by the manager.

(b) In order to maintain a registration to collect recyclable materials within the city, a person shall only collect or transport recyclable materials that are source-separated by the generator for recycling or reuse and purchased or exchanged with the generator at fair market value.

(c) Registrations shall remain in effect so long as the Registrant is in compliance with the terms of GRC 7.25.050.

(2) Registration. In order to register to collect recyclable materials, a person must:

(a) Complete and submit an application form provided by the city.

(b) Comply with the other terms and requirements of GRC 7.25.050.

(3) Compliance with Other Regulations. A registrant must comply with all applicable federal,

state and local laws and regulations.

(4) Reporting.

(a) On a quarterly schedule as established by the city, a registrant must electronically submit a complete and accurate report of the tons collected, type of materials collected, the source of the materials, and the recycling facility used for each haul.

(b) A registrant shall provide to the city an accurate list of the locations of all of its public collection receptacles in Gresham.

(5) Prohibition Against Mixing or Disposing of Source-Separated Recyclable Materials.

(a) A registrant may not mix source-separated recyclable material with solid waste in any vehicle or receptacle or dispose of source-separated recyclables as solid waste.

(b) Violation of GRC 7.25.050(5) may be subject to a fine or penalty in the maximum amount of \$5,000.

(6) Failure to comply with the terms of GRC 7.25.050 will result in revocation of the registration. The city shall not accept a registration application from a revoked registrant for one year from the date of revocation.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1586, Amended, 4/15/04; Ord. No. 1540, Amended, 03/07/2002; Ord. No. 1509, Enacted, 10/03/2000)

7.25.057 Construction Debris Registration.

(1) Registration Required.

(a) Except for generators who self-haul, any person collecting construction debris in the city must possess a registration issued by the manager.

(b) Registrations shall remain in effect so long as the Registrant is in compliance with the terms of GRC 7.25.057.

(c) Violation of GRC 7.25.057(1)(a) may

be subject to a fine or penalty in the maximum amount of \$1,000.

(2) *Registration.* In order to register, a person must:

(a) Complete and submit a registration form provided by the city.

(b) Comply with the other terms and requirements of GRC 7.25.057 and GRC 7.25.110(1) and (3).

(3) *Compliance with Other Regulations.* A registrant must comply with all applicable federal, state and local laws and regulations.

(4) *Reporting.* On a quarterly schedule as established by the city, a registrant must electronically submit a, complete, and accurate report of the tons collected, type of materials collected, the source of the materials, and the recycling or disposal facility used for each haul, for the preceding quarter.

(5) Failure to comply with the terms of GRC 7.25.057 will result in revocation of the registration. The city shall not accept a registration application from a revoked registrant for one year from the date of revocation.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1611, Enacted, 10/06/2005)

7.25.060 Exemptions.

Licenses and registrations shall not be required of the following:

(1) federal or state agencies that collect, store or dispose of solid waste, recyclable materials and yard debris or those who contract with such agencies to perform the service, but only if the service is performed by or for such agencies. The manager shall be notified of all such activities;

(2) transportation of solid waste, recyclable materials or yard debris through the city that is neither collected nor disposed of within the city;

(3) sewage sludge, septic tank and cesspool pumpings or other sludge;

(4) dead livestock, vegetable and animal solid and semi-solid fats and oils;

(5) hazardous waste;

(6) reusable beverage containers as defined by state statute;

(7) solid waste, recyclable materials, food scraps or yard debris that is produced as an incidental part of the regular carrying on of the business of a janitorial, landscaping, gardening, tree or rendering service, but a person shall not provide collection service for any accumulated solid waste generated by a customer; and

(8) solid waste, recyclable materials, food scraps or yard debris that are generated by a person and self-hauled by that person to a disposal site, recycling facility or materials recovery facility.

(9) For residential properties of four or fewer living units, the solid waste, recyclable materials, food scraps and yard debris generated by a tenant, licensee, occupant or any person other than the owner of a property, and self-hauled by the owner of that property, are also exempt.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1399, Amended, 10/03/96; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Amended, 05/07/1998)

7.25.070 Service Areas; Licensing.

(1) General. A license to provide collection service for solid waste, recyclable materials and yard debris in a portion of the city shall be granted only after a determination of need for the service. Ordinarily, if one person has been licensed to provide collection, another person will not be licensed to provide the same service in the same area. The determination of need is the responsibility of the council, which will seek the best balance of the following objectives:

(a) to provide the most effective service at the least cost;

(b) to avoid duplication of service that will cause inefficiency, excessive use of fuel,

increased traffic, and greater wear on streets;

(c) to provide service in areas of marginal return;

(d) to promote and encourage recycling and resource recovery;

(e) to improve the likelihood of the license holder making a reasonable profit and thereby encourage investment in modern equipment;

(f) to cooperate with other governmental bodies by recognizing their service arrangements; and

(g) to otherwise provide for the service in a manner appropriate to the public interest.

(2) Allocation of Areas; Map. The solid waste recyclable materials and yard debris collection service areas shall be determined by council resolution. The service areas and the persons serving such areas shall be indicated on a map entitled "Solid Waste Collection Service Areas of the City of Gresham" ("the map"). A copy of the map, as amended pursuant to GRC 7.25.070(3), shall be maintained in the office of the manager. Amendments to the map may be made by council resolution or pursuant to annexation of property, and copies of the amended map shall be kept on file in the office of the manager.

(3) Annexation. The boundaries of service areas may be altered or a new service area created as a result of annexation of territory to the city. The council shall allocate such service area to a current licensee or other qualified solid waste hauler(s) as the council deems appropriate based on the criteria in GRC 7.25.070(4), and subject to the provisions of ORS 459.085(3). Until allocation has been made, the person providing collection service to the annexed area shall continue to do so. The manager shall update the map described in GRC 7.25.070(2) to reflect council's allocation of the annexed property to a service area.

(4) Collection Licenses.

Licenses for each service, including transfers, shall be granted by the council on the basis of:

(a) good service record;

(b) good financial status;

(c) adequate equipment and personnel capabilities to meet current and future needs;

(d) demonstrated record of compliance with federal, state, and local laws and ordinances;

(e) how to most effectively integrate with the existing solid waste system and designated collection areas;

(f) how to best ensure that high quality services are provided in the most cost-effective manner; and

(g) an evaluation of the impact on rates and services resulting from any single hauler's share of Gresham's solid waste collection system.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1593, Amended, 10/07/2004; Ord. No. 1441, Amended, 05/07/1998)

7.25.080 Term of License.

(1) The maximum term of a license is seven years.

(2) On an annual basis, Council will review each license and may elect to extend a license for an additional year, thereby returning the remainder of the license term to seven years.

(3) Council has the authority to choose to not extend a license for any reason. If the Council decides not to extend a license, it shall, prior to the expiration of the license:

(a) consider applications for a license to serve the affected area from any interested person, and award a license for that area based on a determination of which applicant best meets the criteria stated in GRC 7.25.070(4);

or

(b) select a hauler through an alternative selection and/or regulatory process.

The council shall also follow these procedures if a license is terminated prior to a scheduled review.

(4) Prior to the issuance, extension or review of a license, the council shall provide notice and opportunity for public comment as provided by GRC 7.25.085.

(5) At the time of issuance or extension of a license, the city may impose or modify conditions subject to the notification and hearing process set forth in GRC 7.25.610.

(6) No less frequently than every three years the city shall review the license system in comparison to alternative collection systems.

(7) If the council determines not to extend the license term, then the licensee shall continue to have the years that are remaining in its license term. At all times, the license remains subject to GRC 7.25.610.

(Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1593, Amended, 10/07/2004; Ord. No. 1493, Amended, 02/15/2000; 1441, Amended, 05/07/1998)

7.25.085 Notice and Comment.

Where required by any provision of GRC Article 7.25, notice and opportunity for public comment shall be provided as follows:

(1) Notice shall be published in the Newspaper of Record designated by the city. If circumstances warrant, notice may also be published in other publications. Notice shall also be provided to all holders of Gresham solid waste licenses. The manager may keep a list of interested persons who will also be provided notice. At a minimum, the notice shall state the date, time and place of the meeting, summarize the purpose of the meeting including any applicable laws, and state that all interested persons may appear and be heard.

(2) Notice shall be published at least five

days before the scheduled meeting where comments shall be heard. Notice shall be mailed at least one week before the scheduled meeting.

(3) At the meeting, all persons may appear and be heard.

(Ord. No. 1493, Enacted, 02/15/2000)

7.25.090 License and Registration Subject to Police Power.

Licensees and registrants are subject to the exercise of the police power of the city and to such regulations as the city may provide by resolution, ordinance, or regulation. The issuance of a license or registration shall not be construed as a waiver of any local, state or federal law.

(Ord. No. 1509, Amended, 10/03/2000)

7.25.100 Sub-Contracts for Service and Transfer of Licenses.

(1) A licensee may contract with another person to provide service within the licensee's service area with the written approval of the manager, provided that the sub-contract does not amount to a transfer of the collection license, will not result in increased costs of providing collection, meets the criteria in GRC 7.25.070(4), and the sub-contracting party agrees in writing to abide by the provisions of this ordinance.

(2) A licensee shall not sell or exchange service accounts or alter service area boundaries except by transfer approved under subsection (3) below.

(3) A licensee shall not transfer its license without consent of the council. A change in control of the licensee shall be considered a transfer. A change in control shall include, but it not limited to, the following:

(a) if beneficial ownership of 51 percent of the stock of the licensee is transferred to one or more persons, partnerships or entities;

(b) a merger of the licensee with one or more entities;

(c) if the beneficial ownership of 51 percent of a sole proprietorship or partnership is transferred to one or more persons, partnerships or entities; and

(d) For purposed of subsections (a) and (c), a change of control shall include multiple transactions that occur over a period of two years from the first transaction.

(4) The transferee shall submit a solid waste license application to the city and request approval of the transfer by the council. The transferee shall pay the transfer fee established by council resolution. The transferee shall assist the city in any inquiry. Council shall consent to the transfer if it determines the transferee is qualified for a license pursuant to GRC 7.25.070. The council shall have 120 days to act upon the request. Such period shall commence upon the receipt of the request and submission of all information required in writing by the city prior to or subsequent to the request for approval. If the council fails to render a final decision on the request within 120 days, the request shall be deemed granted unless the transferee and the city agree to an extension of time.

(5) Upon transfer, the transferee shall be bound by all provisions of this ordinance that refer to "licensee."

(Ord. 1593, Amended, 10/07/2004; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Amended, 05/07/1998; Ord. No. 1399, Amended, 10/03/1996)

7.25.110 Indemnification, Bond and Insurance.

(1) **Indemnification.** A licensee shall indemnify the city from any loss, damage, penalty, or claim against the city on account of or in connection with any activity of the licensee in the operation of the licensee's solid waste, recyclable materials, food scraps and yard debris collection business, including activity by any contract licensee under GRC 7.25.100. If legal action is filed against the city to recover for any claim or damages, the licensee, upon notice by the city, shall defend the city against the action, and, if there is a judgment against the city, the licensee shall pay the judgment and all costs.

(2) **Bond/Letter of Credit.** Concurrently with the licensee's acceptance of the license, each licensee shall file with the manager and maintain for the term of this license and any renewal, a corporate surety bond or letter of credit that guarantees performance by the licensee of the duties and obligations of a licensee under this ordinance. The bond or letter of credit amount will be an average of the licensee's quarterly license fee from the previous fiscal year, rounded to the nearest thousand. The bond or letter of credit amount for a licensee that acquired the customer accounts of another licensee through an approved transfer will be the combined average of both haulers' quarterly license fees from the previous fiscal year, rounded to the nearest thousand. The bond or letter of credit shall be subject to the review and approval of the attorney. The licensee shall furnish proof annually to the manager that the bond remains in effect.

(3) **Insurance.** A licensee shall secure, maintain and furnish certificates of insurance coverage of a type and amount as required by the city attorney that will cover the licensee's business operation, including each vehicle operated by it. Licensee may provide proof of self-insurance, satisfactory to the attorney, as an alternative means of meeting this license requirement.

(4) **Nonwaiver.** The provisions of this section, any bonds accepted by the city, and any damage recovered by the city shall not be construed to excuse unfaithful performance by the licensee or limit the liability of the licensee for damages, either to the full amount of the bond, or otherwise.

(5) A construction debris registrant shall also comply with GRC 7.25.110(1) and (3).

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1493, Amended, 02/15/2000; 1441, Amended, 05/07/1998)

7.25.120 License Fee.

(1) For the privilege of using the city's streets and other facilities and for the purpose of defraying the city's regulatory expenses, each licensee shall pay an annual fee to the city equal to

five percent of the gross receipts from business conducted in the city, less drop box disposal revenues, revenues from mixed loads of solid waste and recyclables that were collected from single generator, non-residential customers and deposited at a manufacturer, recycling facility or material recovery facility, construction and demolition debris collection service revenues, net receipts from the sale of recyclable materials received by each licensee. In addition, each licensee may be required to pay additional fees as approved by the council.

(2) The annual fee shall be computed and collected on a quarterly basis, the quarterly periods to consist of the periods ending March 31, June 30, September 30 and December 31. The licensee shall pay the fee not later than the last day of the month immediately following the end of the quarter. A license fee payment shall become delinquent if not paid by the last day of the month immediately following the end of the quarter. A late payment charge, compounded monthly, shall be charged against the entire delinquent balance until the balance is paid.

(3) At the time of payment of the quarterly fee, the licensee shall file with the manager a sworn and verified statement of quarterly gross receipts for the period covered by the tendered fee. Such statements shall be public records. Each licensee shall maintain books and records disclosing the gross receipts derived from business conducted within the city, which shall be open at reasonable times for audit by the city pursuant to GRC 2.92.210. The city may require a uniform system of bookkeeping and record keeping to be used by all licensees.

(4) Deliberate or malicious material misrepresentation of gross receipts by a licensee constitutes cause for revocation of the license.

(5) The fee imposed by this section is in addition to and not in lieu of, any other fee, charge, or tax imposed by the city.

(6) If a licensee fails to properly report the true amount of gross revenue or other basis from all accounts within the city as determined by the city after investigation, a late payment charge will

be owed on the under reported gross revenue calculated from the first day of the calendar quarter in which the error occurred to the date on which the city receives payment, compounded monthly. The late payment charge shall be due at the same time that the licensee is required to make payment of any insufficiency of the license fee. If the manager determines that the insufficiency is due to fraud, intent to evade the fee, or is greater than 10 percent of the total amount due, a penalty of 25 percent of the amount of the total fee shall be paid in addition to the amount due and the late payment charge.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1530, Amended, 06/26/2001; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Amended, 05/07/1998)

7.25.135 Rates for Collection Service.

(1) The city shall establish a rate schedule for all service levels for solid waste, recyclable materials, food scraps and yard debris collection service to be provided by licensees under this ordinance.

(2) Rates shall be adopted by the council by resolution.

(3) Rates shall be established to the greatest extent practicable on a cost of service basis.

(4) Rates shall be adequate to cover allowable expenses and to provide a reasonable return on gross revenue as determined by council, to allow investment in equipment and to ensure quality collection service.

(5) The rates that may be charged by a licensee for collection service shall conform to the latest schedule on file with the manager. Any rate not set by current resolution and charged in the City of Gresham must be approved by the manager prior to implementation.

(6) Rates shall be reviewed by the city on an annual basis. Licensees shall furnish financial and other information the council considers necessary to determine the schedule of charges. Licensees may identify information submitted to the city as

confidential. Prior to submitting such information to the city, licensees shall prominently mark any such information with the word "confidential." The city shall treat any information so marked as confidential and shall not subject confidential information to public disclosure except as required by law. The city may make confidential information available to other governmental entities that agree to keep the information confidential. If the city receives such a request, licensees will be notified.

(7) All books, records, accounts and data relating to collection service operations conducted within the city by licensees are subject to inspection and audit by the city.

(8) Upon audit by the city, if it is found deliberate or malicious material misrepresentation of books, records, accounts or data relating to collection service operations has occurred, the licensee shall pay audit costs incurred by the city. (Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1493, Amended, 02/15/2000; 1441, Renumbered, 05/07/1998; 1441, Amended, 05/07/1998)

7.25.145 Ownership of Solid Waste, Recyclable Materials and Yard Debris, and Entry into Receptacles.

(1) Solid waste, recyclable materials, food scraps and yard debris placed for collection shall be owned by and be the responsibility of the customer up until the time of collection. At the time of collection, the solid waste, recyclable materials and yard debris shall become the property of the licensee or registration holder for that customer.

(2) No person other than the customer, the licensee, or the registrant for that customer shall remove solid waste, recyclable materials, food scraps or yard debris from a receptacle. Violation of this provision may be subject to a fine or penalty in the maximum amount of \$5,000.

(3) No person other than the owner of a receptacle, a city representative or public safety officer shall enter into that receptacle. As used herein, enter into a receptacle means placement by

a person of any part of that person's body into a receptacle. Violation of this provision may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1635, Amended, 01/18/2007; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered, 05/07/1998; Ord. No. 1441, Amended, 05/07/1998; Ord. No. 1399, Amended, 10/03/1996; Ord. No. 1268, Amended, 12/17/1992)

7.25.175 Uncontrollable Event.

An uncontrollable event is one that occurs by change of law or force majeure. Upon such occurrence, and with approval of council, all solid waste collection and disposal costs incurred by any licensee for compliance with the law or mitigation of the force majeure shall be an automatic pass-through to licensee's customers retroactive to the onset of the uncontrollable event. (Ord. No. 1441, Enacted, 05/07/1998)

7.25.185. General Licensee Responsibilities and Restrictions.

(1) Each licensee shall provide collection service for solid waste, recyclable materials, food scraps and yard debris for all customers in its service area in accordance with such standards and specifications as set forth in this ordinance and applicable state laws and regulations. Each licensee shall furnish all necessary skill, labor, equipment, materials, facilities and related services required therefore. Each licensee shall make available for subscription all levels of solid waste, recyclable materials and yard debris collection services for which the city sets rates.

(2) A licensee shall not discontinue service to the service area or any substantial portion of it without approval of the council. Council approval is contingent upon arrangements being made to ensure that there is no interruption of service between the time of the licensee's scheduled date of service termination and the date of service start-up by a replacement licensee. Council approval must be received no less than 90 days before termination of service. Upon approval of the council, each licensee must give at least 60 days

notice of the service discontinuation to the affected customers along with information on the new service provider.

(3) A licensee may refuse collection service to any customer if the customer refuses to pay for the service in accordance with the rates established by the council. A licensee shall not terminate service without first giving notice as specified in this ordinance.

(4) Licensees shall collect medical and infectious wastes and shall comply with all requirements of ORS Chapter 459 and all rules adopted by the Environmental Quality Commission, the Oregon Health Authority, and the Public Utility Commission.

(5) Licensees may subcontract with other licensees for the collection of medical and infectious waste with the approval of the manager.

(6) Licensees are not required to collect medical and infectious waste that is not properly prepared and separated.

(7) Unacceptable solid waste materials. A licensee is not responsible for the collection of certain solid waste such as liquid fats, non-petroleum oils, semi-solid wastes, flammable materials, sewage sludge, septic tank and cesspool pumping or other sludge, manure, dead animals, and vehicles.

(8) Hazardous wastes. A licensee is not responsible for the collection of hazardous wastes. The licensees shall comply with all federal, state, local and Metro regulations applicable to the collection and disposal of hazardous wastes.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered and Amended, 05/07/1998)

7.25.195 Customer Service Requirements.

(1) General. The licensee shall respond within 24 hours or by the next business day to customer telephone calls and complaints. Both office and on-route staff shall be knowledgeable and courteous in answering customer information

requests and resolving customer complaints regarding solid waste, recyclable materials or yard debris services.

(2) Written Complaints. The licensees shall maintain a written log and respond in writing to any written questions or complaints within three working days (weekends and holidays excepted).

(3) Hours of Availability. The licensee shall have office staff available to provide telephone service from 8:00 a.m. to 5:00 p.m. daily (weekends, holidays, and force majeure circumstances excepted). Calls shall be responded to in a timely manner. The licensee shall have an answering machine or service available for accepting calls at all times. If a customer's call is answered by an answering machine, the customer shall be provided with the option of leaving a message.

(4) Notification to New Residential Customers. At the time a new customer contacts a licensee to request start-up of collection service, the licensee will inform the customer of:

- (a) service level options and rates;
- (b) billing procedures;
- (c) issuance of recycling carts and bins;
- (d) the yard debris exemption program; and
- (e) restrictions on the storage of putrescible materials for subscribers to monthly garbage collection.

Each licensee shall provide city-approved written informational materials to all new customers within seven days of sign up. These materials will include information on: solid waste, recyclable materials and yard debris service options; rates for these services, including an explanation of extra charges; a listing of the recyclable materials collected; the schedule of collection; the proper method of preparing materials for collection; and the reasons that persons should separate their materials for recycling.

(5) Notification to New Multifamily Customers. At the time a new customer contacts a licensee to request start-up of collection service, the licensee will inform the customer of:

- (a) service level options and rates;
- (b) billing procedures;
- (c) State of Oregon requirements that all tenants be provided with the opportunity to recycle four or more materials; and
- (d) the availability of yard debris collection service.

Each licensee shall provide city-approved written information on the proper preparation of recyclable materials to all new multifamily customers within seven days of sign up.

(6) Notification to New Commercial Customers. At the time a new customer contacts a licensee to request start-up of collection service, the licensee will inform the customer of:

- (a) service level options and rates;
- (b) billing procedures;
- (c) the Business Recycling Requirement (GRC 7.25.400(3)) for the collection of recyclable materials;
- (d) the availability of yard debris collection service; and
- (e) the availability and benefits of waste evaluations. The licensee will also provide this information to each existing commercial customer when any change is made to the level or type of service provided to that customer.

Each licensee shall provide city-approved written information on the proper preparation of recyclable materials to all new commercial customers within seven days of sign up.

(7) Customers shall be given written notice of any licenses-initiated changes in service. Printed

messages on bills shall not be considered an adequate form of notification unless the manager gives prior approval.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1593, Amended, 10/07/2004; Ord. No. 1441, Renumbered and Amended, 05/07/1998)

7.25.205 Hours for Collection Activity.

(1) Residential and Multifamily Neighborhoods. Any person collecting solid waste, recyclable materials, food scraps or yard debris shall limit the hours of collection activity in predominately residential and multifamily neighborhoods to between the hours of 6:00 a.m. and 6:00 p.m., unless weather or holiday schedules require extended hours of collection.

(2) Commercial and Industrial Areas. There shall be no limit on the hours of collection activity for any solid waste, recycling materials, food scraps and yard debris in predominately commercial and industrial areas.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.215 Collection of Solid Waste, Recyclable Materials and Yard Debris.

Licensees shall collect solid waste, recyclable materials, food scraps and yard debris provided the materials comply with the preparation requirements and other requirements set forth in this ordinance.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.220 Recycling Service.

(1) General. The licensees shall provide the opportunity for recycling collection service as outlined in this ordinance for all persons within their geographic area licensed by the city. The licensees shall collect recyclable materials as defined in GRC 7.25.020 provided the materials comply with the preparation requirements and other requirements set forth in this ordinance.

(2) Opportunity to Recycle.

(a) Residential Customers. Each licensee will provide its residential customers with weekly curbside collection of all properly prepared recyclable materials.

(b) Multifamily Customers. A licensee shall provide each of its multifamily customers with adequate receptacles for the collection of all recyclable materials collected in the residential curbside program. Licensees shall provide at least weekly collection of these recyclable materials.

(c) Commercial Customers. The licensees shall provide collection receptacles and services to each business customer for all recyclable materials (as defined in GRC 7.25.020) generated by that entity. Upon request of the licensee, the manager may waive this requirement if a particular business indicates that it will not participate in the recycling program. Licensees will provide at least weekly collection of recyclable materials unless an alternate schedule is agreed upon by the customer and licensee.

(3) Collection of Additional Recyclable Materials. Upon approval by the manager, licensees may collect additional recyclable materials not defined in this ordinance as recyclable materials.

(4) Collection and Processing of Collected Recyclable Materials. The licensees shall collect and market recyclable materials.

(a) Residential Curbside Collection. The licensee shall keep glass bottles and jars separate from all other recyclable materials in the collection vehicle and maintain that separation when unloading at processing facilities or end-use markets.

(b) Commercial and Multifamily Collection. The licensee shall keep glass bottles and jars separate from all other recyclables in the collection vehicle and maintain that separation when unloading at processing facilities or end-use markets.

(c) The licensees shall deliver all

properly prepared and collected recyclable materials to a processor or broker of recyclable materials, or to an end-use market. The licensees shall not deliver, or cause to be delivered, any collected recyclable materials for disposal, unless the recyclable materials are improperly prepared and rejected by a commonly used processor, broker or end-market. The licensee shall not collect recyclable materials that are visibly improperly prepared at the time of collection. Disposal of properly prepared recyclable materials is considered cause for revocation of a license.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1635, Amended, 01/18/2007; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1593, Amended, 10/07/2004; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered and Amended, 05/07/1998)

7.25.225 Yard Debris Service.

(1) General. The licensees shall collect yard debris materials provided the materials have been prepared in accordance with the requirements set forth in this ordinance.

(2) Reporting of Non-compliance by Exempt Residential Customers. Yard debris materials placed in a solid waste receptacle by a customer with a yard debris program exemption shall be collected by the licensee, but the name and address of the customer will be reported to the manager.

(3) Processing of Collected Yard Debris Materials. The licensees shall deliver all properly prepared and collected yard debris materials to a city approved processor. The licensee shall not deliver or cause the delivery of any collected yard debris materials for disposal as garbage unless the yard debris materials are improperly prepared and the licensee has received the approval of the manager. The licensee shall not collect yard debris materials that are visibly improperly prepared at the time of collection. Disposal of properly prepared yard debris materials is considered cause for revocation of a license.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1493, Amended, 02/15/2000; 1441, Enacted, 05/07/1998)

7.25.230 Collection of Other Materials.

(1) Other Solid Waste. The licensee shall provide the opportunity for collection service for other solid waste materials as defined and provided for in this ordinance for all persons within their geographic area licensed by the city. Other solid waste materials include white goods, bulky waste, tires, and medical and infectious waste.

(2) Tires. The licensee shall acquire all necessary permits from the Department of Environmental Quality for the storage or transportation of tires.

(3) Medical and Infectious Wastes. The licensees may provide for collection of medical and infectious wastes or may subcontract with other licensees for this service. In either case, the licensees and their subcontractors shall conform to all rules and laws including, but not limited to, those of the State of Oregon applying to the collection, transportation, storage, treatment, and disposal of medical and infectious wastes.

(4) Collection Frequency. The collection frequency for other materials shall be as agreed upon by a licensee and their customer and within seven working days of the customer request.

(Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered and 1441, Amended, 05/07/1998)

7.25.235 Billing Procedures.

(1) Billing Period. The licensees may bill customers either once per month or once every two months but shall not bill more than 60 days in advance of the service. Customer payments shall not be due more than 31 days before the end of the service period being billed, nor less than 14 days after the date of the postmark on the billing. Customers will be given a seven day grace period before any late fees will be applied to the customer's account. The licensees may require payment at time of service for services requested by customers that are less frequent than monthly. The licensees may also require payment at time of service from customers whose accounts are overdue or who have demonstrated a pattern of

late or non-payment.

(2) Vacation Credit.

(a) The licensees shall give a partial vacation credit to customers who stop service for a minimum period of two consecutive weeks and up to three consecutive weeks, and a full vacation credit to customers who stop service for a minimum period of four consecutive weeks.

(b) The licensees will calculate and give vacation credits according to a formula established by the city.

(3) Billing Policy. Each licensee shall provide new customers with a copy of billing procedures and shall give the procedures to any customer upon request. If a licensee or customer determines that an error in billing has occurred, the customer's account shall be debited or credited for the underbilled or overbilled amount if the billing error occurred one year or less prior to the date the error was discovered. The licensee must inform the manager of its intent to debit an account because of prior underbilling prior to notifying the customer of this intent.

(4) A licensee shall not include in Gresham customer bills any advertising or marketing materials for third party products or services, or for a licensee's products or services that are not directly related to solid waste collection services in Gresham.

(5) A licensee may not provide or sell any Gresham customer information to another person without City approval, except as allowed in GRC 7.25.235(6). This information includes, but is not limited to, a customer's name, service address, billing address, phone numbers, e-mail addresses, collection service level, and payment history.

(6) A licensee may provide a third party collection agency with customer information that is necessary for recovery of payments from delinquent accounts.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1593, Amended, 10/07/2004; Ord. No. 1441, Enacted, 05/07/1998)

7.25.240 Termination of Service.

(1) Billing Past Due. A licensee may terminate solid waste, recyclable materials, food scraps and yard debris collection service to any customer if the customer has not paid a bill within 30 days of the billing due date.

(2) Notice of Termination of Service. A licensee shall not terminate said service without first notifying the customer in writing of the intention to terminate service, postmarked not less than 7 days prior to the date of intended termination of service.

(3) Disputed Billings. The licensees shall not take any action to collect any portion of a bill subject to a dispute until there is a resolution of the dispute pursuant to GRC 7.25.500 below.
(Ord. No. 1750, Amended, 05/07/3015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.245 Receptacles.

(1) General. The licensees shall provide the customer with all receptacles for collection, with the exception that a customer may provide their own compactor or receptacle for setting out extras. All customer-provided receptacles shall be compatible with the licensee's equipment, and compactors shall comply with applicable federal and state safety regulations.

(2) Recycling Carts and Bins. The licensees shall provide a blue recycling rollcart and one orange bin for glass to each new residential customer and other customers as agreed to between the city and the licensees. Upon request, an additional recycling bin shall be provided for free to each existing customer to whom insufficient bins were previously provided. Additional or replacement carts or bins shall be provided to the customer for an amount equal to the cost incurred by the licensee to purchase such bins. In the case of carts or bins missing when a customer has moved out, the licensee may bill the old customer for the replacement cost or require that the bins be returned to the service address. Recycling bins must meet standards kept on file by the manager.

(3) Condition of Receptacles. Receptacles provided by licensees shall be delivered in good condition and free of any graffiti. Receptacles shall be designed for safe handling, non-absorbent, vector-resistant, durable, leak-proof, and, except for drop boxes and glass bins, provided with tight fitting watertight lids or covers that can be readily removed or opened. Receptacles must remain watertight and free of holes throughout their period of use.

(4) For all multifamily residential customers, collection receptacles must comply with the regional standards for collection receptacles by the following dates.

(a) All receptacles ordered after *July 1, 2022*, must comply with the color standard below and must be labeled with the correct Metro-approved regional signage.

(b) All plastic receptacles for garbage, acceptable recyclable materials, and yard debris and/or food scraps ordered after *July 1, 2022*, must contain at least 30% post-consumer recycled content.

(c) Garbage receptacles must be gray or black, acceptable recyclable materials receptacles must be blue, yard debris and/or food scraps receptacles must be green and source-separated glass receptacles must be orange by *July 1, 2028*.

(d) Color standards do not apply to compactors and drop boxes.

(e) As of December 31, 2023, all receptacles must be labeled with the correct Metro-approved regional decals for acceptable recyclable materials, glass, yard debris, and garbage. All previous garbage and recycling instructional decals must be removed from each receptacle and replaced with correct and approved regional decals.

(5) Repair or Replacement of Customer Supplied Receptacles. The licensees shall take care not to damage receptacles owned by the customer. A licensee shall reimburse the customer for the cost of repair or replacement of a

licensee approved receptacle when the licensee causes damage to a customer's receptacle, provided the damage is not caused by normal wear and tear and provided the receptacle satisfied the standards for receptacles described in this ordinance.

(6) Repair or Replacement of Licensee Supplied Receptacles. The customer shall take appropriate actions to ensure that hazardous materials, chemicals, paint, corrosive materials, medical and infectious waste, or hot ashes are not put into a cart, container, or drop box. A licensee may bill a customer for the cost to repair or replace a receptacle owned by the licensee when the customer does not take reasonable care to prevent abuse, fire damage, vandalism, graffiti, excessive wear, or other damage to the receptacle.

(7) Location of Receptacles. Licensees and registration holders shall leave emptied receptacles in a location that does not obstruct mailboxes, the sidewalk, a fire hydrant, or impede traffic flow or on-street parking. Licensees and registration holders are responsible for closing receptacles as securely as possible to prevent rain from getting into the receptacles. When possible, the licensees and registration holders shall place drop boxes on private property locations.

(8) In-ground Cans. Licensees are not required to remove a receptacle from an in-ground or "sunken" location.

(9) Removal of Receptacle from Set-out Location. The customer shall remove each emptied receptacle from the set-out location and return the receptacle to the customer's yard or permanent storage area within 24 hours of collection.

(10) Ownership of Receptacles. Receptacles provided by a licensee are the property of the licensee. The customer shall leave licensee's receptacles at the service address when the customer moves. Receptacles provided by a customer are the property of the customer.

(Ord. No. 1826, Amended, 03/31/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1635, Amended, 01/18/2007; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 05/07/1998)

7.25.250 Missed Collection.

(1) The licensees shall respond promptly to reports of missed collections. A complaint of missed collection received by a licensee from a customer or the city that is not due to the late or improper set-out by the customer shall be remedied by collecting the material at no extra charge:

(a) by 5:00 p.m. of the same day if the report is received prior to 12:00 noon on the normal collection day; or

(b) within 24 hours (excluding Saturdays, Sundays, and holidays) if notification is received after 12:00 noon on the normal day of collection; or

(c) at another time if mutually agreed upon by a licensee and customer.

(2) The licensees shall pick up collections missed due to hazardous weather conditions as weather and road conditions permit, or the customer may set out the missed collection, at no additional charge, on the subsequent regular collection day.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.255 Refusal of Collection Service.

(1) Hazardous Conditions. A licensee may refuse collection service where there is a hazardous condition that creates undue hazard or risk to the person providing service, licensee's collection vehicles or equipment, private property, or the public. Hazardous conditions may include overhanging branches, steep slopes, unusual topography, wet or icy ground or pavement, vicious animals, low hanging wires or basketball nets, poor access to the point of collection, or locations where the weight of the collection vehicle or equipment would damage private roads, driveways, or bridges. The licensee must make a reasonable effort to notify the customer of the reason for refusal of service on the same day such refusal occurs. If the licensee is unable to notify the customer on the same day, the licensee shall send written notice of the reason for refusal of

service to the customer. If hazardous conditions occur as identified above, and the licensee determines that collection service shall not occur that day, the licensee shall:

(a) Notify the manager immediately.

(b) Provide a person to receive customer inquiries on the day of canceled service or, at a minimum, leave a recorded message stating the revised collection schedule. If more than one collection day is affected, the above procedures will be repeated.

(2) Improperly Prepared Solid Waste, Recyclable Materials, Food Scraps or Yard Debris. A licensee may refuse collection service when the preparation of solid waste, recyclable materials, food scraps or yard debris does not satisfy the requirements of this ordinance.

(3) Overweight Receptacles. A licensee may refuse collection service for a receptacle that is over the weight limits listed in this ordinance. When a receptacle is overweight, it is the customer's responsibility to separate materials into additional receptacles to comply with weight requirements. If the customer requests, the licensee will provide the actual weight of the overweight receptacle by 5:00 p.m. on the business day following the request.

(4) Improper Location of Receptacles. A licensee may refuse collection service when a receptacle is in a location that does not satisfy the requirements of this ordinance.

(5) Notice for Refusal of Collection Service. The licensee shall leave a written notice at the time of non-collection when it refuses collection service as allowed in this ordinance. The written notice shall describe the specific reason for refusing service, the actions needed to resume service, and the pickup options for the materials not collected. The licensee shall leave the notice securely attached to the customer's receptacle or to the customer's front door at the time of the refused service. The licensee shall document the date, time and reason for refusal of any collection service.

(6) Collection Options for Refusal of Service. When there is a refusal to collect materials, the licensee will provide collection of double the customer's subscribed service level volume of properly prepared materials, at no additional cost, on the subsequent regular collection day.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 05/07/1998)

7.25.260 Cleanup on Route; Prevention of Leaking and Spilling Loads.

(1) Licensees and registration holders shall make a reasonable effort to pick up all material blown, littered, broken, or leaked during the course of collection subsequent to being set out by the customer.

(2) All solid waste, recyclable materials and yard debris collection vehicles shall be constructed, loaded, operated and maintained in a manner to reduce to the greatest extent practicable, the dropping, leaking, blowing, sifting or escaping of solid waste, recyclable materials or yard debris, vehicle fuel, hydraulic fluid or lubricants from the vehicle onto private property and public streets while stationary or in transit, excepting a normal leakage of fuel, hydraulic fluid, or lubricants typically associated with a properly maintained vehicle. Licensees and registration holders shall make a reasonable effort to clean up all dropped, leaked, blown, or escaped solid waste, recyclable materials or yard debris, spilled vehicle fuel, hydraulic fluid or lubricants as soon as practicable. Licensees and registration holders will immediately notify the city's solid waste program manager of all significant vehicle fluid spills.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.265 Covers for Open Body Vehicles.

All open body collection vehicles shall have a cover that shall be either an integral part of the vehicle or a separate cover for the vehicle. This cover shall be used while in transit, except during the transportation of bulky wastes, including but not limited to stoves, refrigerators and similar white goods.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.270 Vehicle and Receptacle Identification.

(1) Vehicle Identification. All commercial vehicles used to collect solid waste, recyclable materials, food scraps, yard debris, and construction debris shall be clearly identified by displaying vehicle owner, lessee, or person responsible's name and telephone number prominently and conspicuously on both sides of the vehicle. The owner of such vehicles shall be responsible for complying with this provision. This does not apply to residential or commercial generators who are self-hauling waste.

(2) Receptacle Identification. All of its containers, drop boxes and compactors other than those provided by the generator, used to collect solid waste, recyclable materials, food scraps, yard debris, and construction debris shall be clearly identified by displaying the licensee's, registrant's, or business's name and telephone number prominently and conspicuously. The owner of such containers, drop boxes, and compactors shall be responsible for complying with this provision.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1441, Enacted, 05/07/1998)

7.25.275 Compliance with Federal, State and Local Regulations.

Licenses and registration holders shall comply with all applicable federal, state and local laws and regulations relating to driving, transportation, collection, disposal and processing of solid waste, recyclable materials and yard debris.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.280 Safety and Maintenance.

All collection equipment must be maintained and operated in compliance with all local, federal and state statutes, ordinances, and regulations including compliance with regulations related to the safety of the collection crew and the public.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.285 Compliance with Zoning Ordinances.

Facilities for storage, maintenance, and parking of

any vehicles or other equipment shall comply with all applicable zoning ordinances and all other applicable local, federal and state statutes, ordinances and regulations.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.290 Promotion and Education.

The licensees shall participate in city directed promotion and education efforts.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.295 Reporting.

In addition to the financial reports required by GRC 7.25.135(6), the licensees shall provide a monthly report to the manager listing: the quantities of recyclable materials collected from Gresham and Wood Village customers during the previous calendar month; the locations to which these materials were delivered for processing or remanufacturing; number of customer accounts; and other information as requested. The report shall be submitted in a format approved by the manager.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1441, Enacted, 05/07/1998)

7.25.300 Spring Cleanup.

Each licensee shall provide support for two community events each year by providing a minimum of one free haul including delivery, haul, and rental fees of one 30-yard or larger container per event.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1441, Enacted, 05/07/1998)

7.25.305 Collection Frequency.

(1) General. The licensees shall be responsible for the scheduling of all solid waste, recyclable materials, food scraps and yard debris collection services.

(2) Residential Customers. The regular collection frequency for residential solid waste, recyclable materials and yard debris collection service shall be weekly except for materials defined as bulky wastes, unless a customer subscribes to monthly service.

(3) Commercial and Multifamily Customers. The collection frequency for commercial and multifamily solid waste, food scraps, or source separated compostable materials collection service shall be not less than weekly and as agreed upon by a licensee and customer. The collection frequency for compactors not containing source separated food scraps or compostable materials may be up to, but not exceeding, every 14 days. Collection of recyclable materials and loads not containing putrescible waste may occur less frequently than weekly if agreed upon by a licensee and customer.

(4) Special Collection of Solid Waste, Recyclable Materials or Yard Debris. Each licensee shall provide occasional or special collection of solid waste, recyclable materials or yard debris on request by the customer at a fee approved by the city for such collections.
(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.310 Collection of Extra Receptacles.

Each licensee shall collect from residential customers occasional extra receptacles of solid waste set at the curb as an "extra" beyond a customer's subscribed service level. The licensees may charge the fee established by the city for such "extras," except in cases of missed collections that are the fault of a licensee. The licensees may require the customer to give 24 hours prior notification of an extra set out that would require extraordinary time, labor, or equipment, or if the customer has a record of non-payment of charges for extras.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.315 Disposal of Collected Solid Waste, Recyclable Materials and Yard Debris.

Each licensee shall dispose of solid waste, recyclable materials and yard debris collected within their franchised geographic area at Metro-approved or city-approved facilities. The licensee shall not mix solid waste for disposal with any properly prepared, source-separated recyclable materials or yard debris. The licensees shall not dispose of any materials that have been source

separated pursuant to state law.
(Ord. No. 1441, Enacted, 05/07/1998)

7.25.320 Access for Inspections and Delivery of Notices.

The licensee shall make all company premises, facilities and records related to their solid waste, recyclable materials and yard debris collection services (including, but not limited to: offices, storage areas, non-financial records, records pertaining to the origin of any solid waste collected by the licensee, receipts for sale or delivery of collected recyclable materials, customer lists, and all records related to vehicle maintenance and safety which are required under PUC motor carrier requirements and regulations and ORS Chapter 767) available for inspection by City of Gresham employees within 24 hours of notice by telephone. Such inspections are only for purposes of enforcing GRC Article 7.25, and are restricted to normal business hours. During normal business hours, the licensee shall make all company premises and facilities accessible to city employees for delivery of any written notices. Collection vehicles must be accessible for inspections during the normal operating hours for collection, in addition to normal business hours. Where receptacles are stored in the public right-of-way or when the city is inspecting a situation where the licensee is allegedly disposing recyclables or yard debris with solid waste, the need for 24 hour notice does not apply to inspection of receptacles or vehicles.

(Ord. No. 1441, Enacted, 05/07/1998)

CUSTOMERS

7.25.400 General Customer Requirements.

(1) All occupied residential, multifamily and commercial properties in the city shall provide for separate collection of solid waste, recyclable materials and yard debris in accordance with this ordinance.

(2) The owner of any residential or multifamily complex who rents, leases or lets dwelling units for human habitation shall:

(a) subscribe to and pay for collection service with the licensee on behalf of their tenants or, if the site is developed with one to four dwellings, self-haul solid waste from tenants to a Metro-approved disposal facility;

(b) provide enough receptacles of adequate size to prevent the overflow of solid waste, recyclable materials and yard debris from occurring. For all multifamily customers minimum per unit service volumes must be provided according to the table below.

Multifamily Service Standards

<u>Garbage</u>	<u>Acceptable Recyclable Materials</u>	<u>Source-separated Glass</u>
20 gallons per unit per week	20 gallons per unit per week	1 gallon per unit per week

Receptacles shall be placed in a location accessible to all dwelling units;

(c) provide for sufficiently frequent, but at least weekly, collection of solid waste, recyclable materials, food scraps and yard debris, except for compactors, which shall be collected at least every 14 days; and

(d) if the site is developed with one to four dwellings and the owner is self-hauling tenants' solid waste, provide for the same level and frequency of collection of source-separated recyclable materials, food scraps and yard debris as are required of licensees serving residential customers. Upon request by the manager, the owner shall provide proof of compliance with self-haul requirements of this section.

(3) Exemptions to Multifamily Standards

(a) Exempt yard debris from collection if no yard debris is generated on-site, or the customer meets one of the following conditions: a. Uses a landscape maintenance firm that transports yard debris to a Metro-authorized facility; b. Manages its yard debris on-site such as composting or mulching; c.

Self-hauls its yard debris to a Metro-authorized facility; d. Uses another method approved by the City.

(4) Business Recycling Requirement

(a) All businesses and business recycling service customers shall recycle as follows:

(i) Separate for recycling all paper, cardboard, glass and plastic bottles and jars, and aluminum and tin (metal) cans according to recycling guidelines provided by city.

(ii) Provide recycling containers for internal maintenance or work areas to allow for recyclable materials to be collected, stored, or both.

(iii) Post accurate signs or adhere labels where recyclable materials are collected, stored, or both that identify the materials that the business must source separate and that provide recycling instructions.

(b) A business may seek an exemption from the requirement in subsection (a) if:

(i) the business provides access to the city staff for a site visit; and

(ii) the city determines during the site visit that the business cannot comply with the Business Recycling Requirement because of space constraints or economic restrictions.

(c) To assist businesses in compliance with this section, the City of Gresham shall:

(i) notify businesses of the Business Recycling Requirement;

(ii) provide businesses with education and technical assistance to assist with meeting the requirements of this section; and

(iii) monitor and verify business compliance with this section.

(5) In accordance with the service authorizations provided in GRC 7.25.040, and except as exempted by GRC 7.25.060, a generator of solid waste, recyclable materials, food scraps or yard debris, or the agent for that generator, must utilize the services of a licensee or registrant, or self-haul such materials. Upon request by the manager, a generator, or the agent for the generator, who is self-hauling such materials shall provide proof that those materials are taken to a properly licensed and approved solid waste disposal, recycling, food scraps or yard debris processing facility.

(6) The owner of any multifamily complex shall provide its tenants with the opportunity to recycle all materials collected in the residential curbside program.

(7) Business Food Scraps Requirement.

(a) Applicability. A covered business is a business that cooks, assembles, processes, serves, or sells food or does so as service providers for other enterprises. Covered businesses subject to the business food scraps requirement include, but are not limited to:

- | | |
|--------------------------|------------------------|
| Cafeterias & buffets | Grocery retail |
| Caterers | Grocery wholesale |
| Colleges & universities* | Hospitals* |
| Correctional facilities | Hotels* |
| Drinking places* | Limited service |
| Elementary and | restaurants |
| secondary schools* | Nursing & residential |
| Food product | care* |
| manufacturing | Retirement & assisted |
| Food service contractors | living* |
| Full service restaurants | Specialty food markets |
| | Warehouse clubs |

* Only those with full-service restaurants or on-site food preparation or service are subject to this requirement.

(b) Business Food Scraps Requirement.

(i) Covered businesses must separate food scraps from all other solid waste for

collection.

1) Covered businesses must collect food scraps that are controlled by the business, agents, and employees. This requirement does not apply to food scraps controlled by customers or the public. At its discretion, a business may also collect food scraps from customers or the public but must ensure that food scraps are free of non-food items. K-12 schools may also include student-generated food scraps from school cafeteria meals but must ensure that food scraps are free of non-food items.

2) Covered businesses must have correctly-labeled and easily-identifiable receptacles for internal maintenance or work areas where food scraps may be collected, stored, or both.

3) Covered businesses must provide accurate signs where food scraps are collected, stored, or both that identify the materials that the covered business must source separate.

(ii) Owners or managers of single or multi-tenant buildings containing covered businesses must allow or otherwise enable the provision of food scraps collection service to lessees or occupants subject to the business food scraps requirement.

(c) Compliance Timeline. Covered Businesses must comply with the food scraps requirement as determined by the quantity of food scraps they generate per week, on average. Implementation will begin with Business Group 1 and progress to Group 2 and 3 as set forth in the Metro Solid Waste Administrative Rules. Covered Businesses that demonstrate they generate less than 250 pounds per week of food scraps are not subject to this requirement.

Business Group 1
≥0.5 ton (1,000 pounds) per week food scraps generated

Business Group 2
≥0.25 ton (500 pounds) per week food scraps generated

Business Group 3
≥0.125 ton (250 pounds) per week food scraps generated

(d) Temporary Compliance Waivers for Covered Businesses. A covered business may seek a temporary (12 month) waiver from the business food scraps requirement by providing access to a City recycling specialist for a site visit and demonstrating that the covered business cannot comply with the business food scraps requirement. Businesses must agree to periodic waiver verification site visits to determine if conditions that warrant the waiver are still in place and cannot be remedied in accordance with waiver criteria.

(8) Enforcement.

(a) Prior to the issuance of any citation for a violation of GRC 7.25.400, the city shall first provide written notice of noncompliance to the person or business responsible, which will include the nature of the violation and the steps to be taken to avoid additional enforcement actions. For noncompliance with the Business Recycling Requirement and Business Food Scraps Requirement, the city shall also offer assistance with compliance to the business or business recycling service customer. The notice shall give the person at least 14 days to correct the violation.

(b) If a violation is not corrected within the time specified in the notice of noncompliance, the city may issue a citation or civil penalty. The citation or civil penalty will provide an additional opportunity to cure the violation within the time specified in the citation or civil penalty.

(c) Any violation that is not corrected within the time specified in a citation or civil

penalty shall be subject to enforcement pursuant to GRC Article 7.99.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1826, Amended, 03/31/2022; Ord. No. 1802, Amended, 08/15/2019; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1666, Amended, 04/15/2009; Ord. No. 1635, Amended, 01/18/2007; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered and Amended, 05/07/1998; Ord. No. 1399, Amended, 10/03/1996; Ord. No. 1357, Amended, 04/04/1995)

7.25.405 Payment Responsibility (Customer).

(1) Responsible Party. Any person who receives service shall be responsible for payment of said service.

(2) Missed Collections. A customer may not deduct the cost of past unreported missed collections from the customer’s service bills.

(3) Vacation Credit. The customer is responsible for requesting a vacation credit from the licensee. The customer may request a vacation credit to stop service for a minimum period of two consecutive weeks and must give at least 48 hours advance notice to the licensee of the request for service suspension.

(a) A customer shall receive a partial vacation credit if service is stopped for a minimum period of two consecutive weeks and up to three consecutive weeks, and a full vacation credit if service is stopped for a minimum period of four consecutive weeks.

(b) The licensees will calculate and give vacation credits according to a formula established by the manager.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1441, Enacted, 05/07/1998)

7.25.410 Notification of Missed Collection or Billing Errors (Customer).

The customer shall promptly notify the licensee about a missed collection or billing error.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.415 Location of Receptacles and Standards for Collection Area (Customer).

(1) General. The customer shall place receptacles in a location that does not obstruct mailboxes, water meters, the sidewalk, fire hydrants, driveways, or impede traffic flow or on-street parking. There shall be unobstructed vertical clearance for receptacles picked up away from the curbside or roadside. Solid Waste collection areas shall be at ground level and accessible to the licensed solid waste and recycling hauler.

(2) Residential Service. Receptacles must be placed at the curbside. Special placement arrangements for mobility-impaired customers, or those whose lots are not physically configured to allow curbside placement, may be made by agreement between a customer and licensee.

(3) Multifamily Customers.

(a) General. The customer shall maintain unobstructed access to solid waste, recyclable materials and yard debris receptacles for tenants and haulers.

(b) Opportunity to Recycle. The owner of any multifamily complex shall provide tenants with separate receptacles or areas for the collection of the same materials collected in the residential curbside program.

(4) Commercial. The customer shall maintain unobstructed access to solid waste, recyclable materials and yard debris receptacles for users of the receptacles and for haulers.

(5) Location of Roll Carts. The customer shall place roll carts at the curbside, or roadside, or at such other location agreed upon by the customer and their licensee.

(6) Drop Boxes. When possible, the customer should arrange for the licensee to place drop boxes on private property locations.

(7) Collection Enclosures. For solid waste and recycling service areas of developments

required to comply with Section 7.0212 of the Gresham Community Development Code (GCDC), the customer:

(a) Shall not reduce the dimensions of the enclosure required by GCDC 7.0212.

(b) Shall maintain adequate room within enclosures to allow reasonable access to solid waste, recycling, and yard debris receptacles for their users, as well as to allow safe movement of the receptacles by the hauler.

(c) Shall not remove any enclosure or structure required by GCDC 7.0212.

(d) Shall maintain any enclosure or structure required by GCDC 7.0212 in good condition.

(e) Shall keep all collection containers within the enclosure required by GCDC 7.0212.

(f) Shall not place containers three yards and larger facing each other. Containers shall be placed with a minimum of two feet around the sides and rear of each container, and a minimum of three feet in front of each container for maneuverability in depositing garbage or recyclable materials.

(g) May place containers of less than three yards facing each other but a minimum of four feet shall be provided between the containers.

(h) Shall maintain the enclosure gate swing free of obstructions and have restrainers in the open and closed positions. The gate swing shall open to a minimum of 120 degrees.

(i) Shall post and maintain "No Parking" signs in a prominent location on or near the enclosure or painted on the pavement in front of the collection area, to provide unobstructed access for servicing receptacles.

(j) Recycling and solid waste areas shall be used only for purposes of storing solid

waste and recyclable materials and not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.

(k) Compactors and collection containers provided by the Customer shall be compatible with the licensed hauler's collection equipment.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1826, Amended, 03/31/2022; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1666, Amended, 04/15/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 05/07/1998)

7.25.420 Set Out Time and Removal of Receptacles (Customer).

The customer is responsible for proper placement of solid waste, recyclable materials and yard debris receptacles by 6:00 a.m. on the customer's designated collection day but no earlier than noon on the day previous to collection. Receptacles shall be removed by customer within 24 hours of collection.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.425 General Preparation of Materials (Customer).

The customer shall place solid waste, recyclable materials and yard debris safely and securely in the receptacles to prevent lightweight materials from blowing away prior to and while being placed into the collection vehicle or receptacle. The customer shall load the contents of a receptacle in such a manner that they fall freely from the receptacle when emptied by a licensee. A licensee shall not be responsible for digging the contents out of a receptacle. The customer shall not overfill a can, cart, or container so that the lid cannot be securely closed. The customer is responsible for closing the receptacle as securely as possible to prevent the lid or materials from blowing away or rain from getting into the receptacle. The customer shall bag cold ashes, animal wastes, kitty litter and other fine materials, diapers and other materials containing human waste, into a leak-resistant bag that shall be closed

and secured prior to placement for collection in the solid waste receptacle.

(Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1441, Enacted, 05/07/1998)

7.25.427 Preparation and Disposal of Marijuana Waste.

Prior to disposal of marijuana waste, the generator of such waste shall render the marijuana waste unusable and unrecognizable as marijuana by following the methods in subsection (1) of this section. Disposal of the marijuana waste rendered unusable shall follow the methods under subsection (2) of this section.

(1) The allowable method to render marijuana plant waste unusable and unrecognizable as marijuana is by grinding the marijuana and mixing and incorporating the marijuana waste with other ground materials so the resulting mixture is at least 50 percent non-marijuana waste by volume. Other methods to render marijuana waste unusable must be approved by the manager before implementation.

(2) Material used to mix with marijuana waste falls into two categories: compostable waste and non-compostable waste.

(a) Compostable waste: marijuana waste to be disposed as yard debris, compost feedstock or in another organic waste method may be mixed with the following types of waste materials:

(i) yard waste or any other materials allowed in the city's yard debris collection program.

(ii) other wastes as approved by the manager.

(b) Non-compostable solid waste: marijuana waste to be disposed as solid waste in a landfill or another disposal method may be mixed with the following types of waste materials:

(i) paper waste;

- (ii) animal bedding or litter;
- (iii) cardboard waste;
- (iv) plastic waste;
- (v) soil; or
- (vi) other wastes as approved by the manager.

loose cubic yard for mixed solid waste or recyclables; or

(b) 750 pounds gross loaded contents per yard for source separated food scraps. Additionally, a licensee is not required to service a food scrap container placed in a manner not conforming with the collection area standards set forth in Gresham Community Development Code 7.0212.

(3) Marijuana wastes rendered unusable and unrecognizable as marijuana can be disposed either as solid waste in a solid waste collection container or as compostable waste in a yard debris collection container. In accordance with the service authorizations provided in GRC 7.25.040, and except as exempted by GRC 7.25.060, a generator of marijuana waste shall utilize the services of a licensee or self-haul such materials to a properly licensed and approved solid waste disposal or recycling facility.
(Ord. No. 1752, Enacted, 05/05/2015)

If an overweight container is collected, the licensee may charge the customer for disposal costs on the excess over the limit. If drop boxes are overloaded to exceed the weight limit for a loaded vehicle, the customer shall be charged for any fine resulting from an overweight ticket.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.430 Weight of Receptacles (Customer).

7.25.435 Putrescible Waste Storage (Customer).

(1) Cans and Carts. The customer shall limit the weight of a receptacle and its contents to the maximum weights listed as follows:

(1) The customer or a person who self-hauls garbage shall not store putrescible materials in an outside receptacle in excess of seven days. The customer shall ensure that said materials are removed from the premises at regular intervals not to exceed the seven days. An exemption may be made to this rule for the storage of putrescible materials in a compactor that is totally sealed, non-leaking and non-odorous. Putrescibles stored in such a compactor may be stored for no more than 14 days. Customers that subscribe to monthly service and whose putrescible materials are secured as provided by GRC 7.15.040(1)(d) are exempt from this rule.

Receptacle/Type Capacity

	<u>Maximum Weight</u>
20-gallon can	35 lbs.
32-gallon can	60 lbs.
35-gallon/40-gallon roll cart	60 lbs.
60-gallon roll cart	120 lbs.
90-gallon roll cart	145 lbs.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 05/07/1998)

(2) Containers and Drop Boxes. The weight of material put into a container or drop box, whether compacted or not, shall not exceed the lifting capacity of that licensee's equipment nor shall the weight put the licensee over the weight limit for the loaded vehicle. The licensees shall furnish their customers with information concerning limitations on their equipment, upon request. A licensee is not required to collect containers exceeding:

7.25.440 Preparation of Recyclable Materials (Customer).

- (a) 300 pounds gross loaded contents per

Recyclables placed for collection shall be prepared in accordance with guidelines adopted by

the manager and described in publications distributed by the city, licensee, or registrant.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1493, Amended, 02/15/2000; 1441, Enacted, 05/07/1998)

7.25.445 Preparation of Yard Debris Materials (Customer).

(1) Receptacles. The customer may place yard debris in 60-gallon carts; in "kraft" type paper bags; or in bundles. The customer must securely tie bundles with string or twine to support the bundle when lifted. Bundles may be no greater than 36 inches in length and 18 inches in diameter. The customer shall not use plastic bags to contain yard debris and each tree or shrub pruning shall be less than four inches in diameter.

(2) Acceptable Materials. The customer is responsible for including only those materials that meet the definition of yard debris provided in this article.

(3) Weight of Receptacles. The customer shall limit the weight of a receptacle and its contents to the maximum weights listed as follows:

<u>Receptacle Type/Capacity</u>	<u>Maximum weight</u>
Bundled yard debris	45 lbs.
"kraft" paper bag (30-gallon)	45 lbs.
32-gallon can	60 lbs.
60-gallon roll cart	120 lbs.

(4) Labeling of Receptacles. The customer is responsible to mark all rigid yard debris receptacles with a "yard debris only" sticker provided by the licensee. The "yard debris only" sticker needs to be clearly visible from the street. Bags containing yard debris must be clearly identifiable as such from the street.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1441, Enacted, 05/07/1998)

7.25.450 Yard Debris Collection Exemption Program (Customer).

(1) General. Residential customers may request exemption from curbside yard debris

collection service if they compost or use their yard debris for an on-site land application, or retain a person that (a) hauls their yard debris to an approved processor and (b) is licensed to conduct business within the city. Customers approved for this exemption will have the approximate monthly cost of providing yard debris collection, as determined by the city, deducted from their bills and must comply with all terms of the yard debris collection exemption program agreement.

(2) Application. A residential customer interested in receiving an exemption from yard debris collection service must apply in accordance with procedures established by the city.

(a) Application Period. A new residential customer must apply for an exemption within 30 days of starting collection service. Current customers may apply only during open enrollment period established by the manager.

(b) Approval Procedure. The city will follow these procedures for all applications received:

(i) Compost Applications. Exemption approval will be contingent upon confirmation by the City that the applicant has an acceptable composting process in place.

(ii) Landscape Applications. Exemption approval will be contingent on whether the person that hauls the applicant's yard debris meets the city's landscaper requirements by possessing a Gresham business license or Metro license and demonstrating that it delivers its collected yard debris to a yard debris composting facility.

(3) Renewal or Reinstatement. A customer will remain exempt from yard debris collection service and the accompanying charges unless she/he receives a notice of disqualification, discontinues collection service, or voluntarily reinstates curbside collection of yard debris. If a customer has curbside collection of yard debris reinstated, the customer cannot reapply for an exemption for one year.

(4) Disqualification. A yard debris exemption shall be revoked if the Manager determines yard debris has been placed in the customer's garbage can or container on two separate occasions.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1441, Enacted, 05/07/1998)

7.25.455 Other Solid Waste (Customer).

(1) Set Out. The customer shall set other solid waste materials out at the time and location agreed upon with their licensee.

(2) Preparation of Materials.

(a) Medical and Infectious Wastes. The customer shall place medical and infectious wastes in appropriate receptacles. The customer shall not place medical and infectious waste materials into a receptacle for collection with solid waste, recycling, food scraps or yard debris materials. The customer should contact their licensee for information on proper disposal options.

(b) Other Wastes. The customer is responsible to prepare other wastes as agreed upon with their licensee.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1441, Enacted, 05/07/1998)

7.25.460 Disposal of Unacceptable Solid Waste Materials (Customer).

The customer shall not place unacceptable materials in solid waste receptacles. Unacceptable materials include: oils, fats and other liquids generated by commercial entities; semi-solid wastes; hazardous wastes as defined in ORS Chapter 466; prohibited items as set forth in ORS 459.247; and flammable materials. The customer should contact their licensee for information on proper disposal options.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1441, Enacted, 05/07/1998)

7.25.500 Dispute Resolution.

The licensees shall have a written policy for

resolving disputed billings. The licensees shall provide a copy of disputed billing policies to the city for review and approval.

(Ord. No. 1441, Enacted, 05/07/1998)

7.25.600 Fines and Penalties

Unless otherwise specified, violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1700, Enacted, 03/03/2011)

7.25.610 Suspension, Modification or Revocation of License.

(1) The manager may suspend, modify, or revoke a license if the licensee:

(a) violates GRC Article 7.25 or ORS Chapter 459 and 459A or the rules and regulations promulgated thereunder; or

(b) refuses or is unable to provide adequate service as defined in the license and GRC Article 7.25.

(2) In lieu of suspension, modification, or revocation of a license, the manager may order compliance with applicable laws and make suspension, modification, or revocation contingent upon compliance with the order within a time stated in the order.

(3) If a license is terminated and no suitable applicant applies for a license or if a license is suspended, the city may require any licensee of the city to provide service, or the city may provide service.

(4) The licensee may appeal the manager's action to council on the record pursuant to GRC 1.05.025.

(Ord. No. 1700, Enacted, 03/03/2011)

Article 7.27

ILLEGAL DUMPING

Sections:

- 7.27.010 [Title.](#)
- 7.27.020 [Establishment and Purpose.](#)
- 7.27.030 [Refuse Hauling Regulations.](#)
- 7.27.040 [Dumping and Littering Prohibited.](#)
- 7.27.060 [Evidence.](#)
- 7.27.110 [Enforcement.](#)

7.27.010 Title.

GRC Article 7.27 shall be known as the Gresham Illegal Dumping Code.
(Ord. No. 1271, Enacted, 12/31/1992)

7.27.020 Establishment and Purpose.

This article is intended to exercise the option in ORS 459.108 to establish and enforce civil penalties for refuse hauling, dumping, and littering.
(Ord. No. 1271, Enacted, 12/31/1992)

7.27.030 Refuse Hauling Regulations.

No person, firm, or corporation may transport or carry, or direct another person, firm, or corporation to transport or carry, any rubbish, trash, garbage, debris, or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road in the city, unless such refuse or recyclable material is either:

(1) Completely covered on all sides and on the top and bottom thereof and such cover is either a part of or securely fastened to the body of such motor vehicle or trailer; or

(2) Contained in the body of the motor vehicle or trailer in such a way as not to cause any part of the hauled refuse or recyclable material to be deposited upon any private or public roadway or driveway in the city.
(Ord. No. 1271, Enacted, 12/31/1992)

7.27.040 Dumping and Littering Prohibited.

No person, may throw or place, or direct another person, to throw or place, any rubbish, trash, garbage, debris or other refuse or recyclable material, upon public land or waters or private land or waters of another person, without the permission of the owner. The depositing of waste or refuse generated in the home, business, or by commercial activities into city-owned receptacles is also prohibited.
(Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1271, Enacted, 12/31/1992)

7.27.060 Evidence.

A name of a person, firm, or corporation found on rubbish, trash, garbage, debris, or other refuse, or recyclable material, in such a way that it denotes ownership of the items, constitutes a rebuttable presumption that the person, firm, or corporation has violated the refuse hauling, dumping, and/or litter regulations.
(Ord. No. 1271, Enacted, 12/31/1992)

7.27.110 Enforcement.

(1) Violation of GRC 7.27.030 may be subject to a fine or penalty in the maximum amount of \$500.

(2) Violation of GRC 7.27.040 may be subject to a fine or penalty in the maximum amount of \$1,000.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1673, Amended, 07/01/20009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1271, Enacted, 12/31/1992)

Article 7.30

DRUG LABORATORY HOUSE
NUISANCE CODE

Sections:

- 7.30.010 [Adoption of State Health Division Regulations Relating to Illegal Drug Manufacturing Sites.](#)
- 7.30.020 [Definitions.](#)
- 7.30.030 [Unlawful Entry/Occupancy of Illegal Drug Manufacturing Site.](#)

7.30.010 Adoption of State Health Division Regulations Relating to Illegal Drug Manufacturing Sites.

The regulations of the Oregon Health Authority relating to illegal drug manufacturing sites adopted in accordance with ORS Chapter 453 relating to the Cleanup of Toxic Contamination from Illegal Drug Manufacturing are adopted with the modification in GRC 7.30.030.

(Ord. No. 1750, Amended, 05/07/2015)

7.30.020 Definitions.

For purposes of GRC 7.30.030, the following mean:

Illegal drug manufacturing site - Property where activity involving the unauthorized manufacture of a controlled substance listed on Schedules I and II under the Federal Controlled Substances Act, 21 U.S.C. Sections 811 to 812, excluding marijuana, or any precursor chemical for such substances, occurs or any property on which are kept, stored or located any of the devices, equipment, things or substances used for unauthorized manufacture of such a controlled substance.

Property - Any house, or an apartment, unit, room, or shop within a building, or any boat, trailer, motor vehicle, manufactured dwelling, booth, or garden.

7.30.030 Unlawful Entry/Occupancy of Illegal Drug Manufacturing Site.

(1) No person shall enter or occupy premises, or permit or cause another person to enter or occupy premises, that have been determined to be unfit for use pursuant to the Oregon Health Authority determination that property is not fit for use;. This prohibition shall not apply to licensed decontaminators, the Director of Oregon Health Authority or designee, the State Fire Marshal or designee, or any law enforcement agency personnel.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$2,500.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992; Ord. No. 1459, Amended, 11/05/1998)

Article 7.37

**MULTNOMAH COUNTY
ORDINANCES**

Sections:

**7.37.010 [Adoption of Multnomah County
Ordinances.](#)**

**7.37.010 Adoption of Multnomah County
Ordinances.**

(1) The City of Gresham consents to the application of Multnomah County Animal Control Law, Multnomah County Code Chapter 13 within the City of Gresham.

(2) The City of Gresham consents to the application of Multnomah County Adult Care Home Licensure Law, Multnomah County Code Chapter 23 within the City of Gresham.

(3) Such provisions apply within the city and shall be administered and enforced by Multnomah County, Oregon.

(Ord. No. 1756, Renumbered [formerly GRC Articles 7.37 and 9.65] and Amended, 08/30/2015)

Article 7.40

CURFEW AND TRUANCY
REDUCTION

Sections:

- 7.40.005 [Definitions.](#)
- 7.40.010 [Night Curfew Imposed.](#)
- 7.40.015 [Truancy.](#)
- 7.40.030 [Parental Responsibility.](#)
- 7.40.040 [Police Custody.](#)
- 7.40.045 [Citation in Lieu of Custody.](#)
- 7.40.050 [Subsequent Violations.](#)

7.40.005 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 7.40, the following mean:

Emancipated. Conferral of certain rights of majority upon a minor, as enumerated in ORS 419B.552.

Minor. A person under the age of 18 years.

Parent. Legal guardian or custodian, natural parent or adoptive parent, if the minor has been legally adopted.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1432, Enacted, 10/07/1997)

7.40.010 Night Curfew Imposed.

(1) No minor may be upon any street, highway, park, trail, open space, alley, or other public place between the hours of 11:00 p.m. and 6:00 a.m., unless such minor is:

(a) accompanied by a parent or other person 21 years of age or over and authorized by the parent or by law to have custody of the minor; or

(b) engaged in a lawful pursuit or activity that requires the minor's presence in such public place; or

(c) emancipated.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1625, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1432, Amended, 10/07/1997; Ord. No. 1268, Amended, 12/17/1992)

7.40.015 Truancy.

(1) For purposes of this section, regular school hours are those hours for the full-time school which the child would attend in the school district in which the child resided, on any day for which school is in session, unless such day is a scheduled vacation or holiday observed by the school.

(2) No minor between 7 and 18 years of age who has not completed the twelfth grade may be upon any street, highway, park, trail, open space, alley, other public place or place open to the public during regular school hours except while attending school as required by ORS 339.010 to 339.065, unless such minor is:

(a) accompanied by a parent, or other person 18 years of age or over and authorized by the parent; or

(b) engaged in a lawful pursuit or activity that requires the minor's presence in such public place and is authorized by the parent; or

(c) traveling directly from school to home or to another location designated by a parent after being authorized and approved to be away from school as provided in ORS 339.065, but is not suspended or expelled; or

(d) emancipated or exempt from compulsory school attendance pursuant to ORS 339.030.

(3) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1625, Amended, 04/20/2006; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1432, Enacted, 10/07/1997)

7.40.030. Parental Responsibility.

(Ord. No. 1432, Amended, 10/07/1997; Ord. No. 1268, Amended, 12/17/1992)

(1) No parent may allow or permit the minor to be in violation of GRC 7.40.010 or GRC 7.40.015.

(2) Violating this section may be subject to a fine or penalty in the maximum amount of \$1,000. (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1432, Amended, 10/07/1997; Ord. No. 1268, Amended, 12/17/1992)

7.40.040. Police Custody.

(1) Any police officer is authorized to take into custody a minor violating a provision of GRC 7.40.010 or GRC 7.40.015. The minor taken into custody may be taken by the officer to the police station or other location as designated by the Chief of Police. An officer who takes the minor to the police station or other designated location shall use due diligence to find a parent and shall release the minor to such person at the police station or other designated location.

(2) For violation of GRC 7.40.015, a police officer, in lieu of holding the minor in custody for release to a parent may release the minor to the principal or other designated official at the school where the minor is enrolled.

(Ord. No. 1432, Amended, 10/07/1997; Ord. No. 1268, Amended, 12/17/1992)

7.40.045. Citation in Lieu of Custody.

For a violation of GRC 7.40.010 or GRC 7.40.015, in lieu of taking a minor into custody as authorized by GRC 7.40.040, a police officer may issue a citation to the minor. The citation shall be returnable to the Juvenile Court of Multnomah County.

(Ord. No. 1432, Enacted, 10/07/1997)

7.40.050. Subsequent Violations.

Upon a subsequent violation of GRC 7.40.010, the minor shall be taken home by the officer and the parent shall be served with a subpoena to appear before the court with the minor and show cause why GRC 7.40.010 has been violated a second time.

Article 7.45

EMERGENCY CODE

Sections:

- 7.45.010 General.
- 7.45.020 Definitions.
- 7.45.030 Executive Responsibility.
- 7.45.040 Declaration and Ratification of Emergency.
- 7.45.050 Regulation of Persons and Property.
- 7.45.055 Price Gouging Prohibited.
- 7.45.060 Violation of Emergency Regulation.

7.45.010 General.

GRC Article 7.45 may be cited as the Emergency Code.

7.45.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in the Emergency Code, the following mean:

Emergency. When the city or any area within the city suffers from, or is in imminent danger of suffering from, a tornado, storm, flood, high water, wind-driven water, earthquake, mudslide, snowstorm, drought, fire, explosion, toxic substance, civil disorder, or other catastrophe that requires emergency assistance to save lives and protect public health and safety, or to avert or lessen the threat of a major disaster. (Ord. No. 1700, Amended, 03/03/2011)

7.45.030 Executive Responsibility.

The manager is responsible for implementation of the Emergency Management Operations Basic Policy. When the manager determines that a state of emergency exists, the manager shall make a declaration to that effect and request the mayor to call a special meeting of the council in order to ratify the declaration of emergency.

7.45.040 Declaration and Ratification of Emergency.

(1) The declaration by the manager of a state of emergency shall:

- (a) state the nature of the emergency;
- (b) designate the geographic boundaries of the area subject to the emergency controls; and
- (c) state any special regulations imposed as a result of the state of emergency.

(2) In addition to the statements enumerated in subsection (1), the ratification by the council of a state of emergency shall:

- (a) state the duration of time during which the area so designated shall remain an emergency area; and
- (b) authorize specific emergency powers for the duration of the emergency period set forth in the declaration.

7.45.050 Regulation of Persons and Property.

When a state of emergency is declared to exist within the city, the manager may order the following measures in the interest of the public health, safety, or welfare, in the area designated as an emergency area:

- (1) redirect city funds for emergency use and suspend standard city procurement procedures;
- (2) establish a curfew that fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places;
- (3) prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place;
- (4) barricade streets and prohibit vehicular or pedestrian traffic, or regulate the traffic on any

public street leading to the emergency area for such distance as necessary under the circumstances;

(5) evacuate persons;

(6) prohibit the sale of alcoholic beverages;

(7) prohibit or restrict the sale of gasoline or other flammable liquids;

(8) prohibit the possession of any weapons in a public place, as defined by ORS 161.015(10) except when such possession is permitted by ORS 166.173(2);

(9) curtail or suspend commercial activity;

(10) turn off water, gas, or electricity;

(11) order such other measures necessary for the protection of life or property, or for the recovery from the emergency.

(Ord. no. 1750, Amended, 05/07/2015)

7.45.055 Price Gouging Prohibited.

(1) Whenever a state of emergency is declared to exist, no person or business may sell or attempt to sell any goods or services for a price in excess of the normal market price which existed for a good or service prior to the state of emergency. "Normal market price" shall mean the person's or business's average of the regular price of the goods or services for the 30 days preceding the state of emergency.

(2) When a person starts a business or acquires inventory after the commencement of a state of emergency, the price of any goods or services during the state of emergency shall be consistent with the normal market price of the industry for such goods or service, with consideration given to demonstrated higher costs associated with the new business or inventory.

(Ord. No. 1294, Enacted, 11/04/1993)

7.45.060 Violation of Emergency Regulation.

(1) No person shall knowingly violate a regulation imposed under a state of emergency as provided in GRC 7.45.050.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$2,500.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1294, Amended, 11/04/1993; Ord. No. 1268, Enacted, 12/17/1992)

Article 7.50

PENALTIES AND ABATEMENT

Sections:

GENERAL

- 7.50.005 [Definitions.](#)
- 7.50.020 [Notice of Violation.](#)
- 7.50.030 [Protest and Hearing.](#)
- 7.50.050 [Temporary Waiver of Enforcement Actions; Adjustments to Penalties.](#)

STOP WORK ORDERS

- 7.50.100 [Stop Work Order.](#)
- 7.50.110 [Notice of Intent to Issue Stop Work Order.](#)
- 7.50.120 [Imminent Threat.](#)
- 7.50.130 [Protest of Stop Work Order.](#)
- 7.50.140 [Effective Date.](#)
- 7.50.150 [Revocation.](#)
- 7.50.160 [Enforcement.](#)

ABATEMENT

- 7.50.210 [Summary Abatement.](#)
- 7.50.221 [Abatement.](#)
- 7.50.222 [Administrative Abatement Warrant.](#)
- 7.50.240 [Abatement Cost Notice.](#)
- 7.50.260 [Collection of Abatement Costs.](#)

CITATION

- 7.50.300 [Citation.](#)
- 7.50.330 [Other Remedies for Violations.](#)

CIVIL ACTIONS

- 7.50.400 [Civil Actions.](#)

PERMIT, LICENSURE AND REGISTRATION INSPECTIONS

- 7.50.500 [Consent to Inspections Relating to Permits, Licenses, and Registrations.](#)
- 7.50.510 [Authorization to Inspect.](#)

- 7.50.520 [Administrative Inspection Warrant; Right of Entry; Inspection Warrants.](#)

CIVIL PENALTIES

- 7.50.700 [Civil Penalties.](#)
- 7.50.710 [Purpose.](#)
- 7.50.720 [Courtesy Notice or Notice of Violation.](#)
- 7.50.730 [Notice of Civil Penalty.](#)
- 7.50.740 [Protest of Civil Penalty.](#)
- 7.50.750 [Collection of Civil Penalty.](#)
- 7.50.760 [Amount of Civil Penalty.](#)
- 7.50.770 [Applicability to Existing Civil Penalties.](#)

GENERAL

- 7.50.005 **Definitions.**

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 7.50, Penalties and Abatement, the following definitions shall apply:

Costs of Abatement. The costs of abatement include but are not limited to the expenses incurred by the city for any and all contractors, materials, disposal costs, and staff time to abate a violation; title search charges; court or hearing costs; lien recording and release fees; and administrative overhead charges related to the abatement.

Mail. The delivery of a notice or other communication by first class mail. If a person has agreed to accept delivery of notification by email or fax, delivery by email or fax satisfies the mailing requirement.

Post / Posting / Posted. The act of personally delivering a notice to a property, including affixing a notice to a property or personally delivering a notice to the owner, person in charge of the property, or occupant, at the property location. In the event of a vacant property, or conditions which make posting impractical,

mailing a notice to the property owner at the last known address as listed with the County Tax Assessor's Office satisfies the posting requirement.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Enacted, 04/16/2009)

7.50.020 Notice of Violation.

(1) In addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50, when there is a violation of the code and no imminent threat to public health and safety, a Notice of Violation may be issued. Notice shall be mailed to the owner of the property where the violation exists, at the last known address as listed in the County Tax Assessor's Office, directing the owner or person who caused the violation to correct the violation by the date specified in the notice.

(2) At or about the time of the mailing of the notice specified in GRC 7.50.020(1), the manager shall mail a copy of the notice to:

(a) the person in charge of the property, if known, and if different from the owner;

(b) the address listed on the most recent residential rental property license application, if applicable;

(c) the occupier, if different from the owner or person in charge of the property; and

(d) the person who caused the violation to come into or continue in existence, if known and if different from the above named parties.

(3) The written notice shall contain:

(a) a description of the real property, by street address or otherwise, on which the violation(s) exist(s);

(b) citation of the specific sections of the code giving rise to the alleged violation(s) and a description of the violation(s) which must be corrected;

(c) a direction to correct the violation(s) by the date(s) specified in the notice;

(d) a statement that unless the violation(s) is corrected by the date specified in the notice, in addition to any other enforcement action, the city may issue a civil penalty, issue a citation, abate the violation, and/or take other enforcement action allowed by law;

(e) a statement that if enforcement results in costs or penalties, they shall become a lien on the property if not paid;

(4) If prior Notice of Violation was sent to the owner or person in charge of the property within the preceding 12 months, ownership or control of the property has not changed, and the prior notice was returned as undeliverable or if delivery was refused, then providing notice as set forth in subsection (5) satisfies the mailing requirement.

(5) If the Notice of Violation to the owner is returned as undeliverable or delivery is refused, notice of the violation shall be posted on the property containing the violation(s) at least 10 days before subsequent enforcement action is taken.

(6) An error in the name or address of the owner or the use of a name other than that of the owner shall not make the notice void.

(7) The owner or person who caused the violation shall take all steps necessary to correct the violation or show that the violation does not exist by the correction date specified in the Notice of Violation.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Enacted, 04/16/2009)

7.50.030 Protest and Hearing.

(1) A hearings officer shall review a decision if the applicable code section provides for protest.

(2) The person shall submit to the manager a written statement of protest. The written statement of protest must:

- (a) specify each and every reason for the protest, and
- (b) provide accurate contact information.

Unless otherwise specified in the notice being protested, the protest must be received by the city no later than 5:00 p.m. PST, 14 calendar days from the date of the notice.

(3) If the written statement of protest is timely and contains information required in subsection (2), it shall be referred to a hearings officer designated by the city attorney, who shall conduct a hearing and make all decisions concerning the protest. The hearings officer shall set a date and time for the hearing at the earliest possible opportunity. The city shall promptly notify the person requesting the hearing, using the contact information provided in the statement of protest, of the date, time and place for hearing. Notice may be by any means of giving actual notice. Notice may also be given to any person determined to be an interested party in the matter. An untimely protest shall be summarily dismissed.

(4) The hearings officer may reschedule the hearing for good cause shown. A request to reschedule must be in writing and received by the hearings officer no later than three business days prior to the scheduled hearing date. The hearings officer may consider the following factors in deciding whether to reschedule a hearing:

- (a) medical necessity;
- (b) the potential harm caused by a delay in the hearing;
- (c) the number of requests made to date; and
- (d) such other matters as the hearings officer deems relevant.

If the request is granted, the hearings officer shall set a new hearing date and notify the city. The city shall notify the person requesting a hearing.

(5) The person requesting the hearing and a representative of the city may submit testimony,

cross-examine witnesses, submit rebuttal evidence on the pertinent issues, make arguments, and may choose to be represented by an attorney at their own expense.

(6) The hearing shall be recorded in a manner that allows for written transcription to be made; the city shall retain all materials submitted at the hearing as required by state law.

(7) Failure of the person(s) requesting the hearing to appear at the hearing or rescheduled hearing shall constitute a waiver of the right to a hearing.

(8) The standard of proof shall be upon the City by a preponderance of the evidence.

(9) After the hearing the hearings officer shall mail a copy of the order stating the hearings officer's decision to the manager. The manager shall provide a copy of the hearings officer's decision to the person requesting the hearing and other interested persons.

(10) The decision of the hearings officer is final.

(11) If the hearings officer determines that a violation does exist, the owner shall correct the violation or pay any monetary amount owed within 14 calendar days after the hearings officer issues the order, unless otherwise specified in the order.

(12) If the hearings officer determines that the basis for protest was unreasonable or designed only for purposes of delay, or the person requesting the hearing does not appear at the scheduled hearing, the person requesting the hearing may be assessed the costs of the hearing, including the cost of the hearings officer. Any such costs imposed by the hearings officer shall constitute a cost of abatement and collectable under GRC 7.50.240 and GRC 7.50.260.

(13) A person shall not have an additional opportunity to protest and request a hearing if the person fails to correct the violation pursuant to the hearings officer's decision, and the city proceeds with an abatement action pursuant to GRC

7.50.221.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Enacted, 04/16/2009)

7.50.050 Temporary Waiver of Enforcement Action; Adjustments to Penalties.

(1) The manager may establish criteria and procedures to grant a temporary waiver of enforcement action, which will give a period of time, but no longer than six months to correct the violation(s) cited without being subject to enforcement action. The criteria shall include factors such as the extent and cost of repairs, seriousness of the condition, medical condition of the person, financial capacity of the person, the time of year, or other mitigating factors. Requests for Temporary Waivers of Enforcement Action shall be considered under the following conditions:

(a) the person in violation submits to the manager a request in writing; and

(b) the request includes the property address, case number, applicant’s contact information, and specifies each and every reason for the request.

(2) The manager may revoke the waiver if any of the conditions that allowed the owner to qualify for a waiver change. The waiver is not transferable.

(3) The manager may establish criteria and procedures to grant a request for reduction of penalties, charges or other costs incurred due to enforcement action. Requests for a reduction shall be reviewed under the following conditions:

(a) the violations are corrected;

(b) the property owner or person in charge submits to the manager a request in writing; and

(c) the request includes the property address, case number, applicant’s contact information, and specifies each and every

reason for the request.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1669, Enacted, 04/16/2009)

STOP WORK ORDERS

7.50.100 Stop Work Order.

In addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50, the manager may issue a stop work order to enforce a violation of this code, including the failure to obtain a required permit. The stop work order may require the performance of certain actions as necessary to comply with applicable standards or requirements. GRC 7.50.100 et. seq. does not apply to stop work orders issued pursuant to the Oregon Structural Specialty Code or the Uniform Fire Code.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1561, Enacted, 01/02/2003)

7.50.110 Notice of Intent to Issue Stop Work Order.

Except as provided in GRC 7.50.120, the manager shall provide written notice of intent to issue a stop work order. The notice of intent shall be hand delivered to a responsible person or posted at the site of the work at least 48 hours prior to issuance of the stop work order. The notice of intent shall state the nature of the violation including the citation to the applicable provision being violated, the earliest date and time the stop work order will be issued if the violation is not corrected, and may include steps that can be taken to correct the violation.

(Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1561, Enacted, 01/02/2003)

7.50.120 Imminent Threat.

In the case the work in violation of this code creates an imminent threat to public health and safety, if the work in violation of this code will be covered or significantly harder to correct if work continues, or if the stop work order is being issued following a protest, the manager may issue a stop work order without the notice provided by GRC 7.50.110. The stop work order shall state the nature of the violation including the citation to the

applicable provision being violated, and may include the steps that can be taken to correct the violation.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Enacted, 01/02/2003)

7.50.130 Protest of Stop Work Order.

Any person who is aggrieved by a notice of intent to issue a stop work order or a stop work order issued for an imminent threat pursuant to GRC 7.50.120, may protest such decision in writing within 72 hours following the date and time of the notice of intent or stop work order. The time in which to protest is jurisdictional. The protest shall be submitted to the manager and conducted pursuant to GRC 7.50.030.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Enacted, 01/02/2003)

7.50.140 Effective Date.

(1) A stop work order shall be effective as of the date and time issued.

(2) Except as provided by GRC 7.50.120, if there is a protest of a notice of intent to issue a stop work order, the manager shall not issue a stop work order until the hearings officer's decision. The stop work order may not be protested if issued in accordance with the hearings officer's decision.

(3) If there is a protest of a stop work order issued pursuant to GRC 7.50.120 or GRC 7.50.140(2), the stop work order shall continue in effect during the pendency of any protest.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1561, Enacted, 01/02/2003)

7.50.150 Revocation.

If the violation has been cured, the manager shall provide a written revocation of the stop work order.

(Ord. No. 1561, Enacted, 01/02/2003)

7.50.160 Enforcement.

Violation of a stop work order may be subject to a fine or penalty in the maximum amount of \$5,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Enacted, 01/02/2003)

ABATEMENT

7.50.210 Summary Abatement.

(1) A violation of the code that is a nuisance and an imminent threat to public health and/or safety may be summarily abated.

(2) No notice to the property owner, person in charge of the property, or occupier is required.

(3) Costs of the abatement may be assessed and collected as provided in GRC 7.50.240 and GRC 7.50.260.

(Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1561, Amended and Renumbered, 01/02/2003; Ord. No. 1268, Enacted, 12/17/1992)

7.50.221 Abatement.

(1) In addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50, the city may abate the violation.

(2) If the violation has not been fully corrected within the time specified in the Notice of Violation or Notice of Civil Penalty, the manager may cause it to be abated. The costs of abatement shall be charged to the property owner, and the costs will become a lien on the property. The manager's decision to proceed with abatement is entirely discretionary and not subject to protest or appeal. Any fines or penalties imposed shall apply regardless of the manager's decision to proceed with abatement.

(3) In order to perform any function or duty authorized or required under this section, city representatives and their agents who are responsible for the abatement of code violations shall have the right at reasonable times to enter upon the property and to take all actions necessary to cause the removal of any violation. Abatement

warrants under GRC 7.50.222 shall be utilized when violations that occur on private property are abated by the city.

(4) The manager shall provide the owner, person in charge of the property, if known and different from the owner, and occupier, a Notice of Abatement. The Notice of Abatement shall be posted on the property where the violation exists and contain the following:

(a) the violations that have been identified by the city which have not been corrected as required;

(b) a request for consent to enter onto the property and abate the violation;

(c) notice that if consent is refused, and the violation occurs on private property, the city may obtain an administrative abatement warrant to enter the property and abate the violation(s);

(d) notice that the costs of abatement will be charged to the property owner; and

(e) notice that the costs of abatement will be assessed to and become a lien on the property.

(5) At or about the time of posting, the manager shall mail a copy of the notice by first class mail to:

(a) the property owner at the last known address as listed with the Multnomah County Tax Assessor's Office;

(b) the person in charge of the property, if known and if different from the owner; and

(c) the occupier, if different from the owner or person in charge.

(6) A person may object to the Notice of Abatement by submitting a written protest and requesting a hearing pursuant to GRC 7.50.030.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No.

1690, Amended, 07/15/2010; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Enacted, 04/16/2009)

7.50.222 Administrative Abatement Warrant.

(1) If a violation that occurs on private property for which a Notice of Abatement has been issued is not corrected, the manager may cause the violation to be removed and abated upon issuance of an abatement warrant.

(2) An abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing:

(a) the applicant's status in applying for the warrant;

(b) the ordinance or regulation requiring or authorizing the removal and abatement; the building or property to be entered;

(c) the basis upon which cause exists to remove or abate the violation; and

(d) a statement of the violation to be removed or abated.

The affidavit shall also contain either a statement that consent to enter onto the property to abate the violation has been sought and refused or the facts and circumstances that reasonably justify the failure to seek such consent.

(3) Cause shall be deemed to exist if there is reasonable belief that a code violation exists with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the violation and has not responded in a timely fashion.

(4) Procedure for Issuance of an Abatement Warrant.

(a) Examination. Before issuing an abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

(b) Issuance. If the judge is satisfied that cause for the removal and abatement of the violation(s) exists and that the other requirements for granting the application are satisfied, the judge shall issue the abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

(c) Police Assistance. In issuing an abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist in any way necessary to enter the property and, remove and abate the violation.

(5) Execution of Abatement Warrants.

(a) Occupied Property: In executing an abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession. The warrant is not required to be read aloud.

(b) Unoccupied Property. In executing an abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the

abatement warrant shall be conspicuously posted on the property.

(c) Return. An abatement warrant must be executed within 14 working days of its issue and returned to the judge by whom it was issued within 14 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant, unless executed, is void.

(d) If an abatement warrant to secure entry onto the property subject to the notice of violation has been obtained, no property owner, occupier; or other person in charge of the property, shall refuse, fail or neglect, after proper request, to promptly permit entry by authorized persons to abate the violation(s). It shall be unlawful for any property owner, occupier, or other person in charge of the property to refuse to permit entry by authorized persons to abate the violations for which an abatement warrant has been obtained.

(e) Violation of this section may be subject to a fine or penalty in the maximum amount of \$500.

(6) Abatement Consent Forms.

(a) The manager shall develop a consent form allowing the manager to enter onto property to abate the code violations. These consent forms shall be made available to the public.

(b) Property owners, occupiers, or other persons in charge of property may request and sign consent forms allowing the city to abate violations. The manager shall have the final authority to decide whether or not to enter onto property to abate a violation in each particular case.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1669, Renumbered, 04/16/2009; Ord. No. 1633, Enacted, 11/16/2006)

7.50.240 Abatement Cost Notice.

(1) The manager shall keep an accurate record of the expense incurred by the city for abatements.

(2) After the violations have been determined by the city to be corrected, the manager shall mail to the owner an Abatement Cost Notice which includes:

(a) the total costs of abatement;

(b) notification that the costs of abatement will become a lien against the property; and

(c) notification that if the owner objects to the Abatement Cost Notice, a written protest and request for a hearing may be submitted to the manager if it is received within 14 calendar days from the date the notice was mailed.

(3) A person may object to the Abatement Cost Notice by submitting a written protest and requesting a hearing pursuant to GRC 7.50.030.

(Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Renumbered, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1268, Enacted, 12/17/1992)

7.50.260 Collection of Abatement Costs.

(1) The costs listed in the Abatement Cost Notice shall be delinquent if not paid within 30 days from:

(a) the date of the notice; or

(b) if a protest was timely filed, from the date on which the hearings officer makes a final decision.

(2) The property owner(s) shall be personally liable (or jointly and severally liable) for payment of the costs of abatement. The Costs of Abatement shall be entered in the docket of city liens pursuant to GRC 2.92.030 and/or recorded with Multnomah

County. When entered in the city lien docket, the notice shall constitute a lien upon the property in violation of the code. If the costs are delinquent, a late payment charge shall begin to accrue from the date of the delinquency. The late payment charge shall be added to the lien.

(3) The lien shall be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to ORS 223.650 or otherwise provided by law.

(4) An error in the name of the owner shall not void the lien, nor shall a failure to receive the notice render the lien void, but it shall remain a valid lien against the property.

(Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Renumbered, 01/02/2003; Ord. No. 1540, Amended, 03/07/2002; Ord. No. 1268, Enacted, 12/17/1992)

CITATION

7.50.300 Citation.

(1) In addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50, a person in violation of the Gresham Revised Code or Gresham Community Development Code may be cited into Multnomah County Circuit Court by using a citation form that complies with the requirements of Oregon law.

(2) Citations may be issued by personal delivery to the person responsible for causing the violation, posting the citation on the property where the violation occurred, or by mailing the citation by first class mail to the property owner where the violation occurred or to the person responsible for causing the violation.

(3) Notwithstanding GRC 7.50.300(1), no person issued a citation shall be subject to a civil penalty pursuant to GRC 7.50.700 for the same violation.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1690,

Amended, 07/15/2010; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1561, Enacted, 01/02/2003)

7.50.330 Other Remedies for Violations.

The following remedies are available in addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50.

(1) Costs. The court or hearings officer may impose costs which were incurred for enforcement of the violation if requested by the city.

(2) Permit or License Revocation. The court or hearings officer may revoke any development, construction or other permits or license issued by the city if requested by the city.

(3) Contraband. Upon order from a court or hearings officer upholding the issuance of a citation or civil penalty for an offense that declares property contraband, the court may order any property, instrument or device found to have been used to violate the code seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the city's general fund. (Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Enacted, 07/15/2010)

CIVIL ACTIONS

7.50.400 Civil Actions.

In addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50, violations of the Gresham Revised Code or the Gresham Community Development Code may be enforced by the manager by civil action. In any such action, the city may seek, and the court shall grant, as appropriate, any or all of the following remedies:

(1) A temporary and/or permanent injunction.

(2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey leading to the establishment of the violation and for all court costs incurred to prepare and proceed with the legal action.

(3) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

(4) Collection of any civil penalty imposed pursuant to GRC 7.50.700. (Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1561, Enacted, 01/02/2003)

PERMIT, LICENSE AND REGISTRATION INSPECTIONS

7.50.500 Consent to Inspections Relating to Permits, Licenses and Registrations.

If the owner or person in control of the property refuses to allow entry for purposes of inspection, the license, permit, or registration is subject to revocation pursuant to the applicable revocation process.

(Ord. No. 1752, Amended, 05/05/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Enacted, 04/01/2005)

7.50.510 Authorization to Inspect.

The manager is authorized to make inspection of property to effectuate the purposes and public benefits of the Gresham Revised Code and the Gresham Community Development Code. If a license, permit, or registration is required, the authority to inspect does not depend on whether the license, permit, or registration has been obtained. Reasonable administrative standards and procedures for conducting such inspections shall be adopted by ordinance or in a policy by the manager. The standards shall ensure against arbitrary governmental intrusion by describing the manner of selection of the premises to be inspected and steps taken to ensure the inspection warrant will be executed reasonably. The policy shall be subject to review and approval by council. In addition, a reasonable belief by an inspector that a violation of the code exists on a particular property is sufficient cause to conduct an inspection.

(Ord. No. 1752, Amended, 05/05/2015; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1669, Renumbered, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Enacted, 12/18/2007)

**7.50.520 Administrative Inspection
Warrant; Right of Entry;
Inspection Warrants.**

(1) Right of Entry. The manager may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to effectuate the purposes and public benefits of the code. In the event an owner, occupant, or person in charge of property denies consent to enter the property, the manager is authorized to obtain an inspection warrant as described below.

(2) Issuance of Administrative Inspection Warrants; Affidavit.

(a) An inspection warrant may be issued upon application therefore, supported by affidavit, particularly describing the applicant's status in applying for the warrant; the statute, ordinance or regulation requiring or authorizing the inspection or investigation; the property to be inspected or investigated; and the purpose for which the inspection or investigation is to be made. In addition, the affidavit shall contain either a statement detailing information showing that a condition of nonconformity with any code provision is more likely than not to exist with respect to the designated property; or that an inspection or investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any provision of the relevant code and that a policy is in effect that has been reviewed by council setting forth the administrative standards and procedures for conducting such inspections.

(3) Procedure for Issuance of Administrative Inspection Warrant.

(a) Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness.

(b) Issuance. If the judge is satisfied the requirements for granting the application are met, the judge shall issue the warrant,

particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 7:00 a.m. and 10:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

(c) Police Assistance. In issuing an inspection warrant the judge may authorize any peace officer, as defined in ORS 133.525(2), to enter the described property to remove any person or obstacle and assist in any way necessary to complete the inspection.

(4) Execution of Administrative Inspection Warrants.

(a) Occupied Property. In executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession. The warrant is not required to be read aloud.

(b) Unoccupied Property. In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the property if it is at the time unoccupied or at the time reasonably believed to be unoccupied. In such case a copy of the warrant shall be conspicuously posted on the property.

(c) Return. An inspection warrant must be executed within five days of its issue and returned to the judge by whom it was issued within five days from its date of execution. After the expiration of the time prescribed by

this subsection, the warrant unless executed is void.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1669, Renumbered, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Enacted, 12/18/2007)

CIVIL PENALTIES

7.50.700 Civil Penalty.

In addition to and not in lieu of any other means of enforcement provided for in GRC Article 7.50, the manager may impose a civil penalty on the person(s) responsible for a violation of the Gresham Revised Code or the Gresham Community Development Code. The person(s) responsible for causing the violation shall be personally liable (or jointly liable) for payment of the civil penalty.

(Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1673, Enacted, 07/01/2009)

7.50.710 Purpose.

The purpose of a civil penalty is to provide an efficient, convenient, and practical system to enforce a violation of Gresham codes and to provide an opportunity for a prompt protest, hearing, and decision on the imposition of a civil penalty.

(Ord. No. 1673, Enacted, 07/01/2009)

7.50.720 Courtesy Notice or Notice of Violation.

If a violation can be corrected, a prior notice shall be provided before a civil penalty is imposed. Correcting a violation in response to a prior notice shall not preclude imposing a civil penalty.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1673, Enacted, 07/01/2009)

7.50.730 Notice of Civil Penalty.

(1) If a civil penalty is imposed, the manager shall issue a Notice of Civil Penalty to the person responsible for the code violation.

(2) The Notice of Civil Penalty shall include:

(a) reference to the applicable code provision(s);

(b) a statement of the basis of the violation;

(c) a statement of the amount of the civil penalty;

(d) a statement of the party's right to protest the civil penalty to a hearings officer; and

(e) a statement that a delinquent civil penalty may become a lien on property.

(3) The Notice of Civil Penalty shall be served on the person responsible for the code violation by personal service or sent by first class mail and certified mail, return receipt requested, to the person's last known address. Failure to sign for the certified mail shall not make the notice void. Notice served by mail shall be deemed received three days after the date mailed to an address within Oregon or seven days to an address outside of Oregon. In the event mail is returned as undeliverable, the notice shall be posted in a conspicuous place on the property.

(4) If the violation relates to real property and the person responsible for the violation is not the owner of the property, an informational copy of the Notice of Civil Penalty shall be sent to the owner of the property by first class mail at the same time.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1673, Enacted, 07/01/2009)

7.50.740 Protest of Civil Penalty.

(1) A person issued a Notice of Civil Penalty may protest the existence of a violation that resulted in imposition of a civil penalty to a hearings officer pursuant to GRC 7.50.030.

(2) If after a hearing in which the hearings officer determines that a violation does exist, the hearings officer may reduce the original penalty imposed after considering reasonable mitigating factors as determined by the hearings officer.

(a) The civil penalty imposed by the hearings officer shall not be less than 50 percent of the original penalty.

(b) The hearings officer may not reduce the civil penalty by any amount if a violation has not been corrected and inspected by the city.

(Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1673, Enacted, 07/01/2009)

7.50.750 Collection of Civil Penalty.

(1) The civil penalty shall become final upon expiration of the time for filing a protest or, if a protest is filed and the hearings officer affirms the civil penalty, the civil penalty shall become final upon issuance of the hearings officer's decision. The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.

(2) Pursuant to GRC 2.92.010, a late payment charge shall be charged to all accounts for which a civil penalty is not paid when due. The late payment charge shall begin to accrue from the date of delinquency.

(3) If the civil penalty is imposed on the owner of the property where the violation occurred, the notice and late payment charge shall be entered in the docket of city liens pursuant to GRC 2.92.030 and may be recorded in the Multnomah County deed records. When entered in the city lien docket, the notice shall constitute a lien upon the property in violation of the code.

(4) The lien shall be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or otherwise provided by law.

(5) An error in the name of the owner shall not void the lien, nor shall a failure to receive the notice render the lien void, but it shall remain a valid lien against the property.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1673, Enacted, 07/01/2009)

7.50.760 Amount of Civil Penalty.

Unless otherwise provided by code or resolution, the amount of the civil penalty for a violation shall be the maximum fine that could be imposed in a judicial proceeding initiated by issuance of a citation that charges a person with the commission of that violation.

(Ord. No. 1673, Enacted, 07/01/2009)

7.50.770 Applicability to Existing Civil Penalties.

(1) GRC 7.50.700 et. seq. shall not apply to civil penalties issued to industrial users pursuant to the Industrial Pretreatment Enforcement Response Plan to enforce GRC Article 4.45 relating to wastewater pretreatment.

(2) The procedures of GRC 7.50.730 to 7.50.760 shall apply to a civil penalty issued pursuant to GCDC 9.1060 to enforce tree regulations.

(Ord. No. 1827, Amended, 04/28/22; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1673, Enacted, 07/01/2009)

Article 7.60

SPECIAL RESPONSE FEE

Sections:

7.60.010 [Special Response Fee.](#)

7.60.010 **Special Response Fee.**

(1) When a police officer, code enforcement program manager, or code enforcement officer determines that one or more persons are engaged in an activity or conduct which violates the provisions of the Gresham Revised Code or Oregon Criminal Code, the officer may give written notice to the persons who are engaged in, or who are in control of, such activity or conduct, that the activity or conduct must immediately cease.

(2) Recipients of such notice shall be liable for a special response fee if a subsequent response arising out of the activity or conduct is required within 48 hours following such notice. A special response fee will be charged to each person identified in subsection (1). Separate fees shall be charged for each subsequent response.

(3) The special response fee is defined as the total cost incurred by the city in connection with such response, including but not limited to officers, equipment, dispatch and supervisor time.

(4) Each person responsible for, or engaged in, activity or conduct requiring a subsequent response as defined in subsection (2), will be held jointly and severally liable for payment of the costs included in the special response fee. If any person responsible for, or engaged in, the activity or conduct is a minor, the minor's parent or guardian shall also be liable for such fee.

(5) The council shall adopt a special response fee schedule by resolution.

(6) The city shall submit a written bill for the costs incurred for its subsequent response to the person responsible therefor, who shall be liable for its payment within 30 days of receipt. The amount shall be deemed a debt to the city of the person

responsible who shall be liable in an action brought in the name of the city for recovery of such amount, including reasonable attorney's fees.

(7) The special response fee is nonexclusive and is in addition to any and all other remedies available to the city.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1268, Enacted, 12/17/1992)

Article 7.65

**EMERGENCY AMBULANCE
TRANSPORT FEE**

Sections:

7.65.010 [Emergency Ambulance Transport
Fee.](#)

7.65.010 **Emergency Ambulance Transport
Fee.**

When ambulance services are provided by the city, the city shall charge the person transported by the ambulance, a fee as established by council resolution.

(Ord. No. 1330, Enacted, 11/03/1994)

Article 7.70

**TRI-MET AUTHORITY FOR TRANSIT
SHELTERS AND TRANSIT LOADING
PLATFORMS**

Sections:

7.70.010 [Definitions.](#)

7.70.020 [Tri-Met Authority to Regulate.](#)

7.70.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 7.70, the following mean:

Tri-Met. The Tri-County Metropolitan Transportation District based in Portland, Oregon, or any successor agency or authority.

Transit Shelter. The entire area within the drip line of any structure located within the limits of the City of Gresham that is designated for use as a shelter by persons awaiting transportation services by Tri-Met.

Transit Loading Platform. The area that extends the entire length of the tactile bricks where Tri-Met operated trains and trolleys load and unload within the limits of the City of Gresham. This extends from the tactile bricks away from the tracks to one foot past the rear of the Tri-Met ticket vending machines or to the farthest drip line of the transit shelter, whichever is farthest from the tactile bricks.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1525, Enacted, 05/15/2001)

7.70.020. Tri-Met Authority to Regulate.

Tri-Met may make, adopt and enact any ordinances, rules or regulations that it deems necessary regarding the use of transit shelters and transit loading platforms, including those that provide for the exclusion of persons from those premises, and the potential criminal responsibility for actions involving criminal trespass as defined by Oregon law.

(Ord. No. 1525, Enacted, 05/15/2001)

Article 7.80

GRAFFITI CODE

Sections:

- 7.80.010 Title.
- 7.80.020 Declaration of Purpose.
- 7.80.025 Definitions.
- 7.80.030 Graffiti Nuisance Property.
- 7.80.050 Graffiti Prohibited.
- 7.80.060 Possession of Graffiti Implement Prohibited.
- 7.80.070 Violation of Article.
- 7.80.080 Unlawfully Applying Graffiti; Possessing Graffiti Implement; Seizure; Minimum Fine; Community Service.
- 7.80.090 Enforcement.
- 7.80.120 Parental Responsibility; Parental Civil Liability.

7.80.010 Title.

GRC Article 7.80 may be cited as the Gresham Graffiti Code.
(Ord. No. 1609, Enacted, 08/02/2005)

7.80.020 Declaration of Purpose.

(1) It is the purpose and intent of this article to establish procedures for the prompt removal of graffiti from buildings, walls, structures and items of personal property in order to reduce social deterioration within the city, enhance its appearance and promote public safety and health.

(2) The manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this article.
(Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.025 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for the purposes of this article, the following definitions shall apply:

Abate. To remove the graffiti by such means, in

such manner, and to such extent as to remove it from public view.

Aerosol Paint Container. Any aerosol container adapted or made for spraying paint.

Etching Device. A glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.

Felt Tip Marker. Any indelible marker or similar implement with a tip which, at its broadest width is greater than one-fourth (1/4) inch.

Graffiti. Any inscription, word, figure, or design that is marked, etched, scratched, drawn; or, painted on any surface with paint, ink, chalk, dye or other similar substance; regardless of content, which is visible from premises open to the public, such as public rights-of-way or other publicly owned property, and that has been placed upon any real or personal property such as buildings, fences, and structures without authorization from the owner or responsible party.

Graffiti Implement. An Aerosol Paint Container, a Felt Tip Marker, an Etching Device, or a Graffiti Stick.

Graffiti Nuisance Property. Property upon which graffiti has been placed.

Graffiti Stick. A device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth (1/4) of an inch in width.

Offense. Conduct for which a sentence requiring payment of a fine is provided by this code or an ordinance of the city.

Permit. Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.

Premises Open To The Public. All public spaces, including but not limited to streets, alleys, sidewalks, parks, rights-of-way and public open space, as well as private property onto which the public is regularly invited or permitted to enter for any purpose.

Property. Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not. Property also includes items of machinery, drop boxes and other waste containers, utility poles and post office collection boxes.

Unauthorized. Without the consent of the owner, occupant or responsible party.

(Ord. No. 1700, Amended and Renumbered [formerly GRC 7.80.040] 03/03/2011; Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.030 Graffiti Nuisance Property.

(1) Any property, building, structure or item of personal property within the City of Gresham that becomes a graffiti nuisance property is in violation of this article and is subject to its remedies.

(2) Any owner, occupant, responsible party or other person who permits property under their control to become a graffiti nuisance property shall be in violation of this article and subject to its remedies.

(3) An owner or occupant of any property in the city shall remove any graffiti from a graffiti nuisance property within seven calendar days.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.050 Graffiti Prohibited.

It is hereby declared to be a nuisance and to be unlawful for any person to place or put, by any means, any drawing, inscription, figure, symbol, or mark or any type commonly known graffiti on any public or private property without the permission of the owner of the premises on which the property is located, or upon any natural surfaces such as rocks or trees, or any other surface whatsoever. It shall be unlawful for any person to solicit or command another person to apply graffiti. It shall be unlawful for any person to aid or abet or agree to aid or abet another person to plan to apply or apply graffiti.

(Ord. No. 1609, Enacted, 08/02/2005)

7.80.060 Possession of Graffiti Implement Prohibited.

No person shall possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement. Unlawfully possessing a graffiti implement is a violation.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1609, Enacted, 08/02/2005)

7.80.070 Violation of Article.

(1) Any property located in the City of Gresham that becomes a graffiti nuisance property is in violation of this article and is subject to its remedies.

(2) Every responsible party who permits a property to become a graffiti nuisance property is in violation of this article and subject to its remedies.

(3) Any person who applies graffiti or who aids, abets, or agrees to aid or abet another person to apply graffiti is in violation of this article and subject to its remedies.

(Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.080 Unlawfully Applying Graffiti; Possessing Graffiti Implement; Seizure; Minimum Fine; Community Service.

(1) Unlawfully Applying Graffiti. Applying graffiti in violation of this article may be subject to a fine or penalty in the maximum amount of \$500.

(2) Unlawfully Possessing Graffiti Implement.

(a) No person shall possess any graffiti implement, with the intent to use it in violation of GRC 7.80.080 (1).

(b) Unlawfully possessing a graffiti implement may be subject to a fine or penalty in the maximum amount of \$500.

(3) In addition to any citation issued, a graffiti implement used or possessed in violation of this section may be immediately seized and impounded by the police department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband subject to destruction under Oregon Law.

(4) Community Service. In lieu of any fine that may be imposed for violation of this section, the court may order community service. The period of community service required by the court shall be performed under the supervision of a community service provider approved by the court. Reasonable effort shall be made to assign the subject person to a type of community service that is reasonably expected to have the most rehabilitative effect on the person. To the extent that the offense giving rise to the offer of community service constitutes a violation of this section, reasonable effort shall be made by the court to assign the person to community service that constitutes in significant part the removal of the graffiti.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.090 Enforcement.

(1) Unless otherwise provided, violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$1,000.

(2) In addition to abatement authority set forth in GRC Article 7.50, the manager may immediately cause to be removed any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to traffic signs and lights, and on property for which written consent to enter onto property to remove graffiti has been given by the property owner or responsible party.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.120 Parental Responsibility; Parental Civil Liability.

(1) Parental Responsibility.

(a) No parent, guardian, or other person having the legal custody of an unemancipated minor person may allow or permit the minor to be in violation of this article.

(b) Upon a subsequent violation by an unemancipated minor person, the parent, guardian or person having legal custody shall be served with a subpoena to appear before the court with the minor and show cause why this article has been violated a second time.

(c) Violating parental responsibility under this section may be subject to a fine or penalty in the amount of \$500.

(2) Parental Civil Liability. In addition to any other remedy provided by law, the parent or parents of an unemancipated minor shall be liable for actual damages to person or property in connection with the removal of graffiti caused by said minor in accordance with the provisions of ORS 30.765. In any case in which the manager has elected to enter onto graffiti nuisance property to perform abatement activities, the actual costs incurred in connection with the removal of graffiti caused by an unemancipated minor shall be recoverable by the city against the parent or parents of said minor.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

Article 7.85

CHRONIC NUISANCE PROPERTIES

Sections:

- 7.85.010** [Definitions.](#)
- 7.85.020** [Notice and Determination Procedure.](#)
- 7.85.025** [Determination When Notice is Not Required.](#)
- 7.85.030** [Chronic Nuisance Abatement Plan.](#)
- 7.85.040** [Enforcement.](#)
- 7.85.050** [Chronic Nuisance Property Closure.](#)
- 7.85.060** [Summary Abatement – Closure.](#)

7.85.010 Definitions.

In addition to definitions set forth in GRC 1.05.010, the following definitions apply to the Chronic Nuisance Code:

Chronic Nuisance Abatement Plan (CNAP). A plan required to be submitted by a property owner or Person in Charge in response to a notice authorized under GRC 7.85.020 that includes actions to abate, correct or eliminate the occurrence of chronic nuisance activities on or around the property.. A CNAP may include, but is not limited to the following: actions to remedy building code, fire code, property maintenance code, and nuisance code violations; implementation of CPTED (Crime Prevention Through Environmental Design); eviction of problem tenants responsible for causing chronic nuisance activities; hiring security guards to monitor the property; attendance of property management trainings held by the police department or other certified property management training company. A CNAP shall include an implementation timeline.

Chronic Nuisance Activity. Any of the following activities, behaviors or conduct:

- (1) public drinking, GRC 7.10.120;
- (2) driving under the influence of

intoxicants, ORS 813.010;

(3) unlawful prostitution procurement activities, GRC 7.10.060, or prostitution or related offenses, ORS 167.007 through ORS 167.017;

(4) noise, GRC 7.20.040;

(5) assault or menacing, ORS 163.160 through ORS 163.190;

(6) recklessly endangering another person, ORS 163.195;

(7) offensive physical contact, GRC 7.10.210;

(8) assaulting a public safety officer, ORS 163.208;

(9) endangering the welfare of a minor, ORS 163.575;

(10) sexual abuse, contributing to the delinquency of a minor, or sexual misconduct, ORS 163.415 through ORS 163.445;

(11) public indecency , GRC 7.10.070, or ORS 163.465;

(12) criminal trespass, ORS 164.243 through ORS 164.265;

(13) criminal mischief, ORS 164.345 through ORS 164.365;

(14) graffiti related offense, GRC 7.80.050, or ORS 164.381 through ORS 164.386;

(15) unlawful use of an electrical stun gun, tear gas or mace, ORS 163.212 and ORS 163.213;

(16) disorderly conduct, ORS 166.023 and ORS 166.025;

(17) riot, ORS 166.015;

(18) harassment, ORS 166.065 through ORS 166.070;

(19) interfering with peace officer, GRC

7.10.090;

(20) alcoholic liquor violations, ORS 471.105 through ORS 471.482;

(21) unlawful manufacture, delivery, or possession of a controlled substance or related offenses, ORS 167.203, ORS 475.005 through ORS 475.285, and/or ORS 475.805 through ORS 475.979;

(22) public urination/defecation, GRC 7.10.075;

(23) intimidation, ORS 166.155 through 166.165;

(24) unlawful discharge of a firearm, GRC 7.10.040;

(25) possession and use of weapons, ORS 166.180 through 166.250;

(26) offensive littering, ORS 164.805;

(27) theft, ORS 164.015 through ORS 164.140;

(28) arson or related offenses, ORS 164.315 through ORS 164.335;

(29) illegal gambling, ORS 167.117, and/or ORS 167.122 through ORS 167.127;

(30) animal abuse or neglect, ORS 167.315 through ORS 167.330; animal abandonment, ORS 167.340; animal fighting, ORS 167.355; or dog fighting, ORS 167.365;

(31) curfew, GRC Article 7.40;

(32) homicide/murder, ORS 163.005 through ORS 163.095; or

(33) any attempt to commit (as defined in ORS 161.405) and/or conspiracy to commit (as defined in ORS 161.450 and ORS 161.455) any of the above activities, behaviors, or conduct.

Any of the above activities will be deemed to have occurred on the property for purposes of this

definition if engaged in within 300 feet of the property by any person associated with the property.

Chronic Nuisance Property.

(1) property on which three or more Chronic Nuisance Activities are reported to have occurred during any 180 calendar day period;

(2) property for which a court has issued a search warrant based on probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through ORS 475.285 and/or ORS 475.940 through ORS 475.995 has occurred within the previous 60 days, and the chief of police or designee has determined that the search warrant was based on evidence of continuous or repeated chronic nuisance activities at the property; or,

(3) privately owned property on which the following chronic nuisance activities are continuous or repeated:

(a) unlawful prostitution procurement activities, GRC 7.10.060, or prostitution or related offenses, ORS 167.007 through ORS 167.017;

(b) alcoholic liquor violations, ORS 471.105 through ORS 471.482;

(c) unlawful manufacture, delivery, or possession of a controlled substance or related offenses, ORS 167.203, ORS 475.005 through ORS 475.285, and/or ORS 475.805 through ORS 475.979;

(d) assault or menacing, ORS 163.160 through ORS 163.190;

(e) homicide/murder, ORS 163.005 through ORS 163.095;

(f) possession and use of weapons, ORS 166.180 through ORS 166.250 and ORS 166.350; or

(g) any attempt to commit (as defined in

ORS 161.405) and/or conspire to commit (as defined in ORS 161.450 and ORS 161.455) any of the above activities, behaviors, or conduct.

(4) Ten or more calls for service relating to unwanted or suspicious persons, or unwanted or suspicious vehicles, during any 180 calendar day period.

(5) Three or more of the following conditions that would violate the following code sections during any 180 calendar day period if the conduct is classified as a violation:

(a) is an imminent nuisance as defined in GRC 7.15.030;

(b) excessive accumulation of debris, garbage and junk, or accumulation of animal excrement as prohibited by GRC 7.15.040(1);

(c) overgrown vegetation as prohibited by GRC 7.15.040(2);

(d) fence in disrepair as prohibited by GRC 7.15.040(7)(f);

(e) improper storage of personal items as prohibited by GRC 7.15.040(9);

(f) lack of garbage service as required by GRC 7.25.050;

(g) abandoned vehicle parked on private property as prohibited by GRC 8.30.010(1);

(h) abandoned vehicle parked on a public street or right-of-way that is associated with property within 300 feet, as prohibited by GRC 8.30.010(1);

(i) the following sections of Property Maintenance Code:

(i) PMC 108 Unsafe / Unfit Structure;

(ii) PMC 302.5 Rodents;

(iii) PMC 303 Pools (unsecured and

unmaintained);

(iv) PMC 304.7 Roof / Gutters; and

(j) Derelict Structures as prohibited by GRC 10.30.200.

Person Associated With. Any person who, on the occasion of a chronic nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, invitee employee, or any independent contractor of a property, person in charge, or owner of a property.

Person in Charge. Any person, in actual or constructive possession of a property, including but not limited to an owner or occupant of property under his or her ownership or control.

Property. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1702, Enacted, 03/03/2011)

7.85.020 Notice and Determination Procedure.

(1) When the Chief of Police or designee receives a report or reports documenting the existence of a chronic nuisance property, the chief of police or designee may declare the property a chronic nuisance property and notify the property owner and person in charge of property.

(2) The written notice declaring a property as a chronic nuisance shall contain:

(a) the street address or a legal description sufficient for identification of the property; for a property consisting of more than one unit, such as a duplex or apartment complex, one or more units may be specifically designated as chronic nuisance properties;

(b) a statement that the chief of police or designee has determined the property to be chronic nuisance property, with a concise description of the nuisance activities leading to the finding; and

(c) a demand that the property owner or person in charge respond to the chief of police or designee within 10 calendar days and propose a course of action that the chief of police or designee to abate the chronic nuisance activities giving rise to the violation.

(3) Service of the notice shall be made either personally or by certified and regular mail, addressed to the property owner or person in charge at such place where the notice is likely to be received. A copy of the notice shall be delivered to the owner of the property at the address shown on the tax rolls of Multnomah County, and/or on the occupant at the address of the property, if these persons are different than the property owner or person in charge.

(4) At or about the same time of the delivery of the notice set forth above, the chief of police or designee shall post a copy of the notice at the property.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1702, Enacted, 03/03/2011)

7.85.030 Chronic Nuisance Abatement Plan.

(1) A property owner or person in charge shall respond to the Chief of Police or designee within 10 calendar days of the date the notice described in GRC 7.85.020, was issued and submit a Chronic Nuisance Abatement Plan to abate the chronic nuisance activities giving rise to the violation.

(2) The Chief of Police or designee shall review the Chronic Nuisance Abatement Plan

submitted by the property owner or person in charge and shall approve or deny it within 10 days of it being submitted. The Chief of Police or designee shall approve the plan if it is determined that the actions proposed are likely to substantially decrease the incidence of chronic nuisance activities on or around the property. In the event the Chronic Nuisance Abatement Plan is denied, the reasons for the denial shall be included and the property owner or person in charge shall have 10 days to resubmit a plan for approval.

(3) After the Chief of Police or designee approves the Chronic Nuisance Abatement Plan, the property owner or person in charge shall implement it in accordance with the timeline and terms set forth within the plan.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1702, Enacted, 03/03/2011)

7.85.040 Enforcement.

(1) Civil Penalty or Citation.

(a) The following actions are a violation of this article and subject to a fine or civil penalty pursuant to GRC Article 7.50:

(i) failing to respond as required by the notice described in GRC 7.85.020;

(ii) failing to submit a Chronic Nuisance Abatement Plan, that is approved by the chief of police or designee, in their sole discretion, within 30 days after being determined a Chronic Nuisance Property;

(iii) failing to implement the Chronic Nuisance Abatement Plan as set forth in accordance with the timeline set forth in the approved plan; or

(iv) a report of an additional chronic nuisance activity occurring on the property after the notice issued pursuant to GRC 7.85.020.

(2) A violation of this section may be subject to a fine or penalty in the maximum amount of \$500.

(3) Suspension or Revocation of Residential Rental License. Failure to submit or implement a CNAP may be subject to suspension or revocation of a residential rental license pursuant to GRC Article 9.99.

(4) In addition to any other remedies provided herein, the chief of police or designee may enforce a violation under this code as set forth in GRC Article 7.50 or in any other manner under the law.

(5) Documents and other evidence gathered in connection with enforcement of the Nuisance Code as authorized under GRC Article 7.15 or Residential Rental Housing Program activities as authorized under GRC Article 9.55, may be utilized to support a chronic nuisance property determination.

(6) When a property owner or person in charge responds to the chief of police or designee as required by this section, statements made in connection with that response shall not constitute an admission of any chronic nuisance activities. This subsection does not require the exclusion of any evidence that is otherwise admissible or offered for any other purpose.

(7) A property shall no longer be determined to be a chronic nuisance property after the passage of one year from the date of the last reported chronic nuisance activity or date the Chronic Nuisance Abatement Plan was approved by the chief of police or designee, whichever is later.

(8) In the event a chronic nuisance activity occurs on a property within one year after the date upon which the property was no longer determined to be such a property, the chief of police or designee may determine the property is a chronic nuisance property without providing prior notice as required in GRC 7.85.020.

(Ord. No. 1702, Enacted, 03/03/2011)

7.85.050 Chronic Nuisance Property Closure.

(1) If a civil penalty is imposed pursuant to

GRC 7.85.040 and the property owner or person in charge fails to submit and implement a Chronic Nuisance Abatement Plan as required, or the approved Chronic Nuisance Abatement Plan does not result in the abatement of the chronic nuisance activity, the chief of police or designee may refer the matter to the city attorney to commence legal proceedings in circuit court to seek closure of the property pursuant to this section.

(2) As directed by the chief of police or designee, the city attorney may commence legal proceedings in the circuit court to abate a chronic nuisance property and to seek closure of the property against any or all of the property owner or person in charge, and any other relief deemed appropriate.

(3) The city shall have the initial burden of proof to show by a preponderance of the evidence that the property is a chronic nuisance property.

(4) Evidence of a property's reputation and/or the reputation of the persons residing in or frequenting it shall be admissible.

(5) Documentation and other evidence generated in connection with other code compliance activity or investigation, including general nuisance violations under GRC 7.15.040 shall be admissible.

(6) The failure of any person to receive notice as provided in this article shall not invalidate or otherwise affect the proceedings under this section.

(7) If the court determines property to be chronic nuisance property, the following remedies apply:

(a) The court shall order that the property be closed and secured against all access, use and occupancy for a period of not more than one year. The order shall be entered as part of the final judgment. For property consisting of more than one unit, the court may limit closure to the unit or units of the property on which any nuisance activity has occurred or is occurring, and may order the closure of individual units for periods of less than six

months. In any judgment the court may order the closure of areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping. The court shall retain jurisdiction during any period of closure.

(b) The court may require the property owner or person in charge to pay for the costs to the city to abate the nuisance activities at the property or seek or enforce closure of the property.

(c) The court may, in its discretion, award attorneys fees to the prevailing party.

(d) The court may authorize the city to physically secure the property against all access, use or occupancy in the event that the property owner or person in charge fails to do so within the time specified by the court. The city department(s) physically securing the property shall prepare a statement of costs and the city shall submit that statement to the court for review as provided by Oregon Rule of Civil Procedure 68. All costs reasonably incurred by the city shall be paid to the city by the property owner or person in charge. Reasonable costs includes costs actually incurred by the city for physically securing the property, as well as tenant relocation costs pursuant to subsection (7)(e), below.

(e) A property owner or person in charge shall pay reasonable relocation costs of a tenant as defined in ORS 90.100(28) if, without actual notice, the tenant moved into the property after either:

(i) a property owner or person in charge received notice from the chief of police or designee pursuant to GRC 7.85.020; or

(ii) a property owner or person in charge received notice of an action brought pursuant to GRC 7.85.050.

(f) The court may order any other relief

that it deems in its discretion to be appropriate.

(g) A lien shall be created against the property for the amount of the city's money judgment. In addition, any person who is charged costs and/or attorneys fees under this section shall be personally liable for payment thereof to the city. Judgments imposed by this article shall bear interest at the statutory rate.
(Ord. No. 1702, Enacted, 03/03/2011)

7.85.060 Summary Abatement – Closure.

Based on evidence showing that nuisance activities have created an imminent nuisance as defined in GRC 7.15.030, the imminent nuisance may be summarily abated as provided in GRC 7.50.210. In such an event the procedures set forth in GRC Article 7.85 are not required to be complied with prior to the summary abatement. Proceedings to obtain an order of summary abatement shall be governed by the provisions of Oregon Rule of Civil Procedure 79 for obtaining temporary restraining orders. In the event of summary closure, the city is not required to comply with the notification procedures set forth in this article.

(Ord. No. 1702, Enacted, 03/03/2011)

Article 7.90

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1632, Enacted, 09/14/2006)

DRUG-FREE ZONES

Sections:

- 7.90.010 [Definitions.](#)
- 7.90.020 [Purpose.](#)
- 7.90.030 [Designation of Drug-Free Zones.](#)
- 7.90.040 [Civil Exclusions.](#)
- 7.90.050 [Issuance of Exclusion Notices](#)
- 7.90.060 [Exclusion Procedure.](#)
- 7.90.070 [Appeal and Variances.](#)
- 7.90.080 [Hearings Procedure.](#)
- 7.90.090 [Depositions or Subpoena of Material Witness; Discovery](#)
- 7.90.100 [Subpoenas.](#)
- 7.90.110 [Discovery of Documents and Things.](#)
- 7.90.120 [Evidence.](#)
- 7.90.130 [Orders.](#)
- 7.90.140 [Petitions for Reconsideration, Rehearing.](#)
- 7.90.150 [Judicial Review.](#)
- 7.90.160 [Designation and Listing of Drug-Free Zones.](#)
- 7.90.170 [Violation of an Exclusion - Penalties.](#)

7.90.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for the purposes of this article, the following definitions apply:

Arrest: to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.

Essential Needs: food, physical care, and medical attention.

Reside: to occupy one’s principal dwelling, including transient occupancy in a hotel or motel.

Travel: the movement on foot or within or upon a vehicle within a drug-free zone from one point to another without delay other than to obey traffic control devices.

7.90.020 Purpose.

Drug-free zones are those areas of the city as designated by the city council under GRC 7.90.160, which are areas where the number of arrests where there was probable cause to believe a person has committed any of the offenses enumerated in GRC 7.90.040 for a 12 month period within the 18 months preceding its designation is significantly higher than that for other similarly sized geographic areas of the city that are not located within a drug-free zone. (Ord. No. 1632, Enacted, 09/14/2006)

7.90.030 Designation of Drug-Free Zones.

Council may designate by ordinance an area meeting the criteria of GRC 7.90.020 as a drug-free zone. The Chief of Police, or designee, will regularly report to council whether there is a need for the continuation of the drug-free zones enumerated in GRC 7.90.160. Council action is needed only if the report recommends discontinuing or changing a drug-free zone. (Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1653, Amended, 03/04/2008; Ord. No. 1632, Enacted, 09/14/2006)

7.90.040 Civil Exclusions.

(1) A person is subject to exclusion for a period of 90 days from any public right-of-way and park within a drug-free zone designated in GRC 7.90.160 if that person has been arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the following offenses within that drug-free zone, unless the offense was committed entirely within a private residence:

(a) attempt to unlawfully possess a controlled substance, in violation of ORS 161.405;

(b) criminal solicitation to unlawfully possess a controlled substance in violation of ORS 161.435;

(c) criminal conspiracy to unlawfully possess a controlled substance in violation of ORS 161.450;

(d) unlawful possession of a controlled substance, in violation of ORS 475.840(3), or possession of specific controlled substances as enumerated in ORS 475.854, ORS 475.864, ORS 475.874, ORS 475.884, ORS 475.894, other than possession of less than one ounce of marijuana under ORS 475.864(3);

(e) criminal conspiracy to unlawfully deliver a controlled substance in violation of ORS 161.450;

(f) unlawful delivery of a controlled substance, in violation of ORS 475.840(1), or delivery of specific controlled substances as enumerated in ORS 475.850, ORS 475.860, ORS 475.870, ORS 475.880, and ORS 475.890;

(g) attempt to unlawfully deliver an imitation controlled substance, in violation of ORS 161.405;

(h) criminal conspiracy to unlawfully deliver an imitation controlled substance in violation of ORS 161.450; or

(i) unlawful delivery of an imitation controlled substance, in violation of ORS 475.912.

(2) A one year exclusion from any public right-of-way and park within a drug-free zone shall take effect at 12:01 a.m. upon the calendar day after conviction for any of the offenses enumerated in subsection (1) of this section if that offense was committed within that drug-free zone and the person was both given actual notice prior to the exclusion that the city would impose a one-year exclusion upon conviction and informed of the right of appeal and the process for initiating an appeal.

(3) A person excluded from a drug-free zone under authority of this section may not enter that drug-free zone except to travel to and from and be present at the events and locations listed below:

(a) attend a meeting with an attorney;

(b) attend a scheduled initial interview with a social service provider;

(c) comply with court or corrections-ordered obligations;

(d) contact criminal justice personnel at a criminal justice facility;

(e) attend any administrative or judicial hearing relating to an appeal of:

(i) the person's notice of exclusion; or

(ii) the denial, revocation, or amendment of the person's variance; or

(f) travel through that drug-free zone on a Tri-Met vehicle;

(g) reside in a dwelling or facility;

(h) satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the drug-free zone;

(i) obtain social services when:

(i) the excluded person is in need of social services;

(ii) the social services are sought for reasons relating to the health or well-being of the excluded person; and

(iii) the social service agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients.

(j) obtain education by:

(i) enrolling as a student at an educational facility;

(ii) attending school at an educational facility.

(k) work as the owner, principal, agent or employee at a place of lawful employment;

(l) perform work directly related to lawful employment;

(m) be present at any place or event as specified by a variance issued by the chief of police or designee pursuant to GRC 7.90.070.

(4) An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by GRC 7.90.050, including notice of the limitations to the exclusion enumerated in subsection (3)(a) – (m), above.

(5) An exclusion is not valid if the probable cause on which it is based consists of mere use or effects of controlled substances rather than criminal acts concerning controlled substances as defined by Oregon statutes, whether or not the person subject to exclusion pursues an appeal of the exclusion.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1632, Enacted, 09/14/2006)

7.90.050 Issuance of Exclusion Notices.

The chief of police and/or designees are the persons in charge of the public rights-of-way and parks in the drug-free zones for purposes of issuing notices of exclusion in accordance with this article.

(Ord. No. 1632, Enacted, 09/14/2006)

7.90.060 Exclusion Procedure.

(1) If a person is arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the offenses enumerated in GRC 7.90.040(1) within a drug-free zone, the chief of police and/or designees may exclude that person from that drug-free zone. Every person excluded shall be provided a written notice of exclusion and variances. The notice shall contain a brief

description of the area from which the person may be excluded, and a brief summary of the appeal and variance procedures under this chapter. Any subsequent additions to the notice of exclusion that increase the scope of the exclusion from that described in the written notice shall render the notice and the exclusion invalid.

(2) At the time a person is issued a notice of exclusion from a drug-free zone, the chief of police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in GRC 7.90.070(4).

(3) The notice of exclusion shall be in writing and a copy delivered to the excluded person. The notice of exclusion shall specify the following:

(a) a description of the areas designated as a drug-free zone in GRC 7.90.160 from which that person is excluded;

(b) information concerning the right to appeal the exclusion to the city's hearings officer as provided in GRC 7.90.070; and

(c) notice that conviction of the offense for which the person was arrested and excluded will result in a one-year exclusion, and information concerning the right to appeal a conviction-based exclusion to the city's hearings officer as provided in GRC 7.90.070.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1632, Enacted, 09/14/2006)

7.90.070 Appeal and Variances.

(1) A 90 day exclusion shall take effect at 12:01 a.m. on the 22nd calendar day following issuance of the notice of exclusion if the person issued the notice of exclusion has not filed an appeal as provided in this article and a city hearings officer has reviewed a police report documenting the exclusion notice and has found that the report presents credible evidence that supports probable cause to believe the person:

(a) committed any of the offenses enumerated in GRC 7.90.040(1) within a

drug-free zone; and

(b) received the notice required by GRC 7.90.060(1).

(2) If a person issued a notice of exclusion files an appeal as provided in this chapter, imposition of a 90 day exclusion shall be stayed pending a final, enforceable decision upholding the exclusion.

(3) APPEAL. A person to whom notice of exclusion is issued shall have a right to appeal only in accordance with the following procedures and conditions:

(a) Appeals shall be submitted to the city in writing, and must contain a description of the action being appealed and the specific grounds upon which the appeal is based. Any hearings regarding such appeals shall be conducted before an independent hearings officer in accordance with GRC 7.90.080. The hearings officer may specify and provide hearing request forms to be used by persons requesting hearings.

(b) Upon receipt of a written request for hearing that satisfies the requirements of GRC 7.90.070 (3)(a), the hearings officer shall schedule and hold an appeal hearing within 30 days after the receipt of such request. A written request for hearing that does not meet the requirements of GRC 7.90.070 (3)(a) may be dismissed by the hearings officer at any time, and without a hearing.

(c) Notice of the time, date and place of hearing shall be given to the person requesting the hearing and to the Gresham Police Department. The hearings officer may provide by rule for the manner of providing notice to such persons.

(d) The time for hearing may be extended by the hearings officer for good cause shown, upon such terms and conditions as the hearings officer deems just and appropriate.

(e) Copies of documents in the city's control which are intended to be used at the

hearing shall be made available, upon request, to the appellant.

(f) An appeal of a 90 day notice of exclusion must be filed, in writing, by 5:00 p.m. of the 15th calendar day following issuance of the notice of exclusion.

(g) An appeal of a one year conviction-based exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date of conviction.

(h) An appeal of the following must be filed, in writing, by 5:00 p.m. on the fifth business day following the action regarding the variance:

(i) a denial of a request for a variance; or

(ii) a denial of a request for an amendment to a variance; or

(iii) a revocation of a variance.

(i) A 90 day exclusion shall not take effect during the time that an appeal of the 90 day exclusion is pending.

(j) A one year conviction-based exclusion shall take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, shall remain in effect unless the hearings officer issues a contrary decision.

(k) At the hearing on an appeal of a 90 day exclusion, the city shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in GRC 7.90.040(1), and that the conduct supporting the exclusion occurred within a drug-free zone.

(l) At the hearing on an appeal of a one year conviction-based exclusion, the city shall have the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in GRC 7.90.040(1), and that the conduct

supporting the conviction occurred within a drug-free zone.

(m) At the hearing on an appeal of a denial of a request for a variance as provided in subsection (h)(i) of this section, the city shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.

(n) At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in subsection (1)(h)(ii) of this section, the city shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this section.

(o) At the hearing on an appeal of a revocation of a variance as provided in subsection (1)(h)(iii) of this section, the city shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this section supporting revocation existed at the time of revocation.

(p) At the hearing on an appeal of a 90 day exclusion, the following shall be prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in GRC 7.90.040(1):

(i) a determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial 90 day notice of exclusion was issued for violation of any of the offenses enumerated in GRC 7.90.040(1); or

(ii) an accusatory instrument charging the person to whom a 90 day notice of exclusion was issued, for violation of any of the offenses enumerated in GRC 7.90.040(1).

(q) At the hearing on an appeal of a one year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as

enumerated in GRC 7.90.040(1), shall be conclusive evidence that the described conduct occurred, but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a drug-free zone.

(4) VARIANCES. Variances shall be granted, denied, amended or revoked in accordance with the following provisions:

(a) All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a drug-free zone.

(b) The Chief of Police shall receive and process requests for Drug-Free zone variances during regular business hours open to the public.

(c) Variance. The chief of police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in GRC 7.90.060(2), the chief of police and/or designees shall grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this subsection allows travel within the drug-free zone only in accordance with the terms specified in the variance. The chief of police or designees will require a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the city determines there is a need to amend or revoke the variance.

(5) REVOCATION OR AMENDMENT OF VARIANCES.

(a) A variance may be revoked or amended for the following reasons:

(i) the excluded person provided false information in order to obtain the variance;

(ii) there is probable cause to believe the person has committed any of the offenses enumerated in GRC 7.90.040(1) in the drug-free zone subsequent to the issuance of the variance;

(iii) the circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;

(iv) the person presents new circumstances that would support amending the variance; or

(b) A revocation or amendment of a variance becomes effective at 5:00 p.m. on the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to GRC 7.90.070 (4)(c), unless the excluded person appeals the determination by following the procedures in subsection (3)(h) above.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1632, Enacted, 09/14/2006)

7.90.080 Hearings Procedure.

(1) Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing by stipulation, consent order, agreed settlement, or default. However, after issuance of notice of hearing, an informal disposition must be approved by the hearings officer.

(2) Parties may elect to be represented by counsel and to respond to and present evidence and argument on all issues involved.

(3) An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the hearings officer.

(4) Testimony shall be taken upon oath or affirmation of the witness from whom received. The hearings officer may administer oaths or affirmations to witnesses.

(5) The hearings officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the hearings officer on a fact in issue during the pendency of the proceedings. The hearings officer shall notify the parties of the communication and of their right to rebut such communications.

(6) The record in a proceeding before the hearings officer shall include:

(a) all pleadings, motions, and intermediate rulings;

(b) evidence received or considered;

(c) stipulations;

(d) a statement of matters officially noticed;

(e) questions and offers of proof, objections, and rulings thereon;

(f) a statement of any ex parte communications on a fact in issue made to the hearings officer during the pendency of the proceedings;

(g) proposed findings and exceptions; and

(h) any proposed, intermediate, or final order prepared by the hearings officer.

(7) A verbatim, written, mechanical, or electronic record shall be made on all motions, rulings, and testimony. The record shall be transcribed for the purposes of court review pursuant to GRC 7.90.150 unless the parties to such review mutually agree in writing to waive the transcript. If the city prevails on such review, the

reasonable costs of preparing the transcript, and any other reasonable costs or expenses actually incurred, shall be allowed as a part of the city's costs in such action. However, upon petition, a court having jurisdiction to review may reduce or eliminate the charge upon finding that it is equitable to do so, or that matters of general interest would be determined by review of the order of the hearings officer.

(Ord. No. 1632, Enacted, 09/14/2006)

7.90.090 Depositions or Subpoena of Material Witness; Discovery.

(1) On petition of any party, the hearings officer may order that the testimony of any material witness be taken by deposition in the manner prescribed by law for depositions in civil actions. Depositions may also be taken via audio or audio-visual recordings. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the witness' testimony, and a request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in this state and is unwilling to appear, the hearings officer may issue a subpoena as provided to require his appearance before such officer.

(2) The hearings officer may, by rule, prescribe other methods of discovery which may be used in proceedings before the hearings officer.
(Ord. No. 1632, Enacted, 09/14/2006)

7.90.100 Subpoenas.

(1) The hearings officer may issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the city, shall receive fees and mileage as prescribed by law for witnesses in civil actions.

(2) If any person fails to comply with any subpoena so issued or any party or witness refuses to testify on any matters on which he may be lawfully interrogated, the judge of the Circuit Court of any county, on the application of the

hearings officer, or of a designated representative of the hearings officer or of the party requesting the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.

(Ord. No. 1632, Enacted, 09/14/2006)

7.90.110 Discovery of Documents and Things.

(1) On petition of any party and a showing of the general relevance of the documents or things sought, the hearings officer may enter an order directing any party to produce and make available to the petitioning party to inspect and copy any documents or to inspect and copy, test, or sample any things which are in the possession of a party.

(2) The order directing a party to produce and make available documents or things may require the petitioning party to pay the party producing documents and things that party's reasonable costs associated with such production.

(3) The hearings officer shall not enter an order requiring a party to produce any document or thing which is privileged under the rules of privilege recognized by law or which is exempt from disclosure under the Oregon Public Records Law.

(Ord. No. 1632, Enacted, 09/14/2006)

7.90.120 Evidence.

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the hearings officer on the record unless shown to have substantially prejudiced the rights of a party. The hearings officer shall give effect to the rules of privilege recognized by law. Objections to evidence may be received in written form.

(2) All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided herein, no other factual information or evidence shall be considered in the determination of the

case. Documentary evidence may be received in the form of copies of excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

(3) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

(4) The hearings officer may take notice of judicially recognizable facts, and the hearings officer may take official notice of general, technical, or scientific facts within the specialized knowledge of city employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

(5) No sanction shall be imposed or order be issued except upon consideration of the whole record as supported by, and in accordance with reliable, probative, and substantial evidence.
(Ord. No. 1632, Enacted, 09/14/2006)

7.90.130 Orders.

(1) Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

(2) Unless otherwise stipulated, a final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the hearings officer's order. The findings of fact and conclusions of law may be orally stated on the record by the hearings officer and those findings and conclusions incorporated in the written order by reference.

(3) The hearings officer shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of

record.

(4) Every final order shall include a citation of the ordinances under which the order may be appealed or judicially reviewed.
(Ord. No. 1632, Enacted, 09/14/2006)

7.90.140 Petitions for Reconsideration, Rehearing.

(1) A party may file a petition for reconsideration or rehearing of a final order with the hearings officer within 30 days after the order is mailed.

(2) The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by written argument.

(3) The hearings officer may grant a request for reconsideration if good and sufficient reason therefor appears. If the petition is granted, an amended order shall be issued.

(4) The hearing officer may grant a rehearing petition if good and sufficient reason therefor appears. The rehearing may be limited by the hearings officer to specific matters. If a rehearing is held, an amended order may be issued.

(5) The hearings officer, at any time, may set aside, modify, vacate, or stay any final order, or re-open any proceeding for additional hearing when necessary to prevent a clear and manifest injustice to a party or other person adversely affected by such order.
(Ord. No. 1632, Enacted, 09/14/2006)

7.90.150 Judicial Review.

Review of the final order of a hearings officer under this code by any aggrieved party, including the City of Gresham, shall only be by writ of review to the Circuit Court of Multnomah County, Oregon, as provided in ORS 34.010 - 34.100.
(Ord. No. 1632, Enacted, 09/14/2006)

7.90.160 Designation and Listing of Drug-Free Zones.

The following description shall comprise the boundaries of the drug-free zone listed, and this drug-free zone shall include the entire area on and within the listed boundaries. It is hereby declared that the area within this description meets the criteria of GRC 7.90.020 of this code to be designated as a drug-free zone, and in accordance with GRC 7.90.030 is hereby designated as such.

(1) Rockwood Drug-Free Zone: Beginning at a point on the south curb line of SE Yamhill Street where it intersects with the east curb line of SE 193rd Avenue; thence northerly along the east curb line of SE 193rd Avenue until it intersects with the north curb line of E. Burnside Street; thence westerly along the north curb line of E. Burnside Street until it intersects with the north curb line of SE Stark Street; thence easterly along the north curb line of SE Stark Street until it intersects with the east curb line of SE 192nd Avenue; thence northerly along the east curb line of SE 192nd Avenue until it intersects with the north curb line of NE Glisan Street; thence westerly along the north curb line of NE Glisan Street until it intersects with the east curb line of SE 181st Avenue; thence southerly along the east curb line of SE 181st Avenue until it intersects with the south curb line of SE Yamhill Street; thence easterly along the south curb line of SE Yamhill Street and continuing to the point of the beginning.

(2) West Rockwood Drug-Free Zone: Beginning at a point on the south curb line of SE Stark Street where it intersects with the west curb line of SE 162nd Avenue; thence northerly along the west curb line of SE 162nd Avenue until it intersects with the north curb line of NE Glisan Street; thence easterly along the north curb line of NE Glisan Street until it intersects with the west curb line of NE 181st Avenue; thence southerly along the west curb line NE 181st Avenue until it intersects with the south curb line of SE Stark Street; thence westerly along the south curb line of SE Stark Street and continuing to the point of the beginning.

(3) City Central Drug-Free Zone: Beginning

at a point on the south curb line of West Powell Boulevard where it intersects with the west curb line of N Main Avenue; thence northerly along the west curb line of N Main Avenue until it intersects with the north curb line of NE Division Street; thence easterly along the north curb line of NE Division Street until it intersects with the east curb line of NE Cleveland Avenue; thence southerly along the east curb line of NE Cleveland Avenue until it intersects with the south curb line of East Powell Boulevard; thence westerly along the south curb line of East Powell Boulevard and continuing to the point of the beginning.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1653, Amended, 03/04/2008; Ord. No. 1632, Enacted, 09/14/2006)

7.90.170 Violation of An Exclusion – Penalties.

(1) It is unlawful for a person to enter or remain in a drug-free zone in violation of a valid exclusion imposed pursuant to this code. For violation of this subsection, a court may impose a fine of no more than \$500 or imprisonment of no more than 30 days, or both.

(2) A person who enters or remains in a drug-free zone in violation of a valid exclusion issued pursuant to this code is subject to arrest for Criminal Trespass (ORS 164.245).

(Ord. No. 1632, Enacted, 09/14/2006)

Article 7.99

ENFORCEMENT

Sections:

- 7.99.010** [Violation.](#)
- 7.99.020** [Authority to Inspect.](#)
- 7.99.030** [Fines, Penalties, and Other Enforcement Tools.](#)

(3) Unless otherwise specified, violation of any provision of this chapter may be subject to a fine or penalty in the maximum amount of \$1,000. Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty.

(Ord. No. 1700, Enacted, 03/03/2011)

7.99.010 Violation.

A violation shall have occurred when any requirement or provision of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.

(Ord. No. 1700, Enacted, 03/03/2011)

7.99.020 Authority to Inspect.

(1) The manager may enter any building or premises, in accordance with GRC 7.50.500 through GRC 7.50.520, to perform an inspection in order to ensure compliance with any provision of this chapter.

(2) As used in this section, inspection includes, but is not limited to, physical inspection of a property or facility, sampling, metering or recording on site activities, or reviewing and copying records, all as necessary to ensure compliance with this chapter.

(Ord. No. 1700, Enacted, 03/03/2011)

7.99.030 Fines, Penalties, and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provide herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

Chapter 8

VEHICLES AND PARKING

Articles:

8.05 GENERAL

- 8.05.010 Title.
- 8.05.020 Definitions.
- 8.05.030 State Traffic Laws.
- 8.05.040 Council Powers.
- 8.05.050 Manager Duties.
- 8.05.060 Public Danger.
- 8.05.070 Owner Responsibility.
- 8.05.080 Registered Owner Presumption.

8.10 VEHICLES

- 8.10.010 Unlawful Entry.
- 8.10.020 Unattended Vehicles.

8.15 DRIVING OFFENSES

- 8.15.010 Crossing Private Property.
- 8.15.020 Unlawful Riding.
- 8.15.040 Illegal Speed Racing.

8.20 BUSES

- 8.20.010 Bus Offenses.

8.25 PARKING

- 8.25.010 Unlawful Parking.
- 8.25.015 Recreational Vehicle Parking Permit.
- 8.25.020 Extension of Parking Time.
- 8.25.030 Public Parking Lots.
- 8.25.050 Private Property Parking.
- 8.25.060 Exemptions.

8.30 ABANDONED AND HAZARDOUS VEHICLES

- 8.30.010 Abandoned Vehicles Prohibited.
- 8.30.020 Hazardous Vehicles.
- 8.30.030 Hazardous Drop Box and Storage Containers.
- 8.30.040 Enforcement.

8.35 IMPOUNDING VEHICLES

- 8.35.010 Impound.
- 8.35.020 Impound Procedures.
- 8.35.025 Validity of Pre-impound Notice.
- 8.35.030 Hearing.
- 8.35.040 Release of Vehicle.
- 8.35.050 Towing and Storage Liens.
- 8.35.060 Immobilization.

8.40 OFF-STREET VEHICLES

- 8.40.020 Unlawful Operation of Off-Street Vehicles.
- 8.40.030 Falsification.
- 8.40.040 Arrest; Seizure of Vehicle.
- 8.40.050 Police Custody.
- 8.40.060 Identification of Owner.
- 8.40.070 Hearing.
- 8.40.080 Disposition.
- 8.40.090 Enforcement.

8.65 STREET AND SIDEWALKS

- 8.65.010 Pedestrians.
- 8.65.020 Driving Upon a Sidewalk.
- 8.65.030 Obstruction of Street or Sidewalk.
- 8.65.040 Unlawful Street Marking.
- 8.65.050 Parade Offenses.
- 8.65.060 Parade or Street Closure Permit.
- 8.65.070 Funeral Processions.
- 8.65.080 Unlawful Interference with a Funeral Procession.

8.70 BICYCLES AND NON-MOTORIZED VEHICLES

- 8.70.010 Use of a Bicycle or Non-Motorized Vehicle.
- 8.70.020 Use of Streets.
- 8.70.030 Use of Public Sidewalks and Property.
- 8.70.040 Misuse of a Bicycle or Non-Motorized Vehicle.
- 8.70.050 Impoundment.

8.99 ENFORCEMENT

- 8.99.010 Violation.
- 8.99.020 Fines, Penalties, Abatement and Other Enforcement Tools.

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- 8.99.030 [Parking Citations.](#)
- 8.99.040 [Owner/Lessee Responsibility.](#)
- 8.99.050 [Registered Owner Presumption.](#)

Article 8.05

GENERAL

Sections:

- 8.05.010** Title.
- 8.05.020** Definitions.
- 8.05.030** State Traffic Laws.
- 8.05.040** Council Powers.
- 8.05.050** Manager Duties.
- 8.05.060** Public Danger.
- 8.05.070** Owner Responsibility.
- 8.05.080** Registered Owner Presumption.

8.05.010 Title.

GRC Chapter 8 may be cited as the Gresham Traffic Code.

8.05.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, and in addition to the definitions the Oregon Vehicle Code (ORS Chapter 801), the following mean:

Abandoned vehicle. A vehicle that has been deserted, relinquished or has one or more of the following existing conditions:

- (1) The vehicle license plate or registration sticker has expired or has been canceled or altered, or the vehicle has a license plate from another vehicle.
- (2) The vehicle has no license plate or registration sticker.
- (3) The vehicle appears to be inoperative or disabled.
- (4) The vehicle appears to be wrecked, partially dismantled or junked including vehicles that lack an engine, transmission, wheel, tire, door, body panel, windshield, window, or any other part or equipment necessary to operate safely on the highways of this state.

(5) The records of the Oregon Department of Transportation identify the vehicle as sold and the current owner of the vehicle has not registered the vehicle as required by state law.

Bicycle. A vehicle that:

- (1) is designed to be operated on the ground on wheels;
- (2) has a seat or saddle for use of the rider;
- (3) is designed to travel with not more than three wheels in contact with the ground;
- (4) is propelled exclusively by human power; and
- (5) has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.

Bus stop. The space along the edge of a roadway designated by sign for use by buses loading or unloading passengers.

Careless manner. A manner that endangers or which could reasonably be expected to endanger persons or property, including but not limited to moving faster than an ordinary walking speed, the use of portable ramps, or jumping a bicycle or non-motorized vehicle where pedestrians are present or business egress is to the sidewalk.

Compacted Gravel. At least 4” in depth, made up of fractured/fragmented/broken rock 1” or less in diameter and rolled or vibrated for compaction.

Driveway (Drive). A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

Hazardous vehicle. A vehicle left in a location or condition such as to constitute an immediate threat to public health and safety, the environment, or the safety of vehicular or pedestrian traffic, or in a manner prohibited by GRC 8.30.020.

Holiday. New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day,

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Thanksgiving Day, Christmas Day, and any other day proclaimed a holiday by the council or manager.

Loading zone. A space on the edge of a roadway or in a public parking lot, designated by sign or pavement marking, for the purpose of loading or unloading passengers or materials.

Motor Vehicle or Motorized Vehicle. A vehicle propelled or powered by a motor such as an automobile, bus, truck, tractor, farm machinery, motorcycle, two-wheeled scooter, moped, all terrain vehicle, aircraft, recreational vehicle, golf cart, and go-cart. This definition includes a vehicle that is towed such as a trailer, camper shells, wheeled towing frames, semi-tractor trailers and utility trailers. This definition does not include electric assist bicycles, small engine lawn mowers, self-balancing personal transportation devices such as a Segway and devices of similar scale.

Non-Motorized Vehicle. A vehicle, other than a bicycle, propelled or powered by means other than a motor such as in-line skates, roller skates, skateboard, skis, toboggan, sled, coaster, self-propelled scooter, toy vehicles, and similar devices. This definition includes self-balancing personal transportation devices such as a Segway.

Non-street area. An area that is not a street, or is a street which is closed to off-street vehicles and posted as such. Does not include areas commonly held open to vehicular use, such as parking lots and racetracks.

Off-street vehicle. A motor vehicle designed or capable of traversing natural terrain, including but not limited to snowmobiles, mini-bikes, motorcycles, four-wheel drive trucks, pickups, all-terrain vehicles, jeeps, half-tracks and helicopters. Does not include, unless used for purposes prohibited by GRC 8.40.020 implements of husbandry or military, fire, emergency or law enforcement vehicles used for legal purposes.

Parade. A procession of five or more persons or two or more vehicles.

Parking officer. A person appointed by the

manager with the authority to issue citations to vehicles parked or driven in violation of restrictions imposed by this chapter or state law, to initiate impounds of such vehicles, and to remove keys from vehicles parked in violation of GRC 8.10.020.

Private garage. A business engaged in the towing and storage of vehicles.

Public parking lot. A parking lot or other area in the city, owned by the city, and devoted to public use as space for the temporary leaving of motor vehicles. Public parking lots include:

(1) Lot A, located between N.W. Second and N.W. Third near N.W. Miller.

(2) Lot B, located between N.E. Second and N.E. Third near N.E. Hood Street.

(3) Lot C, located at the south side of N.E. Second between N.E. Roberts and N.E. Hood.

(4) Lot D, located at the north side of E. Powell Street between N.E. Roberts and N.E. Hood.

(5) Lot E, located between N. Main Street and N.E. Roberts, near E. Powell Street.

(6) Lot F, located at W. Powell and N. Main Street.

(7) Lot G, located at N.W. First and N.W. Miller.

(8) Lot H, located at the southwest corner of N.W. Fifth and N.W. Miller.

Public park. An area, recreation center or greenway owned or maintained by the city, and used for open space, botanical display, or recreation.

Recreational vehicle. A motor home, camper, travel trailer, motor coach, or portable vehicular structure capable of being towed on the highways by a motor vehicle, designed and intended for casual or short-term human occupancy for travel, recreational or vacation uses. If identified in some

manner as a recreation vehicle by the manufacturer or registered as such with the state, it is prima facie a recreation vehicle.

Registered owner. The name on file with the Oregon Department of Transportation, or any other state, indicating ownership of, or legal interest in, a specific vehicle.

Storage. The placing or leaving of property at a location for a period of time in excess of 24 hours.

Traffic lane. That area of the roadway used for the movement of a single line of traffic.

Use. Utilization of a vehicle by operating, riding or propelling such device.

Vehicle. Any device in, upon or by which any person, animal or property is or may be transported, drawn or moved upon a street, highway, waterway or airway and includes vehicles that are propelled or powered by any means.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1772, Amended, 05/16/2017; Ord. No. 1768, Amended, 10/20/2016; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1674, Amended, 06/02/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1534, Amended, 11/01/2001)

8.05.030 State Traffic Laws.

A violation of ORS Chapters 801 through 823 is an offense against the city.

8.05.040 Council Powers.

(1) Subject to state laws, the council shall exercise all municipal traffic authority for the city except those powers delegated by this code or by other ordinance.

(2) The powers of the council shall include, but not be limited to:

- (a) designation of location of planned future streets;

- (b) designation of right-of-way width;

- (c) designation of functional classification of streets;

- (d) designation of one-way streets;

- (e) designation of truck routes;

- (f) authorization of greater maximum weights or lengths for vehicles using city streets than specified by state law.

(Ord. No. 1647, Amended, 09/20/2007)

8.05.050 Manager Duties.

The manager shall exercise the following duties:

(1) Implement the ordinances, resolutions and motions of the council by installing, maintaining, removing and altering traffic control devices. Such installation shall be based on the standards contained in the Manual on Uniform Traffic Control Devices for Streets and Highways, and the Oregon Supplements.

(2) Establish, remove or alter the following classes of traffic controls:

- (a) crosswalks, safety zones and traffic lanes;

- (b) intersection channelization and areas where drivers of vehicles shall not make right, left, or U-turns, and the time when the prohibition applies;

- (c) parking areas, lots and time limitations, including the form of permissible parking (e.g., parallel or diagonal);

- (d) designation of parking time zones; and

- (e) traffic control signals, signs, markings, or other devices.

(3) Issue oversize or overweight vehicle permits.

- (4) Temporarily block or close streets.

(5) Establish bicycle lanes and paths and traffic controls for such facilities.

(6) Restrict the use of certain streets by any class or kind of vehicle to protect the streets from damage.

(7) Initiate proceedings to change speed zones.

(8) Revise speed limits in parks.

(9) Establish a temporary designated speed if necessary to protect any portion of a street from being unduly damaged, or to protect the safety of the public and workers when temporary conditions such as construction or maintenance activities constitute a danger.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007)

8.05.060 Public Danger.

(1) Under conditions constituting a danger to the public, the manager may install temporary traffic control devices.

(2) Standards. The regulations of the manager shall be based upon:

(a) Traffic engineering principles and traffic investigations.

(b) Standards, limitations and rules promulgated by the Oregon Transportation Commission.

(c) Other recognized traffic control standards.

8.05.070 Owner Responsibility.

The owner of a vehicle placed in violation of a parking, abandoned, or hazardous vehicle restriction shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent.

8.05.080 Registered Owner Presumption.

In a prosecution of a vehicle owner charged with a violation of this code or state law, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that the defendant was then the owner in fact.

Article 8.10

VEHICLES

Sections:

8.10.010 Unlawful Entry.

8.10.020 Unattended Vehicles.

8.10.010 Unlawful Entry.

(1) No person shall, without consent of the owner or person lawfully in charge of a motor vehicle:

(a) Climb upon or into such motor vehicle; or

(b) Set an unattended vehicle in motion.

(2) This section shall not apply to public safety officers, other persons directed by police officers, or persons performing under a contract for the removal and towing of vehicles on behalf of the city.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

8.10.020 Unattended Vehicles.

When a public safety officer finds a motor vehicle parked or standing unattended with the ignition key in the vehicle, the officer is authorized to remove the key from the vehicle and deliver the key to the police department. When an officer removes a vehicle key pursuant to this section, the officer will leave a notice on the vehicle explaining how the key can be retrieved.

Article 8.15

DRIVING OFFENSES

Sections:

8.15.010 [Crossing Private Property.](#)

8.15.020 [Unlawful Riding.](#)

8.15.040 [Illegal Speed Racing.](#)

8.15.010 Crossing Private Property.

(1) No person shall operate a vehicle and proceed from one street to another street by crossing private property of another without the permission of the property owner.

(2) This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

8.15.020 Unlawful Riding.

(1) No person shall:

(a) Operate a vehicle and permits a passenger to ride on a portion of the vehicle that is not designed or intended for the use of passengers.

(b) Be a passenger in a vehicle and rides on a portion of the vehicle that is not designed or intended for the use of passengers.

(c) Board or alight from a vehicle while the vehicle is moving upon a street.

(2) Subsection (1) shall not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

8.15.040 Illegal Speed Racing.

(1) No person shall participate in speed racing upon any street, public or private, or any premise open to the public, within the city.

(2) For purposes of this section, "speed racing" shall be defined as set forth in ORS 811.125.

(3) No person shall be a spectator of speed racing, as defined in ORS 811.125, from any point within the city.

(4) For the purposes of this section, "spectator" shall be defined as a person who attends or is present at or near the scene of any activity prohibited by this ordinance for the purpose of observing any part of such activity.

(5) Any vehicle utilized within the city limits in violation of this section including vehicles belonging to, or under the control of, spectators may be towed without notice, subject to the provisions of GRC 8.35.010 et seq.

(6) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1502, Amended, 07/11/2000; Ord. No. 1268, Enacted, 12/17/1992)

Article 8.20

BUSES

Sections:

8.20.010 Bus Offenses.

8.20.010 Bus Offenses.

(1) No person shall stand or park a bus upon a street in a business district at a place other than a bus stop.

(2) A No person shall stand or park a vehicle other than a bus in a bus stop.

(3) The provisions of subsection (2) shall not apply to the operator of a passenger vehicle temporarily stopped for the purpose of and while actually engaged in loading or unloading passengers, and when stopping does not interfere with a bus waiting to enter the restricted space.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

Article 8.25

PARKING

Sections:

- 8.25.010 Unlawful Parking.**
- 8.25.015 Recreational Vehicle Parking Permit.**
- 8.25.020 Extension of Parking Time.**
- 8.25.030 Public Parking Lots.**
- 8.25.050 Private Property Parking.**
- 8.25.060 Exemptions.**

8.25.010 Unlawful Parking.

No person shall:

(1) Park, or permit a vehicle owned, operated, or controlled by the person to be parked, in a public parking lot and do any of the following:

(a) Exceed the time limitation for that public parking lot, unless the person has a current monthly parking permit for that lot.

(b) Park in the public parking lot a vehicle 10,000 pounds gross vehicle weight (GVW) or greater, except for the purpose of and while actually engaged in the loading or unloading of goods.

(c) Park the vehicle in more than one or beyond the limits of an individual space, unless the size of the vehicle is greater than a single space.

(d) Repair or service the vehicle, except for repairs necessitated by an emergency.

(2) Park, or permit a vehicle owned, operated or controlled by the person to be parked, on a public or private street and do any of the following:

(a) Park where official signs or markings such as curbs painted yellow or red, have been installed prohibiting standing, stopping, or parking.

(b) Park for a longer period of time than designated by official signs, parking meters or other markings placed by the city, county or state, except on Sundays and holidays. Parking time limits shall be effective only between the hours of 8:00 a.m. and 6:00 p.m., unless designated "no parking at any time," or otherwise designated by official signs or markings.

(c) Repair or service a vehicle, except for repairs necessitated by an emergency.

(d) Stand or park a vehicle other than in the indicated direction of travel with the wheels parallel to and within 12 inches of the curb, or if none, as close as possible to the edge of the shoulder, and, if spaces are marked, within a single marked parking space unless the size or shape of the vehicle makes compliance impossible.

(e) Stand or park a vehicle in a manner that obstructs a driveway.

(f) Park without having a valid permit issued by the manager where official signs designate parking is allowed only with a permit.

(g) Stand or park a hazardous or abandoned vehicle, as defined in GRC 8.05.020 or as prohibited by GRC 8.30.020.

(h) Park where official signs or markings prohibit standing, stopping, or parking due to street maintenance.

(i) Park or stand at an angle to traffic flow, except where angle parking is designated by official parking space markings or other traffic control devices.

(3) Park or permit to be parked, any of the following vehicles on any public highway, road, street, or right-of-way within the city, except for the immediate loading or unloading of persons or property:

(a) recreational vehicle unless issued a permit pursuant to GRC 8.25.015;

(b) vehicle or combination of vehicles (vehicle plus any towed unit) in excess of 10,000 pounds GVW or greater;

(c) vehicle while in the custody of a business conducting vehicle parking, sales, repair or servicing.

(d) trailer; or

(e) boat for more than 24 hours.

(4) Parks in an alley other than for the immediate loading or unloading of persons or property, and in no case for a period in excess of 30 consecutive minutes.

(5) Parks in any private parking lot that is used by licensees or invitees for the delivery, purchase, or sale of goods or services where official signs or markings prohibit or limit parking, except for the immediate loading or unloading of persons or property and when such parking does not interfere with the designated use.

(6) Parks in a place designated as a loading zone when the hours applicable to that loading zone are in effect, except while actually engaged in loading or unloading persons or property. In no case, when the hours applicable to the loading zone are in effect, shall the stop for loading or unloading of property exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed 30 minutes.

(7) Parks or permits to be parked on a street or other public property a motor vehicle or personal property for a period in excess of 72 consecutive hours; except a motor vehicle may be parked on a street at the address where the vehicle is registered if parking is permitted on that street and it is not a hazardous or abandoned vehicle, as defined in GRC 8.05.020.

(8) Interferes with or cuts off a vehicle which already had begun to maneuver into a vacant parking space on a public street or parking lot.

(9) Parks a vehicle in front of the entrance of any post office or postal station, or other place where mail is received or deposited, or within 10

feet of a private mailbox on postal delivery days between 8:00 a.m. to 6:00 p.m.

(10) Parks, or permits a vehicle owned, operated, or controlled by the person to be parked, in the unfenced Civic Center parking area located immediately west of City Hall and does any of the following:

(a) Parks a vehicle in a designated parking space for any purpose other than that designated for such space. The manager may designate, by official signs or markings or by other means for temporary uses, areas for:

(i) vehicles used visitors such as by members of the general public or others having business with the city or school district, or attending a meeting at the Civic Center complex, excluding city or school employees engaged in the discharge of their duties;

(ii) police vehicles;

(iii) city-owned (fleet) vehicles;

(iv) vehicles used by city employees with city car pool permits;

(v) such other uses and conditions of use as the manager deems appropriate.

(b) Parks a vehicle of 10,000 pounds gross vehicle weight (GVW) or greater, except for the purpose of and while actually engaged in the loading or unloading of goods and except for city-owned vehicles exceeding 10,000 pounds GVW.

(c) Parks the vehicle in more than one or beyond the limits of an individual space, unless the size of the vehicle is greater than a single space.

(d) Repairs or services the vehicle, except for repairs necessitated by an emergency.

(e) Parks in an area not designated by official signs or markings for parking.

(11) Parks or permits a vehicle owned or

controlled by the person to be parked, on a city street, sidewalk, public parking lot or right-of-way, or other public property, except when authorized by manager, city permit or code, for the principal purpose of:

(a) Displaying the vehicle for sale.

(b) Selling, taking orders for, or attempting to sell or take orders for the present or future delivery of goods or services of any nature, if such sale or orders are made, taken, or attempted from the vehicle.

(c) Displaying advertising from the vehicle.

(12) Parks or permits a vehicle owned or controlled by the person to be parked in any city park or park parking lot anytime the park is closed unless related to activities subject to a valid permit authorizing the use or except as otherwise permitted.

(13) Violation of any provision of this section or GRC 8.25.015 may be subject to a fine or penalty in the maximum amount of \$250.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1772, Amended, 05/16/2017; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1457, Amended, 11/05/1998; Ord. No. 1452, Amended, 08/20/1998; Ord. No. 1292, Amended, 10/05/1993; Ord. No. 1268, Amended, 12/17/1992)

8.25.015 Recreational Vehicle Parking Permit.

(1) Notwithstanding GRC 8.25.010(3)(a), a person may park a recreational vehicle for a period not to exceed 72 hours if a no-cost permit is issued pursuant to this section.

(2) Applications for a permit shall be made on forms or in a manner prescribed by the manager. The application shall include acknowledgement that the applicant will comply with the provisions of this section.

(3) A permit shall only allow parking of a recreational vehicle immediately adjacent to a property on a site occupied with a single detached dwelling unit or middle housing unit. Only the owner or a lawful tenant of the property will be issued a permit.

(4) No more than six Recreational Vehicle parking permits will be issued annually for an eligible property.

(5) The permit may not be issued by the manager for a recreational vehicle meeting the definition of an abandoned or hazardous vehicle or in violation of the provisions of the Gresham Revised Code.

(6) A recreational vehicle parked without a permit in violation of GRC 8.25.010(3)(a), or parked in violation of GRC 8.25.015(4), is subject to impound pursuant to GRC 8.35.010(2), except that the notice period shall be no less than 24 hours.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1772, Enacted, 05/16/2017)

8.25.020 Extension of Parking Time.

(1) Where maximum parking time limits are designated by sign, the aggregate time of all stops of any vehicle shall not exceed the posted limit:

(a) within any eight hour period, where a time period in excess of two hours is posted;

(b) within any four hour period, where one or two hour period parking is posted; or

(c) within any two hour period, where a period of less than one hour is posted.

(2) These limits shall apply within the same public parking lot or on either side of the street within the same block between intersections.

(3) These limits shall not apply to a vehicle with a valid residential parking permit in residential areas designated by the manager. A resident in a designated area may obtain a permit upon sufficient proof of residency.

8.25.030 Public Parking Lots.

(1) Reserved Areas. Provision may be made within any public parking lot for an area to be reserved exclusively for parking of electric vehicles, bicycles, motorcycles, mopeds, carpools, or trucks.

(2) Monthly Parking. Provision may be made within any public parking lot for an area reserved exclusively for monthly parking. The areas shall be clearly distinguished by appropriate markings. The manager shall issue permits for monthly parking. The permits shall be sold for a fee as may be prescribed by council resolution. Each permit shall be conspicuously displayed in the window of the vehicle.

(3) Signs. The manager shall post and maintain at each entrance to a public parking lot a sign stating in substance the following:

(a) parking is limited to a specific time limitation except for monthly parking;

(b) monthly parking is permitted only in the designated areas;

(c) parking is restricted to vehicles of less than 10,000 pounds GVW, except for Public Parking Lot A;

(d) if special parking is provided for electric vehicles, bicycles, motorcycles or mopeds, carpools, or trucks, where such special parking is permitted.

(Ord. No. 1750, Amended, 05/07/2015)

8.25.050 Private Property Parking.

(1) Properties developed with a single detached dwelling or duplex shall have no more than five motor vehicles, including not more than two recreational vehicles, and one abandoned vehicle per GRC 8.35.010(1)(c)(i), parked or stored per dwelling.

(2) All motor vehicles shall be parked on a hard surface, such as compacted gravel, concrete, asphalt or similar durable material. Soil, and loose

rock, gravel or stone is prohibited as a parking surface.

(3) Driveway standards are found in Section 9.0870 of the Gresham Community Development Code. Except for the driveway, no vehicle shall be parked within the front yard, except for the immediate loading and unloading of persons or property.

(4) No vehicle shall be parked so as to extend into the public right-of-way or in the clear vision area of corner lots as provided by GRC 7.15.020. (Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1768, Amended, 10/20/2016; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Enacted, 12/01/2011)

8.25.060 Exemptions.

The provisions of this ordinance regulating the parking or standing of vehicles shall not apply to a vehicle of the city, county, state, or public utility while in use for construction, maintenance or repair work on a street or utility, or a vehicle owned by the United States while in use for the collection, transportation or delivery of mail.

(Ord. No. 1709, Renumbered [formerly GRC 8.25.040], 12/01/2011)

Article 8.30

ABANDONED AND HAZARDOUS VEHICLES

Sections:

- 8.30.010** [Abandoned Vehicles Prohibited.](#)
- 8.30.020** [Hazardous Vehicles.](#)
- 8.30.030** [Hazardous Drop Box and Storage Containers.](#)
- 8.30.040** [Enforcement.](#)

8.30.010 Abandoned Vehicles Prohibited.

(1) No vehicle that the manager or public safety officer has reason to believe is abandoned, as defined in GRC 8.05.020, may be parked or left standing upon:

(a) The right-of-way of any city, county, or state highway, street or alley or upon any city property for a period in excess of 24 hours.

(b) The right-of-way of any private street or alley or upon any private property used by business licensees, customers, or the public for a period in excess of 24 hours.

(c) Private property for a period in excess of five days in any manner that exposes it to view from a street, sidewalk, or property adjoining the premises, but only if it is an abandoned vehicle as defined in GRC 8.05.020.

(i) One vehicle per private property address/location may be permitted; provided, however, said vehicle must be covered by a manufactured vehicle cover designed specifically for that purpose; enclosed within a permitted structure; or behind a sight-obscuring fence.

(2) It is no defense to any of the above prohibited acts of this section that the vehicle has been moved to a different location within the city limits of Gresham.

(3) In addition to or in lieu of any citation issued for violation of this code or state law:

(a) A vehicle parked or left standing in violation of this section may be impounded as provided in GRC Article 8.35.

(b) A vehicle parked or left standing in violation of GRC 8.30.010(1)(c) may be abated as provided in GRC Article 7.50.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1268, Amended, 12/17/92; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1457, Amended, 11/05/1998)

8.30.020 Hazardous Vehicles.

(1) No person shall commit, cause, or allow:

(a) a vehicle to block, impede or interfere with the vision or normal flow of vehicular, bicycle or pedestrian traffic on public or private streets and sidewalks;

(b) a vehicle to pose an immediate danger to the public or environmental safety, such as a vehicle with leaking fluids that are at risk of entering into the public stormdrains or causing a hazardous road condition, extreme vandalism, shattered glass, or partially dismantled;

(c) a vehicle to be parked or left standing on a street, public or private parking lot, or other area where immediate access is needed, or could be needed in the event of an emergency, by the fire department or the police department and their respective equipment;

(d) a vehicle to be parked or left standing on a street where snow removal equipment will soon clear the street and removal of the vehicle is reasonably necessary in order to clear the street; or

(e) a vehicle to block or be within 10 feet of a fire hydrant.

(2) A vehicle parked or left standing in violation of this section may be impounded as provided in GRC Article 8.35.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1457, Amended, 11/05/1998)

8.30.030 Hazardous Drop Boxes and Storage Containers.

(1) No person shall store or deliver drop box or other large storage container authorized to be in the public right of way by GRC 6.35.040(14) when:

(a) the drop box or storage container blocks, impedes or interferes with the vision or normal flow of vehicular, bicycle or pedestrian traffic on public or private streets or sidewalks;

(b) the drop box or storage container is located in the public right-of-way other than where parking is allowed;

(c) the drop box or storage container is on a street, public or private parking lot, or other area designated as an area where immediate access may be needed by the fire department or the police department and their respective equipment;

(d) the drop box or storage container is on a street where snow removal equipment will soon clear the street and removal of the drop box or storage container is reasonably necessary in order to clear the street;

(e) the drop box or storage container blocks or is within ten feet of a fire hydrant;

(f) the drop box or storage container does not have a minimum of one square foot of reflective material on each corner next to traffic;

(g) the drop box or storage container exceeds 20.5 feet in length and eight feet in width; or

(h) the drop box or storage container leaks.

(2) The owner of the drop box or other large storage container and the property owner shall make every effort to place the drop box or storage container on private property prior to placement in the public right-of-way.

(3) A drop box or storage container in violation of this section or GRC 6.35.040 may be impounded as provided in GRC Article 8.35.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1534, Enacted, 11/01/2001)

8.30.040 Enforcement.

Violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1700, Enacted, 03/03/2011)

Article 8.35

IMPOUNDING VEHICLES

Sections:

- 8.35.010** [Impound.](#)
- 8.35.020** [Impound Procedures.](#)
- 8.35.025** [Validity of Pre-impound Notice.](#)
- 8.35.030** [Hearing.](#)
- 8.35.040** [Release of Vehicle.](#)
- 8.35.050** [Towing and Storage Liens.](#)
- 8.35.060** [Immobilization.](#)

8.35.010 Impound.

In addition to any remedy imposed for violation of this code or state law, a vehicle in violation of this chapter may be impounded as follows:

(1) Without Prior Notice. A vehicle may be towed without prior notice when:

(a) the vehicle is a hazardous vehicle as prohibited in GRC 8.30.020;

(b) the manager or a public safety officer reasonably believes that the vehicle is stolen;

(c) the manager or a public safety officer reasonably believes that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to obtain or preserve such evidence;

(d) the vehicle was in possession of a person taken into custody by the manager or a public safety officer;

(e) the vehicle is unlawfully parked on a public or private street or public parking lot in a conspicuously restricted space, zone or traffic lane where parking is limited or prohibited to designated classes of vehicles or periods of time, or at any time when the vehicle interferes with the intended use of such space, zone or traffic lane;

(f) the vehicle obstructs the entrance of any post office or postal station, or is within

10 feet of a private mailbox during the hours of delivery;

(g) the vehicle has no visible or accessible vehicle identification number and there are no registration plates and no other markings through which the owner of the vehicle may be identified;

(h) the vehicle was in the possession of a person who a public safety officer has probable cause to believe, at or just prior to the time the public safety officer stops the person, has committed any of the following offenses:

(i) driving while suspended or revoked (ORS 811.175 or 811.182);

(ii) driving while under the influence of intoxicants (ORS 813.010);

(iii) operating without driving privileges or in violation of license restrictions (ORS 807.010);

(iv) driving an uninsured vehicle (ORS 806.010);

(i) the vehicle remained in a park after emergency park closure pursuant to GRC 7.10.130(2);

(j) the public safety officer reasonably believes the vehicle was utilized in a manner contrary to GRC 8.15.040; or

(k) a vehicle used in committing a traffic or parking violation for which an unserved warrant or citation is on file with the Multnomah County Circuit Court may be towed upon order of the Multnomah County Circuit Court.

(2) With 24-hour Prior Notice. A vehicle may be towed 24 hours (excluding holidays, Saturdays and Sundays) after notice, as provided by GRC 8.35.020 when:

(a) the manager or public safety officer reasonably believes that the vehicle is abandoned, as defined in GRC 8.05.020, and

in violation of GRC 8.30.010(1);

(b) the vehicle is unlawfully parked pursuant to GRC 8.25.010, unless the vehicle is subject to impound without prior notice pursuant to GRC 8.35.010(1) or subject to 72-hour notice pursuant to 8.35.010(3); or

(c) the vehicle is unlawfully parked pursuant to GRC Article 8.65, where there is no reasonable need to immediately remove the vehicle; or

(d) the vehicle is parked on city-owned or operated property without express city permission.

(3) With 72-hour Prior Notice. A vehicle may be towed 72 hours (excluding holidays, Saturdays and Sundays) after notice, as provided by GRC 8.35.020 when the vehicle is unlawfully parked pursuant to GRC 8.25.010(7) unless the vehicle is subject to impound without prior notice pursuant to GRC 8.25.010(1).

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1502, Amended, 07/11/2000; 1457, Amended, 11/05/1998; Ord. No. 1268, Amended 12/17/1992; Ord. No. 1256, Amended, 07/21/1992)

8.35.020 Impound Procedures.

(1) Pre-Impound Investigation and Notice. The manager or public safety officer shall, when a vehicle may be impounded after notice under this chapter:

(a) make a routine investigation to discover the driver or registered owner and request immediate removal of the vehicle; or

(b) if the registered owner or driver cannot be discovered, make a diligent inquiry as to the name and address of the owner of the vehicle by examining it for license number, I.D. number, make, style and any other information that may help in identifying the owner, and transmit such information to the motor vehicles division of the state in which the vehicle is registered with an inquiry for the name and address of the owner, whenever

such vehicle is required by law to be registered with that office;

(c) Place a notice of intent to impound upon the windshield or some other conspicuous part of the vehicle which is easily seen by the passing public, whether or not the owner is identified as set forth above.

(d) The pre-impound notice required by this subsection shall include the following:

(i) the name and badge number of the public safety officer or identification of other city employee issuing the notice;

(ii) that if the vehicle is not removed within the prescribed time limit, the vehicle will be impounded;

(iii) the statute, ordinance or rule violated by the vehicle under which the vehicle will be removed;

(iv) the telephone number and address of the city department that will provide information about where the vehicle will be held in custody if it is towed;

(v) that any person who, at the request of the manager or public safety officer, impounds a vehicle, shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold to satisfy the lien if the charges are not paid;

(vi) that the owner, possessor or person having an interest in the vehicle may request a hearing of the proposed impound and the reasonableness of the lien prior to the vehicle being impounded; and

(vii) that the request for hearing may be made in person, by telephone or in writing to the person so designated in the notice.

(e) If a hearing is timely requested before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with GRC 8.35.030.

(2) Post-Impound Notice. If a vehicle is taken into custody of the city, the manager or public safety officer shall provide notice by certified mail, return receipt requested, and postage prepaid, within 48 hours of the removal (not including holidays, Saturdays or Sundays) to the owners of the vehicle and any lessors or security interest holders as shown on the records of the Oregon Department of Transportation, or any other state.

(a) The post-impound notice required by this subsection shall include the following:

(i) the statute, ordinance or rule under which the vehicle has been taken into custody or removed on behalf of the city;

(ii) the location where the vehicle may be redeemed by the owner or person entitled to possession;

(iii) that the vehicle is subject to towing and storage charges, and the telephone number and address of the facility that may be contacted for information on the charges that have accrued to the date of the notice and the daily storage charges;

(iv) that the vehicle and its contents are subject to a lien for payment of the towing and storage charges in favor of the facility that towed and is storing the vehicle, and that the vehicle and its contents may be sold at public auction to satisfy the lien if the charges are not paid by the specified date;

(v) that the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession; removal of any conditions required for the police

department to release its hold; payment of the administrative fee for processing release of the vehicle; and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority;

(vi) that the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing on the validity of the tow and the reasonableness of the charges, if requested within five calendar days (excluding holidays, Saturdays or Sundays) from the date of the notice, and that the request for hearing may be made in person, by telephone or in writing to the person so designated in the notice; and

(vii) that hearing costs may be assessed against the person requesting the hearing, including costs of the hearing officer and any witnesses.

(b) Reasonable efforts shall be made to ascertain the name and address of the owner and/or other persons with an interest in the vehicle so that notice may be mailed, if reasonably possible, within 48 hours of impound. However, no notice need be mailed pursuant to this subsection when:

(i) a vehicle does not display license plates or other identifying markings by which the registration or ownership of the vehicle can be determined;

(ii) the identity and address of the vehicle owner is not available from the appropriate motor vehicle licensing and registration authority and when the identity and address of the owner and/or other persons with an interest in the vehicle cannot otherwise be reasonably determined; or

(iii) actual notice of a tow has been given personally to the owner or person entitled to possession. Such actual notice

must include all information required under subsection (2)(a) above. Actual notice may be used in lieu of the mailed notice required by subsection (2).

(3) A vehicle impounded pursuant to this article shall be taken into custody by the manager or public safety officer and shall be held at the expense of the owner or person entitled to possession of the vehicle. The manager or public safety officer may use the personnel, equipment and facilities of the city for the removal and storage of the vehicle, or may hire a private garage or a towing company for that purpose.

(4) Inventory of Impounded Vehicle. The contents of all vehicles impounded by a public safety officer will be inventoried in accordance with the provisions of GRC 2.82.020 through GRC 2.82.050.

(Ord. No., Amended, 05/01/2018; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1457, Amended, 11/05/1998; Ord. No. 1372, Amended, 09/05/1995)

8.35.025 Validity of Pre-impound Notice.

A pre-impound notice shall be valid for a period of 30-days even if the vehicle is moved. If a vehicle is moved prior to impoundment, and within that 30-day period the vehicle is found parked in violation of the same statute, ordinance or rule described in the first notice, the vehicle may be impounded without further notice. If, after the 30-day period but no later than 90 days after the first notice, the vehicle is parked in violation of the same statute, ordinance or rule described in the first notice, the second pre-impound notice shall include a notice that the vehicle may be impounded without further pre-impound notice if the vehicle is parked in violation of the same statute, ordinance or rule described in the first and second notice within 180 days of the second notice. This provision shall not apply if the registered owner of the vehicle has changed since issuance of a notice.

(Ord. No. 1783, Enacted, 05/01/2018)

8.35.030 Hearing.

(1) Request for Hearing.

(a) Post-Impound Hearing Request. The owners or any lessors or security interest holders as shown on the records of the Oregon Department of Transportation, or any other state, must request a hearing within five calendar days (excluding holidays, Saturdays and Sundays) from the date of the notice. The request may be made in person, by telephone or in writing to the person designated in the notice. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing.

(b) Pre-Impound Hearing Request. If the owners or any lessors or security interest holders as shown on the records of the Oregon Department of Transportation, or any other state, timely request a hearing before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with this section.

(2) Hearing Procedures.

(a) When timely request for a hearing is made, a hearing shall be held before a hearings officer appointed by the city attorney.

(b) The hearing shall be set within 72 hours of receipt of the request and the hearing shall be conducted within four calendar days of receipt of the request for hearing, excluding holidays, Saturdays and Sundays. However, the time within which the hearing is to be set or conducted may be extended at the request or with the consent of the owner or person entitled to request the hearing as provided in this chapter.

(c) At the hearing, the owner or person entitled to request the hearing as provided in this chapter may contest the validity of the impound and the reasonableness of the charges.

(d) The city shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, ORS 807.010, ORS 811.175, ORS 811.182, ORS 813.010, or

the relevant portion of the Gresham Revised Code. The city may present evidence either by testimony or by affidavit. If the city's evidence is presented only by affidavit and the hearings officer cannot resolve a question by information contained in the affidavit or relevant report, the hearing may be held open for a reasonable time to complete the record.

(3) Decision of the Hearings Officer.

(a) If the hearings officer finds that impound of the vehicle was proper, the hearings officer:

(i) shall enter an order supporting the impound/removal; and

(ii) shall find that the owner or person entitled to possession is liable for any towing and storage charges resulting from the impound; and

(iii) may find that the owner or person entitled to possession is liable for the costs of the tow hearing, including costs of the hearings officer and any witnesses.

(b) If the hearings officer finds that impound of the vehicle was improper, the hearings officer shall:

(i) order the vehicle released to the owner or person entitled to possession;

(ii) find that the owner or person entitled to possession is not liable for any towing or storage charges resulting from the impound; and

(iii) order the city to satisfy the towing and storage lien.

(c) The decision of the hearings officer is final.

(4) Failure to Appear at the Hearing. If the person requesting the hearing does not appear at the scheduled hearing, the hearings officer may enter an order supporting the impound and assessing towing and storage costs, and shall add

an assessment for the costs of the hearings officer and any witnesses who appeared at the time set for hearing.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1457, Amended, 11/05/1998; Ord. No. 1268, Amended, 12/17/1992)

8.35.040 Release of Vehicle.

(1) A vehicle which has been impounded under GRC 8.35.010 may be released to a person entitled to lawful possession provided the Gresham Police Department has released its hold, if any, on the vehicle, and upon compliance with the following:

(a) submission of proof that a person with valid driving privileges will be operating the vehicle;

(b) submission of proof of compliance with financial responsibility requirements for the vehicle; and

(c) payment to the Gresham Police Department of an administrative fee sufficient to recover its actual administrative costs for the impoundment.

(2) Notwithstanding subsection (1) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(3) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (1) or (2) of this section, the Gresham Police Department shall authorize the person storing the vehicle to release it upon payment of any accrued towing and storage costs, unless otherwise ordered by the hearings officer.

(4) The council may establish by resolution an administrative fee for processing the release of the vehicle.

(5) Notwithstanding any other provision of law, a public safety officer or public safety agency

or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1457, Amended, 11/05/1998; Ord. No. 1329, Amended, 11/03/1994)

(3) Violation of any provision of this subsection (2), above, may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1783, Enacted, 05/01/2018)

8.35.050 Towing and Storage Liens.

A person who, at the request of the manager or public safety officer, takes a vehicle into custody under the provisions of GRC 8.30.010 through GRC 8.35.020 shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS Chapter 87 and shall be foreclosed in the manner provided by law. If the appraised value of the vehicle is \$750 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1457, Amended, 11/05/1998; Ord. No. 1268, Amended, 12/17/1992)

8.35.060 Immobilization

(1) A motor vehicle or combination of vehicles (vehicle plus any towed unit) 10,000 pounds gross vehicle weight (GVW) or greater, parked on any public highway, road, street, or right-of-way where signs are posted prohibiting parking of such vehicles within the city and parked in violation of GRC 8.25.010(2)(a) and subject to impoundment pursuant to GRC Article 8.35, may be immobilized in lieu of impoundment by installing on such vehicle an immobilization device, such as a device known as a "boot," which clamps and locks on to a wheel of the vehicle or a similar device that impedes movement of such vehicle. The vehicle shall be released from immobilization upon compliance with GRC 8.35.040.

(2) No person shall, or attempt to, remove, damage or destroy any immobilization device.

Article 8.40

Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

OFF-STREET VEHICLES

Sections:

- 8.40.020 Unlawful Operation of Off-Street Vehicles.**
- 8.40.030 Falsification.**
- 8.40.040 Arrest; Seizure of Vehicle.**
- 8.40.050 Police Custody.**
- 8.40.060 Identification of Owner.**
- 8.40.070 Hearing.**
- 8.40.080 Disposition.**
- 8.40.090 Enforcement.**

8.40.020 Unlawful Operation of Off-street Vehicles.

(1) No person shall operate an off-street vehicle on a nonstreet area which the operator does not own, unless:

(a) the operator possesses written permission from the owner, contract purchaser or lessee of the nonstreet area;

(b) the operator possesses written evidence of membership in a club or association to which the owner, contract purchaser or lessee of the nonstreet area has given written permission and a copy of which has been filed with the manager or chief of police;

(c) the owner, contract purchaser or lessee of the nonstreet area has designated the nonstreet area as open for recreational purposes in accordance with ORS 105.668, et seq. for public use of lands by filing consent and other information necessary to identify the area with the manager or chief of police; or

(d) the owner, contract purchaser or lessee has designated the nonstreet area as being open to off-street vehicle use by posting notice in a form and manner prescribed by the manager or chief of police.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700,

8.40.030 Falsification.

(1) No person shall:

(a) Falsify the written permission required by GRC 8.40.020(1)(a).

(b) Falsify the evidence of club or association membership or the written permission required by GRC 8.40.020(1)(b).

(c) Falsify the filing or consent required by GRC 8.40.020(1)(c).

(d) Post the notice or remove the posted notice required by GRC 8.40.020(1)(d) without the consent of the owner, contract purchaser or lessee.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

8.40.040 Arrest; Seizure of Vehicle.

(1) A law enforcement officer may arrest a person operating an off-street vehicle in violation of GRC 8.40.020 or may issue a citation in accordance with ORS 133.070.

(2) A law enforcement officer may seize an off-street vehicle incident to the arrest or citation of the operator if there are reasonable grounds to believe that the vehicle was operated with willful or reckless disregard of the likelihood of causing substantial damage to the off-street area and that substantial damage has been caused by that operation.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011)

8.40.050 Police Custody.

(1) The manager shall retain possession of a seized vehicle and proceed at once against the person arrested in court.

(2) If the person arrested is the legal owner of a seized vehicle, it shall be returned to the owner

upon execution of a bond or cash deposit, with sureties acceptable to the manager, in a sum equal to the average value of the vehicle as stated in a list of average values of known vehicle categories approved by the manager. The bond or cash deposit shall be conditioned upon the return of the vehicle to the manager upon disposition of the judgment of the court.

8.40.060 Identification of Owner.

(1) If the person arrested is not the legal owner of a seized vehicle, the manager shall make a reasonable effort to identify the name and address of the owner. If the name and address of the owner is determined, the manager shall notify the owner by registered or certified mail of the seizure and inform the owner of his rights under this section.

(2) A person notified under this section, an owner of the vehicle or any other person asserting a claim of lawful possession of a seized vehicle, may, prior to trial, move the court for return of the vehicle or obtain possession of the vehicle by posting bond or cash in accordance with GRC 8.40.050(2).

8.40.070 Hearing.

(1) Upon receipt of motion for return of a vehicle, the court shall hold a hearing to determine if the owner or person asserting a lawful claim to the vehicle had knowledge that the vehicle would be used in violation of GRC 8.40.020.

(2) If the court determines that the movant had knowledge that the person arrested would use the vehicle in violation of GRC 8.40.020, the vehicle shall not be returned except in accordance with GRC 8.40.050 and GRC 8.40.060. The vehicle shall be subject to forfeiture as specified in GRC 8.40.080.

(3) If the person arrested is not convicted of a violation and the manager is in possession of the vehicle, it shall be returned to the owner immediately.

8.40.080 Disposition.

(1) Upon conviction of the person arrested, the court may order a return of a seized vehicle to the owner after payment of all expenses; or, upon motion made by the district attorney, it may order forfeiture and sale of the vehicle at public auction by the manager.

(2) In determining whether to order a forfeiture and sale of the vehicle, the court shall consider the amount of damage caused by the use of the vehicle and the willfulness or recklessness of the violation.

(3) If the court orders a forfeiture and sale of the vehicle, the manager, after deducting \$50.00 for administrative expenses, plus all other expenses incurred, to the extent of the remaining proceeds, shall pay all liens of record, ratably and according to their priorities. Any balance remaining shall be paid into the general fund of the city.

(4) If no person claims the vehicle, the manager shall advertise the sale of the vehicle and its description in accordance with the requirements of GRC 2.81.000 through GRC 2.81.050 of this code. Proceeds from the sale of the property, after deducting the expenses and costs, shall be paid into the general fund of the city. The manager may submit a bid for purchase at the public sale if the vehicle could be used for city purposes. Unsold property may be destroyed.

8.40.090 Enforcement.

Violation of any provision of this article may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Enacted, 03/03/2011)

Article 8.65

STREET AND SIDEWALKS

Sections:

- 8.65.010** [Pedestrians.](#)
- 8.65.020** [Driving Upon a Sidewalk.](#)
- 8.65.030** [Obstruction of Street or Sidewalk.](#)
- 8.65.040** [Unlawful Street Marking.](#)
- 8.65.050** [Parade Offenses.](#)
- 8.65.060** [Parade or Street Closure Permit.](#)
- 8.65.070** [Funeral Processions.](#)
- 8.65.080** [Unlawful Interference with a Funeral Procession.](#)

8.65.010 Pedestrians.

(1) Pedestrians shall cross a street at a right angle, unless crossing within an angled, marked crosswalk.

(2) No person shall:

(a) cross a street other than within a crosswalk in blocks with marked crosswalks; or

(b) cross a street within 150 feet of a marked crosswalk.

(3) Exceptions. The provisions of this section regulating pedestrian use of the streets do not apply to employees of the city, county, state, or public utility while engaged in their official duties. (Ord. No. 1700, Enacted, 03/03/2011)

8.65.020 Driving upon a Sidewalk

(1) No person shall operate or park a motorized vehicle upon a sidewalk, or roadside planting or median strip, except to cross at a permanent or temporary driveway. (Ord. No. 1700, Enacted, 03/03/2011)

8.65.030 Obstruction of Street or Sidewalk.

(1) No person shall obstruct the free movement of vehicles or pedestrians using the street or sidewalk without first obtaining a permit

from the city as provided in GRC 8.65.060 or GRC 6.35.040.

(2) GRC 8.65.030(1) does not apply to city, county, state, or public utility employees engaged in their official duties, or persons engaged in construction work pursuant to a development or building permit. (Ord. No. 1700, Enacted, 03/03/2011)

8.65.040 Unlawful Street Marking.

(1) No person shall paint or mark any public street, sidewalk, or other property in the public right-of-way except for persons authorized to install or maintain traffic control markings, maintain roads, identify the location of utilities, or as otherwise permitted by the manager.

(2) Violation of any provision of this section may be subject to a fine or penalty in the maximum amount of \$500. (Ord. No. 1700, Enacted, 03/03/2011)

8.65.050 Parade Offenses.

(1) No person shall organize or participate in a parade that may disrupt or interfere with vehicular traffic on a public street without first obtaining a permit.

(2) No person shall block, obstruct, hinder, impede the passage of, or throw objects on or toward the parade or its participants; except that a person may operate a vehicle that is not part of a parade between the vehicles or persons comprising a parade if directed to do so by a police officer. (Ord. No. 1700, Enacted, 03/03/2011)

8.65.060 Parade or Street Closure Permit.

(1) Application for a parade or street closure permit shall be made to the manager at least 45 days prior to the intended date of the parade or street closure, unless the time is waived by the manager. The manager shall notify the applicant of the decision within 10 business days of receipt of the application.

(2) Applications shall include the following information:

(a) The name and address of the person responsible for the proposed parade or street closure.

(b) The date of the proposed parade or street closure.

(c) The desired route, including assembling points, of the parade, or the location of the streets to be closed.

(d) A Traffic Control Plan showing the way traffic will be rerouted around the closed streets.

(e) The number of persons, vehicles and animals that will be participating in the parade.

(f) The proposed starting and ending time.

(g) The signature of the person responsible for the proposed parade or street closure.

(3) A nonrefundable permit fee shall accompany all applications for a parade or street closure. The council shall establish by resolution the amount charged for a parade permit or a street closure permit.

(4) A parade permit or street closure permit shall be granted if the manager, upon receipt of the application, determines that:

(a) the parade or street closure can be conducted without endangering public safety; and

(b) the parade or street closure can be conducted without seriously inconveniencing the general public; and

(c) there is sufficient public safety personnel, if the manager determines it is necessary to monitor or direct participants, observers and the general public, to facilitate

the safe and orderly conduct of the parade or street closure; and

(d) there is insurance coverage for the parade or street closure of a type and amount as required by the city attorney, unless the attorney determines that the nature of the activity carries minimal or no risk to the city.

(5) If the manager determines that the parade or street closure cannot meet the requirements of subsection four, the manager may:

(a) propose an alternate route for the parade or alternate location for the street closure; or

(b) propose an alternate date.

(6) The manager may revoke a parade permit or street closure permit if circumstances reasonably show that the parade or street closure can no longer be conducted consistent with public safety.

(Ord. No. 1700, Enacted, 03/03/2011)

8.65.070 Funeral Processions.

(1) A funeral procession shall proceed to the place of interment by the most direct route which is both lawful and practicable.

(2) A funeral procession shall be accompanied by adequate escort vehicles for traffic control purposes.

(3) All motor vehicles in the procession shall be operated with their lights turned on.

(Ord. No. 1700, Enacted, 03/03/2011)

8.65.080 Unlawful Interference with a Funeral Procession.

(1) No person shall:

(a) block, obstruct, hinder or interfere with a funeral procession.

(b) drive a vehicle that is not a part of the procession between the vehicles of a funeral procession.

(Ord. No. 1700, Enacted, 03/03/2011)

Article 8.70

BICYCLES AND NON-MOTORIZED VEHICLES

Sections:

8.70.010 Use of a Bicycle or Non-Motorized Vehicle.

8.70.020 Use of Streets.

8.70.030 Use of Public Sidewalks and Property.

8.70.040 Misuse of a Bicycle or Non-Motorized Vehicle.

8.70.050 Impoundment.

8.70.010 Use of a Bicycle or Non-Motorized Vehicle.

Any person using a bicycle or non-motorized vehicle upon a street, sidewalk, or public property shall do so at such person’s own risk and shall yield the right-of-way to pedestrians. (Ord. No. 1700, Enacted, 03/03/2011)

8.70.020 Use of Streets.

No person shall use or travel a street of the city on non-motorized vehicle except where authorized by the manager. (Ord. No. 1700, Enacted, 03/03/2011)

8.70.030 Use of Public Sidewalks and Property.

(1) No person shall use a bicycle or non-motorized vehicle in a city park, trail, open space, or sidewalk in a careless manner.

(2) No person shall use or permit the use of a bicycle or non-motorized vehicle:

- (a) within city buildings; or
(b) at City Hall, the Center for the Arts, Heroes Memorial, or other public properties designated by the City Manager, and all public areas adjacent to the above mentioned and designated properties, including but not limited to, plazas, pedestrian areas, sidewalks, planters, artistic or memorial structures,

seating areas, accessways, access ramps, and handrails, (Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1700, Enacted, 03/03/2011)

8.70.040 Misuse of a Bicycle or Non-Motorized Vehicle.

No person shall leave a bicycle or non-motorized vehicle:

- (1) in a manner which obstructs a street, sidewalk, driveway or building entrance;
(2) on private property without the consent of the person in charge or the owner of the property;
(3) on public property for a period in excess of 18 hours; or
(4) in a public parking lot in a vehicle parking space. A bicycle may only be parked in a public parking lot where special provision has been made for bicycles, in the stand, rack, or other bicycle holder. (Ord. No. 1700, Enacted, 03/03/2011)

8.70.050 Impoundment.

(1) A bicycle or non-motorized vehicle in violation of GRC Article 8.70 may be immediately impounded by the police department. The impounded bicycle may be released to the owner after the owner presents evidence of ownership that is acceptable to the manager, and the manager determines the bicycle is no longer needed for evidentiary purposes.

(2) If a bicycle or non-motorized vehicle impounded under this section is licensed, or other means of determining its ownership exist, the police shall make a reasonable effort to notify the owner.

(3) A bicycle or non-motorized vehicle impounded under this section that remains unclaimed for a period of more than 60 days may be disposed of in accordance with GRC Article 2.81, the city's procedures for disposal of abandoned or lost personal property. (Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Enacted, 03/03/2011)

Article 8.99

ENFORCEMENT

Sections:

- 8.99.010** Violation.
- 8.99.020** Fines, Penalties, Abatement and Other Enforcement Tools.
- 8.99.030** Parking Citations.
- 8.99.040** Owner/Lessee Responsibility.
- 8.99.050** Registered Owner Presumption.

8.99.010 Violation.

A violation shall have occurred when any requirement or provision of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.

(Ord. No. 1700, Enacted, 03/03/2011)

8.99.020 Fines, Penalties, Abatement and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any provision of this chapter may be subject to a fine or penalty in the maximum amount of \$500.

(4) Each day on which a violation occurs or continues is a separate violation and may be subject to a separate fine or penalty.

(5) In the event of a fire or other public emergency, the manager or public safety officer may direct traffic as conditions require, notwithstanding the provisions of this chapter.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Enacted, 03/03/2011)

8.99.030 Parking Citations.

(1) Whenever a vehicle is found to be in violation of this chapter or state law, the manager or public safety officer may record the vehicle license number and any other information displayed on the vehicle that may identify its owner, and conspicuously affix a citation or civil penalty in accordance with GRC Article 7.50.

(2) If parking is subject to a time limit, separate citations may be issued if the duration exceeds multiple increments of the posted time.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Enacted, 03/03/2011)

8.99.040 Owner/Lessee Responsibility.

The owner or lessee of a vehicle in violation of a parking restriction is responsible for the offense, unless the operator of the vehicle accepts responsibility. It shall be an affirmative defense that the vehicle was used without the owner's or lessee's consent.

(Ord. No. 1700, Enacted, 03/03/2011)

8.99.050 Registered Owner Presumption.

In a proceeding against a vehicle owner charging a violation of this chapter, proof that the vehicle was registered to the person issued the citation or civil penalty at the time of the violation shall constitute a rebuttable presumption that such person was the owner.

(Ord. No. 1700, Enacted, 03/03/2011)

Chapter 9

BUSINESS LICENSES AND
REGULATION

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- 9.05.020 License Required.
- 9.05.030 License Fee.
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Article 9.05

GENERAL LICENSES

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- 9.05.010 [Definition.](#)
- 9.05.020 [License Required.](#)
- 9.05.030 [License Fee.](#)
- 9.05.040 [Exclusions and Applicability.](#)
- 9.05.050 [Applications.](#)
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- 9.05.070 [License Term.](#)
- 9.05.090 [More Than One Business](#)
- 9.05.100 [Independent Contractors.](#)
- 9.05.110 [Posting License.](#)

9.05.010 Definition.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Chapter 9, the following mean:

Business. Any activity, trade, occupation, profession, or pursuit that generates revenue, whether for profit or non-profit.

License Year. Commences on the first day of the month a license is issued and ends on the first day of the same month one year later.

Revenue. The total amount or value given or received directly or indirectly in money, credits, property, services, or any other consideration for the purpose of the reimbursement of costs, sale, barter, trade for a product or service; the payment of fees, charges, dues, entrance fees, membership fees; or to make a contribution or donation.
(Ord. No. 1752, Amended, 05/07/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1693, Amended, 09/07/2010; Ord. No. 1507, Amended, 10/19/2000)

9.05.020 Licenses Required.

(1) No person shall engage in any business within the city, or transact any business specified in this chapter, without first obtaining a license and paying the license fee prescribed.

(2) The provisions of GRC Article 9.05 shall be in addition to any other license requirements or license fees contained in this code, unless otherwise specified.

(3) A person is required to obtain a separate license for each business location in the City of Gresham. This provision does not apply to a business that operates self-service machines at multiple locations, such as vending machines or movie box rentals.

(4) A person who engages in multiple types of businesses at a single location as one business entity shall only be required to obtain one business license.

(5) A non-profit business is required to obtain a business license. A business with an IRS 501(c)(3) classification can file proof with the city and obtain a waiver of the business license fee.

(6) No business license shall be issued to any person to engage in a business that does not comply with federal, state or city law.
(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1693, Amended, 09/07/2010; Ord. No. 1507, Amended, 10/19/2000)

9.05.030 License Fee.

(1) Except as provided in GRC 9.05.040, the license fee for each business shall be established by council resolution.

(2) Nothing in this chapter shall be construed to vest any right in a license as a contract obligation on the part of the city as to the amount of the fee or the character of the license issued. The license fee may be changed at any time by the city, and all license fees required shall be payable in advance. The license fee is not refundable.

(3) For any business that has obtained a Type I temporary use permit under the Gresham Community Development Code, the base business license fee shall be one half the established fee.
(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1507, Amended, 10/19/2000)

9.05.040 Exclusions and Applicability.

(1) The license required by GRC 9.05.020 shall not apply to a person whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary, or to a nonresident engaged exclusively in a wholesale business.

(2) The agent of a nonresident proprietor engaged in a business on which a license is levied by GRC 9.05.020 shall be liable for obtaining the license and paying the license fee. A person representing, or exhibiting by sign or advertisement, that he is engaged in a business in the city for which a license is required by GRC 9.05.020 shall be considered to be engaged in that business and shall be liable for the payment of the license fee.

(3) GRC 9.05.020 shall not apply to businesses subject to the license required by GRC 9.55.060 (rental residential units), GRC Article 9.63 (marijuana businesses), or businesses subject to GRC Article 9.60 (transient lodging tax).

(4) Any business whose sole operation is at a temporary community or public event with a duration of three days or less shall not be required to apply for or pay a business license fee.

(5) The license required by GRC 9.05.020 shall apply to a person whose primary business is the receipt and delivery of packages from and to third parties. The license is not required of a person whose only business in the city is the delivery of materials or products that were purchased at the person's place of business in another jurisdiction.

(6) Except for a person whose principal place of business is in the city, the license required by GRC 9.05.020 shall not apply to a person who is engaged in construction or landscape activity and has obtained a regional construction license issued by Metro.

(7) Any garage sales or bazaars with a duration of 14 days or less within a calendar year shall not be required to apply for or pay a business license fee.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750,

Amended, 05/07/2015; Ord. No. 1752, Amended, 05/05/2015; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1534, Amended, 11/01/2001; Ord. No. 1507, Amended, 10/19/2000)

9.05.050. Applications.

(1) The license fee required by GRC 9.05.020 shall be due at the same time each year. This anniversary date will be the first day of the same month in which the license application was originally filed. Application shall be made to the city on forms prescribed by the manager.

(2) The manager shall issue a license when application has been approved and payment of the required fee has been received.

(3) The application for the license shall include:

(a) The business for which the application is made.

(b) The name of the applicant or his agent.

(c) The commercial location with the site address, or address used for Income Tax purposes.

(d) The amount of fee to be paid.

(e) A statement describing the type of business or service provided or manufactured and the business's North American Industry Classification System (NAICS) code, if applicable.

(f) Business owner's name of an individual or partnership or business name if a business entity.

(g) Business owner's home address if an individual or address of business entity.

(h) Business owner's Social Security number or Federal Tax ID number.

(i) Business owner's date of birth (if applicable).

1602, Amended, 04/01/2005; Ord. No. 1507, Amended, 10/19/2000)

(j) Business owner's drivers license number (if applicable).

9.05.060 Transfer or Assignment of License.

(k) Building and/or site information.

If a person sells or transfers a business for which a license has been paid, the license is transferable to the new owner after receipt of the handling fee established by council resolution. The handling fee shall be accompanied by a new license application. The new owner will retain the old license number, transferred to the new business name (if applicable). Issuance of the transferred license will occur after all department approvals. (Ord. No. 1507, Amended, 10/19/2000)

(l) A notice that the application is a public record and that the city shall exempt from disclosure information of a personal nature to the extent permitted by the Oregon Public Records and other applicable laws.

(m) Response to wastewater, stormwater and environment-related questions that facilitate determination of compliance with local, state and federal regulatory requirements. City review of such information does not guarantee compliance with or reduce the responsibility of the applicant to comply with said laws. The manager may exempt certain types of business activities from this requirement.

9.05.070 License Term.

Licenses issued under GRC 9.05.050 shall be valid for one license year.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

(4) The license shall specify;

9.05.090 More Than One Business.

If a person is engaged in more than one business, the person shall obtain the license required by GRC 9.05.020 for each business conducted, whether conducted at a single or multiple locations.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

(a) Name of the business for which the license is issued.

(b) Registered business site address.

(c) Owner name.

(d) Type of licenses held.

(e) Amount of license fees paid.

(f) License account number.

(g) Expiration date of license.

(h) Business mailing address.

9.05.100 Independent Contractors.

(1) A business that makes space available for independent contractors to conduct business (e.g., hair salons, flea markets) or arranges for independent contractors to perform a service essential to that business (e.g., installation of products or equipment sold) shall obtain the license required by GRC 9.05.020.

(2) No person or person in charge of property shall lease, license, or otherwise make space available for an independent contractor if the independent contractor has not obtained a license required by GRC 9.05.020.

(5) The manager may revoke or refuse to issue or renew a business license if the business does not comply with federal, state or city law provisions.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1693, Amended, 09/07/2010; Ord. No.

(3) For the purposes of this section, independent contractor means a person or business

entity that provides services for remuneration and who, in the provision of the services, meets the criteria of ORS 670.600.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Enacted, 01/02/2003)

9.05.110 Posting License.

A business shall post the license required by GRC 9.05.020 within public view at the business premises. Where there is no primary location in the City of Gresham, the license shall be made available upon request from any person. If a business utilizes an independent contractor as provided by GRC 9.05.100, the independent contractor shall post the license on the business premises or the business shall post a copy of the independent contractor's license on the business premises.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1561, Enacted, 01/02/2003)

**9.05.115 Violation of Local State of
Emergency Measure; Penalty**

(1) It shall be unlawful for any commercial property owner to knowingly or intentionally violate a local state of emergency measure imposed by the manager pursuant to GRC Article 7.45.

(2) In addition to the fines and penalties prescribed by GRC 7.45.060, a commercial property owner in violation of this section shall be prohibited from reletting or otherwise occupying the property for up to one year.

(3) The provisions of GRC 9.99.050(2)-(6) shall apply to this section.

(4) This section applies to a measure ordered by the manager on or after March 12, 2020.

(Ord. No. 1809, Enacted, 03/20/2020)

Article 9.10

LIQUOR LICENSES

Sections:

- 9.10.010 [Purpose.](#)
- 9.10.020 [Forms.](#)
- 9.10.030 [Temporary Licenses.](#)
- 9.10.040 [Review of Applications.](#)
- 9.10.050 [Investigation](#)
- 9.10.060 [Manager Recommendation.](#)
- 9.10.070 [Notification to Council.](#)
- 9.10.080 [Contents of Public Hearing Notice.](#)
- 9.10.090 [Publication of Public Hearing Notice.](#)
- 9.10.100 [Public Hearing Procedures.](#)
- 9.10.120 [Resubmission of Applications.](#)

9.10.010 Purpose.

These sections establish criteria for recommending to the Oregon Liquor Control Commission (OLCC) that it grant, deny, modify or renew liquor licenses for premises within the city. This process is intended to make fair, effective, and efficient recommendations. These sections are necessary to ensure that premises licensed to sell or dispense liquor meet community expectations, and that such businesses are conducted in a lawful manner which does not unreasonably disturb the peace and tranquility of the city and its neighborhoods.
(Ord. No. 1511, Amended, 12/19/2000)

9.10.020 Forms.

Applicants for OLCC licenses shall provide the manager with the appropriate OLCC license application forms. The manager may require additional information appropriate for conducting the investigations required for council recommendations.

9.10.030 Temporary Licenses.

The manager is authorized to approve applications for temporary OLCC licenses such as special events, special beer and special wine licenses. Such applications may be processed administratively after the fee established by

council has been paid. The manager may make an unfavorable recommendation to the OLCC if the manager finds that the applicant does not meet the criteria established by GRC 9.10.060. Either the applicant or manager may refer an application to the council for a public hearing.

9.10.040 Review of Applications.

The manager accepts applications for OLCC liquor licenses only when the following conditions are met:

- (1) all required forms are properly completed and in order;
- (2) the applicant has obtained a city business license; and
- (3) the processing fee established by council resolution has been paid.
(Ord. No. 1756; Amended, 08/20/2015)

9.10.050 Investigation.

(1) The manager shall coordinate an investigation of each application to determine the appropriate recommendation to the OLCC. The manager shall provide a copy of each application to the appropriate city departments for investigation and report. Reports from these departments must be included with each manager’s unfavorable or conditionally favorable recommendation to the council.

(2) The terms used in the application shall have the meanings as defined under state law.

(3) The Chief of Police or designee is authorized to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) in accordance with ORS 181.555 and OAR 257-10-025 to investigate applicants to determine suitability for an OLCC license.
(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1511, Amended, 12/19/2000)

9.10.060 Manager Recommendation.

(1) The manager may make a favorable recommendation to the OLCC, or an unfavorable or conditionally favorable recommendation to the council, on any OLCC liquor license application or renewal based on whether the applicant:

(a) is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess;

(b) has made false statements to the city or OLCC in connection with the application;

(c) is incompetent or physically unable to carry on the management of the establishment proposed to be licensed;

(d) has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license;

(e) has maintained an unsanitary establishment or not maintained the premises in accordance with the building code and fire and life safety code of the city and/or the state;

(f) is not of good repute and moral character;

(g) does not have a good record of compliance with the alcoholic liquor laws of this state and the rules of OLCC when previously licensed;

(h) is not the legitimate owner of the business proposed to be licensed, and other persons have ownership interests in the business that have not been disclosed;

(i) seeks licensing of premises not consistent with city land use designations;

(j) has demonstrated an unwillingness or inability to cooperate with the city or neighbors to resolve driving under the influence of liquor concerns or community

disputes related to a licensed establishment;

(k) creates any other specific reason consistent with the purposes of these provisions that the manager concludes warrant an adverse recommendation based upon public health, safety, welfare, convenience, or necessity; or.

(l) does not comply with the applicable provisions of OAR Chapter 845, Division 5.

(2) The manager may make an unfavorable or conditionally favorable recommendation to the council on any application or renewal if there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for an unfavorable recommendation under this section, where so related to the sale or service of alcohol, includes but is not limited to, obtrusive or excessive noise, music or sound vibrations, public drunkenness, fights, altercations; harassment, unlawful drug sales, alcohol or related litter, trespassing on private property, and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(3) The manager's unfavorable or conditionally favorable recommendation to council and any unfavorable recommendation to the OLCC must be supported by reliable factual information which includes but is not limited to personal observations of activities in or around the

proposed licensed locations, as opposed to opinion, hearsay, feelings, beliefs or speculation.

(4) If the manager finds evidence of activity or conduct related to the standards set forth in this section that causes concern, but does not rise to the level of a conditionally favorable or unfavorable recommendation, the manager may make a favorable recommendation to the OLCC with a letter of warning.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1511, Amended, 12/19/2000)

9.10.070 Notification to Council.

Council shall be notified of all regular OLCC liquor license original applications and recommendations. If the manager makes an unfavorable recommendation or conditionally favorable recommendation, council shall hold a public hearing to allow all interested parties a reasonable opportunity to be heard. The manager shall request additional time to submit the recommendation and the hearing shall be scheduled so that a recommendation can be filed with the time limit of the extension.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1511, Amended, 12/19/2000; Ord. No. 1522; Amended, 05/15/2001)

9.10.080 Contents of Public Hearing Notice.

Before the council recommends denial of a liquor license application, notice of the public hearing must be given to the applicant either personally or by certified mail postmarked not later than 10 days prior to the hearing. The notice shall contain:

- (1) the date, time and place of the hearing;
- (2) a copy of the recommendation of the manager together with all supporting reports and documents; and
- (3) a statement that information about procedures and rights of parties may be obtained from the manager.

9.10.090 Publication of Public Hearing Notice.

If a public hearing is scheduled, the manager shall publish in a newspaper of general circulation in the city a notice specifying a time, date and location of the hearing and business name and address of applicant. The notice shall inform the public that testimony may be given for or against the application.

9.10.100 Public Hearing Procedures.

When a public hearing before the council is held:

(1) the applicant and the manager may present written and oral evidence and may rebut opposing evidence;

(2) the hearing shall be limited to production of evidence relevant to the recommendation of manager, unless the council decides to hear additional evidence; and

(3) after consideration of all relevant evidence, the council shall make its recommendation. The recommendation shall be based on substantial evidence relative to the GRC 9.10.060 criteria and shall be final. In the case of an adverse recommendation, the council shall make findings of fact which shall be forwarded to the OLCC along with the council recommendation against the application.

(4) If the council finds that an applicant does not meet the criteria established by GRC 9.10.060, it may make a favorable recommendation with a letter of warning. The manager shall deliver to the applicant in person or by certified mail a summary of the reports relating to the application, and a notice to correct the problems cited. A copy of this notice and summary shall be sent to the OLCC. During the following license period, the manager shall monitor the progress of the applicant in correcting such problems and report to the council. At the time of the next license renewal, council shall review the application notwithstanding a favorable manager's recommendation. The applicant shall have the burden of proof to establish that the license should receive a favorable recommendation for renewal. If the council finds that the applicant has not made substantial progress in correcting the conditions

which resulted in the letter of warning, then the council may make an unfavorable recommendation to OLCC without further public hearing.

(Ord. No. 1756, Amended, 08/20/2015)

9.10.120 Resubmission of Applications.

If the council makes an unfavorable recommendation on any license application, the manager shall not consider a new application from the same applicant within six months from the date of the manager's unfavorable recommendation or while an administrative or court appeal relating to such license is pending. An applicant may resubmit an application to the manager in less than six months from the date of a council unfavorable recommendation only if the conditions that caused such recommendation have been remedied.

(Ord. No. 1756, Amended, 08/20/2015)

Article 9.15

PRECIOUS METAL AND GEM DEALERS AND SECOND HAND DEALERS

Sections:

- 9.15.010 Purpose.
- 9.15.020 Definitions.
- 9.15.030 Permit Required.
- 9.15.035 Permit Fee.
- 9.15.040 Application for Permit.
- 9.15.050 Issuance and Renewal of Permit.
- 9.15.080 Submitting Transaction Reports.
- 9.15.085 Property to be Tagged for Identification.
- 9.15.090 Holding Period Before Sale of Regulated Property or Precious Metal and Gems.
- 9.15.095 Exceptions to Transaction Report Requirements and Holding Periods; No Exception to Delivery of Report.
- 9.15.110 Inspection of Property and Records.
- 9.15.115 Property Not to be Sold or Redeemed in Violation of Police Hold.
- 9.15.117 Release of Property.
- 9.15.130 Precious Metal, Gem, and Second Hand Dealer Prohibited Acts.
- 9.15.140 Enforcement.
- 9.15.010 **Purpose.**

The purpose of GRC Article 9.15 is to provide strict regulation of business activities that present an extraordinary risk of being used as a means of concealing the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of stolen goods and materials that are processed in such businesses. Therefore, this section is intended to reduce this type of criminal activity by providing timely notice to police of such business transactions. The council finds that the regulations provided herein are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their

adoption.

9.15.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in this article, unless the context requires otherwise, the following mean:

Acceptable Identification. A valid driver's license or identification card issued by any state in the United States which has a photograph of the Seller, federally issued photo ID card or passport, or a valid driver's license issued by a foreign government which has a photograph of the Seller.

Chief of Police. Gresham Chief of Police or the person(s) the Chief of Police designates to enforce this article.

Dealer. Secondhand Dealer, Precious Metal and Gem Dealer, or Pawnbroker.

New. Anything conspicuously not used.

Pawnbroker. Any person engaged in the business of loaning money for the person or for any other person upon personal property, personal security, pawns or pledges, or the business of purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors or their assigns at prices agreed upon at or before the time of such purchase.

Permit. The Secondhand Dealer Permit or Precious Metal and Gem Dealer Permit required under GRC 9.15.030.

Precious Metal and/or Gem.

(1) Any metal or gem that is valued for its character, rarity, beauty, or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires and pearls, jewelry containing precious metal and gems, and any other such metals or gems, coins, whether actual currency or commemorative, scrap metal, sterling silver items (including, but not limited to, flatware, candleholders, coffee and tea sets, or serving pieces) and any other gem or stone or imitation thereof, whether as a separate item or in combination as a piece of jewelry; but excluding the following items when being purchased by a bona fide business for investment purposes:

(a) gold bullion bars (0.995 fine or better);

(b) silver bullion bars (0.995 fine or better); and

(c) all coins, whether actual currency or commemorative, from all countries.

(2) As used in this definition, the term "for investment purposes" means that the business purchases such items and retains them, in the same form as they were purchased, for resale to persons who are purchasing such items primarily as an investment.

Precious Metal and Gem Dealer. Any person engaged in, conducting, managing or carrying on a business that is required to be licensed under GRC 9.05.020 for the purpose of purchasing precious metals or gems from any person not representing a bona fide, licensed business.

Principal. Any person who will be directly engaged or employed in the management or operation of a Precious Metal and Gem or Secondhand Dealer business, including any owners and any shareholders with a 5% or greater interest in the company.

Purchase. The transfer of any property regulated by this article for valuable consideration, including, but not limited to, sales, consignments, memoranda between a Dealer and a private party seller, leases, trade-ins, loans, abandonments, and property taken in a voluntary transaction for the refinement of metal. Any purchase of Regulated Property or Precious Metal and Gems by a Dealer will be presumed to be a purchase on behalf of the Dealer's business. Notwithstanding the foregoing, "purchase" does not include:

(1) Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon; or

(2) Memoranda between a Dealer and another Dealer.

Regulated property.

(1) Used items:

(a) Watches.

(b) Electronic equipment. Examples include:

(i) Audio equipment, including but not limited to, tape recorders or players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, car stereos, car speakers, microphones, broadcasting equipment, citizen band radios/transceivers, digital audio recorders or players.

(ii) Video equipment, including but not limited to, televisions, videotape or videodisc recorders or players, video cameras, video projectors, video monitors, digital video recorders or players.

(iii) Electrical office equipment, including but not limited to, telefax machines, printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, modems, monitors, any computer equipment or accessories having uniquely identifiable parts, or identifiable software.

(iv) Telephones or telephone equipment, including but not limited to, answering machines, cellular telephones, or satellite telephones.

(v) Video game equipment, including but not limited to, game units and games that are handheld or console.

(vi) Other electronic equipment, including but not limited to, global positioning systems, electronic navigation devices or radar detectors.

(c) Photographic and optical equipment

and any accompanying bags, including but not limited to, cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment both optical and electronic, rifle scopes, spotting scopes, electronic sighting equipment, tripods, accessories and components, digital image recorders or display devices.

(d) Power yard and garden tools, including but not limited to, garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders, or ladders.

(e) Power equipment and tools, including but not limited to, air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, logging equipment, welding or cutting equipment or components, measuring devices and gauges, or construction equipment.

(f) Automotive and hand tools, including but not limited to, wrench sets, socket sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, timing lights, testing and analyzing equipment or components.

(g) Musical instruments and any accompanying cases or bags, including but not limited to, electronic keyboards, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, electronic synthesizers, or mixing boards.

(h) Firearms, including but not limited to, rifles, shotguns, handguns, revolvers, pellet guns, or BB guns.

(i) Sporting equipment limited to kayaks,

bicycles, golf clubs and bags, pool cues or cases, snow or water skis, snow or water boards, fishing rods or reels, skates, saddles or tack.

(k) Outboard motors and boating accessories limited to outdrives, propellers, inboard engines, electric boat motors, boat covers, tops, or unlicensed boat trailers.

(l) Household appliances, including but not limited to, microwave ovens, sewing machines, vacuums, mixing and food preparation equipment.

(m) Items other than those purchased by a bona fide licensed business for investment purposes, limited to: a) gold bullion bars (0.995 fine or better); b) silver bullion bars (0.995 fine or better); c) all tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency whose intrinsic, market or collector value is greater than the apparent legal or face value; or d) postage stamps, stamp collections and philatelic items whose intrinsic, market or collector value is greater than the apparent legal or face value.

(n) Gift cards, in store credit cards, or activated phone cards;

(2) New items.

(a) New items purchased from a registered business are exempt from regulation under GRC Article 9.15 if the Dealer has a bill of lading, receipt, invoice or the equivalent for the new items that specifies the seller's business name, physical and mailing address, date of transaction and a description of the purchased items. The bill of lading, receipt, invoice or the equivalent must be held by the Dealer for one year or as long as the property is in the Dealer's possession, whichever is longer. Upon reasonable belief that a specific registered business is dealing in stolen property or is acquiring property in violation of this or any jurisdiction's secondhand dealer requirements, the Chief of

Police may deem that new items purchased from that specific registered business are Regulated Property.

(b) Gift cards, in store credit cards, or activated phone cards;

(3) The Chief of Police may update this list at any time in order to enhance the city’s ability to reduce property crimes and recover stolen goods.

(4) Regulated Property does not include any of the following property:

(a) Vehicles required to be registered with the Oregon Motor Vehicles Division

(b) Boats required to be certified by the Oregon Marine Board

(c) Books and comic books

(d) Glassware, objects d’art, or sports cards and sports memorabilia

(e) Furniture

(f) Refrigerators, freezers, stoves, ovens, dishwashers, washers, and dryers

Secondhand Dealer.

Any person engaged in, conducting, managing or carrying on:

(1) a business that is required to have a business license under GRC 9.05.020 that purchases or sells any Regulated Property ; or

(2) garage sales offering any Regulated Property that are publicized by either advertisements or signs, and exceed three days in duration or 10 days total in a calendar year.

Trade Show. An event open to the public, held in a venue other than a Dealer’s business location, at which vendors may exhibit, buy, sell, or trade items that may include Regulated Property or Precious Metal and Gems.

Used. Anything that has been put into action or

service.

(Ord. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011)

9.15.030 Permit Required.

(1) No person shall be a Precious Metal and Gem Dealer or Secondhand Dealer, as defined herein, without obtaining a Precious Metal and Gem Dealer or Secondhand Dealer’s permit and paying the established permit fee.

(2) Each business location of the operator that engages in, conducts or carries on a precious metal and gem dealer’s or secondhand dealer’s business shall apply for and obtain a separate Precious Metal and Gem Dealer or Secondhand Dealer’s permit and pay the established permit fee.

(3) Renewal of a Precious Metal and Gem Dealer or Secondhand Dealer’s permit shall be made annually to the manager. Permits issued under GRC Article 9.15 shall run concurrently with the operator’s business license. The renewal date for the permit shall be the same as for the operator’s business license and shall expire unless renewed.

(Ord. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 01/02/2003)

9.15.035 Permit Fee.

The Precious Metal and Gem Dealer’s or Secondhand Dealer’s permit fee shall be established by council resolution.

(Ord. No. 1700, Enacted, 03/03/2011)

9.15.040. Application for Permit.

(1) An application for a precious metal and gem dealer’s or secondhand dealer’s permit shall include payment of the established fee and set forth the following:

(a) written proof that the applicant and principal(s) are at least 18 years of age;

(b) the name, address, and telephone number of the business to be operated and a description of the exact nature of the business;

(c) business occupation or employment of the principal(s) for the three years immediately preceding the date of application;

(d) the business license and permit history of the principal(s) operating a business identical to or similar to those required by this section, or by the transient merchants section;

(e) whether such person, previously operating such business in this or any other city or state under any license or permit, has had such license or permit revoked or suspended, the reason(s) therefore, and the business activity or occupation of the person subsequent to such action of suspension or revocation;

(f) a completed personal history report for all owners, part-owners, partners, principals officers, directors, agents, investors or any other persons having a 5% or greater financial interest in the applicant's business, and employees, that includes each person's address, telephone number, birth date and a copy of an Oregon State Police Open Records criminal history report issued in the last 30 days for each owner, part-owner, partner, principal officer, director, agent investor, or any other person having a 5% or greater financial interest in the applicant's business, and all employees, documenting that each individual meets the criminal background criteria of GRC 9.15.050(1)(d);

(g) whether the business or proposed business is the undertaking of a sole proprietorship, partnership, corporation, or other entity; if a publicly-traded company and listed on a major stock exchange, only the general manager of the business location applying for a permit and the manager overseeing the Secondhand Dealer or Precious Metal and Gem Dealer operations are required to be listed on the application;

(h) any criminal arrests or convictions as defined in state law or its equivalent under the laws of the United States, or the states or territories of the United States, of each

applicant and natural person enumerated in paragraphs (a) through (g) of this section;

(i) the web address of any and all web pages used to purchase or offer for sale Regulated Property or Precious Metal and Gems on behalf of the Dealer, and any and all internet auction account names used to purchase or offer for sale Regulated Property or Precious Metal and Gems on behalf of the Dealer.

(j) any other information the Chief of Police believes is necessary to accomplish the goals of this article.

(2) The Dealer shall notify the Chief of Police of any changes in the information required in subsection (1) within 10 business days of the change occurring.

(3) The application form required pursuant to this section, which contains personal and business information, shall remain confidential to the maximum extent permitted by law.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011)

9.15.050 Issuance and Renewal of Permit.

Upon filing an application and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant and the manager shall issue the permit if no cause for denial exists.

(1) The application for a Permit shall be denied if:

(a) The applicant, or any other person who will be engaged directly in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by this section or by GRC 9.05.020 and the permit for the business has been revoked for cause that would be grounds for revocation pursuant to this article, or if the business has been found to constitute a public nuisance and abatement has been ordered.

(b) The operation as proposed by the applicant would not comply with all applicable requirements of this code including, but not limited to, the building, health, planning, zoning and fire codes.

(c) Any statement in the application is found to be false or any required information is withheld.

(d) Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below:

(i) any felony;

(ii) any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, theft, or any attempt or conspiracy to commit any of these offenses.

(e) The Dealer does not maintain a fixed physical business location.

(2) Notwithstanding the mandatory direction of subsection (1)(a), the manager may grant a Permit, with the concurrence of the Chief of Police, despite the presence of one or more of the factors enumerated if the manager concludes that the applicant has established to the manager's satisfaction that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of this article.

(3) The Permit shall be valid only for a single location, and shall be displayed on the premises so as to be visible to patrons. When the business location is to be changed, the address of the new location shall be provided in writing to the manager for approval at least 10 days prior to the change.

(4) Permits issued for subsequent locations pursuant to GRC 9.15.030(2) shall be subject to the requirements of subsection (3) of this section except that they shall expire on the same date as

the first permit with no pro ration of fees.

(5) Permits issued under this section shall be valid for one year and run concurrently with the Dealer's business license. The renewal date for the permit shall be the same as for the Dealer's business license and shall expire unless the Dealer renews the Permit by submitting the required renewal form and paying the required fee.

(6) A new application is not required to be submitted to the city in order to renew the Permit. However, if the Dealer has hired a new employee, or if the criminal background status of an existing employee has changed, the Dealer must complete and submit the information required in GRC 9.15.040(1) for any such employee. New employees or employees with changed criminal background status may not purchase Regulated Property or Precious Metal and Gems until all required information has been reviewed and approved by the Gresham Police Department. The criteria used such employees will be the same as those used in the review of an initial application in GRC 9.15.050.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004)

9.15.080 Submitting Transaction Reports.

(1) Except as provided below, at the time of purchasing an article of Regulated Property or Precious Metal and Gems, the Dealer shall complete a transaction report at the close of each business day in an electronic format designated by the Chief of Police. The transaction report shall include the following information or documents:

(a) seller's name, address, and any other information required by the Chief of Police to accomplish the purposes of this article;

(b) a copy of the Seller's valid acceptable identification, or a photograph or still video, taken by the Dealer, of each person selling or loaning on an item of Regulated Property or Precious Metal and Gems. A video or photograph must be referenced by time and date and the transaction report number shall correspond to the tag affixed to the Regulated Property or Precious Metal and Gems

pursuant to GRC 9.15.100. The photograph, videotape or copied identification must be kept by the Dealer for one year;

(c) a completed, signed, Declaration of Ownership from the Seller in which the Seller certifies in writing that Seller has the legal right to pledge or sell the property that is subject to the transaction, is competent to do so, and that the property is not rented or leased; and

(d) a thumbprint of the seller on the Declaration of Ownership (thumbprints may be produced using digital format with prior approval of the Chief of Police).

(2) The information contained in the transaction report is subject to the Oregon Public Records law and may be shared with other law enforcement agencies, including national law enforcement agencies and cooperative databases.

(3) Except as provided below, a Dealer shall deliver a transaction report to the Chief of Police at the close of each business day.

(4) After submitting a written request, Dealers that purchase less than 50 items of Regulated Property or Precious Metal and Gems during any one-year period may deliver a transaction report to the Chief of Police in paper format on a weekly basis.

(5) A copy of transaction reports for each purchase shall be retained by the dealer for a period of not less than one year.

(6) The council may establish by resolution an administrative fee for reviewing the transaction report.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1329, Amended, 11/03/1994)

9.15.085 Property to be Tagged for Identification.

(1) A Dealer purchasing Regulated Property or Precious Metal and Gems shall affix a tag to the property with a number that corresponds to the

number on a separate corresponding transaction report required to be maintained pursuant to GRC 9.15.080.

(2) Except as provided below, after the applicable holding period has expired, the transaction number must remain identifiable on the property until the sale of the property.

(3) After the applicable holding period has expired, the following items do not need to remain tagged:

(a) hand tools or items sold with other like items and have no identifiable numbers or markings;

(b) items that are remanufactured.
(Ord. No. 1743, Enacted, 09/18/2014)

9.15.090 Holding Period Before Sale of Regulated Property or Precious Metal and Gems.

(1) No Regulated Property or Precious Metal and Gems purchased by a Dealer shall be sold for a period of 30 calendar days after purchase. The Regulated Property or Precious Metal and Gems shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during the holding period. The property shall be located on the business premises during normal business hours during this holding period so it can be inspected as provided in GRC 9.15.110. Notwithstanding this requirement, if it is shown that extreme financial hardship will result from holding an item for the 30 day period, the Chief of Police may authorize the sale or transfer of the item before the expiration of this period. Such authorization must be in writing.

(2) Pawnbroker loan transactions are exempt from the 30-day hold requirements in subsection (1) because of the redeemable nature of the loans and the holding requirements in ORS Chapter 726. If the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of

this article remain in effect.

(3) In addition to the above sections, the Chief of Police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and, therefore, may modify the holding period and/or reporting requirements for those types of transactions.

(4) The chief of police, upon reasonable belief that the specific property is the subject of theft, shall notify in writing any precious metal and gem dealer or secondhand dealer not to dispose of any specifically described property, and the property shall be seized as evidence of the crime. Upon completion of the criminal case, the property shall be returned to the victim of the theft. (Ord. No. 1743, Amended, 09/18/2014)

9.15.095 Exceptions to Transaction Report Requirements and Holding Periods; No Exception to Delivery of Report.

(1) A Dealer is required to complete and retain a transaction report for each purchase of Regulated Property or Precious Metal and Gems pursuant to GRC 9.15.080, but is not required to obtain the seller's identification, photograph the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of Ownership if the property is received from a Dealer who has a valid permit in accordance with this article. The purchasing Dealer must keep a receipt or statement for the item purchased selling Dealer that includes the seller's name and a description of the item. The receipt or statement must be retained at the purchasing Dealer's business location for one year or until the item is sold, whichever is longer. The purchasing Dealer must record the name and address of the seller in the name and address fields of the transaction report, and the date of the purchase. The item does not have to comply with the hold period requirements if the seller has already done so.

(2) A Dealer is required to complete a transaction report and hold property prior to sale pursuant to GRC 9.15.090, but is not required to obtain the seller's identification, photograph of the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of

Ownership if the Dealer complies with this article otherwise and:

(a) The item is purchased through consignment by a Dealer from a person who lives more than 150 miles from the City of Gresham and the consigned property is mailed, shipped, or sent by courier to the Dealer.

(b) The item is purchased during a trade show. At the time of the transaction, the Dealer must write on the transaction report a complete, legible and accurate description of the Regulated Property or Precious Metal and Gems of sufficient detail to distinguish like objects one from the other. The Dealer must also record the name and date of the event and the address of the venue in the name, date, and address fields of the transaction report. Items purchased during a trade show may be sold or traded during the trade show without being held. Items still in a Dealer's possession at the end of the show will be subject to the hold period requirement in effect for that Dealer's purchases of Regulated Property or Precious Metal and Gems.

(c) The item is purchased from a business whose purchases of Regulated Property or Precious Metal and Gems consist exclusively of donated items and/or purchases from a 501(c)(3) organization. The Dealer must record the name and location address of the business in the name and address fields of the transaction report and the date of the purchase.

(d) The item is purchased through an internet transaction. The Dealer must record on the transaction report the seller's email address or seller's identification, the name of the internet website that listed the item, and the date of the purchase.

(e) The item is purchased by the Dealer from a yard sale, garage sale, estate sale or swap meet. The Dealer must record on the transaction report the physical address of the sale location and the date of the purchase.

(3) Transactions subject to subsections (1) and (2) are required to submit the transaction

reports to the Manager in accordance with GRC 9.15.080(2) and (3).
(Ord. No. 1743, Enacted, 09/18/2014)

9.15.110 Inspection of Property and Records.

Dealers shall permit the Chief of Police to enter the business at any time to inspect property purchased in the course of business, and to inspect the records required to be maintained pursuant to this article.
(Ord. No. 1743, Amended, 09/18/2014)

9.15.115 Property Not to be Sold or Redeemed in Violation of Police Hold.

(1) Upon probable cause that an item is the subject of a crime, the Chief of Police or peace officer may issue a written or oral order requiring the Dealer to hold said property in a separate Police Hold area, without alteration or change, and not allow it to be sold or redeemed for a specific period, not to exceed the statute of limitations for the crime being investigated. If such order is given orally, the Chief of Police or peace officer shall confirm it in writing within 30 days.

(2) Upon probable cause that an item is the subject of a crime, the Chief of Police may take physical custody of an item, for a period of time as determined by the Chief of Police, not to exceed the statute of limitations for the crime being investigated. Seizure of property will be carried out in accordance with Oregon Revised Statutes.

(3) If a peace officer, other than a Gresham Police Officer, orders a hold or seizes any property from a Dealer, the Dealer must notify the Chief of Police not later than five calendar days from the day the order or seizure occurs. The Dealer must provide the name of the agency, name of the peace officer, number of the receipt left for the seizure and description of the seized property. Notification to the Chief of Police may be given by phone, fax, email or in person.

(4) A Police Hold area must meet the following criteria:

- (a) located out of public view and access;
- (b) marked "Police Hold;" and
- (c) contain only the items that have been placed on Police Hold.

(5) If it is not possible or practical to move or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on "Police Hold" and kept from public view and access.
(Ord. No. 1743, Enacted, 09/18/2014)

9.15.117 Release of Property.

(1) The Chief of Police may not release seized property or authorize the release of property placed on a Police Hold to anyone other than to the person from whom the property was seized except as provided below.

(a) the Chief of Police may release seized property or property placed on a Police Hold to another law enforcement agency if the other agency provides documentation to the satisfaction of the Chief of Police of the stolen status of the property, or

(b) a person who reported the property as stolen; and

(i) a stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and

(ii) a notice has been delivered to the Dealer holding the property or from whom the property was seized.

(2) The notice required by this section will state that the property will be released to the person who has filed the stolen property report unless the Dealer files a motion for return of seized property within 10 days of the date of the notice and in the manner set forth in the notice.

(3) The notice required by this section will be sent by certified mail, return receipt requested, or delivered in person to the Dealer at the email or physical address shown on the Dealer's permit application or most recent permit renewal application, or to the Dealer at the address shown in the transaction report required by GRC 9.15.080. Electronic notification shall satisfy this delivery requirement if such electronic notification is acknowledged by an authorized representative of the Dealer.

(4) The notice required by this subsection will provide the information necessary for a claimant to submit a motion for return of seized property.

(5) The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.

(Ord. No. 1743, Enacted, 09/18/2014)

9.15.130 Precious Metal, Gem, and Second Hand Dealer Prohibited Acts.

(1) No Dealer shall receive any property from any person:

(a) known to the principal, employee or Dealer to be prohibited from selling by a court order;

(b) known to be under the age of 18 years unless the person's parent or guardian completes the applicable information on the Declaration of Ownership;

(c) from whom the principal, employee, or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past 10 years whether the person is acting in his or her own behalf or as the agent of another who meets the above criteria;

(2) No Dealer shall receive any property known to be prohibited by this article including:

(a) medications;

(b) gift cards, in store credit cards, or activated phone cards;

(c) property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible.

(3) No Dealer shall receive property that a reasonable person under similar circumstances would believe is more likely than not stolen. A later determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a Dealer has violated this subsection.

(4) Notwithstanding subsection (3), a Dealer may receive property for which the Dealer has an objectively reasonable basis to believe is more likely than not stolen if the Dealer is doing so with the intention of recovering the item for a specifically identified victim. The Dealer must notify the Chief of Police of the purchase and the name of the specific person believed to be the victim by the end of the business day that the purchase is made. Notification may be made by phone, fax, or email. An item purchased under this section must be immediately placed under a 30-day Police hold.

(5) If a Dealer receives information that leads to an objectively reasonable basis to believe that any property at his or her business location has been previously lost or stolen, he or she must report that belief to the Gresham Police Department by the end of the business day that the information was received. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.15.140 Enforcement.

(1) A violation shall have occurred when any requirement or provision of this article has not been complied with. Violation of any provision of this article may be subject to enforcement action by the manager.

(2) Any condition caused or permitted to exist in violation of any provision of this article is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(3) In addition to any other remedies provide herein, violation of any provision of this article may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(4) Violation of any provision of this article may result in a denial, suspension, or revocation of the Precious Metal and Gem Dealer or Second Hand Dealers permit in accordance with the provisions set forth in GRC Article 9.99.
(Ord. No. 1743, Enacted, 09/18/2014)

Article 9.20

TRANSIENT MERCHANTS

Sections:

- 9.20.010 [Purpose.](#)
- 9.20.020 [Definitions.](#)
- 9.20.030 [Business License and Bond Required.](#)
- 9.20.040 [Property Sale Limitation.](#)
- 9.20.060 [Advertising to Disclose License and Bond.](#)
- 9.20.080 [Property to be Tagged for Identification.](#)
- 9.20.090 [Record Forms.](#)
- 9.20.100 [Inspection of Property and Records.](#)

9.20.010 Purpose.

The purpose of this article is to provide strict regulation of certain types of businesses that the council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of goods and materials that are frequently the subject of theft that are processed in such businesses. Therefore, this article is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The council finds that the regulations provided are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

9.20.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 9.20, unless the context requires otherwise, the following mean:

Transient Merchant. Every person, partnership, association or corporation engaged or participating in the city in the temporary, transitory business, for which a business license is required, of purchasing any precious metal or

gem, as defined in GRC 9.15.020, from any person when such transient merchant is not a permanent merchant in the city as demonstrated by the maintaining of business premises within the city and a valid business license as required by GRC 9.05.020.

(Ord. No. 1700, Amended, 03/03/2011)

9.20.030 Business License and Bond Required.

(1) No person, partnership, association or corporation shall engage in business as a transient merchant without first procuring a business license as required by GRC 9.05.020 and complying with the provisions of this article.

(2) Every transient merchant shall have conspicuously posted near the entrance to his or her place of business or in an equally conspicuous place the business license required by GRC 9.05.020 or some temporary proof of compliance issued by the Business License Division.

(3) No person shall engage in business as a transient merchant until the person has filed with the manager a \$10,000 financial assurance acceptable to the manager for the benefit of any person damaged by false, fraudulent or misleading representations of the transient merchant or the purchase of stolen precious metal or gems by the merchant.

(4) Violation of transient merchant licenses and bonds may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1574, Amended, 8/14/2003; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.20.040 Property Sale Limitations.

(1) No transient merchant shall sell precious metals or gems, as defined in GRC 9.15.020 for a period of 15 full days after purchasing such precious metals or gems. All precious metals or gems so purchased shall be kept during the 15 day period in a safe deposit box, or its equivalent, at a bank, savings and loan association, or other financial institution within the corporate limits of the city approved by the chief of police. The

transient merchant shall, before the end of the business day in which the items were so placed, provide written notice to the chief of police of the locations where the items are being kept.

(2) The chief of police, upon reasonable belief that the specific property is the subject of theft, shall notify in writing any precious metal and gem dealer or secondhand dealer not to dispose of any specifically described property, and the property shall be seized as evidence of the crime. Upon completion of the criminal case, the property shall be returned to the victim of the theft. (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.20.060 Advertising to Disclose License and Bond.

Every advertisement, notice, flier, commercial, pamphlet or other advertising device used within the city to attract attention to the business, location, presence, or arrival in the city of a transient merchant shall contain the following statement, which shall be conspicuously presented to the attention of any person whose attention is attracted by the advertising device:

"(name of merchant)

has obtained the business license and posted financial assurance as required by the City of Gresham, Oregon."

(Ord. No. 1574, Amended, 8/14/2003)

9.20.080 Property to be Tagged for Identification.

Any transient merchant who purchases any precious metal or gem shall affix to the piece of property a tag upon which shall be written a number in legible characters that correspond to the number on the record forms.

9.20.090 Record Forms.

(1) At the time of the purchase of a precious metal or gem defined in GRC 9.15.020, all

transient merchants shall describe the property upon a form provided by the police department.

(2) The dealer shall fill in all of the data required by the form and require the person selling the article to sign his or her name on the form.

(3) The form shall be filled out in clearly legible printing and in English.

(4) Property shall be purchased by the dealer after the seller has presented acceptable identification at the time of the transaction as the manager of the Business License Division in consultation with the chief of police promulgates as sufficient.

(5) The information shall be confidential and privileged from disclosure to the maximum extent possible under applicable law.

(6) Every transient merchant regulated by this article shall deliver to the chief of police daily all forms, or legible copies, describing all the property purchased during that day.

9.20.100 Inspection of Property and Records.

All persons licensed to do business as transient merchants, and any person employed by such merchants, shall permit the chief of police entry to the place of business maintained within the city to inspect articles purchased and being held pursuant to GRC 9.20.040 and the records required by this article. The inspection shall be during normal business hours.

Article 9.30

AUTO DEALERS

Sections:

9.30.010 [Endorsement Required.](#)

9.30.020 [Application.](#)

9.30.010 Endorsement Required.

No person shall conduct a business of selling motor vehicles in the capacity of a dealer without having an endorsement issued by the manager. An auto dealer's endorsement is in addition to a business license required by GRC 9.05.020.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

9.30.020 Application.

Application for an auto dealer's endorsement shall be made to the manager on forms prescribed by the State of Oregon.

(1) A nonrefundable fee established by council resolution shall be due at the time the city endorses the application issued by the Department of Motor Vehicles.

(2) Endorsements under GRC 9.30.010 are not transferable.

(3) Endorsements are valid until expiration of the vehicle dealer certificate issues by the Department of Motor Vehicles.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

Article 9.35

SOCIAL GAMES

Sections:

- 9.35.010** [Bingo and Social Games.](#)
- 9.35.020** [License Required.](#)
- 9.35.030** [Application.](#)
- 9.35.040** [License Fee.](#)

the IRS of exempt status.
(Ord. No. 1700, Amended, 03/03/2011)

9.35.040 License Fees.

A nonrefundable annual fee established by council resolution shall accompany the application.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000)

9.35.010 Bingo and Social Games.

The city authorizes the playing or conducting of bingo and social games in accordance with state law by non-profit charitable, fraternal and religious organizations that have received recognition by the Internal Revenue Service (IRS) of exempt status under sections 501(c)(3) or 501(c)(8) of the IRS Code.
(Ord. No. 1700, Amended, 03/03/2011)

9.35.020 License Required.

(1) No person shall conduct the playing of bingo or social games without having a social games license issued by the manager.

(2) The manager shall issue a license when the application has been approved and payment of the required fee has been received.

(3) Renewal of a social games license shall be made annually to the manager. Licenses issued under GRC Article 9.35 shall run concurrently with the operator’s business license. The renewal date for the license shall be the same as for the operator’s business license and shall expire unless renewed.

(4) Licenses issued under GRC 9.35.020 are not transferable.
(Ord. No. 1700, Amended, 03/03/2011)

9.35.030 Application.

The application shall be made on a form provided by the manager and shall include payment of the required fee and proof of written determination by

Article 9.40

AMUSEMENT DEVICES

Sections:

- 9.40.010** [Definitions.](#)
- 9.40.015** [License Required.](#)
- 9.40.020** [License Fees.](#)

9.40.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC 9.40.020, the following mean:

Amusement Device. A pool table, pinball machine or mechanically controlled and operated game of skill, electronic game machines, and musical instruments or machines, commonly known as "juke boxes," operated for a commercial purpose. An electronic game machine shall not include machines which are part of the operation of the state lottery.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19.2009; Ord. No. 1496, Amended, 04/18/2000)

9.40.015 License Required

(1) No person subject to GRC Article 9.05 shall operate or permit the operation or playing of any amusement device or video game without first obtaining an amusement device license.

(2) The manager shall issue a license when the application has been approved and payment of the required fee has been received by the city.

(3) Renewal of an amusement device license shall be made annually to the manager. Licenses issued under GRC 9.40.015 shall run concurrently with the operator's business license. The renewal date for the license shall be the same as for the operator's business license and shall expire unless renewed.

(4) Licenses issued under GRC 9.40.015 are not transferable. However, if an operator sells or

transfers a business for which a license has been obtained, the new operator shall not be required to obtain a new license for the remainder of the license term, unless additional amusement devices are installed.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1496, Enacted, 04/18/2000)

9.40.020 License Fees.

(1) An operator of an amusement device shall pay an annual nonrefundable license fee based on the number of amusement devices operated. The amount of the fee per device shall be established by council resolution.

(2) The license is not based on ownership of any amusement device and is not a tax on property. The license is required for the privilege of operating or permitting the operation or playing of any amusement device in the city.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1496, Amended, 04/18/2000)

Article 9.45

STREET AND SIDEWALK VENDORS

Sections:

- 9.45.010** [Definitions.](#)
- 9.45.020** [Permit Required.](#)
- 9.45.030** [Permit Fee.](#)
- 9.45.040** [Application.](#)
- 9.45.050** [Fire Inspection.](#)
- 9.45.060** [Location Review.](#)
- 9.45.070** [Issuance of Conditions of Permit.](#)
- 9.45.080** [Restrictions.](#)
- 9.45.100** [Enforcement.](#)

9.45.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 9.45, the following mean:

Conduct business. Selling or offering for sale food of any type or fresh cut flowers, souvenirs, or other merchandise for immediate delivery.

Sidewalk. That portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.

Commercial area. Land designated for commercial use by the Gresham Community Development Plan.

Community event. Activity specifically approved by the council granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding 10 days to a community-based organization.
(Ord. No. 1700, Amended, 03/03/2011)

9.45.020 Permit Required.

No person shall conduct business on any city street or sidewalk without first obtaining a Street and Sidewalk Vendor permit from the manager. This requirement does not apply to city parks, open spaces, trails, and city facilities governed by GRC

Article 6.13.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005)

9.45.030 Permit Fee.

(1) The permit fee to conduct business on a street or sidewalk shall be established by council resolution.

(2) Permits issued under GRC 9.45.020 are not transferable. However, if a person sells or transfers a business for which permit fees have been paid, the purchaser shall not be required to pay an additional permit fee for the remainder of the license year.

(Ord. No. 1700, Amended, 03/03/2011)

9.45.040 Application.

Application for a Street or Sidewalk Vendor permit shall be made by a form approved by the manager and shall be accompanied with payment of the required fee. The application shall include, but not be limited to, the following information:

- (1) Name and address of applicant;
- (2) The expiration date of applicant's city business license;
- (3) Type of merchandise to be sold;
- (4) A valid copy of all necessary permits required by state or local health authorities;
- (5) A signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for damage to property or injury to persons occasioned by any activity carried on under the terms of the permit. Permittee shall secure, maintain and furnish certificates of insurance coverage of a type and amount as required by the city attorney.

(6) Means to be used in conducting business including, but not limited to, a description of any mobile container or device, to be used for transport or to display merchandise.

(7) A separate application shall be required for each mobile container or device to be used for transportation or display.

(8) The location(s) from which business will be conducted.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1700, Amended, 03/03/2011)

9.45.050 Fire Inspection.

Prior to the issuance of any permit, the fire marshal shall inspect and approve any mobile device or pushcart to be used to determine if any cooking or heating apparatus is in conformance with the provisions of the city fire code.

9.45.060 Location Review.

Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether such location is within a commercial area and that the use of such location for street or sidewalk vending is compatible with the public interest in use of street and sidewalk areas as public right-of-way. In making the determination, the manager may consider the width of sidewalk, the proximity and location of existing street furniture, including but not limited to signposts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands as well as the presence of bus stops, truck loading zones, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004)

9.45.070 Issuance and Conditions of Permit.

Permits issued shall be in a form prescribed by the manager and shall contain the following conditions:

(1) Each permit shall be issued for a period to coincide with the term of applicant's city business license and shall expire unless renewed.

(2) The permit issued shall be personal only and not transferable in any manner.

(3) The permit is valid only when used at the location designated on the permit.

(4) The permit is subject to the conditions and restrictions of this article.

(5) The permit as it applies to a given location may be suspended by the council for a period up to 10 days when council action providing for a "community event" shall so provide.

(Ord. No. 1700, Amended, 03/03/2011)

9.45.080 Restrictions.

(1) A person issued a Streets or Sidewalks Vendor permit may transport and display food or flowers or other merchandise upon any mobile device or pushcart, provided that the device occupies no more than 16 square feet of the sidewalk area, and does not exceed three feet in width, excluding wheels, six feet in length, including any handle, and no more than five feet in height, excluding canopies, umbrellas, or transparent enclosures. In areas where the sidewalk measures 15 feet or more between the property line and curb, a width of four feet may be allowed. No person shall use any device, chair, stand, box container, or table that does not comply with the requirements of this section or place such a device on the sidewalk.

(2) No person shall conduct business on a sidewalk in any of the following places:

(a) Within 10 feet of the intersection of the sidewalk with any other sidewalk;

(b) Within 8 feet of the adjacent property line;

(c) Within 10 feet of the extension of any building entrance or doorway, to the curblin.

(3) All persons conducting business on a street or sidewalk shall display in a prominent and visible manner the permit issued by the manager under the provisions of this article and conspicuously post the price of all items sold.

(4) All persons conducting business on a street or sidewalk shall pick up any paper,

cardboard, wood or plastic containers, wrappers, or any litter in any form deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this article shall carry a suitable container for the placement of litter by customers or other persons.

(5) All persons conducting business on a street or sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the street or sidewalk or to remove his vending cart entirely from the street or sidewalk if necessary to avoid such congestion or obstruction.

(6) No person shall conduct business as defined in this article at a location other than that designated on the permit.

(7) No permittee may make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to the wares.

(8) No permitted cart or device shall be left unattended on a street or sidewalk nor remain on the street or sidewalk between midnight and 6:00 a.m.

(9) No permittee may conduct business in violation of the council action providing for a community event.
(Ord. No. 1700, Amended, 03/03/2011)

9.45.100 Enforcement.

In addition to the remedies set forth in GRC Article 9.99, the placement of any cart or device on any street or sidewalk in violation of the provisions of this article is declared to be a public nuisance. The manager or public safety officer may cause the removal of any cart or device found on a street or sidewalk in violation of this article and may store the cart or device until the owner redeems it by paying the removal and storage charges established by the manager.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011)

Article 9.55

RESIDENTIAL RENTALS

Sections:

- 9.55.010 [Definitions.](#)
- 9.55.015 [Purpose.](#)
- 9.55.035 [Scope.](#)
- 9.55.060 [Residential Rental Property License Required.](#)
- 9.55.070 [License and Other Fees for Residential Rentals.](#)
- 9.55.090 [Inspection Required.](#)
- 9.55.100 [Inspection Standards.](#)
- 9.55.110 [New License Inspection Process.](#)
- 9.55.115 [Renewal License Inspection Process.](#)
- 9.55.117 [Private Inspection Program.](#)
- 9.55.120 [Necessity of Tenant Consent.](#)
- 9.55.140 [Term of License.](#)
- 9.55.160 [Enforcement.](#)

9.55.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 9.55, the following terms mean:

Basement. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Cellar. A portion of a building located partly or wholly underground, and having one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Common Areas. Those interior and exterior areas of the residential rental property as defined herein or which the occupants have access, including, but not limited to, entrances, exits, hallways, stairways, basements, cellars, laundry rooms, attics, porches and yards.

Designated Agent. A person or entity designated by the property owner to represent the property owner's interests in the subject property.

Dormitory. A building, or a space in a building, in which group sleeping accommodations are provided for more than 16 persons who are not members of the same family in one room or a series of closely associated rooms under joint occupancy and single management, with or without meals, but without individual cooking facilities.

Dwelling. Any building located in the city, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as defined below shall not be regarded as a dwelling. For purposes of GRC Article 9.55, the term shall be synonymous with "residential rental property."

Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Occupant/Occupier. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Owner-Occupied. Any dwelling where the owner resides in one of the dwelling units.

Person(s). As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Premises. The entire interior and exterior portions of a dwelling, including the common areas thereof; the facilities and appurtenances therein, and the grounds, areas and facilities held out for the use of occupants generally, or whose use is promised to the tenant/occupant.

Property. Includes all lands, including all structures, improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith.

Property Maintenance Code of Gresham. GRC Article 10.30. The Property Maintenance Code of Gresham may also be cited as the PMC.

Residential Rental Property. A property with one or more residential rental units, regardless of

whether anyone is currently residing in each unit.

Residential Rental Property License. A license issued to a property owner that permits the operation of a Residential Rental Property within the city, subject to the terms and conditions of this article.

Residential Rental Unit. A dwelling containing one or more separate living quarters (kitchen, bathroom and sleeping area), one or more of which is rented, leased or let in exchange for monetary or other compensation.

Rooming House. A non-owner occupied building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a single detached dwelling or middle housing unit.

Rooming Unit. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Sleeping Unit. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Temporary Housing. A tent, trailer, or similar structure which is used as human shelter for not more than 30 consecutive days, or more than 90 days, in any calendar year.

Tenant. As defined in GRC 1.05.010. (Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1806, Amended, 04/02/2020; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649 Amended, 12/18/2007; Ord. No. 1507, Amended, 10/19/2000)

9.55.015 Purposes.

The council finds and declares that in order to protect the public safety, health and welfare of the people of the city from hazards and injury, and in order to prevent blight, the licensing and inspection of certain residential rental property in accordance with the provisions of GRC Article

9.55 are necessary. (Ord. No. 1649, Enacted, 12/18/2007)

9.55.035 Scope.

GRC Article 9.55 is intended to:

(1) protect the public health, safety and general welfare by regulating the interior and exterior of new and existing residential rental property by establishing minimum requirements and standards for interior and exterior conditions of structures and premises for protection from the elements, life safety, other hazards and for safe and sanitary maintenance as required by the PMC, GRC Article 10.30;

(2) establish the responsibility of residential rental property owners; and

(3) provide for administration, enforcement and penalties. (Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.060 Residential Rental Property License Required.

(1) Except where otherwise provided, no person shall maintain or operate a residential rental property within the city without first obtaining a residential rental property license. Application for a residential rental property license shall be filed with the manager on a form provided by the city.

(2) GRC Article 9.55 shall apply to the following residential rental property classifications:

(a) owner-occupied dwellings containing one or more residential rental units;

(b) non-owner occupied dwellings containing one or more residential rental units; and

(c) owner-occupied dwellings containing one or more sleeping units or rooming units rented, leased or let in exchange for monetary or other compensation.

(3) Residential rental property shall be deemed to be operated / rented and subject to the provisions of this chapter if any unit within the property has been occupied by a tenant within the last 12 months.

(4) GRC Article 9.55 provisions pertaining to licensing and inspection shall not apply to:

(a) motels, hotels, rooming houses, assisted living facilities, adult foster care homes administered by the state of Oregon, or temporary housing as defined in GRC 9.55.010; or

(b) approved accessory dwellings, sleeping units, or rooming units, occupied by a person or persons from whom the owner does not collect any monetary or other compensation.

(5) Upon execution of a written agreement establishing a reasonable annual inspection program and inspection standards that meet the minimum requirements of GRC Article 10.30, between the city and a governmental agency engaged in the business of providing residential rental housing, the manager may forego application of the inspection provisions of GRC Article 9.55 to residential rental properties owned, operated or subject to the inspection requirements of the governmental agency with whom such a written agreement exists.

(6) In order to obtain or renew a residential rental property license, the owner or designated agent must submit an application containing the following information concerning each residential rental property that they own in the city:

(a) the owner(s) name, address, telephone number(s), fax number and email address, if applicable;

(b) the name, address, telephone number(s), fax number and email address of the owner's designated agent, if applicable;

(c) address of the residential rental property and the number of rental units in it;

(d) whether the owner or designated agent resides in the residential rental property; and

(e) the number and specific unit identification of Section 8 rental units administered by the Housing Authority of Portland in the residential rental property, if any.

(7) The owner or designated agent must certify the truthfulness and accuracy of the information that is provided in the residential rental property license application.

(8) The owner or designated agent must submit the completed residential rental property license application to the manager within the deadline specified in the licensing requirement notice provided by the city.

(9) The owner or designated agent must inform the manager of any change concerning the information contained in the residential rental property license application within 30 calendar days of such change.

(10) The application shall be accompanied by the fee required for the residential rental property license.

(11) The license shall be renewed annually following payment of the requisite license fee and compliance with any inspection requirements.

(12) A license issued under GRC Article 9.55 is transferable to a new owner after receipt of the handling fee established by council resolution. The handling fee shall be accompanied by a new rental property license application. The new owner will retain the old license number, transferred to the new owner's name, if applicable.

(13) Licenses issued under GRC 9.55.060 shall be valid for one license year unless revoked or suspended for violation of GRC Article 9.55 or GRC Article 10.30.

(14) The provisions of GRC Article 9.55 shall not be deemed to restrict the right of the city to inspect any property pursuant to any applicable

federal, state or local law or regulation, including complaints filed under the PMC, GRC Article 10.30.

(15) Renting/operating residential rental property without a license to do so constitutes a violation of GRC Article 9.55, and is subject to the penalties and remedies set forth in GRC 9.55.160. (Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended & Renumbered, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1507, Amended, 10/19/2000)

9.55.070 License and Other Fees for Residential Rentals.

(1) Any person that owns or operates residential rental property shall pay an annual nonrefundable fee set by council resolution. The fee shall be based on the total number of residential rental units. For the purposes of this section, a lodging house shall constitute one residential rental unit.

(2) A person operating a mobile home park shall pay an annual nonrefundable license fee set by council resolution. Any person who owns land upon which a mobile home is located when that mobile home is owned by another person shall be construed as operating a mobile home park. (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended and Renumbered, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003)

9.55.090 Inspection Required.

(1) A residential rental property not previously licensed must submit a complete application and pay the applicable fee. The residential rental property shall then be subject to inspection pursuant to GRC 9.55.110.

(2) Any inspection of an owner-occupied dwelling containing one or more residential rental units shall not include inspection of the owner's unit.

(3) A residential rental property that is required to renew its license shall be subject to inspections pursuant to GRC 9.55.115. (Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.100 Inspection Standards.

Residential rental properties shall meet the standards set forth in the PMC, GRC Article 10.30. (Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.110 New License Inspection Process.

(1) For residential rental property not previously licensed in the city, an inspection may be scheduled to occur within 60 calendar days of submission of a completed residential rental property license application and payment of the licensing fee by the owner or designated agent of the property.

(2) Inspection shall comply with the procedures set forth in GRC 9.55.115(2) through (12). (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.115 Renewal License Inspection Process.

(1) For a residential rental property previously licensed in the city, a sampling of the residential rental properties subject to licensure, and the residential rental units within such residential rental property, will be identified for inspection on an annual basis using a non-discriminatory methodology adopted by the manager.

(2) At least 21 calendar days notice will be given to the owner or designated agent of the licensed residential rental property identified or designated for mandatory inspection prior to inspection of the property or premises. An inspection may be conducted with less than 21 day notice with the approval of the property owner or designated agent.

(3) The city will provide the owner or designated agent with an approved notice and consent form for each designated residential rental unit within the residential rental property. The owner or designated agent shall take all reasonable steps, as defined in a policy adopted by the manager, to secure the written consent of the residential rental unit tenant prior to the inspection. In the event the owner or designated agent fails to take all reasonable steps to secure the written consent of the tenant, the owner may be charged a per unit fee to pay for the costs to the city to obtain tenant's consent to inspect the property.

(4) If a designated unit is vacant or not being rented on the date and time of inspection, the owner or designated agent may sign the consent form in lieu of a tenant.

(5) If the owner or designated agent is unable to secure a tenant's consent for inspection, or the tenant otherwise objects to the inspection, an administrative inspection warrant may be obtained by the manager as provided in GRC 7.50.520 in order to inspect the identified residential rental unit(s).

(6) A residential rental unit tenant shall have the option of being present at the initial inspection or any reinspection(s) of said residential rental unit.

(7) An inspection checklist comprised of housing-related criteria will be used to determine whether the minimum standards of the PMC have been met.

(8) The owner or designated agent must be on the premises and accessible at all times during scheduled property inspections. If such person is not on the premises and accessible by telephone during a scheduled inspection, the inspection may be rescheduled. In the event any portion of the inspection is rescheduled because the inspection could not be completed, the owner may be charged a rescheduling fee per each rental unit which requires a rescheduled inspection.

(9) When a residential rental property has been identified and/or designated for mandatory

inspection, a representative, non-discriminatory sampling of rental units within the residential rental property shall be identified or designated for inspection pursuant to the methodology established and adopted by the manager. The methodology established by the manager shall be based on a statistically random process which may include additional criteria designed to ensure a level of confidence in the condition of the remaining units within the residential rental property.

(10) Following each inspection, the inspector will complete an inspection checklist for each residential rental unit inspected and provide a copy of the completed form to the owner or designated agent and the residential rental unit tenant.

(11) The owner or designated agent will be given written Notice of Violation should the premises or any residential rental unit(s) inspected fail to meet the standards set forth in the PMC, GRC Article 10.30.

(a) In the event no imminent threat to public health and/or safety is found to exist, the owner or designated agent shall be given a Notice of Violation pursuant to GRC 7.50.020.

(b) In the event an imminent threat to public health and/or safety is found to exist, the condition or defect may be summarily abated as provided in GRC 7.50.210.

(i) In addition to summary abatement, the residential rental license may be suspended or revoked, and the tenant(s) relocated with the assistance of the city and/or emergency housing service providers.

(ii) Residential rental units found to be directly affected by life threatening health or safety condition(s) or defect(s) shall not be occupied unless and until the designated condition and/or defect has been satisfactorily corrected as determined by subsequent inspection.

(iii) All costs of abatement, including all tenant relocation costs incurred by the city, shall be the responsibility of the residential rental property owner and assessed and enforced as provided for in GRC 7.50.240 and GRC 7.50.260.

(12) A residential rental property license may be suspended, revoked, or a renewal license not issued, unless and until all conditions and/or defects concerning the residential rental property have been corrected.

(Ord. No. 1806, Amended 04/02/2020; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.117 Private Inspection Program.

(1) Notwithstanding the above inspection process requirements, the manager is authorized to adopt a program to permit certain residential rental property owners to retain private inspectors to conduct the annual inspection of residential rental property and units identified or designated for licensure inspection. Any such program developed shall:

(a) Require the execution of a written agreement between the property owner and the city to ensure the purpose of GRC Article 9.55 and the standards of the PMC are met;

(b) Be available only to owners of residential rental property in which all rental units identified or designated for inspection in the immediately preceding annual inspection period satisfactorily met all requirements of the PMC at the time of the first inspection;

(c) Apply only to the initial inspection of the rental units identified or designated for annual inspection by the city. In the event violations are found, all reinspection and any enforcement action that may be necessary shall remain the responsibility of the city.

(Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.120 Necessity of Tenant Consent.

Before the manager may inspect a residential rental unit for which the tenant has not provided consent, an administrative inspection warrant must be secured as provided for in GRC 7.50.520. An administrative inspection warrant may also be sought upon an owner's refusal to allow access to residential rental property or premises for inspection.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.140 Term of License.

Unless voided, revoked or otherwise suspended for conditions or defects under the PMC, GRC Article 10.30, the residential rental property license term shall be for a one year period commencing from the license issuance date. Upon expiration of the license term, or following revocation or suspension of the residential rental property license, the license must be renewed or reinstated, as appropriate, in order to be effective.

(Ord. No. 1649, Enacted, 12/18/2007)

9.55.150 Retaliation; Notice of Tenant and Landlord Rights and Responsibilities.

(1) A finding by a court of competent jurisdiction that a residential rental property owner retaliated against a tenant in violation of ORS 90.385 (Retaliatory conduct by landlord) constitutes a violation.

(a) A residential rental property owner who has not previously engaged in conduct prohibited by ORS 90.385 may be subject to a fine or penalty in the maximum amount of \$2,000.

(b) A residential rental property owner who has previously been found to have engaged in conduct prohibited by ORS 90.385 within a five-year period preceding the date of the most recent finding may be subject to a fine or penalty in the maximum amount of \$4,000.

(2) A violation of ORS 90.385 shall constitute cause for the manager to deny, suspend or revoke a Residential Rental Property License.

Upon denial, suspension or revocation the manager shall give notice of such action to the residential rental property owner in writing and comply with the procedures set out at GRC 9.99.050.

(3) In addition to any other requirement set out in this Article, residential rental property owners shall deliver a copy of the City’s “Rights and Responsibilities of Tenants and Landlords” to every tenant required to sign a rental agreement. The form shall be signed by both residential rental property owner and tenant at or near the time the rental agreement is signed or renewed and retained by the property owner for the duration of the rental agreement. A signed copy shall be made available to City upon request and as part of the inspection process for any inspection provided for by this Article. Violation of this subsection shall constitute a violation and may be subject to a fine or penalty in the maximum amount of \$500 per offense.

(Ord. No. 1806, Enacted, 04/02/2020)

9.55.160 Enforcement.

(1) If a residential rental property license is denied, suspended or revoked, it shall be unlawful for the owner to permit new occupancy of any vacant unit(s) within the property until a valid residential rental property license has been issued. If a unit with violations, as determined by inspection, is or becomes vacant it shall be unlawful for the owner to permit re-occupancy of the unit(s) until all violations have been repaired, the unit reinspected and found to be in compliance with the PMC, GRC Article 10.30, or other applicable laws.

(2) If, upon inspection, a condition or defect is found to exist that constitutes an imminent threat to public health and/or safety as contemplated by GRC 9.55.115(11), city water services may be discontinued; provided, however, that prior to the disconnection or discontinuance of any city utility service the manager must:

(a) give notice to the owner or designated agent and the tenant of the affected unit(s) of the proposed utility service discontinuance,

the reasons for such action; and

(b) make a specific finding after review of the inspection checklist and report that disconnection or discontinuance of city water services is necessary to deter occupancy or habitation in the affected unit(s) in which the public health and/or safety is harmed or endangered by the continued occupancy of habitation of the unit(s).

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Enacted, 12/18/2007)

9.55.170 Violation of Local State of Emergency Measure; Penalty

(1) It shall be unlawful for any residential rental property owner to knowingly or intentionally violate a local state of emergency measure imposed by the manager pursuant to GRC Article 7.45.

(2) In addition to any other fine or penalty prescribed by this article, the manager may revoke a Residential Rental Property License for a period of up to one year, during which time the owner shall not permit new occupancy of any vacant unit(s) within the property.

(3) The provisions of GRC 9.99.050(2)-(6) shall apply to this section.

(4) This section applies to a measure ordered by the manager on or after March 12, 2020.
(Ord. No. 1809, Enacted, 03/20/2020)

Article 9.56

SHORT-TERM RESIDENTIAL RENTALS

Sections:

- 9.56.010** [Short Title.](#)
- 9.56.015** [Purpose.](#)
- 9.56.020** [Applicability.](#)
- 9.56.025** [Definitions.](#)
- 9.56.030** [Short-Term Residential Rental Registration Required; Term; Renewal.](#)
- 9.56.035** [Registration Application and Fee.](#)
- 9.56.040** [Standards and Conditions.](#)
- 9.56.045** [Enforcement.](#)

9.56.010 Short Title.

This article may be known and cited as the Short-Term Residential Rental Code.
(Ord. No. 1807, Enacted, 04/01/2020)

9.56.015 Purpose.

The purpose of this article is to regulate short-term residential rentals within the City of Gresham in order to promote public health, safety and welfare. The council finds and declares that this Short-Term Residential Rental Code is necessary to balance the rights of property owners to use their property as they choose while ensuring that the city can effectively address neighborhood livability concerns and code violations associated with short-term residential rentals.
(Ord. No. 1807, Enacted, 04/01/2020)

9.56.020 Applicability.

This article shall apply to short-term residential rentals located within the city, but shall not apply to residential rental property subject to regulation under Article 9.55 or any property listed in Article 9.55.060(4).
(Ord. No. 1807, Enacted, 04/01/2020)

9.56.025 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in in GRC Article 9.56, the following terms mean:

Daytime. The hours of 7 a.m. to 10 p.m.

Dwelling Unit. A building, or any portion thereof, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Hosted Homeshare. An owner-occupied dwelling unit, or any portion thereof, that is rented to any person for lodging or residential purposes for a period of up to thirty (30) consecutive days.

Organized event. A gathering of people who have been invited to a short-term residential rental for the primary purpose of socializing and/or participating in a ceremonial or business activity, such as parties, weddings, reunions and company retreats.

Overnight. The hours of 10 p.m. to 7 a.m.

Owner. The owner(s) of a short-term residential rental.

Property Maintenance Code of Gresham ("PMC"). GRC Article 10.30.

Registrant. The owner or agent of owner designated on the short-term residential rental registration application to act on behalf of the owner who is responsible for ensuring that the short-term residential rental meets all applicable requirements of this article.

Short-Term Residential Rental ("STR"). A Hosted Homeshare or Vacation Home Rental.

Vacation Home Rental. A dwelling unit, or any portion thereof, that is not occupied by at least one owner and rented to any person for lodging or residential purposes for a period of up to thirty (30) consecutive days.
(Ord. No. 1807, Enacted, 04/01/2020)

**9.56.030 Short-Term Residential Rental
Registration Required; Term;
Renewal.**

(1) No owner may advertise, offer, operate, rent, or otherwise make available or allow any other person to make available for occupancy or use an STR without a certificate of registration issued by the city.

(2) Certificates of registration shall be valid for one year from date of issuance and are renewable on an annual basis. The certificate shall be issued in the name of the registrant and is not transferable. If a renewal application is timely filed, the term of the existing registration shall not expire until the issuance of the renewal registration or the final decision denying the renewal registration, unless otherwise revoked by the manager.

(3) Registrant shall inform the manager of any change concerning the information contained in the registration application within ten (10) calendar days of such change. Any required posting or notification required by this Article shall be promptly updated to reflect such change.

(4) The manager shall issue a certificate of registration upon a determination that all of the applicable provisions of this article and all other applicable city requirements have been met.
(Ord. No. 1807, Enacted, 04/01/2020)

9.56.035 Registration Application and Fee.

(1) Application for an initial or renewal registration shall be filed with the manager on a form provided by the city and shall contain at least the following information:

- (a) the location of the STR;
- (b) the names of all owners with current contact information;
- (c) the name, telephone number, email address and home address of a primary and backup contact person who shall be authorized to address complaints concerning the use of a STR, one of which must reside

within the Portland metropolitan area;

(d) proof of liability insurance coverage of a type and amount as required by the city attorney;

(e) a certification from the registrant that the registrant will enforce maximum occupant loads and parking requirements applicable to the STR; and

(f) a certification from the registrant that the information contained in the application is true and correct, and that the STR is and will remain in compliance with all applicable standards, codes and conditions for the registration term.

(2) An initial or renewal registration application fee shall be due upon submission in the amount established by council resolution.

(3) The manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this article for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing its provisions. A copy of such administrative rules and regulations shall be on file with city recorder and posted on the city website.

(Ord. No. 1807, Enacted, 04/01/2020)

9.56.040 Standards and Conditions.

(1) The following standards and conditions apply to all STRs:

(a) the STR may not be used for an organized event;

(b) occupants shall abide by the city's Noise Control Code set out in Article 7.20 and observe quiet hours from 10 p.m. to 7 a.m.;

(c) registrant shall post a copy of the certificate of registration or other city-issued documentation which shall contain at least the following information:

- (i) registration expiration date;

(ii) name and contact information of the contact person (primary and backup);

(iii) number of required parking spaces at the STR; and

(iv) maximum overnight and daytime occupancy at the STR.

The notice shall be posted on the interior of a window facing the street adjacent to the front door. If no such area exists, then the notice shall be posted in a location clearly visible to any person desiring to review the notice.

(d) registrant shall reference a city-issued flyer titled "Good Neighbor Guidelines" in every STR online advertisement as well as post in two distinct, visible places within the STR, such as the entryway, kitchen or bedroom door;

(e) the maximum overnight occupancy for STRs shall be limited to two persons per legal bedroom plus two additional persons. The maximum daytime occupancy shall be limited to the maximum overnight occupancy plus six additional persons. Maximum overnight and daytime occupancies shall be disclosed in any advertising for the STR. Children under the age of two shall not be counted towards maximum occupancy;

(f) one code-compliant off-street parking space shall be made available for every two bedrooms. Garage space may be used to meet the required parking standard if the space is not available for use by another occupant; and

(g) the registrant or contact person shall promptly respond to complaints regarding the use of the short-term rental.

(2) In addition to the provisions set out in subsection (1), the following additional standards and conditions apply to hosted homeshares:

(a) registrant shall submit sufficient proof as determined by the manager that an owner resides at the hosted homeshare; and

(b) registrant shall certify that an owner has performed a safety inspection pursuant to the city-supplied STR safety inspection checklist, and that the hosted homeshare is in compliance with the provisions of this article and applicable provisions of the PMC as determined by the manager.

(3) In addition to the provisions set out in subsection (1), the following additional standards and conditions apply to vacation home rentals:

(a) registrant shall permit city staff to conduct a safety inspection to ensure compliance with this article and applicable provisions of the PMC as determined by the manager; and

(b) City shall mail a notification to neighbors within a 100-foot radius of the vacation home rental which shall contain all of the following information:

(i) the expiration date of the certificate of registration;

(ii) the name and contact information of a primary and backup contact person;

(iii) the number of required parking spaces; and

(iv) the maximum overnight and daytime occupancy.

The sole purpose of the notice is to provide neighbors with accurate contact information to address issues that may arise with the vacation home rental.

(Ord. No. 1807, Enacted, 04/01/2020)

9.56.045 Enforcement.

(1) Violation of any provision of this article constitutes a violation and is subject to the penalties and remedies set forth in GRC Article 9.99.

(2) In addition to the enforcement tools set out in Article 9.99, the manager may place conditions on a certificate of registration deemed

necessary to ensure compliance with the provisions of this Article or any other city requirement.

(Ord. No. 1807, Enacted, 04/01/2020)

Article 9.60

TRANSIENT LODGING TAX

Sections:

- 9.60.010 Definitions.
- 9.60.020 Tax Imposed.
- 9.60.040 Operator's Duties.
- 9.60.050 Exemptions.
- 9.60.080 Delinquency Penalties.
- 9.60.090 Deficiency Determinations.
- 9.60.100 Overpayments.
- 9.60.110 Notice Determination.
- 9.60.120 Redemption Petition.
- 9.60.130 Fraud; Refusal to Collect; Evasion.
- 9.60.150 Redeterminations.
- 9.60.160 Security for Collection of Tax.
- 9.60.170 Refunds to Operator.
- 9.60.180 Refunds by City to Transient.
- 9.60.190 Refunds by Operator to Transient.
- 9.60.200 Records Required From Operators.
- 9.60.210 Audit of Records.
- 9.60.220 Enforcement.

9.60.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 9.60, unless the context requires otherwise, the following mean:

Accrual accounting. A system of accounting in which the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

Cash accounting. A system of accounting in which the operator does not enter the rent due from a transient on the records until rent is paid.

Occupancy. The use or possession of, or the right to use or possess, any transient lodging facility for lodging or sleeping.

Operator. Operator means the following:

- (a) Transient Lodging Provider. A

person that furnishes a transient lodging facility; or

(b) Transient Lodging Facility Intermediary. A person other than a transient lodging facility provider that facilitates the retail sale of transient lodging and:

(i) charges for occupancy of the transient lodging facility; or

(ii) collects the consideration charged for occupancy of the transient lodging facility; or

(iii) receives a fee or commission and requires the transient lodging facility provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging facility; or

(iv) connects transients with transient lodging facility providers either online or in any other manner.

Person. In addition to the definition set forth in GRC 1.05.010, as used in this article, "person" also includes but is not limited to, a social club, fraternal organization, fraternity, sorority, public or private dormitory, or any other group or combination acting as a unit.

Rent. The total retail price, valued in money, goods, labor, credits, property or other consideration valued in money, including all charges other than taxes, paid by the transient for occupancy of the transient lodging. If a separate fee is charged for services, goods, or commodities and the fee is optional, that fee is not included in rent.

Rent package plan. The consideration charged for both food and rent when a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax shall be the same charge made for rent when it is not a part of a package plan.

Tax. Either the tax payable by the transient or the aggregate amount of taxes due from an operator

during the period for which the operator is required to report collections.

Transient. An individual who occupies or is entitled to occupy space in a transient lodging facility for a period of 30 consecutive days or less, counting portions of days as full days. The day a transient checks out of the transient lodging facility shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. An individual occupying space in a transient lodging facility shall be considered a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenant actually extends occupancy more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be considered a transient.

Transient Lodging. Occupancy in a transient lodging facility.

Transient Lodging Facility. Structures, rooms, or spaces used or intended for use as temporary transient occupancy purposes for 30 days or less in or on:

- (a) hotel, motel, and inn units; or
- (b) spaces used for parking recreational vehicles or mobile homes; or
- (c) houses, cabins, condominiums, apartment units, or portions thereof; or
- (d) similar structures, spaces, rooms or portions thereof.

(Ord. No. 1797, Amended, 04/19/2019; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1759, Amended, 11/19/2015; Ord. No. 1700, Amended, 03/03/2011)

9.60.020 Tax Imposed.

For the privilege of occupancy in a transient lodging facility in the city, each transient shall pay a tax in the amount set by council resolution. The tax shall be computed on the rent. The tax constitutes a debt owed by the transient to the city,

which is extinguished only by payment by the operator to the city. The transient shall pay the tax to the operator at the time the rent is paid. The operator shall record the tax when rent is collected if the operator keeps records on the cash accounting basis and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services or commodities.

(Ord. No. 1797, Amended, 04/19/2019; Ord. No. 1759, Amended, 11/19/2015)

9.60.040 Operator's Duties.

(1) Any operator doing business in the city shall register with the manager on a form provided by the manager within 15 days after commencing business. The failure to register with the manager does not relieve any operator from the obligation of payment or collection of tax.

(2) Every operator shall collect a tax from the transient unless the occupancy is exempt. The tax collected or accrued by the operator constitutes a debt owed by the operator to the city.

(3) An operator shall collect the tax imposed by GRC 9.60.020 at the same time as the rent is collected from the transient. The operator shall separately show the amount of tax on the operator's records and on the receipt given to the transient. An operator shall not advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by GRC Article 9.60.

(4) The operator shall pay the taxes collected from its transients to the manager on at least a quarterly basis no later than the last day of the following month for the preceding quarter. Taxes are delinquent if they are not paid before or on the due date. The initial return may be for less than the full quarter preceding this due date. The operator shall file the return in a form prescribed by the manager.

The quarters are:

1st Quarter	January, February, March
2nd Quarter	April, May, June
3rd Quarter	July, August, September
4th Quarter	October, November, December

(5) The manager may, in order to ensure payment or facilitate collection by the city of taxes in an individual case, require returns and payment of the amount of taxes for other than quarterly periods.

(6) The operator shall deliver the return together with the amount of the tax due, to the manager's office, by personal delivery, mail, or electronic means (e.g. ACH [Automated Clearing House] and email). The following determines receipt of the return: the postmark date of mailed returns, the remission date for personal deliveries, and the date of successful electronic submission if submitted electronically.

(7) For good cause, the manager may extend for not more than one month, the time for making payment of tax. No further extension shall be granted. An operator to whom an extension is granted shall pay a late payment charge on the amount of tax due, without proration for a fraction of a month. If a return is not filed, and the tax and late payment charge due is not paid by the end of the extension granted, then the late payment charge shall become a part of the tax for computation of penalties prescribed in GRC 9.60.080.

(8) In cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

(9) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.
(Ord. No. 1797, Amended, 04/18/2019)

9.60.050 Exemptions.

The tax required by GRC 9.60.020 shall not be imposed upon:

(1) An occupant for more than 30 successive days.

(2) A transient whose rent is of a value less than \$15.00 per day.
(Ord. No. 1797, Amended, 04/18/2019)

9.60.080 Delinquency Penalties.

(1) An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.

(2) An operator who has not been granted an extension of time for remittance of tax due, and who fails to pay a delinquent remittance on or before the expiration of 30 days following the date on which the remittance became delinquent, shall pay a second delinquency penalty of 15 percent of the amount of the tax in addition to the amount of the tax and the 10 percent penalty first imposed.

(3) If the manager determines that the nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of 25 percent of the amount of the tax shall be added in addition to the penalties stated in subsections (1) and (2).

(4) In the event the amount of the required tax to be paid is not able to be calculated, an operator who fails to remit the tax due prior to delinquency may be subject to a fine or penalty in the amount of \$5,000.

(5) Each penalty shall be calculated from the amount of the tax due, exclusive of other penalties, on which the tax first became delinquent.

(6) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay a late payment charge, in the amount set pursuant to GRC 2.92.010(1), without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the tax first became delinquent

until paid.

(7) Each penalty imposed and the late payment charge accrued under the provisions of this section shall be merged with and become a part of the tax required to be paid.

(8) An operator who fails to remit the tax within the time required may petition the manager for waiver and refund of the penalty or any portion of it. The manager may, if good cause is shown, direct a refund of the penalty or a portion of it.

(Ord. No. 1797, Amended, 04/18/2019; Ord. No. 1700, Amended, 03/03/2011)

9.60.090 Deficiency Determinations.

If the manager determines that the returns are incorrect, the manager may compute and determine the amount required to be paid upon the basis of the facts contained in the return or upon the basis of any information in the manager's possession. Deficiency determination may be made on the amount due for one or more than one period; and the amount so determined shall be due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as provided in GRC 9.60.080.

9.60.100 Overpayments.

In making a determination, the manager may offset overpayments, if any, which may have been previously made, against a deficiency for a subsequent period, or against penalties and late payment charges on the deficiency. The late payment charge on the deficiency shall be computed as provided in GRC 9.60.080.

(Ord. No. 1700, Amended, 03/03/2011)

9.60.110 Notice of Determination.

(1) The manager shall give the operator a written notice of the determination. The notice may be served personally, by postal mail, or by postal mail and by email. Mailed notices shall be addressed to the operator at the address that appears on the manager's records and service is complete at the time of deposit in the post office.

(2) Except in the case of fraud or intent to evade the tax, the manager shall make a deficiency determination and shall mail, and may email, a notice within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever is later.

(Ord. No. 1797, Amended, 04/18/2019)

9.60.120 Redemption Petition.

A determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the manager has given notice. However, the operator may petition for redemption and refund if the petition is filed before the determination becomes final.

9.60.130 Fraud; Refusal to Collect; Evasion.

(1) If an operator fails or refuses to collect the tax, to make the report and remittance of the tax, makes a fraudulent return, or otherwise willfully attempts to evade the tax payment, the manager shall proceed to obtain facts and information on which to base an estimate of the tax due. When the manager has determined the tax due, and the late payment charge and penalties, the manager shall give notice of the amount so assessed as provided in GRC 9.60.110.

(2) The determination and notice shall be made and mailed within three years after discovery by the manager of any fraud, intent to evade, or failure or refusal to collect the tax, or failure to file a return. The determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the notice, as provided in GRC 9.60.120.

(3) The operator may petition for redemption and refund if the petition is filed before the determination becomes final.

(Ord. No. 1759, Amended, 11/19/2015; Ord. No. 1700, Amended, 03/03/2011)

9.60.150 Redeterminations.

(1) An operator against whom a determination is made under GRC 9.60.090, or any person directly interested, may petition for a redetermination, redemption and refund within the time required in this section. If a petition for redetermination and refund is not filed within the time required, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the manager shall reconsider the determination and, if the operator has so requested in his petition, shall grant the operator an oral hearing and give the operator 10 days notice of the time and place of the hearing. The hearing shall be conducted in accordance with the procedures set forth in GRC 7.50.030(5)-(8). The manager may continue the hearing if necessary.

(3) The manager may decrease or increase the amount of the determination as a result of the hearing; and, if an increase is determined, the increase shall be payable immediately after the hearing. The manager's unopposed decision shall become final 10 days after service of the notice upon the petitioner.

(4) An operator may protest the manager's decision. Protests must be filed with the manager within 10 days after service of the notice for an order or decision. A hearing officer shall review the decision pursuant to the procedures set forth in GRC 7.50.030(2)-(10).

(5) A petition for redetermination or protest therefrom shall not be effective unless the operator has first complied with the payment provisions.
(Ord. No. 1797, Amended, 04/18/2019; Ord. No. 1759, Amended, 11/19/2015; Ord. No. 1590, Amended, 09/16/2004)

9.60.160 Security for Collection of Tax.

(1) The manager may require an operator to deposit security in the form of cash, bond, or other security, as the manager determines. The amount of the security shall be fixed by the manager, may be increased or decreased by the manager, but shall not be greater than twice the operator's estimated average quarterly liability for the period

for which he files returns.

(2) At any time within three years after the tax becomes due and payable, or at any time within three years after a determination becomes final, the manager may bring an action in the courts of this state, or any other state, or of the United States, in the name of the city to collect the amount delinquent, together with penalties and late payment charges.

(Ord. No. 1700, Amended, 03/03/2011)

9.60.170 Refunds to Operator.

When any tax, penalty or late payment charge has been paid more than once or has been erroneously or illegally collected or received by the manager, it may be refunded, provided that a verified claim is filed in writing with the manager within three years from the date of payment, stating the specific reason upon which the claim is founded. The claim shall be made on forms provided by the manager. If the claim is approved, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected and the balance refunded to the operator. The operator shall refund the transient all amounts due to transient if the operator receives a tax refund or credit.

(Ord. No. 1797, Amended, 04/18/2019; Ord. No. 1700, Amended, 03/03/2011)

9.60.180 Refunds by City to Transient.

If the tax has been collected by an operator who is no longer in business and deposited with the manager, and it is later determined that the tax was erroneously or illegally collected or received by the manager, it may be refunded to the transient, provided that a verified city claim form stating the specific reason on which the claim is founded, together with supporting documentation, is filed in writing with the manager within three years from the date of payment.

(Ord. No. 1759, Amended, 11/19/2015)

9.60.190 Refunds by Operator to Transient.

If the tax required by this ordinance has been

collected by the operator and it is later determined that the transient occupies the transient lodging facility for a period exceeding 30 days without interruption, the operator shall refund to the transient the tax previously collected by the operator from that transient. If the operator has remitted the tax prior to refund or credit to the transient, the operator shall be entitled to a corresponding refund by the manager.

(Ord. No. 1797, Amended, 04/18/2019)

9.60.200 Records Required From Operators.

Every operator shall keep guest records, accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months.

9.60.210 Audit of Records.

The manager may investigate and audit the business of the operator in order to verify the accuracy of a return made or, if no return is made by the operator, to ascertain and determine the amount required to be paid. Such audit shall be pursuant to GRC 2.92.210.

9.60.220 Enforcement.

The manager shall enforce the provisions of GRC Article 9.60, and may adopt rules and regulations necessary to aid in the enforcement.

(Ord. No. 1797, Enacted, 04/18/2019)

Article 9.62

TAX ON THE SALE OR TRANSFER OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS

Sections:

- 9.62.010 Purpose.
9.62.020 Definitions.
9.62.030 Levy of Tax.
9.62.040 Deductions.
9.62.050 Seller Responsible for Payment of Tax.
9.62.060 Penalties and Late Payment Charge.
9.62.070 Failure to Report and Remit Tax – Determination of Tax by Manager.
9.62.080 Protest.
9.62.090 Refunds.
9.62.120 Forms and Procedures.
9.62.130 Enforcement.

9.62.010 Purpose.

(1) For the purposes of this article, every person who sells or transfers marijuana or marijuana-infused products in the City of Gresham is exercising a taxable privilege.

(2) The purpose of this article is to impose a tax upon the retail sale or transfer of marijuana and marijuana-infused products within the City of Gresham to the extent said sale or transfer is authorized by the Oregon Medical Marijuana Act, pursuant to Ballot Measure 91 (2014) or any other applicable law.

(3) Nothing in this article is intended by the City of Gresham to affirmatively authorize, license, permit or grant the privilege to sell or transfer marijuana or marijuana-infused products.

(4) The city, in exercise of its constitutional home rule authority and pursuant to Section 5 of the Gresham City Charter, may elect by separate legislation to regulate or prohibit the production,

growing, processing, keeping, storage, wholesale, sale or transfer of marijuana and marijuana-infused products to the maximum extent allowed by law.

(5) No part of this article is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 USC § 800, et seq., nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation.

(Ord. No. 1744, Enacted, 11/20/2014)

9.62.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, unless the context requires otherwise, the words and phrases used in this article and GRC Article 9.63 shall have the meaning set forth in the Oregon Medical Marijuana Act, and the Control and Regulation of Marijuana Act, unless defined otherwise below:

Gross Taxable Sales. The total amount or value received in money, credits, real property, personal property, services, other consideration or reimbursement from the sale or transfer of marijuana and marijuana-infused products subject to the tax imposed by this article.

Homegrown Recreational Marijuana Grow Site. The production of marijuana at a household that does not exceed four marijuana plants at any time.

Marijuana Business. A medical marijuana business, a recreational marijuana business, a marijuana testing laboratory or a marijuana research facility.

Marijuana Research Facility. A location used by a person with a certificate issued pursuant to Oregon Laws 2015, chapter 614, section 113 to research marijuana.

Marijuana Testing Laboratory. A location licensed under Oregon Laws, 2015, chapter 614, section 93, to test marijuana.

Marijuana Waste. As defined in GRC 7.25.020.

Medical Marijuana. Refers to marijuana in any form for use by a person with a registry identification card to mitigate symptoms or effects of a person's debilitating medical condition as defined in ORS 465.302.

Medical Marijuana Business. A Medical Marijuana Dispensary, Medical Marijuana Processing site, or a Non-Personal Medical Marijuana Grow Operation.

Medical Marijuana Dispensary. A location that is registered with the Oregon Health Authority under ORS 475.314 and that sells, distributes, transmits, transfers, gives, dispenses or otherwise provides medical marijuana to a person with a registry identification card or the cardholder's designated caregiver. A dispensary includes all premises, buildings, curtilage or other structures used to accomplish the storage, distribution, and dissemination of medical marijuana.

Medical Marijuana Processor. A location that is registered with the Oregon Health Authority under Oregon Laws 2015, chapter 614, section 85, for the compounding or conversion of marijuana into medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

Non-Personal Medical Marijuana Grow Operation. Any marijuana grow site registered with the Oregon Health Authority under ORS 475.304 for the planting, cultivating, growing, trimming or harvesting marijuana, or drying marijuana leaves or flowers, but excluding a Personal Medical Marijuana Grow Site.

Operator. The natural person having the primary responsibility for the day-to-day operation or management of the medical marijuana business.

Person. As defined in GRC 1.05.010 and includes both a natural person and a legal entity.

Personal Medical Marijuana Grow Site. A marijuana grow site registered with the Oregon Health Authority at the location where the holder of a registry identification card lives. Notwithstanding the number of grow sites registered by the Oregon Health Authority at the location, or the number of persons with a registry

identification card at the location, a personal medical marijuana grow site shall lose that designation if more than six mature medical marijuana plants are growing at such location.

Principal. A natural person who is a member, partner, or corporate officer, and all stockholders holding more than 10 percent of the voting stock, of any person that is not a natural person. Includes the principals of any entity that has an ownership interest in any entity described in GRC 9.63.040(1)(c)(i) – (iv).

Recreational Marijuana Business. A recreational marijuana producer, recreational marijuana processor, recreational marijuana wholesaler, or a recreational marijuana retailer.

Recreational Marijuana Producer. A location licensed under Oregon Laws 2015, chapter 1, section 19, to produce recreational marijuana.

Recreational Marijuana Processor. A location licensed under Oregon Laws 2015, chapter 1, section 20, to process recreational marijuana.

Recreational Marijuana Wholesaler. A location licensed under Oregon Laws 2015, chapter 1, section 21, to wholesale recreational marijuana.

Recreational Marijuana Retailer. A location licensed under Oregon Laws 2015, chapter 1, section 22, to retail recreational marijuana.

Registry Identification Card. A document issued by the Oregon Health Authority that identifies a person with a debilitating medical condition who is authorized by Oregon law to engage in the medical use of marijuana (also known as a patient), but does not include a caregiver identification card, a medical marijuana grow site registration card, or a grower identification card.

Retail Sale. The furnishing by any person of marijuana or marijuana-infused products in exchange for any consideration or reimbursement but does not include the transfer or exchange of money, goods or services between a grower, processor, wholesaler or seller.

Seller. Any person who is, or is required to be, licensed or registered by the State of Oregon to provide marijuana or marijuana-infused products to another person for money, credit, real property, personal property, services, other consideration or reimbursement.

Tax. Either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report gross taxable sales under this article.

Taxpayer. Any person from whom a tax is due, or is obligated to account to the manager for gross taxable sales under the terms of this article.
(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Amended, 05/05/2015; Ord. No. 1744, Enacted, 11/20/2014)

9.62.030 Levy of Tax.

(1) There is hereby levied and shall be paid by every seller exercising the taxable privilege of selling or transferring marijuana and marijuana-infused products, a tax on gross taxable sales, as defined in this article.

(2) The amount of tax levied for medical marijuana shall be 3% of the gross taxable sales of a medical marijuana dispensary.

(3) As provided by Oregon Laws 2015, chapter 614, section 34a, the amount of tax levied for recreational marijuana shall be 3% of the gross taxable sales of a recreational marijuana retailer.
(Measure 26-186, Enacted 9.62.030(3), 12/08/2016; Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1744, Enacted, 11/20/2014)

9.62.040 Deductions.

The following deductions shall be allowed against gross taxable sales received by the seller providing marijuana:

(1) Refunds of sales or transfers actually returned to any purchaser;

(2) Any adjustments in sales or transfers which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale or transfer of marijuana or marijuana-infused

products and does not include any adjustments for other goods or services furnished by a seller.
(Ord. No. 1744, Enacted, 11/20/2014)

9.62.050 Seller Responsible for Payment of Tax.

(1) Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January), make a return to the manager, on forms provided by the city, specifying the total gross taxable sales subject to this article and the amount of tax under this article. A return shall not be considered filed until it is actually received by the manager.

(2) At the time the return is filed, the full amount of the tax shall be remitted to the manager.

(3) Notwithstanding any designation by the seller, payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to any late payment charge, then to the underlying tax until the payment is exhausted. If the manager, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, the manager may order such a change.

(4) The manager may establish shorter reporting periods for any seller if the manager deems it necessary to ensure collection of the tax. The manager also may require additional information in the return relevant to payment of the amount due or otherwise in the best interest of the city. When a shorter return period is required, penalties and late payment charge shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason.

(5) Every seller must keep and preserve in an accounting format established by the manager records of all sales or transfers made by the seller and such other books or accounts as may be required by the manager. Every seller must keep and preserve for a period of three years all such

books, invoices and other records. The manager shall have the right to inspect all such records at all reasonable times.

(Ord. No. 1744, Enacted, 11/20/2014)

9.62.060 Penalties and Late Payment Charge.

(1) Any seller who fails to remit any portion of any tax imposed by this article within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

(2) Any seller who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of fifteen percent of the amount of the tax in addition to the amount of the tax and the penalty first imposed. Thereafter, the seller shall pay an additional penalty of fifteen percent of the amount of the tax and penalties imposed for each period of 30 days following the previous penalty.

(3) If the manager determines that the nonpayment of any remittance due under this article is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (1) and (2) of this section.

(4) In addition to any penalty imposed, any seller who fails to remit any tax or penalty imposed by this article shall pay a late payment charge in the amount set pursuant to GRC 2.92.010(1) from the date on which the remittance first became delinquent until paid.

(5) Every penalty imposed, and such late payment charge as may accrue under the provisions of this section, shall become a part of the tax required to be paid.

(6) The manager may establish criteria and procedures to grant a request for reduction of penalties, late payment charge or other costs incurred due to failure to remit any portion of any tax imposed by this article. Requests for a

reduction shall be reviewed under the following conditions:

(a) the seller remits the unpaid tax(es) to the city;

(b) the seller submits to the manager a request in writing; and

(c) the request includes the seller's contact information, and specifies each and every reason for the request with any supporting documentation that is available to the seller at the time of the request.

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1744, Enacted, 11/20/2014)

9.62.070 Failure to Report and Remit Tax – Determination of Tax by Manager.

If any seller should fail to make, within the time provided in this article, any report of the tax required by this article, the manager shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of tax due. As soon as the manager shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this article and payable by any seller, the manager shall proceed to determine and assess against such seller the tax, penalties and late payment charge provided for by this article. In case such determination is made, the manager shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make a protest of such determination as provided in GRC 7.50.030. If no protest is filed, the manager's determination is final and the amount thereby is immediately due and payable.

(Ord. No. 1744, Enacted, 11/20/2014)

9.62.080 Protest.

Any seller aggrieved by any decision of the manager with respect to the amount of such tax, penalty and late payment charge may protest

pursuant to GRC 7.50.030. The hearings officer shall hear and consider any records and evidence presented bearing upon the manager's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the hearings officer shall be final and conclusive, and shall be served upon the person filing the protest in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. No. 1744, Enacted, 11/20/2014)

9.62.090 Refunds.

(1) Whenever the amount of any tax, penalty or late payment charge has been overpaid or paid more than once, or has been erroneously collected or received by the city under this article, it may be refunded as provided in this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the manager within one year of the date of payment. The claim shall be on forms furnished by the manager.

(2) The manager shall have 30 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim, unless the manager notifies the claimant in writing of the reasons that the review will take longer than 30 days.

(3) The manager shall notify the claimant in writing of the manager's determination. Such notice shall be mailed to the address provided by claimant on the claim form.

(4) In the event a claim is determined by the manager to be a valid claim, the manager shall make a refund, or provide a credit against the tax liability for the next reporting period, as indicated on the claim form. In the event the claimant did not indicate a choice on the claim form, and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

(5) No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the manager acknowledges the validity of the claim.

(6) No claim shall be required if the manager discovers that any tax, penalty or late payment charge has been overpaid or paid more than once, or has been erroneously collected or received by the city under this article and determines that a refund or credit should be made.

(Ord. No. 1744, Enacted, 11/20/2014)

9.62.120 Forms and Procedures.

The manager is hereby authorized to prescribe forms and promulgate procedures to aid in the making of returns, the ascertainment, assessment and collection of the tax imposed by this article and, in particular and without limiting the general language of this article, to provide for:

(1) a form to report gross taxable sales, the amount of tax, and such other information deemed relevant by the manager;

(2) the records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this article;

(3) a form to claim a refund.

(Ord. No. 1744, Enacted, 11/20/2014)

9.62.130 Enforcement.

(1) It is a violation of this article for any seller or other person to:

(a) fail or refuse to comply as required herein;

(b) fail or refuse to furnish any return required to be made;

(c) fail or refuse to permit inspection of records;

(d) fail or refuse to furnish a supplemental return or other data required by

the manager;

(e) render a false or fraudulent return or claim; or

(f) fail, refuse or neglect to remit the tax to the city by the due date.

(2) All violations of this article are punishable as set forth in GRC Article 9.99 and GRC Article 7.50.

(3) Notwithstanding the provision of GRC 9.99.040(3), the fine or penalty for violation of GRC 9.62.130(2)(f) shall be in the maximum amount of \$5,000.

(Ord. No. 1744, Enacted, 11/20/2014)

Article 9.63

MARIJUANA BUSINESSES

Sections:

- 9.63.010** [Purpose.](#)
- 9.63.020** [Definitions.](#)
- 9.63.030** [Registration/License Required.](#)
- 9.63.040** [Registration Application.](#)
- 9.63.050** [Issuance of a Registration; Posting, Term, Renewal, Surrender, and Transferability.](#)
- 9.63.060** [Registration Denial, Suspension or Revocation.](#)
- 9.63.070** [Inspection of Marijuana Businesses.](#)
- 9.63.080** [Standards of Operation.](#)
- 9.63.090** [Location of Marijuana Businesses.](#)
- 9.63.100** [Indemnification.](#)
- 9.63.110** [Examination of Books, Records and Premises.](#)
- 9.63.120** [Protest.](#)
- 9.63.130** [Enforcement.](#)

9.63.010 Purpose.

(1) The purpose of this article is to impose certain requirements on the registration, operation, and siting of marijuana businesses within the city.

(2) The city, in exercise of its constitutional home rule authority and pursuant to Section 5 of the Gresham City Charter, may elect to regulate or prohibit the production, growing, processing, keeping, storage, wholesale, sale or transfer of marijuana to the maximum extent allowed by law.

(3) No part of this article is intended to or shall be deemed to conflict with federal law including, but not limited to, the Controlled Substances Act, 21 USC § 800, et seq. (Act), nor to otherwise authorize or permit any activity that is prohibited under the Act, or any other applicable local, county, regional, state or federal law or regulation.

(4) The registration required by this article facilitates the city's oversight of a marijuana

business. Nothing in this article is intended by the city to affirmatively authorize, license, permit or grant a privilege to sell or transfer marijuana. The registration required by this article shall not be construed to constitute an authorization to engage in any activity prohibited by law, nor a waiver of any other license, permit or regulatory requirement imposed by any other provision of the Gresham Revised Code, the Gresham Community Development Code, or applicable local, county, regional, state or federal law or regulation.

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, unless the context requires otherwise, the words and phrases as used in this article shall have the meanings set forth in GRC 9.62.020.

(Ord. No. 1752, Enacted, 05/05/2015)

9.63.030 Registration/License Required.

(1) Local Registration Required. No person shall operate a marijuana business in the City of Gresham without registering with the city. A marijuana business is not registered with the city until the city issues a Certificate of Registration.

(2) State Registration Required. To be eligible to apply for registration under this article, a medical marijuana business must be registered with, and authorized to operate by, the Oregon Health Authority.

(3) State License Required. To be eligible to apply for registration under this article, a recreational marijuana business or a marijuana testing laboratory must be licensed with, and authorized to operate by, the Oregon Liquor Control Commission.

(4) State Certificate Required. To be eligible to apply for registration under this article, a marijuana research facility must be authorized to operate by the Oregon Liquor Control Commission.

(5) A marijuana testing laboratory and a

marijuana research facility shall not be subject to or required to comply with the following:

- (a) GRC 9.63.040(1)(g) (criminal history report),
- (b) GRC 9.63.040(1)(i) (accounting/inventory),
- (c) GRC 9.63.040(1)(k) (floor plan),
- (d) GRC 9.63.040(1)(l) (odor),
- (e) GRC 9.63.060(3) (background checks),
- (f) GRC 9.63.070(3) (quarterly inspections),
- (g) GRC 9.63.080(3) (insurance),
- (h) GRC 9.63.080(5) (hours), or
- (i) GRC 9.63.080(11) (use of flame/combustibles).

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.040 Registration Application.

(1) Registration. Registration applications must be submitted to the manager for a proposed marijuana business. A separate registration application must be submitted for each proposed marijuana business and for each proposed location, if more than one. A registration application for a marijuana business may include more than one type of marijuana business with the same ownership on the same parcel. The registration application must be on a form provided by the manager and shall include the following information:

- (a) the name of the marijuana business;
- (b) the location of the marijuana business with:
 - (i) documentation from the Oregon Health Authority that the business is registered at that location as:

(A) a medical marijuana dispensary; or

(B) a medical marijuana grow site; or

(C) a medical marijuana processor.

(ii) documentation from the Oregon Liquor Control Commission that the business is licensed at that location as:

(A) a recreational marijuana producer; or

(B) a recreational marijuana processor; or

(C) a recreational marijuana wholesaler; or

(D) a recreational marijuana retailer; or

(E) a marijuana testing laboratory.

(iii) documentation from the Oregon Liquor Control Commission that the business has a certificate to operate a marijuana research facility at that location.

(c) the name and address of:

(i) the applicant, including all principals;

(ii) any person that has an ownership interest in the marijuana business, including all principals;

(iii) any person that has loaned or given money, real property or personal property for use by the marijuana business (financial interest) within the preceding 12 months, including all principals;

(iv) any person that owns the real property to be used by the marijuana

business and any person who manages that property on behalf of the real property owner(s);

(v) the natural person that has the responsibility for day-to-day operation or management of the marijuana business; and

(vi) any natural person who is anticipated at the time of the application to be an employee or volunteer at the marijuana business.

(d) an on-site manager or on-site point of contact for conducting regular communication with the business;

(e) the postal, e-mail, and website addresses, and telephone number(s) of the medical marijuana business and any person described in GRC 9.63.040(1)(c)(i) – (ii), and (iv) – (v);

(f) the name, telephone number, postal and e-mail addresses of the natural person to receive on behalf of the marijuana business, all correspondence about the registration;

(g) a valid Marijuana Worker Permit issued by the OLCC or certified state background clearance for medical marijuana employment, for any natural person or principal described in GRC 9.63.040(1)(c)(i) – (iii) and (v) – (vi);

(h) a detailed description of the type, nature and extent of the marijuana business including, but not limited to, a description of the products to be provided by the marijuana business, and the process by which such products will be manufactured;

(i) a detailed description of the proposed accounting and inventory system of the marijuana business;

(j) the proposed days and hours of operation of the medical marijuana dispensary or the recreational marijuana retailer;

(k) a dimensioned floor plan of the entire space in which the marijuana business is to be located. The floor plan shall be of sufficient clarity to indicate the location, nature and extent of the existing and proposed improvements and shall include the following minimum information:

(i) labeling the principal uses of the floor area of a medical marijuana dispensary or recreational marijuana retailer including, but not limited to, entrance areas, office areas, retail areas, display cases, private consulting areas, and areas where marijuana will be packaged, distributed, stored and/or disposed;

(ii) labeling the principal uses of the floor area of the non-personal medical marijuana grow operation and recreational marijuana producer including, but not limited to, entrance areas, office areas, growing and drying areas, and areas where marijuana will be packaged, stored and/or disposed;

(iii) labeling the principal uses of the floor area of the medical marijuana processor or recreational marijuana processor including, but not limited to, entrance areas, office areas, processing and manufacturing areas, and areas where marijuana will be packaged, stored and/or disposed;

(iv) for all marijuana businesses, the location and widths of all entrances and exits, exterior lighting and light fixture information, and the general layout of circulation paths, and aisle widths in compliance with the applicable building codes adopted pursuant to GRC Article 10.05 and ADA Guidelines; and

(l) a plan, prepared by a mechanical engineer licensed in the State of Oregon, for ventilation/filtration of the marijuana business that describes in detail the ventilation/filtration systems that will be used to prevent any odor of marijuana outside the

building or portion of the building occupied by the marijuana business and the system maintenance requirements to ensure the systems will prevent any odor from leaving the building or portion of the building occupied by the marijuana business. For a non-personal medical marijuana grow operation and a recreational marijuana producer, such plan shall also include all ventilation/filtration systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor from leaving the building or portion of the building occupied by the marijuana business including the system maintenance requirements to ensure the ongoing ventilation/filtration systems will prevent any odor from leaving the building or portion of the building occupied by the marijuana business.

(m) other information deemed necessary by the manager;

(n) the signature, under penalty of perjury, of the applicant, if a natural person, or if the applicant is other than a natural person, the signature of a natural person who is an authorized agent of the applicant, that the information contained in the application is current and accurate.

(2) Applications must be hand-delivered to the city's Permit Services Center. At time of application submittal, or within three business days, applications will be reviewed for completeness and applicants will be notified of any missing information required to deem their application complete. Applications shall be processed in the order they are deemed complete by the manager.

(3) Continuing obligation to update information. All information provided in a registration application or renewal application shall be kept current at all times. Each marijuana business shall notify the manager in writing within 10 business days of any change in the information, including:

(a) a change in any contact information

or employment status for any natural person or principal described in GRC 9.63.040(1)(c)(i) – (iii) and (v) – (vi);

(b) a disciplinary proceeding or licensing enforcement action by another governmental entity that may affect the licensee's business;

(c) the temporary closure of the business for longer than 30 days; or

(d) the permanent closure of the business; and

(e) an applicant or licensee must notify the City of Gresham within 24 hours of the arrest or conviction for any natural person or principal described in GRC 9.63.040(1)(c)(i) – (iii) and (v) – (vi).

(4) Fee. An application submitted for completeness review, an initial registration application and a registration update must be accompanied by a non-refundable fee in the amount established by council resolution.

(Ord. No. 1806, Amended, 04/02/2020; Ord. No. 1795, Amended, 01/15/2019; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.050 Issuance of a Registration; Posting, Term, Renewal, Surrender, and Transferability.

(1) Certificate of Registration.

(a) The manager shall issue a Certificate of Registration to a marijuana business that has met all applicable requirements of GRC Article 9.63 and has met all other city requirements including, but not limited to, any other required license, permit, final inspection, land use approval, and has received a certificate(s) of occupancy, as applicable.

(b) A Certificate of Registration may include more than one type of marijuana business on the same parcel with the same ownership.

(2) Posting. A marijuana business shall post the Certificate of Registration in a conspicuous location near the entrance to the business.

(3) Term. A registration shall have a term of one year and shall expire unless renewed. If a renewal application is timely filed, the term of the existing registration shall not expire until the issuance of the renewal registration or the final decision denying the renewal registration unless the registration is otherwise revoked pursuant to GRC 9.63.060.

(4) Renewal. A registration may be renewed by submitting to the manager not less than 30 days prior to the expiration date of the existing registration, a registration renewal application on a form provided by the manager together with the required registration renewal fee in the amount established by council resolution. The manager shall issue a new Certificate of Registration to a marijuana business that has met all applicable requirements of GRC 9.63 and has met all other city requirements including, but not limited to, any other required license, permit, final inspection(s), and land use approval.

(5) Surrender. A marijuana business may surrender a registration by delivering written notice to the city that the business surrenders the registration.

(6) Transferability. Registration issued under this article shall not be transferable to any other person, property or location.

(Ord. No. 1806, Amended, 04/02/2020; Ord. No. 1795, Amended, 01/15/2019; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.060 Registration Denial, Suspension or Revocation.

(1) A registration shall be denied if the marijuana business is not in compliance with the requirements of GRC Article 9.63 or any other city requirement. In addition to denial for failure to meet the requirements of this article, the manager may deny a registration in accordance with GRC 9.99.050.

(2) In lieu of denial, the manager may condition the issuance of the Certificate of Registration on compliance of GRC Article 9.63 or any other city requirement.

(3) A Certificate of Registration shall not be issued or renewed if a valid Marijuana Worker Permit issued by the OLCC for a natural person or principal that is an owner, operator, employee, volunteer or has a financial interest in the marijuana business has expired or has not been submitted.

(4) A registration may be suspended until all conditions and/or violations concerning the marijuana business have been corrected. No person shall operate a marijuana business while a registration is suspended.

(5) A registration may be revoked if all conditions and/or violations concerning the marijuana business have not been corrected within 30 days of suspension, or if the marijuana business is not in compliance with the requirements of GRC Article 9.63 or any other city requirements

(6) A registration may be suspended or revoked if, during the term of the registration, a natural person or principal that is an owner, operator, employee, volunteer or has a financial interest in the marijuana business, is convicted of a felony described in GRC 9.63.060(3)(a) or entered into a gang member registration system as described in GRC 9.63.060(3)(b).

(7) Change in Law. A registration may be revoked if federal or state statutes, regulations, or guidelines are modified, changed, or interpreted in such a way by state or federal law enforcement officials as to prohibit operation of the marijuana business under this article.

(8) Denial, suspension, or revocation shall be subject to the procedures provided by GRC 9.99.050.

(Ord. No. 1806, Amended, 04/02/2020; Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.070 Inspection of Marijuana Businesses.

(1) The manager shall inspect every marijuana business to ensure compliance with GRC Article 9.63.

(2) The manager shall conduct an initial or renewal inspection within seven calendar days of a request for an inspection by an applicant who has submitted a completed registration or renewal application and payment of the applicable fees.

(3) For a marijuana business registered with the city, inspections will occur no less than four times per year at approximately three month intervals. The manager may adopt a program that modifies the inspection frequency and inspection checklist for a marijuana business that has a demonstrated record of compliance.

(4) The manager may inspect a marijuana business at any time following the receipt of a complaint that alleges a violation of GRC Article 9.63. The manager may inspect, at any time the manager believes, for any reason, that a marijuana business may be in violation of GRC Article 9.63.

(5) The manager may inspect, without notice, a marijuana business during the hours of operation described in the registration application.

(6) All persons described in GRC 9.63.040(1)(c) shall cooperate with the manager during an inspection. If the manager is denied entry for the purposes of inspection, an administrative inspection warrant may be obtained as provided in GRC 7.50.520.

(7) An inspection checklist will be used to evaluate whether the marijuana business is in compliance with GRC Article 9.63. Following each inspection, the manager will complete the inspection checklist identifying whether the marijuana business is in compliance and provide a copy of the checklist to the marijuana business, the operator, and the property owner.

(8) The marijuana business and property owner will be given a written Notice of Violation should the premises fail to meet the requirements of GRC Article 9.63. In the event that re-inspection is required to confirm the marijuana business satisfies the standards set forth in GRC

Article 9.63, the marijuana business may be charged a re-inspection fee in an amount established by council resolution.

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.080 Standards of Operation.

A marijuana business shall meet the following Standards of Operation.

(1) Compliance with Oregon Marijuana Laws.

(a) Oregon Health Authority. The registration as a medical marijuana dispensary, a medical marijuana processor, or as a medical marijuana grow site must be in good standing with the Oregon Health Authority. A medical marijuana business shall comply with all applicable laws and regulations administered by the Oregon Health Authority.

(b) Oregon Liquor Control Commission. The licensing as a recreational marijuana producer, recreational marijuana processor, recreational marijuana wholesaler, recreational marijuana retailer, marijuana testing laboratory, or certificate for a marijuana research facility must be in good standing with the Oregon Liquor Control Commission. A recreational marijuana business shall comply with all applicable laws and regulations administered by the Oregon Liquor Control Commission.

(2) Compliance with Other Laws. The marijuana business shall comply with all applicable local, city, county, regional, and state laws and regulations, including, but not limited to, the Gresham Community Development Code, GRC Article 4.45 (Pretreatment), GRC Article 9.62 (Tax on Sale or Transfer of Marijuana and Marijuana-Infused Products), GRC Article 10.05 (Building Codes), and GRC Article 10.25 (Fire and Life Safety Code).

(3) Insurance. Each marijuana business shall secure and maintain coverage of a type and amount as required by the city attorney and furnish

certification of insurance evidencing such coverage. The business may provide proof of self-insurance, satisfactory to the attorney, as an alternative means of meeting this requirement.

(4) Home Occupation. Notwithstanding GDC 10.0500, a marijuana business may not be operated as a home occupation.

(5) Hours of Operation. Operating hours for medical marijuana dispensaries and recreational marijuana retailers shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.

(6) Odors. No odor of marijuana shall be detected outside of the building or portion of the building occupied by the marijuana business. Marijuana businesses are required to have an approved ventilation/filtration system designed by an Oregon licensed mechanical engineer and installed by an Oregon licensed mechanical contractor to prevent any odor of marijuana from being detected outside of the building or portion of the building occupied by the marijuana business. The manager may adopt such rules as necessary to implement and enforce this provision.

(7) Lighting. Marijuana businesses shall maintain adequate outdoor lighting over each exterior exit. Such lighting shall conform to the applicable building codes adopted by GRC Article 10.05 and the Gresham Community Development Code.

(8) Sales.

(a) Sales or transfer of marijuana shall occur inside the medical marijuana dispensary or recreational marijuana retailer.

(b) A medical marijuana dispensary and a recreational marijuana retailer shall not have a walk-up window or a drive-through.

(9) On-Site Use. Marijuana shall not be smoked, ingested, consumed or otherwise used at a marijuana business, including any outdoor area adjoining and controlled by the business.

(10) Use of Flame/Combustibles. The use

of open flames, the use of flammable and/or combustible gases, and the use of flammable and/or combustible liquids, including but not limited to, butane, ethane, methane, propane and ether, in the preparation or extraction of any products from marijuana is prohibited at a marijuana business.

(11) On-Site Manufacturing. Manufacturing or production of any marijuana-infused products, extracts, oils, resins or similar derivatives of marijuana is prohibited at a medical marijuana dispensary or recreational marijuana retailer.

(12) Outdoor Grow or Storage. Outdoor storage of merchandise, raw materials or other material associated with the marijuana business is prohibited. The growing of marijuana outside of the building or portion of the building occupied by a medical marijuana grow site or a recreational marijuana producer is prohibited.

(13) Disposal. A marijuana business shall provide for disposal of marijuana waste as follows:

(a) Marijuana waste shall be temporarily stored in a locked container until it is rendered unusable. A locked container is not required if the marijuana waste is immediately rendered unusable.

(b) Prior to disposal, marijuana waste shall be rendered unusable and unrecognizable as marijuana following the methods described in GRC 7.25.427.

(c) A generator of marijuana waste shall utilize the services of a solid waste licensee or self-haul such materials to a properly licensed and approved solid waste disposal or recycling facility.

(Ord. No. 1806, Amended, 04/02/2020; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.090 Location of Marijuana Business.

(1) Restrictions on Location.

(a) A marijuana business shall not be registered, or the registration shall not be renewed, if at the time of registration or renewal, the business is:

(i) a medical marijuana dispensary or a recreational marijuana retailer that is located within any land use districts other than Community Commercial (CC), Employment Center – Pleasant Valley (EC-PV), General Industrial (GI), Heavy Industrial (HI), Industrial – Springwater (IND-SW), Moderate Commercial (MC), Neighborhood Commercial (NC), Neighborhood Commercial – Pleasant Valley (NC-PV), Neighborhood Commercial – Springwater (NC-SW), Research/Technology Industrial – Springwater (RTI-SW);

(ii) a non-personal medical marijuana grow operation, a medical marijuana processor, a recreational marijuana producer, a recreational marijuana processor, or a recreational marijuana wholesaler that is located within any land use districts established by the Gresham Community Development Code other than General Industrial (GI), Heavy Industrial (HI), or Industrial – Springwater (IND-SW); or

(iii) a marijuana testing laboratory or a marijuana research facility unless located within a land use district as allowed by the Gresham Community Development Code.

(b) A marijuana business shall not be registered, or the registration shall not be renewed, if at the time of registration or renewal, the business is:

(i) within 1,000 feet of a school, child care facility, park, or religious institution; or

(ii) within 1,000 feet of another medical marijuana business or recreational marijuana business except as provided by GRC 9.63.050(1)(b).

(c) Distances. For purposes of this section, all distances shall be measured in a straight line in a radius extending in every direction from any point on the boundary lines of the real property, including all contiguous lots and parcels under the same ownership or control, on which a school, child care facility, park, or religious institution is located. A marijuana business shall not be registered if any portion of the business premises is within the 1,000 foot radius.

(d) Schools. For purposes of this section, a school includes any public or private university, college, community college, career school (professional, technical, business or other instruction), high school, middle school, elementary school, kindergarten, preschool, preschool program, youth development program, services to at-risk youth, charter school, and any other institution of learning primarily attended by minors.

(e) Child Care Facility. For purposes of this section, a child care facility includes, as defined by the State of Oregon Office of Child Care, a Certified Family Child Care Home and a Certified Child Care Facility but excludes Registered Family Child Care Homes and child care that is exempt from state regulation.

(f) Notwithstanding GRC 9.63.090 (1)(b), if a school, child care facility, park, or religious institution is established within 1,000 feet of a marijuana business for which a registration has been issued under this article, the marijuana business may remain unless the registration is revoked pursuant to GRC 9.63.060.

(2) No person shall operate, permit or allow a marijuana business in the City of Gresham except in the land use districts as provided by GRC 9.63.090(1).

(Ord. No. 1795, Amended, 01/15/2019; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.100 Indemnification.

(1) Waiver. By operating after the issuance

of a Certificate of Registration under this article, all persons described in GRC 9.63.040(1)(c) waive and release the city, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of a marijuana business owner, operator, principal, person with a financial interest in the marijuana business, person that has leased real property to the marijuana business, employee, volunteer, client or customer for a violation of federal, state, regional, county, city or local laws and regulations.

(2) Indemnification. By operating after the issuance of a Certificate of Registration under this article, all persons described in GRC 9.63.040(1)(c), jointly and severally if there is more than one, shall indemnify and hold harmless the city, its officers, elected officials, employees, volunteers, and agents, insurers, and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the marijuana business that is the subject of the registration.

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.110 Examination of Books, Records and Premises.

(1) Examination of Books and Records. A marijuana business shall comply with the requirements of GRC 2.92.210.

(2) Compliance with Public Safety and Code Compliance. As part of investigation of a crime, or a violation of this article, which public safety or code compliance officials reasonably suspect has taken place on the marijuana business's premises or in connection with the operation of the business, public officials shall be allowed to view surveillance videotapes or digital recordings at any reasonable time. Without reducing or waiving any provisions of this article, the manager shall have the same access to the business, its records

and its operations as allowed to state inspectors and as provided by the Gresham Revised Code.

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

9.63.120 Protest.

Any person aggrieved by any decision of the manager with respect to this article may protest pursuant to GRC 7.50.030. The hearings officer shall hear and consider any records and evidence presented bearing upon the manager's decision. The findings of the hearings officer shall be final and conclusive, and shall be served upon the person filing the protest.

(Ord. No. 1752, Enacted, 05/05/2015)

9.63.130 Enforcement.

(1) It is a violation of this article for any person to fail or refuse to comply with any provision of GRC Article 9.63.

(2) It is a violation of this article to permit or allow to operate a marijuana business in violation of this article including, but not limited to, the standards of operation of GRC 9.63.080 and the location restriction of GRC 9.63.090.

(3) A violation of any provision of GRC Article 9.63 shall be subject to a fine or penalty in the maximum amount of \$5,000. Each day a violation occurs or continues is a separate offense.

(4) Additional remedies for enforcement of a violation of GRC Article 9.63 are set forth in GRC Article 9.99 and GRC Article 7.50.

(Ord. No. 1761, Amended, 01/19/2016; Ord. No. 1752, Enacted, 05/05/2015)

Article 9.65

TRANSPORTATION NETWORK COMPANIES

Sections:

- 9.65.010 [Purpose.](#)
- 9.65.020 [Definitions.](#)
- 9.65.030 [TNC Permit Required; Fees.](#)
- 9.65.040 [Certification Requirements.](#)
- 9.65.050 [TNC Certification Requirements.](#)
- 9.65.060 [TNC Insurance Requirements.](#)
- 9.65.070 [TNC Operating Requirements; Prohibitions.](#)
- 9.65.080 [TNC Accessible Service Requirements.](#)
- 9.65.090 [TNC Driver Certification Requirements.](#)
- 9.65.100 [TNC Driver Conduct and Operating Requirements; Prohibitions.](#)
- 9.65.110 [TNC Vehicle Certification Requirements; Prohibitions.](#)
- 9.65.120 [TNC Vehicle Condition; Requirements and Prohibitions.](#)
- 9.65.125 [Intergovernmental Agreement; Effect of Local Regulations.](#)
- 9.65.130 [Enforcement.](#)

9.65.010 Purpose.

The City Council of the City of Gresham finds and declares that the purpose of this Article is to promote the safety and welfare of the general public by regulating Transportation Network Companies and their drivers within the City, as authorized by ORS 221.485 and 221.495. Nothing contained in this Article is intended or shall be construed to create any liability on the part of the City, its officers or employees for any injury or damage related to any provision of this Article, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this Article on the part of the City, its officers, or employees.

(Ord. No. 1815, Enacted, 12/01/2020)

9.65.020 Definitions.

Transportation Network Company (TNC). Any entity or organization, whether a corporation, partnership, or sole proprietor, that connects passengers with affiliated TNC drivers and TNC vehicles through an Internet-based digital or software platform/application operated by the TNC.

Transportation Network Company (TNC) Driver. Any individual operating a private for-hire transportation vehicle who connects with passengers through an Internet-based digital or software platform/application operated by an affiliated TNC.

Transportation Network Company (TNC) Services. Any private for-hire transportation offered or provided to passengers for compensation by a TNC driver and TNC vehicle on behalf of or by an affiliated TNC.

Transportation Network Company (TNC) Vehicle. Any vehicle driven by a TNC driver to offer and/or provide TNC services.
(Ord. No. 1815, Enacted, 12/01/2020)

9.65.030 TNC Permit Required; Fees.

(1) For transportation network services to be provided in the City of Gresham, the TNC shall be required to obtain a permit. The City or its designee shall certify that all affiliated TNC vehicles and TNC drivers have met all certification and operating requirements. No TNC shall conduct business in the City of Gresham without a valid, current permit issued by the City or its designee.

(2) Permit Fee. A TNC shall pay the City a 50¢ fee per trip originating within the City of Gresham. Revenue generated by fees shall be restricted to City service areas impacted by the operation of TNCs or involved in the regulation and administration of TNC policy including transportation planning, public safety, and code enforcement; and for costs of administering the program.

(3) Permit Issuance. No TNC permit shall be issued until all applicable surcharges, fees, civil penalties, and fines have been paid.
(Ord. No. 1815, Enacted, 12/01/2020)

9.65.040 Certification Requirements.

(1) TNC Company Certification Requirements. No person or entity shall conduct business as a TNC in the City of Gresham without certification by the City or its designee. TNCs not meeting all required standards, conditions and operating requirements will not be certified as a TNC, shall not be issued a permit, and shall not operate as a TNC.

(2) TNC Driver Certification Requirements. No person or entity shall conduct business as a TNC Driver in the City of Gresham without certification by the City or its designee prior to being activated on the affiliated TNC platform. Drivers not meeting all required standards, conditions, conduct and operating requirements will not be certified as a TNC Driver and shall not operate as a TNC Driver.

(3) TNC Vehicle Certification Requirements. No vehicle shall be allowed to operate as a TNC Vehicle in the City of Gresham without certification by the City or its designee prior to being activated on the affiliated TNC platform. Vehicles not meeting all required standards, conditions and operating requirements will not be certified as TNC vehicle and shall not operate as a TNC Vehicle.
(Ord. No. 1815, Enacted, 12/01/2020)

9.65.050 TNC Certification Requirements.

(1) Application. An applicant for a TNC permit shall annually submit to the City or its designee:

- (a) A completed application on a form supplied by the City or its designee;
- (b) Proof of registration with the Secretary of State for any corporate, LLC, or LLP entity;

(c) Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;

(d) A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates;

(e) If the applicant TNC is individually owned, the name, business address (or home address if no business address), telephone number, and date of birth of the owner;

(f) If the applicant TNC is a corporation, partnership, or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Gresham (“Authorized Representative”) or to bind the legal entity in dealings with third parties, and any other information that the City or its designee may reasonably require;

(g) The applicant TNC’s zero-tolerance drug and non-discrimination policy;

(h) The applicant TNC’s user terms of service;

(i) TNC app description with general use information and customer instructions for requesting a wheelchair-accessible vehicle;

(j) Contact information of the TNC’s agent of service and customer service support;

(k) The trade dress the applicant TNC proposes to use for each affiliated driver’s vehicle, with a photo of the trade dress submitted with the application; and

(l) All fines and penalties must be paid prior to Gresham issuing or reissuing a TNC permit.

(2) Compliance with Secretary of State’s Rules. No permit will be issued unless the company is validly registered with the Secretary

of State, including all assumed business names.

(3) Insurance. All TNC permit holders shall comply with TNC insurance requirements pursuant to Section 9.65.060. All TNCs shall file a certificate of liability and applicable endorsements with the City that evidences insurance coverage and terms that are in compliance with the requirements.

(4) Review Process. After receiving a completed TNC application form and upon successful completion of all applicable requirements, the City or its designee shall review the application to make a recommendation for approval or denial.

(5) Application Approval. Upon approval, a TNC permit may be issued and shall be valid for a period of up to one (1) year from the date of approval.

(6) Application Denial. In addition to the reasons for denial stated in GRC 9.99.050(1), the application shall be denied for any of the following reasons:

(a) The TNC applicant fails to submit all required information and documentation, including valid proof of insurance;

(b) The TNC applicant provides TNC app services to anyone other than TNC Drivers meeting the requirements set forth in this Article;

(c) The TNC applicant leases, permits, or otherwise allows other entities not affiliated with the TNC and certified by the City to operate TNC services;

(d) The TNC applicant affiliates with and provides a TNC App to drivers operating vehicles without a TNC Vehicle certification;

(e) The application has a material misstatement or omission; or

(f) The TNC application is deemed

incomplete by the City or designee.

(7) Denial Appeal. If the application is denied, the applicant TNC may appeal the decision in accordance with GRC 9.99.050(2).

(8) Providing TNC Services. TNC services shall be provided only by a permitted TNC.

(9) Right to a Permit. The TNC's ability to satisfy the criteria for a TNC permit does not create a right to a TNC permit.

(10) Transferring Permits. Transferring permits shall be prohibited.

(11) Removal of TNC Drivers and TNC Vehicles from Affiliated TNC Platform. A TNC shall daily provide to the City or its designee notification of affiliated TNC Drivers and TNC Vehicles that have been permanently deactivated from the TNC platform or prohibited from providing TNC services by the affiliated TNC.
(Ord. No. 1815, Enacted, 12/01/2020)

9.65.060 TNC Insurance Requirements.

(1) TNC Service Periods Defined. In order to provide protection to the public, the TNC shall provide the levels of insurance as required by this section. TNC service is defined by three distinct periods:

(a) Period 1: The TNC Driver has logged into the app. The app is open and the driver is waiting for a match.

(b) Period 2: A passenger match has been accepted, the passenger is not yet picked up (i.e., the driver is on their way to pick up the passenger).

(c) Period 3: The passenger is in the vehicle and until the passenger exits the vehicle at the destination.

(2) Providing TNC Services. All periods of TNC service shall be covered by a general commercial liability and primary automobile insurance policy provided by the TNC, the TNC

Driver, or a combination of both. Evidence of TNC insurance requirements shall be received and approved by the City or designee prior to a TNC receiving a TNC permit.

(3) Additional Insured and Notification of Policy Changes. The TNC shall provide certificates of insurance naming the City of Gresham, its officers, agents, and employees as an additional insured party and give at least thirty (30) calendar days' notice to the City or its designee before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation and employer's liability insurance (as required by state law).

(4) Ensuring Driver and Vehicle Insurance. TNC Drivers shall be responsible for ensuring appropriate personal motor vehicle liability insurance required by state law.

(5) Insurance Requirements. Insurance requirements of this section shall be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the state of Oregon.

(6) Commercial Business Insurance. TNC permit holders shall secure and maintain a commercial general liability policy reflecting limits of no less than \$1 million per occurrence and \$2 million aggregate for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a TNC permit.

(7) Automobile Insurance. All TNC permit holders shall hold the following coverages and provide the City with proof upon request:

(a) Primary insurance coverage during Period 1 with minimum liability limits of \$50,000 per person for death and injury, \$100,000 per incident for death and injury and \$25,000 for property damage, plus any other state compulsory coverage to the extent required by law. Coverage is to be maintained by the TNC.

(b) Primary insurance coverage during Periods 2 and 3 with minimum liability limits of \$1 million in combined single limit coverage for death, personal injury, and property damage per incident; and \$1 million in combined single limit under/uninsured motorist coverage for death, personal injury, and property damage per incident. Coverage is to be maintained by the TNC.

(c) The required automobile liability policy shall specifically recognize the driver's provision of TNC services or other for hire transportation and shall comply with the mandatory laws of the State of Oregon and/or other applicable governing bodies.

(8) Certification of Auto Insurance. TNCs shall provide proof of current, valid insurance for City certification covering all affiliated TNC Drivers and Vehicles operating for such company and satisfying the minimum requirements of Periods 1, 2 and 3 in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.

(9) Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term.

(10) Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this section is subject to the review and approval of the City Attorney's Office.

(11) Continuous and Uninterrupted Coverage. The permit holder shall maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.

(12) Insurance Rating. All insurance companies issuing policies within this section shall be rated by A.M. Best Company and carry at least a rating of A.M. Best A- or better, or meet all the requirements for Alternative to Insurance

described in an Administrative Rule.

(13) Additional Policy Conditions: Policies required under this section must also contain, include, provide for or comply with the following:

(a) A TNC shall not require or encourage a TNC Driver to secure a primary personal automobile insurance policy providing coverage for TNC activities as a condition to becoming affiliated on the TNC's digital network, nor shall a TNC provide any incentive to any TNC Driver who secures a primary personal automobile insurance policy providing coverage for TNC activities in periods as defined in this section.

(b) A TNC shall disclose in writing to affiliated TNC Drivers that drivers are not required to purchase or maintain an insurance policy that provides coverage for TNC activities in any periods as defined in this section as a condition of providing TNC Services on behalf of an affiliated TNC. Additionally, a TNC shall disclose in writing to affiliated TNC Drivers that securing such a policy will not result in any material benefit or incentive of any kind provided by the affiliated TNC to the TNC Driver. A TNC shall disclose in writing to affiliated TNC Drivers that insurance maintained by the TNC pursuant to this section does not include collision coverage for affiliated TNC Drivers, unless the policy secured and maintained by the TNC expressly states otherwise.

(c) A TNC shall disclose in writing to affiliated TNC Drivers the insurance coverage, including the types of coverage and limits for each coverage that the TNC provides while the affiliated TNC Driver uses an affiliated TNC Vehicle to provide TNC services. The TNC shall also advise affiliated TNC Drivers in writing that the driver's personal automobile insurance policies may be subject to cancellation in accordance to ORS 742.562 or might not provide coverage because the driver uses a vehicle in connection

with an affiliated TNC, as specified by the terms of the policy. A TNC shall provide written disclosure to the affiliated TNC Driver that coverage required pursuant to this section shall be provided by the affiliated TNC on a primary basis from the first dollar of every claim, unless a policy secured and maintained by a TNC Driver expressly states otherwise.

(d) A TNC Driver is not prohibited from voluntarily securing a primary automobile insurance policy covering the TNC Vehicle and providing coverage in any period as defined in this section. A TNC Driver's or the TNC Vehicle owner's personal automobile insurance policy may only provide coverage during periods as defined by this section to the driver, vehicle owner, or any third party, if the policy expressly provides coverage for TNC activities during periods defined by this section as specified by the terms of the policy. (Ord. No. 1815, Enacted, 12/01/2020)

9.65.070 TNC Operating Requirements; Prohibitions.

(1) Minimum Standards of Service. A permitted TNC shall comply with the following minimum standards:

(a) A TNC app in operation 24 hours each day capable of providing reasonably prompt service in response to requests. It is a rebuttable presumption that any time beyond thirty (30) minutes from the moment the passenger requests a ride using the TNC application, is unreasonable.

(b) Acceptance of any request for TNC service received from any location within the City including requests made by persons with disabilities and requests for wheelchair-accessible service pursuant to GRC 9.56.080.

(c) The TNC app used to connect drivers to riders shall display an accurate picture of the TNC Driver and a picture or description of the type of TNC Vehicle, as well as the license plate number of the TNC Vehicle.

(2) Drug, Alcohol and Discrimination Policy.

(a) Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted companies shall employ at all times a zero tolerance policy for intoxicants.

(b) Zero Tolerance for Discrimination. All permitted companies shall adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must be submitted to the City or its designee for approval. Any changes to the policy shall be submitted to and approved by the City or its designee prior to implementation.

(3) User Terms of Service. It must be stated within a disclaimer or limitation of liability in a TNC's user terms of service that no disclaimer of liability for negligence or other tortious conduct shall have any force or effect as prohibited by local law or restriction in the City of Gresham, and that any tort claim against a TNC shall be governed by Oregon tort law in effect at the time of the claim.

(4) Fare Rate Transparency.

(a) TNCs shall use an online-enabled or mobile software-based application to determine fares for TNC services.

(b) All TNC fare rates shall be made available in a clear and transparent way to the TNC passenger on the TNC app prior to the TNC passenger accepting a ride.

(5) Receipts. All TNC passengers shall be provided either a paper or digital receipt with a unique transaction ID number that corresponds with the transaction number provided with the company's data submissions described in Subsection 10 (below). A receipt must be provided at the termination of the ride that clearly indicates

the fare paid, time of ride, name of TNC, name of TNC Driver, and TNC customer service support contact information.

(6) Limitation or Prohibition on Dynamic Pricing. The City may limit or prohibit dynamic pricing by any TNC or TNC Driver during a State of Emergency, as declared by the manager pursuant to GRC Article 7.45.

(7) Agent of Service Requirements. TNCs will maintain, during all times when the TNC permit is valid, a locally based agent of service, with regular hours of business during weekdays.

(8) Customer Service Support Requirements. TNCs will maintain, during all times when the TNC permit is valid, customer service support with posted contact information, including a local phone number and local address, and the ability to leave messages 24 hours per day and 7 days per week via telephone or email. Response to messages shall be made within 24 hours.

(9) Reporting Requirements. Each TNC shall regularly report the following to the City or its designee:

(a) The number and type of crimes committed against drivers to the extent known;

(b) Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution; and any restriction, suspension or revocation of the driver's motor vehicle driver's license arrest or conviction for any criminal offense of any affiliated TNC driver involving the operation of TNC service in the City of Gresham;

(c) The filing of any lawsuit against or on behalf of the TNC related to the TNC services of the affiliated TNC, TNC Driver, or TNC Vehicle in the City of Gresham;

(d) The initiation of bankruptcy proceedings or corporate or partnership

dissolution by the company; and

(e) Any information required to be disclosed by this article that comes to the attention of the TNC.

(10) Data Requirements.

(a) TNCs shall provide relevant anonymized data to the City or its designee no later than five (5) business days after the last day of the previous month pursuant to applicable data sharing agreement. Examples of relevant data may include, but are not limited to, the following:

(i) Unique transaction ID number that corresponds with the passenger's receipt;

(ii) Number, date, and time of fulfilled trips;

(iii) Trip wait time;

(iv) Number, date, and time of unfulfilled requests (rides the company was unable to fulfill);

(v) Number, date, and time of trips declined by the driver or the company (rides declined by drivers);

(vi) Number of canceled rides (rides canceled by the customer);

(vii) Trip origin GPS, latitude and longitude; and

(viii) Trip destination GPS, latitude and longitude.

(b) TNCs shall submit data, pursuant to a data sharing agreement with the City and permitted companies.

(c) The data collected by the City or its designee will be, except as otherwise required by law, kept confidential by the City or its

designee, used only within the City and not disclosed to third parties.

(d) In the event disclosure of such data is required by law, the City will provide TNCs notice prior to any disclosure of such data.

(e) Upon request, the TNC shall provide data identified by the City or its designee to verify compliance with the requirements of this subsection.

(11) Digital Record Requirements. Secure, digital records with contact information from TNC Drivers and TNC passengers shall be maintained by the TNC. Such records shall provide a verifiable way to identify drivers and riders for investigatory purposes. Secure digital records must be maintained in accordance with the following requirements:

(a) Secure digital records with contact information from the TNC Driver and passenger must be maintained by the TNC. TNCs own the secure digital records and are responsible for their maintenance and the records produced by them;

(b) If any law enforcement officer requests access to any record necessary to assist in the investigation of any crime after following appropriate legal process, the TNC shall respond to the request within 24 hours and promptly disclose records pursuant to the investigation request;

(c) No TNC or Driver may allow any unauthorized person to intentionally access any records produced by the digital record systems; and

(d) The TNC shall notify the City of a known data security breach in the same manner as provided in ORS 646A.600 to ORS 646A.628.

(12) TNC Records Management and Mandatory Compliance.

(a) TNCs will be required to keep

documentation of all certified TNC Drivers and TNC Vehicles. Such records shall be kept on file during the term of the TNC permit and for two (2) calendar years after the expiration of such permit. Upon request or subpoena, TNC records shall be provided to the City and/or law enforcement officers.

(b) TNCs shall submit to compliance audits and enforcement actions upon request by the City or its designee, any authorized city personnel or law enforcement officers pursuant to this article.

(Ord. No. 1815, Enacted, 12/01/2020)

9.65.080 TNC Accessible Service Requirements.

TNCs shall provide reasonable accommodations to passengers with disabilities, including to passengers accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices.

(1) Accommodations to passengers accompanied by a service animal.

(a) Requests for service from a passenger accompanied by a service animal may not be refused.

(2) Accommodations to passengers with hearing and visual impairments.

(a) TNCs shall maintain at all times mobile apps or online dispatch services available to customers in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.

(b) TNCs shall maintain customer service support services pursuant to this section in accordance to W3C guidelines and ADA Section 503 requirements pertaining to hearing and visual accessibility.

(3) Accommodations to passengers with mobility devices.

(a) TNCs shall reasonably accommodate passengers with canes, walkers, or other mobility devices that can readily fit within a non-wheelchair-accessible TNC Vehicle.

(b) TNCs shall maintain at all times mobile apps or online dispatch services available to customers that request a wheelchair-accessible vehicle (WAV).

(c) TNC Vehicles are required to provide WAV service within a reasonable time by maintaining a fleet of affiliated wheelchair-accessible TNC vehicles, contracting with a permitted operator of wheelchair-accessible PFHT vehicles, or a combination thereof. It is a rebuttable presumption that any time beyond thirty (30) minutes is unreasonable.

(d) Fare rates for WAVs shall not exceed fare rates for comparable non-WAV TNC Vehicles, be reported to the City, and shall not be subject to dynamic pricing.

(e) Any permitted TNC shall enter into any applicable agreement with the City or its designee to regularly provide anonymized data relevant to WAV service. Examples of relevant data may include, but not be limited to, the following:

(i) Number, date, and time of fulfilled WAV trips;

(ii) WAV trip wait time;

(iii) Number, date, and time of WAV trips declined by the driver or the company;

(iv) WAV trip origin GPS, latitude and longitude; and

(v) WAV trip destination GPS, latitude and longitude.

(f) The City may implement an Accessible Transportation Fee to fund and meet the objectives established by the City in order to maintain wheelchair accessible transportation service levels within the City.

(Ord. No. 1815, Enacted, 12/01/2020)

9.65.090 TNC Driver Certification Requirements.

(1) Certification of TNC Drivers. The TNC shall provide a daily list of applicant drivers affiliated with the permitted TNC for City or designee certification to ensure applicant drivers are in compliance with this section, on a form reviewed by the City or designee on a daily basis. Drivers shall be certified by the City or designee prior to being activated on the affiliated TNC platform, and drivers not meeting all applicable requirements will not be certified as a permitted TNC Driver and will not be allowed to operate as a TNC Driver. Such requirements include:

- (a) Criminal and driver background checks;
- (b) Personal automobile liability insurance for independent contractors;
- (c) A valid driver’s license;
- (d) Successful completion of all driver training approved by the City or its designee and testing within thirty (30) days of providing TNC Service, and successful completion of any additional training and testing must be completed within 30 days of release by the City or its designee.

(2) Term of Certified TNC Driver. Certifications for TNC Drivers provided by a TNC to the City or its designee shall be valid for one (1) year from the date of the initial certification. The TNC shall provide a re-certification to the City or its designee within one (1) month prior to the certification expiration.

(3) Application Process. Applications for TNC Driver certification shall be made directly to an affiliated TNC. The TNC will regularly provide to the City or its designee TNC Driver and Vehicle certification lists, pursuant to certification requirements, that the driver meets all requirements prior to the driver operating the vehicle, on a form approved by the City or its

designee.

(4) TNC Driver Criminal and Driving Background Checks. A local and national criminal background check and driving history review of all drivers shall be conducted annually, based on the driver’s anniversary date, on behalf of the affiliated TNC by a third party accredited by the National Association of Professional Background Screeners that shall include:

- (a) Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search);
- (b) All motor vehicle records associated with the applicant driver available pursuant to record laws of each state, and
- (c) The National Sex Offender Public Registry.

(5) TNC Driver Criminal and Driving History Disqualifications. A TNC Driver will not be certified and cannot provide TNC services if any of the following conditions exist:

- (a) The applicant has a felony conviction of any kind within the previous 10 years, based on the conviction date.
- (b) The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred.
- (c) The applicant is a match in the National Sex Offender Public Registry.
- (d) During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
 - (i) Any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
 - (ii) Any traffic crime, including but not limited to: driving under the influence

of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident.

(e) Based on the conviction date during a 3-year period, the applicant had more than five traffic violations as defined in ORS 801.557; more than five serious traffic violations as defined by the Oregon Department of Motor Vehicles; more than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or more than five of any combination of serious traffic violations or motor vehicle accidents as provided above.

(f) Based on the conviction date, within a 3-year period, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident.

(g) Based on the conviction date, the applicant has two or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.

(h) Based on the conviction date, during a 3-year period, the applicant's driving privileges were revoked by the City or its designee.

(i) The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification.

(j) The applicant is less than 21 years old.

(k) The applicant is unable to obtain car insurance for any reason.

(6) All TNC Driver criminal and driving histories are subject to review by the City or its designee.

(7) TNC Driver Training. The affiliated

company must ensure that all TNC Drivers successfully complete all trainings approved by the City or its designee and testing within 30 days of TNC Driver certification and successfully complete any additional training and testing within 30 days of release by the City or its designee.

(8) Insurance Requirements. All TNC Drivers affiliated with a TNC shall maintain current, valid personal automobile insurance that meets State of Oregon requirements.

(9) TNC Driver Re-certification. The TNC shall provide a list of applicant drivers for re-certification to the City or its designee within 1 month prior to the TNC Driver certification expiration, on a form approved by the City or its designee. Applicant drivers shall meet all conditions and be consistent with TNC Driver certification requirements pursuant to this section. Drivers not meeting all such conditions will not be re-certified as a TNC Driver and shall not be allowed to operate as a TNC Driver.

(10) Suspension or Revocation of Certified TNC Drivers. If a TNC Driver or TNC Vehicle certification is suspended or revoked by the City or its designee, the affiliated TNC shall be notified and the driver shall be removed as soon as notified by the City. TNC Drivers and TNC Vehicles without current, valid certification by the City or its designee shall not be allowed to provide TNC services.

(11) All driver backgrounds will be verified by the City or designee. Those companies self-certifying drivers may allow the driver to operate for up to 30 days with a provisional driver permit. The company shall provide driver background information the City or designee in a manner approved by the City or its designee within 24-hours of the TNC Driver's certification or permit date. Absent exceptional circumstances, the City or its designee will review the self-certified backgrounds and conduct additional reviews, supplemental investigations or other steps to make a determination before validating the TNC Driver's permit for one full year from the certification or permit date. TNC Drivers who are not approved to operate will have their

certifications and permits immediately cancelled.

(12) Denial Appeal. If the application is denied, the TNC Driver may appeal the decision in accordance with GRC 9.99.050(2).
(Ord. No. 1815, Enacted, 12/01/2020)

9.65.100 TNC Driver Conduct and Operating Requirements; Prohibitions.

(1) Transferring Credentials. Transferring TNC Driver or TNC Vehicle credentials from one driver or vehicle to another shall be prohibited. All TNC Drivers are required to meet all driver certification requirements within this article at all time times while providing private for-hire service.

(2) TNC Drivers shall carry:

(a) A non-digital copy of TNC insurance pursuant to ORS 806.011 and a non-digital copy of the vehicle registration at all times while operating as a TNC Driver. Upon request of the City or law enforcement officer, TNC Drivers shall present proof of a valid TNC primary automobile insurance policy and vehicle registration.

(b) A non-digital copy of the TNC Driver's personal automobile insurance.

(c) A valid state issued driver's license while operating as a TNC Driver.

(d) A valid, original, driver permit. All licensed drivers must prominently post and display the permit in the vehicle while on duty.

(e) All required documents listed above must be available and presented at the time of any inspection, upon request.

(3) Driver Conduct. No TNC Driver shall:

(a) Allow another person to use their TNC Driver certification;

(b) Drive or allow another person to drive

a TNC Vehicle without completing the certification process through the affiliated TNC;

(c) Operate any TNC Vehicle while consuming or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of the City of Gresham or the State of Oregon;

(d) Operate any vehicle if impaired by any legally prescribed or over-the-counter drugs or medications;

(e) Use a vehicle in the commission of any crime;

(f) Use or broadcast profane or obscene language offensive to the passenger or other persons while operating a vehicle;

(g) Consume any intoxicant, smoke any substance, or use any device that produces a smoke-like vapor while operating a TNC Vehicle;

(h) Allow any passenger to consume an intoxicant or smoke any substance, or use any device that produces a smoke-like vapor, inside a TNC Vehicle;

(i) Defraud a passenger in any way;

(j) Be discourteous to a passenger;

(k) Drive passengers to their destination by any other than the safest and most efficient route, unless requested to do so by the passenger;

(l) Operate any TNC Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1);

(m) Refuse to transport to a requested destination within the City of Gresham any passenger of proper demeanor whose request for service has been accepted on the TNC app,

and;

(n) Provide services without a valid permit or certification from the City of Gresham or its designee.

(o) Transport a passenger in a TNC Vehicle unless the TNC Driver is active on and has accepted the passenger's trip request through the TNC application.

(4) Maximum hours of driving. No person shall provide services after driving more than 12 hours in any given 24-hour period.

(5) Street-Hails, Taxi Stands, and Hotel Zones.

(a) A TNC Driver shall accept rides only booked through an affiliated TNC app and shall not solicit or accept street-hails or stop in any City-approved taxi zones, and;

(b) A TNC Driver may not park a TNC Vehicle in a hotel or loading/unloading zone.

(6) Mandatory Compliance. TNC Drivers shall submit to compliance audits and enforcement actions upon request by the City or its designee, any authorized city personnel, or law enforcement officers.

(7) Driver Reporting. Every TNC Driver shall report any of the following events to the City or its designee and to all affiliated TNCs within 24 hours of its occurrence:

(a) Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation;

(b) Any arrest, charge, or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, or prostitution;

(c) Any vehicle crashes; and

(d) Any restriction, suspension, or

revocation of the driver's motor vehicle driver's license.

(Ord. No. 1815, Enacted, 12/01/2020)

9.65.110 TNC Vehicle Certification Requirements; Prohibitions.

(1) Trade Dress.

(a) The TNC may not "on-board" a vehicle unless the designated trade dress includes a visible permit from the City or its designee including an identification number specific to each TNC Driver.

(b) No TNC vehicle may display the words "taxi," "taxi cab," or "cab," display a top light, employ a taxi-meter, have a taxiplate, or otherwise attempt to appear as a taxi.

(2) TNC Vehicle Certification. The TNC shall daily provide a list of applicant vehicles affiliated with the permitted TNC for certification by the City or its designee that vehicles meet all applicable standards and conditions. Vehicles shall be certified by the City or its designee and affiliated with a certified TNC driver prior to being activated on the affiliated TNC platform. Vehicles not meeting all required standards and conditions shall not be certified and will not be allowed to operate as a TNC vehicle. Such requirements include:

(a) Vehicle ASE safety inspection;

(b) Vehicle registration and licensing;

(c) Vehicle properly equipped and in good condition;

(d) Commercial automobile liability insurance; and

(e) Personal automobile liability insurance, as required by state law.

(3) Term of Certified TNC Vehicle. Certifications for TNC Vehicles provided by the City or its designee shall be valid for one (1) year from the date of the initial certification. TNC shall

provide a re-certification to the City or its designee, as they occur, prior to the certification expiration and within one (1) month of the expiration date.

(4) Application Process. Applications for TNC Vehicle certification shall be made directly to an affiliated TNC. The TNC shall regularly provide to the City or its designee a TNC Driver and Vehicle application list, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle shall operate as a TNC Vehicle on a form approved by the City or its designee.

(5) Vehicle Registration, Licensing, and Insurance. All TNC Vehicles will maintain, at all times, vehicle registration, licensing, and insurance as required by the State of Oregon or the state in which such vehicle is registered.

(6) Vehicle Age Requirements. No vehicle older than ten (10) years will be allowed to operate as a TNC Vehicle following 10 years after the vehicle manufactured date regardless of when the vehicle was purchased or put into service as a TNC Vehicle.

(7) Vehicle Safety Inspections. Each TNC Vehicle shall pass an annual standardized vehicle safety test as performed by a National Institute for Automotive Service Excellence (ASE) Blue Seal Recognized Shop or by an automotive technician with a current, valid ASE certification in any of the areas of ASE A4-A8. Inspections are required if the vehicle:

- (a) Is more than one (1)-year-old, based on model year;
- (b) Has 10,000 miles or more on its odometer; or
- (c) Has the “check engine” light illuminated, regardless of model year or mileage.

(8) TNC Vehicle Safety Certificate Requirements. Upon successful completion of the

vehicle inspection, the ASE Blue Seal Recognized Shop or ASE Automotive Technician will provide to the TNC Driver applicant a “Safety Certificate” stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Blue Seal Recognized Shop or ASE Automotive Technician shall be completed on a form approved by the City or its designee.

(9) Vehicle Condition. Each TNC Vehicle shall meet the following requirements:

- (a) Each TNC Vehicle shall:
 - (i) Be kept in safe condition and in good repair;
 - (ii) Be kept clean and in good appearance;
 - (iii) Be properly equipped, including but not limited to carrying a hands-free accessory for mobile devices, a standard first aid kit, and fire extinguisher; and
 - (iv) Meet State of Oregon Department of Environmental Quality motor vehicle emissions standards established for the Portland Metro.

(10) TNC Vehicle Re-certification. The TNC shall provide a list of applicant vehicles for re-certification to the City or its designee within one (1) month prior to the TNC Vehicle certification expiration, on a form approved by the City or its designee. Applicant vehicles shall meet all standards and conditions and be consistent with TNC Vehicle certification requirements pursuant to this section for re-certification. Vehicles not meeting all such standards and conditions will not be re-certified as a TNC Vehicle and shall not be allowed to operate as a TNC Vehicle.

(11) Denial Appeal. If the TNC Vehicle certification is denied, the applicant driver may appeal the decision in accordance with GRC 9.99.050(2).

(Ord. No. 1815, Enacted, 12/01/2020)

**9.65.120 TNC Vehicle Condition;
Requirements and
Prohibitions.**

(1) No vehicle shall operate as a TNC Vehicle unless it has been affiliated with an approved TNC and properly displays a trade dress approved by the City or its designee.

(2) Vehicle Registration, Insurance, and Business License. A non-digital copy of the vehicle's registration and non-digital proof of insurance shall be kept in every TNC Vehicle, pursuant to ORS 806.011. In addition, for independent contractors, the City requires proof of TNC insurance and proof of a TNC driver's business license be kept in every TNC Vehicle.

(3) Trade Dress Signage. Trade dress signage is required for each TNC Vehicle in operation at all times. The trade dress signage shall be clearly visible from the front and rear of the vehicle from a distance of 20 feet and shall be placed on the interior or exterior of the vehicle body, but not on the roof and shall not obscure any of the driver's views, vehicle lights, or the view of any mirrors, and it cannot exceed four square feet.

(4) Vehicle Certification Conditions. In determining whether a TNC vehicle meets applicable certification requirements, the vehicle shall at all times be maintained in good condition, repair, and appearance which includes the following:

(a) All TNC Vehicle equipment and devices shall be properly equipped and maintained in good working order;

(b) At all times, TNC Vehicles shall include the following properly functioning components: a horn, lights, (including turn signals, back-up signals) windshield wipers, windshield washers, interior/dome lights, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes, or other exhaust components that prevent unnecessary noise and smoke emissions;

(c) The TNC Vehicle body shall be free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, and reflectors;

(d) The TNC Vehicle shall be free of dirt, grease, grime, glue, rips, stains, or tape. This shall apply to the vehicle's paint, upholstery, windows, floorboard, and integrated parts of the vehicle's body;

(e) The TNC Vehicle shall not include missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, upholstery, ashtrays, or carpeting; and may only be equipped with studded tires during time periods allowed by Oregon Law; and

(f) Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.

(5) Mandatory Compliance. The TNC Vehicle shall be made available to compliance audits and enforcement actions upon request by the City or its designee, authorized City personnel or law enforcement officers.

(Ord. No. 1815, Enacted, 12/01/2020)

**9.65.125 Intergovernmental Agreement;
Effect of Local Regulations.**

(1) Pursuant to ORS 190.010 and GRC 2.80.080(2)(o), the manager is authorized to enter into an intergovernmental agreement (IGA) with the City of Portland (Portland) to perform any of the functions, tasks and services necessary to carry out the provisions of this article; including, but not limited to the standards, conditions and operating requirements set out at 9.65.050 (TNC Certification Requirements), 9.65.070 (TNC Operating Requirements; Prohibitions), 9.65.080 (TNC Accessible Service Requirements), 9.65.090 (TNC Driver Certification Requirements) and 9.65.110 (TNC Vehicle Certification Requirements).

(a) TNCs operating in the City of Gresham will provide Portland all required ride data and driver information necessary to successfully certify and recertify City TNC drivers and issue TNC Company, TNC Driver and TNC Vehicle Certifications in conformance with Portland’s TNC code. Gresham will receive ride data, driver information, and any other required data, information, and reporting under this article from Portland only as the data and information pertains to operations in Gresham.

(b) The City shall recognize all existing TNC Drivers permitted to operate in Portland as permitted drivers, adopt the current dates for TNC Driver certification and background check compliance for each permitted Portland TNC Driver, and adopt the current permit status for each permitted TNC Driver.

(c) The City shall recognize all existing TNC Vehicles permitted to operate in Portland as permitted vehicles, adopt the current dates for TNC Vehicle certification, and adopt permit status for each permitted TNC Vehicle.

(d) The City shall recognize all existing
Article 9.70

**ECONOMIC IMPROVEMENT
DISTRICT**

Sections:

- 9.70.005 [Purpose and Process Description.](#)
- 9.70.010 [Definitions.](#)
- 9.70.020 [Initiation.](#)
- 9.70.030 [Economic Improvement Plan.](#)
- 9.70.040 [Council Action Plan.](#)
- 9.70.050 [Ordinance Proposing Creation of an Economic Improvement District and Calling for the First Public Hearing.](#)
- 9.70.060 [Voluntary Assessment.](#)
- 9.70.070 [First Public Hearing and Resolution Establishing District.](#)

TNC Companies permitted to operate in Portland as permitted TNC Companies, adopt the current dates for TNC Company certificate, and adopt permit status for each permitted TNC Company.

(e) TNC Companies, TNC Drivers, and TNC Vehicles certified and recertified by Portland after the effective date of this Article shall be issued a permit authorizing the TNC Company, TNC Driver, and TNC Vehicle to operate in the City so long as all applicable standards, conditions and operating requirements continue to be met.

(2) A TNC Company that is in compliance with the standards, conditions and operating requirements set out in Portland’s TNC code shall be deemed to be in compliance with the equivalent City provision set out in this Article.
(Ord. No. 1815, Enacted, 12/01/2020)

9.65.130 Enforcement.

Failure to comply with any provision of this article constitutes a violation, and may be enforced as set forth in GRC Article 9.99 or as otherwise authorized by law.
(Ord. No. 1815, Enacted, 12/01/2020)

- 9.70.080 [Second Public Hearing and Adoption of Final Assessment and Fee Ordinance.](#)
- 9.70.090 [Final Assessment and Fee Ordinance.](#)
- 9.70.100 [Advisory Committee and Agreement with Existing Association.](#)
- 9.70.110 [Expenditure of Assessment Revenues.](#)
- 9.70.120 [Limitations on Imposition of Assessment and Fees.](#)
- 9.70.130 [Extension of Assessment or Business License Fee Period.](#)
- 9.70.140 [Early Termination.](#)

9.70.005 Purpose and Process Description.

The purpose of this article is to establish procedures for the creation of Economic Improvement Districts and for assessment and business license fees to finance projects within such districts. The process, in summary, for establishment includes:

(1) initiation of an economic improvement district on motion of the council or on petition;

(2) passage of an ordinance proposing establishment of an Economic Improvement District and the assessments and fees to finance an economic improvement within the district;

(3) the conduct of a first public hearing, after giving 30 days notice, to allow affected property owners and persons conducting business within the proposed district to comment on the proposed district, improvement project and assessments and fees;

(4) the passage at the first public hearing, if the council chooses to go forward to establish the district, of a resolution establishing the district, approving the economic improvement plan, determining the amount of assessments and fees to be charged, the duration of the charges and setting the date, time and place of a second public hearing;

(5) the conduct of a second public hearing, after giving 30 days notice, to hear and consider testimony in support and opposition to the proposed assessments or fees and to receive written objections; and

(6) the passage at the second public hearing, if the council is able and chooses to go forward, of a final assessment or business license fee ordinance.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 9.70, the following definitions mean:

Economic Improvement.

(1) the planning or management of development or improvement activities;

(2) landscaping or other maintenance of public areas;

(3) promotion of commercial activity or public events;

(4) conducting activities in support of business recruitment and development;

(5) provision of improvements in parking systems or parking enforcement; or

(6) any other economic improvement activity that specially benefits property or persons conducting business.

Exempt property. Residential real property and any portion of a structure used for residential purposes and, in addition, those properties exempt from general property taxation under state law.

Business license fee. Any fee paid by a person to the city for any form of license that is required by the city in order to conduct business in the city.

Conducting business. Engaging in any business, trade, occupation or profession in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person's own behalf.

Subject property. Real property within the economic improvement district except for exempt property.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1343, Enacted, 12/20/1994)

9.70.020 Initiation.

The council may initiate an economic improvement district on its own motion; upon the petition, for financing by assessment, of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed district; or upon petition, for financing by business license fee, of 33 percent of the persons conducting business within the proposed district. The improvement shall be paid for in

whole or in part by special assessment or business license fee. The council may ultimately decline for any reason within its sole discretion to establish a proposed economic improvement district. This article shall not give to any person the right to have an economic improvement district established.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.030 Economic Improvement Plan.

Any petition filed by the owners or persons conducting business shall contain a proposed economic improvement plan for the proposed economic improvement district. If the council, on its own motion, decides to consider such a district, it shall instruct the manager to prepare, or assist in preparing, the economic improvement plan. The economic improvement plan shall contain the following:

(1) a description of economic improvement project proposed to be undertaken or constructed;

(2) a preliminary estimate of the probable annual cost of the proposed economic improvements;

(3) the proposed formula for apportioning, assessing or charging the cost of economic improvements against properties, or persons conducting business that are specially benefited by the economic improvement which formula may be:

(a) an assessment based on the assessed value, square footage or other basis, of the property involved; or

(b) a business license fee on persons conducting a business, trade, occupation or profession in pursuit of gain carried on or practiced in the economic improvement district; or

(c) a combination of assessment and business license fee;

(4) the proposed boundaries designated by map or perimeter description of an economic improvement district within which subject

properties would be assessed or business license fee collected to finance the cost of the economic improvement;

(5) the number of years, to a maximum of five, in which assessments or business license fees are proposed to be levied or imposed;

(6) a statement whether the property assessment will be a voluntary assessment or mandatory assessment; and

(a) if voluntary, that the scope and level of improvements could be reduced depending on the amount of money collected; or

(b) if mandatory, that the assessment will be considered a tax under the Oregon Constitution, Article XI Section 11(b) and may be reduced to fit within the property tax limitation thereby affecting the level and scope of services described.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.040 Council Action on Plan.

The council may by motion approve the proposed plan, modify the plan and approve it, or abandon the proposed economic improvement, independently or as part of the council review of the ordinance proposing creation of an economic improvement district.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.050 Ordinance Proposing Creation of an Economic Improvement District and Calling for the First Public Hearing.

After the initiation of a proposed economic improvement district and improvement project the council shall, by ordinance:

(1) Call a first public hearing to be held on the question of establishment of such economic improvement district, approval of the economic improvement plan and the proposed assessment or business license fee.

(2) Provide that: notices of the proposed

hearing shall be mailed or delivered personally to affected property owners and persons conducting business within the proposed district; such notices shall announce the intention of the council to construct or undertake the economic improvement project in accordance with the proposed economic improvement plan and to assess benefited properties or impose a business license fee for a part or all of the cost; the notice shall state the time and place of the public hearing; the hearing shall be set not sooner than 30 days after the mailing or delivery of said notices to the affected property owners and persons conducting business within the proposed district; and at the public hearing the affected property owners or persons conducting business shall be allowed to appear at the hearing and support or object to the proposed district, improvement, assessment or business license fee.

(3) Provide the information contained in the proposed economic improvement plan that may be included by attachment of the plan as an exhibit.

(4) Provides that if, after the first hearing held under subsection (1) above, the council finds that the economic improvements would afford special and peculiar benefit to subject parcels or persons conducting business within the proposed economic improvement district different in kind or degree from that afforded to the general public, and that the economic improvement district should be established and the plan adopted, then the council may adopt a resolution stating those findings and establishing the district, determining the amount of assessments and fees to be charged, the number of years the assessments and fees will be charged, the notice to be given of the second public hearing and its date, time and place.

(5) Provides that the council shall then determine whether the property or businesses benefited shall bear all or a portion of the cost.

(6) Provides that the council shall:

(a) determine, based on the actual or estimated cost of the economic improvement, the amount of the assessment on each lot in the district or the amount of the business license fee to be charged to any person conducting business in the district;

(b) direct the manager to mail or personally deliver notice of such proposed assessment or business license fee to the owner of each lot to be assessed or business to be charged; the notice shall state:

(i) the amount of the assessment proposed on the property of the owner receiving the notice, or the business license fee to be charged to the owner of the business receiving the notice;

(ii) that council will hold a public hearing on the proposed assessment or business license fee on a specified date that shall not be held sooner than 30 days after the mailing or personal delivery of the notice;

(iii) the time and place of a second public hearing at which affected property owners or business owners may appear to support or object to the proposed assessment or business license fee and that at the second hearing the council may consider objections and may adopt, correct, modify or revise the proposed assessments or business license fees;

(iv) that the assessments will not be made, the business license fee or surcharge to existing business license fee will not be charged, and the economic improvement project will be terminated when written objections are received at the second public hearing from owners of property upon which more than 33 percent of the total amount of assessments is levied, or if a business license fee is charged, from more than 33 percent of persons conducting business within the economic improvement district who will be subject to the proposed license fee;

(c) Consider objections at the second hearing and may adopt, correct, modify or revise the proposed assessments or charges. In the case of a voluntary assessment under GRC 9.70.060, the council shall exclude from assessment, property which the owner has

requested to be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.060. Voluntary Assessment.

(1) Pursuant to the requirements as set forth above, the ordinance proposing creation of an economic improvement district and calling for the first public hearing may, at the discretion of the council, provide that:

(a) When the council receives written objections at the second public hearing only from owners of property upon which less than 33 percent of the total amount of assessments is levied, the economic improvement project may be undertaken or constructed, but that assessment shall not be levied on any lot or parcel of property if the owner of that property submitted written objections at the public hearing. Notwithstanding any other provision of law, an owner of property who fails to submit written objections at the public hearing as provided for in the ordinance shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the assessment ordinance.

(b) The council, after excluding from assessment property belonging to such owners, shall determine the amount of assessment on each of the remaining lots or parcels in the district.

(c) That if the amount of the assessment on remaining properties is revised pursuant to subsections (a) and (b) above to an amount different than that provided in the notice of the second hearing, notice of such proposed revised assessment shall be mailed or personally delivered to the owner of each lot to be assessed, which shall state the amount of the assessment proposed on the property of the owner receiving the notice.

(2) When assessments are levied against property within an economic improvement district

in accordance with an assessment ordinance that contains the provision described in subsection (1) of this section:

(a) Any new owner of benefited property in the district or any owner of benefited property who excluded the property from assessment by submitting written objections to the council may subsequently agree to the assessment of the owner's property in the district. The council shall apportion the costs to the property for the remaining time in which assessments will be levied.

(b) The assessed property may not be relieved from liability for that assessment.

(c) If the council considers it necessary to levy assessments upon property in the district for longer than the period of time specified in the assessment ordinance, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice and right of remonstrance described in GRC 9.70.050(6) and GRC 9.70.060(1).

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.070 First Public Hearing and Resolution Establishing District.

The council shall provide notice and conduct its first public hearing in accordance with the ordinance proposing creation of an economic improvement district and as set forth in GRC 9.70.050 and GRC 9.70.060. At the conclusion of the first public hearing, if the council determines to go forward with the district, project and proposed funding, the council shall adopt a resolution in accordance with GRC 9.70.050(4) – (6).

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.080 Second Public Hearing and Adoption of Final Assessment and Fee Ordinance.

The council shall provide notice and conduct its second public hearing in accordance with the

resolution establishing the economic improvement district and as set forth in GRC 9.70.050(4) – (6) and GRC 9.70.060. The council may continue the hearing to a date and time certain. Written objections shall be considered to have been received by the council at the hearing if actually received at the hearing or if received by the city manager prior to the commencement of the hearing. At the conclusion of the second public hearing, if the council determines and is able to go forward with the project and assessments or fees, the council shall pass a final assessment and fee ordinance in accordance with GRC 9.70.090. The ordinance will include establishment of the amount of the assessments and business license fees to be charged, the duration of the assessments and business license fee requirement, penalties for nonpayment or failure to obtain license and classification of assessments and fees as to constitutional limits. (Ord. No. 1343, Enacted, 12/20/1994)

9.70.090 Final Assessment and Fee Ordinance.

If written objections in the requisite 33 percent are not received as provided in GRC 9.70.050, the council may adopt a final ordinance levying the appropriate assessments or business license fees. Upon adoption of the final ordinance, the manager shall enter each such assessment in the docket of city liens. All such assessments shall be collected in the same manner as local improvement assessments. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law. (Ord. No. 1540, Amended, 03/07/2002; Ord. No. 1343, Enacted, 12/20/1994)

9.70.100 Advisory Committee and Agreement with Existing Association.

Any assessment ordinance adopted as herein provided may require creation, for each economic improvement district, of an advisory committee to allocate expenditure of moneys for economic improvement activities within the scope of this ordinance. If an advisory committee is created,

the council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. An existing association of property owners, tenants or persons conducting business within an economic improvement district may enter into agreement with the city to provide the proposed economic improvement. (Ord. No. 1343, Enacted, 12/20/1994)

9.70.110 Expenditure of Assessment Revenues.

Money derived from assessments or fees levied under the procedures set forth in this ordinance shall be spent only for the economic improvements set forth in the Economic Improvement Plan and for the cost of city administration of the economic improvement district. (Ord. No. 1343, Enacted, 12/20/1994)

9.70.120 Limitations on Imposition of Assessments and Fees.

The city is not authorized to:

- (1) Levy assessments in an economic improvement district in any year that exceed one percent of the real market value of all the real property located within the district.
- (2) Levy assessments on residential real property or any portion of a structure used for residential purposes.
- (3) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.
- (4) Impose a business license fee to raise revenue for an economic improvement that does not primarily benefit persons conducting business within the economic improvement district. (Ord. No. 1343, Enacted, 12/20/1994)

9.70.130 Extension of Assessment or Business License Fee Period.

When the council considers it necessary to levy assessments upon property, or impose business license fees upon persons conducting business, in an economic improvement district for longer than the period of time specified in the ordinance that created the district, the council shall enact an ordinance that provides for continued assessments or business license fees for a specified number of years and grants to the owners of property or persons conducting business in the district the notice and right of remonstrance described in GRC 9.70.050.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.140 Early Termination.

By ordinance the council may terminate the activities of an economic improvement district in whole or in part prior to the normally scheduled termination date for the district. The ordinance shall provide that all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments or fees for the district, following payment of all obligations and costs of administration incurred on behalf of the district, shall be returned to the owners of the subject properties or the persons conducting business in the district in amounts proportionate to the amounts of the assessments or fees they paid for the district. In the event of early termination of only a part of the activities of an economic improvement district, the council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future district assessments or fees, with any funds remaining being returned to the owners or persons conducting business as otherwise provided in this section.

(Ord. No. 1343, Enacted, 12/20/1994)

Article 9.75

PRIVATE PROPERTY IMPOUNDS

Sections:

- 9.75.010 [Towing of Vehicles from Private Property.](#)
- 9.75.020 [Definitions.](#)
- 9.75.030 [PPI Tower’s License Required.](#)
- 9.75.040 [Application.](#)
- 9.75.050 [Insurance and Indemnification Requirements.](#)
- 9.75.060 [Towing Regulations.](#)
- 9.75.070 [Towing and Storage Rates.](#)
- 9.75.080 [General Conditions.](#)
- 9.75.090 [Towing Procedures.](#)
- 9.75.100 [Prohibitions.](#)
- 9.75.110 [Release at Scene \(RAS\).](#)
- 9.75.120 [Signage Requirements.](#)
- 9.75.130 [Inspection and Maintenance of Records.](#)
- 9.75.140 [Citizen Complaints.](#)
- 9.75.150 [Enforcement.](#)

9.75.010 Towing of Vehicles from Private Property.

(1) **Short Title.** GRC Article 9.75 shall be known as the Private Property Impound (PPI) Code.

(2) **Purpose.** The purpose of the PPI Code is to require that towing from private parking facilities be performed fairly, in accordance with defined standards, and at reasonable rates. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure protection from unreasonable rates and unscrupulous towing practices.

(3) **Conformity to State and Federal Laws.** The PPI Code shall be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property and applicable federal statutes.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for the purposes of the PPI Code, the following definitions apply. Terms, phrases, words, abbreviations and their derivatives used, but not specifically defined in this section, either shall have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, shall have the meanings commonly accepted in the community.

Vehicle Owner’s Agent. A person bearing documentation from the registered vehicle owner officially authorizing the person to possess or operate the vehicle.

Police Tow. A vehicle towed as recovered stolen, prisoner’s property, driver or vehicle not properly licensed or registered, no insurance, held under a formal or temporary Police Hold, or otherwise designated as a police tow by the Gresham Police Department.

PPI Tower. Any tower duly registered and licensed under this PPI Code to perform private property impound tows within the City of Gresham.

PPI Tower's License. The license issued to a tower demonstrating it has agreed to comply with the requirements of this PPI Code.

Private Parking Facility. Any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking.

Private Parking Facility Owner. The owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner.

Private Property Impound (PPI). The impoundment of a vehicle from a private parking facility at the request of the Private Parking Facility Owner without the prior consent of the vehicle's registered owner.

Release at Scene (RAS) Fee. The fee allowed to be charged when a vehicle owner/owner's agent

returns to where the vehicle was parked before the PPI Tower has departed with vehicle in tow. The RAS fee is not applicable until the hookup is complete and tow truck is in motion.

Tow Desk. City of Gresham Police Department Records desk.

Tower. Any person or entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

Vehicle Owner. The person registered with the State of Oregon Department of Motor Vehicles as the owner of the vehicle.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.030 PPI Tower’s License Required.

(1) No tower shall tow or store vehicles towed from private parking facilities unless the tower has a PPI Tower’s License issued by the manager.

(2) The manager shall issue a license when the application has been approved and the required insurance certificate has been submitted.

(3) Application for a PPI Tower’s License shall be made annually to the manager. Licenses issued under this PPI Code shall run concurrently with the tower’s business license. The renewal date for the license shall be the same as for the tower’s business license and shall expire unless renewed.

(4) PPI Tower’s License is not transferable.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.040 Application.

(1) Application for a PPI Tower’s License shall be made on a form approved by the manager. The application shall include, but not be limited to, the following information:

(a) The legal business name, address, address of all storage facilities, telephone numbers, fax numbers, email address and

emergency contact phone number.

(b) Names of all owners, part-owners, partners, principal parties, officers, directors, agents, investors or any other persons having a financial interest in the applicant’s business.

(c) Names of owner or employee who is responsible for complaint resolution.

(d) List of business owners, vehicle owners, drivers and any staff having contact with vehicles including the following information:

(i) first, middle, and last name;

(ii) date of birth;

(iii) driver’s license number; and

(iv) any other necessary information for criminal background check.

(e) Such other information as the manager may require.

(f) Proof of insurance in the form of an insurance certificate that demonstrates the PPI Tower is in compliance with the insurance requirements in this PPI Code.

(2) The manager shall issue a license when the application has been approved.

(3) A PPI Tower’s License may be denied under the following circumstances:

(a) a PPI Tower’s application is incomplete or contains a false, fraudulent or misleading statement;

(b) business owners, vehicle owners, drivers or staff having contact with vehicles have an invalid driver’s license; or

(c) business owners, vehicle owners, drivers or staff having contact with vehicles have an outstanding arrest warrant.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.050 Insurance and Indemnification Requirements.

(1) As a condition of the issuance of a permit, PPI Tower's subject to the PPI Code agree to hold harmless, defend and indemnify the City of Gresham, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI Tower's License.

(2) PPI Tower shall maintain such public liability and property damage insurance and furnish certificates of insurance coverage of the type and amount required by the city attorney.

(a) The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the license. The insurance shall be without prejudice to coverage otherwise existing.

(b) The insurance shall name as additional insureds the city, and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insureds on the policy.

(c) The insurance shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the manager.

(d) The adequacy of the insurance shall be subject to the approval of the city attorney.

(e) Failure to maintain liability insurance shall be cause for immediate revocation of the license by the manager.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.060 Towing Regulations.

(1) A tower may tow a vehicle from a private parking facility only under the following circumstances:

(a) the tower has been issued a current PPI Tower's License;

(b) the private parking facility complies with the signage requirements set forth in this PPI Code;

(c) the vehicle shall be towed directly to the tower's storage facility;

(d) no person or persons occupy the vehicle; and

(e) express written authorization has been issued to the PPI Tower by the private parking facility owner, or person in lawful possession of the property, in compliance with ORS 98.812 and ORS 98.830;

(2) Police tows are not subject to the regulations of this PPI Code.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.070 Towing and Storage Rates.

A schedule of approved maximum rates and fees for PPI towing, RAS, and storage shall be adopted by city council. Such schedule shall be published annually and supplied to all applicants with the application materials for new licenses and renewals. PPI Towers may submit a request for an increase in the approved maximum fees not later than two months before the end of any calendar year. Prior to making any changes in the PPI rate schedule, city council shall hold a public hearing for the purpose of determining fair and reasonable prices.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.080 General Conditions.

PPI Towers licensed under this PPI Code shall:

(1) perform all PPI tows in a safe manner, taking care not to cause damage to the person or property of others while towing or storing a vehicle;

(2) practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle;

(3) cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle;

(4) all tow trucks used to perform PPI tows shall be permanently identified on each side of the vehicle with tower's name, city, state, and telephone clearly marked in letters not less than three inches high; and

(5) prominently display at the vehicle release location a placard containing the current schedule of approved PPI rates, and keep a copy of the current schedule of approved PPI rates in the tow vehicle.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.090 Towing Procedures.

PPI Towers shall follow the following procedures when performing a PPI Tow:

(1) Using a **digital** camera with time and date stamp, photograph the vehicle in the location left by the vehicle operator prior to attaching the equipment, and the parking facility signage, in order to demonstrate that the vehicle to be towed is in violation of the private parking facility regulations.

(2) In the event a vehicle owner or operator returns to the area where the vehicle is parked when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward, the PPI Tower must immediately discontinue the towing of the vehicle. The PPI Tower may charge a RAS fee in accordance with GRC 9.75.100.

(3) Police Records Division Notification:

RAS or no fee. The PPI Tower must notify the Police Records Division by telephone of intent to tow prior to attaching any equipment to, moving, or removing the vehicle and within 15 minutes of a RAS fee being collected or after a vehicle was released without a fee.

(4) Police Records Division Notification: Towed Vehicle.

(a) The PPI Tower must notify the Police Records Division by telephone of the intent to tow prior to attaching any equipment to, moving, or removing the vehicle and provide the following details:

- (i) the location;
- (ii) color, make and model;
- (iii) license plate information; and
- (iv) VIN number.

(5) The PPI Tower must have staff or dispatch service available at all times to provide information about the location of a towed vehicle and/or instructions for release of a towed vehicle.

(6) The PPI Tower must offer to call for or provide transportation to the vehicle owner/operator from within the immediate vicinity of the tow scene to the location of the towed vehicle storage and otherwise comply with ORS 822.230(3)(d).

(7) The PPI Tower must have personnel available at the storage facility to release a vehicle within 30 minutes after receiving a request for vehicle release.

(8) The PPI Tower must accept at least the following methods of payment for any fees or rates assessed:

(a) Cash. Adequate cash must be available at all times at the storage facility and with the tow drivers for the purpose of making change; or

(b) Credit Card. Any valid credit card or debit card bearing the VISA or MasterCard

emblem and issued in the name of the registered vehicle owner/owner's agent must be accepted.

(9) The PPI Tower shall only release the vehicle to the registered or legal vehicle owner, or owner's agent. The PPI Tower shall require the person seeking release to submit proof of ownership, vehicle title, or registration in addition to valid photo-identification.

(10) The PPI Tower must issue to the vehicle owner/owner's agent a clearly legible receipt complete with all required information, and with all fees and considerations itemized.

(11) Police Records Division Notification: Release of Vehicle. The PPI Tower must notify the Police Records Division within eight hours after the release of a vehicle to the registered vehicle owner/owner's agent, acceptance of a vehicle title in lieu of payment, or foreclosure of a possessory lien by providing the Police Records Division the vehicle's VIN number and the action taken.

(12) The PPI Tower must exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, and in the event a vehicle has not been redeemed within two hours after it reaches the PPI Tower's storage lot, call local animal control authority to make custody arrangements and document the location to which the animal is taken.

(Ord. No. 1828, Amended, 06/02/2022; Ord. No. 1701, Enacted, 03/03/2011)

9.75.100 Prohibitions.

(1) PPI Towers registered under this PPI Code shall not:

(a) charge any fee not listed in, or in excess of, those included in the fee and rate schedule established by city council;

(b) require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed, or relieving the PPI Tower from responsibility for the condition of

the vehicle or its contents;

(c) solicit PPI towing business by means of payment of a gratuity, commission or any other consideration to the private property owner, operator, manager or employee;

(d) remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached;

(e) use predatory practices, such as parking within 1,000 feet of, or post a monitor at, a private parking facility for the purpose of covert observation in order to obtain PPI tows, unless:

(i) the monitor provides a verbal warning to persons leaving their cars; or

(ii) signs are posted clearly warning that the lot has on-site monitoring and the hours during which monitoring occurs.

(f) assess or collect a surcharge fee in lieu of towing; or

(g) make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this PPI Code.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.110 Release At Scene (RAS).

(1) In the event a vehicle owner/ owner's agent returns to the where the vehicle was parked before the PPI Tower has left the area, the PPI Tower may collect a RAS fee if the following conditions have been satisfied:

(a) the hook up of equipment to the vehicle to be towed is complete, including the hook up of safety equipment; and

(b) the tow truck's transmission is engaged and it has commenced driving forward.

(2) The RAS fee shall be the fee established by council resolution.

(3) Under the conditions of subsection (1), above, the PPI Tower must immediately halt the tow and inform the vehicle owner of the amount of the RAS fee. The vehicle owner/owner’s agent or operator has 15 minutes to pay the RAS fee. If the vehicle owner/owner’s agent or operator fails to make payment within 15 minutes, the PPI Tower may proceed to tow the vehicle to the storage facility.

(4) In the event that a vehicle owner or operator returns to the vehicle while the PPI Tower is still attaching equipment to the vehicle or is outside of the tow truck, the PPI Tower shall release the vehicle to the vehicle owner or operator at no charge.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.120 Signage Requirements.

(1) No PPI Tower shall tow a vehicle from a private parking facility unless the facility meets the following signage requirements:

(a) At least one sign must be posted and clearly legible by an operator of a motor vehicle at each entry or driveway into the parking lot and not more than 10 feet from the public right-of-way or lot line.

(b) Each required sign shall comply with the below specifications:

(i) posted so that the center of the sign is not more than eight feet and not less than four feet above the ground;

(ii) be at least 18” x 24” in size;

(iii) state that parking is prohibited, reserved, or otherwise restricted;

(iv) state who is authorized to park in the spaces, the permitted hours, and any other restrictions;

(v) state the towing and storage of a vehicle in violation of the rules shall be at the owner’s expense; and

(vi) clearly display the PPI Tower’s name and 24-hour telephone contact number to obtain a release of a vehicle.

(2) Signage located at a private parking facility related to permission to park shall provide consistent information about the type of parking that is permitted at the facility. Any such signage that is inconsistent or conflicts with the permission given by other signage at the facility shall be interpreted in the manner most favorable to the vehicle owner.

(3) A tower or private parking facility owner may request an exception to the rules for signage requirements. Such request must be made in writing to the manager, describing why the sign requirements cannot be met and proposing an alternative posting scheme for approval.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1701, Enacted, 03/03/2011)

9.75.130 Inspection and Maintenance of Records.

The PPI Tower shall, upon request of the City of Gresham, produce the original records of any PPI tow for purposes of auditing, enforcement, or complaint resolution. Such records shall be delivered to the city during normal business hours within 24 hours of written notice by the manager. All PPI Tower’s records shall be retained in retrievable form by the PPI Tower for a minimum of three years from the date of the tow.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.140 Citizen Complaints.

(1) A vehicle owner or vehicle operator whose vehicle has been impounded, or who has paid an RAS fee, has 90 days from the date of the tow to file a written complaint against the PPI Tower with the manager.

(2) The manager shall provide a copy of the written complaint to the PPI Tower within 15 days

of receipt.

(3) The PPI Tower shall provide a written statement of response within 10 days of the date it received the complaint, unless an extension is granted by the manager. The response shall include all documentation requested by the manager, including a copy of the agreement or signed invoice authorizing the tow, an explanation for how the circumstances justified the tow, and the photographs of the vehicle and signs at the scene of the tow as required under this PPI Code.

(4) After reviewing the complaint and the response provided by the PPI Tower, the manager shall determine whether the tow was properly performed under this PPI Code and, if not, the appropriate remedy as set forth in GRC 9.75.150. The manager shall submit a written decision and mail it to each party within 75 days from the date of receipt of the original complaint.

(5) In the event either party disagrees with the decision rendered by the manager, he or she may protest the decision to an independent hearings officer pursuant to GRC 7.50.030. The losing party shall pay for the costs of the hearings officer. Such costs shall be delinquent if not paid within 30 days from the date of the hearing officer's decision. If applicable, delinquent costs may be entered in the docket of city liens pursuant to GRC 2.92.030 and/or recorded in the Multnomah County deed records.

(6) The hearings officer may impose a remedy as set forth in GRC 9.75.150 or otherwise provided in the code. Failure on the part of the PPI Tower to comply with the hearings officer's decision may result in the suspension or revocation the PPI Tower's license.

(Ord. No. 1828, Amended, 06/02/2022; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1701, Enacted, 03/03/2011)

9.75.150 Enforcement.

(1) A violation of any section of this PPI Code may be subject to a fine or penalty in the maximum amount of \$500.00. Each day a violation occurs or continues is a separate offense.

(2) Upon a finding of a violation of any

section of this PPI Code by a PPI Tower, the manager or a hearings officer may direct release of a vehicle at no charge, or a refund of all or part of fees paid by a vehicle owner/owner's agent for towing and storage, in lieu of, or in addition to, civil penalties or other remedies under the code.

(3) Nothing in this section is intended to prevent any person from pursuing private legal remedies.

(4) In addition to any other provisions of this PPI Code, violation of any provisions of this PPI Code may result in denial, suspension or revocation of the license as set forth in GRC Article 9.99.

(5) Additional remedies for enforcement of a violation of this PPI Code are set forth in GRC Article 7.50.

(Ord. No. 1701, Enacted, 03/03/2011)

Article 9.90

REGULATION OF PAYDAY LENDING

Sections:

- 9.90.010 [Purpose.](#)
- 9.90.020 [Definitions.](#)
- 9.90.030 [Permits.](#)
- 9.90.040 [Administrative Authority.](#)
- 9.90.050 [Payment of Principal Prior to Payday Loan Renewal.](#)
- 9.90.060 [Cancellation of Payday Loan.](#)
- 9.90.070 [Payment Plan for a Payday Loan.](#)
- 9.90.080 [Remedies.](#)
- 9.90.090 [Appeals.](#)
- 9.90.100 [Complaints.](#)
- 9.90.110 [Severability.](#)

9.90.010 Purpose.

The city finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This chapter shall be construed in conformity with the laws and regulations of the State of Oregon.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in this article unless the context requires otherwise, the following mean:

Payday Lender. A lender in the business of making payday loans as defined by ORS 725.600.

Payday Loan. A payday loan as defined by state law.

Borrower. A natural person who receives a payday loan.

Cancel. To annul the payday loan agreement and,

with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

Manager. The City Manager or designee.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1627, Enacted, 4/20/2006)

9.90.030 Permits.

Within 60 days of the effective date of the ordinance enacting this article, any Payday Lender operating in the City of Gresham shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Gresham and shall be renewed annually. The application shall be in a form to be determined by the manager. The manager shall require the Payday Lender to report its fee schedule in the Payday Lender’s permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Gresham. The amount of the fee shall be set by council resolution.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.040 Administrative Authority.

(1) The manager is authorized and directed to enforce all provisions of this article. The manager shall have the power to investigate any and all complaints regarding alleged violations of this article. The manager may delegate any or all authority granted under this section to a designee.

(2) The manager is authorized to adopt and enforce administrative rules interpreting and applying this article. The manager or designee shall make written findings of fact and conclusions of law to support all decisions.

(3) Prior to adoption of a new administrative rule, the manager shall give notice to all interested parties of the terms of the proposed rule, and shall

conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

(a) At the public hearing, the manager or designee shall hear oral and written testimony concerning the proposed rule. The manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

(b) The manager shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

(c) Unless otherwise stated, all rules shall be effective upon adoption by the manager. All rules adopted by the manager shall be filed in the Office of Governance and Management of the City of Gresham. Copies of all current rules shall be available to the public upon request.

(d) Notwithstanding subsections 1 and 2 of this section, the manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

(4) Inspection of Records. The City of Gresham reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the manager or designee.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.050 Payment of Principal Prior to Payday Loan Renewal.

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to

at least 25 percent of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.060 Cancellation of Payday Loan.

(1) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:

(a) Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and

(b) Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

(2) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.070 Payment Plan for a Payday Loan.

(1) A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

(2) A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(3) After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan.

Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

(4) The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

(5) The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the payment plan.

(6) A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this article. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this article.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.080 Remedies.

(1) Failure to comply with any part of this article or the administrative rules may be punishable by civil penalties. The manager may impose a civil penalty of up to \$1,500.00 for a substantial violation of the article or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

(2) Civil penalties shall be payable to the City of Gresham.

(3) Civil remedies. Nothing in this section is intended to prevent any person from pursuing any available legal remedies.

(4) No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.090 Appeals.

Any person upon whom a civil penalty has been imposed, or who has been directed by the manager to resolve a complaint, may protest to a hearings officer pursuant to GRC 7.50.030.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1627, Enacted, 04/20/2006)

9.90.100 Complaints.

The manager shall have the authority to investigate any and all complaints alleging violation of this chapter or administrative rules.

(1) The manager (or designee) may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the manager shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.

(2) The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the manager by telephone or in writing within two business days from initial contact by the manager.

(3) If the proposed resolution is satisfactory to the manager, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the manager.

(4) If the proposed resolution is not satisfactory to the manager, the manager shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided in GRC 9.90.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by GRC 9.90.090.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.110 Severability.

If any provision of this article, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Article and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the article shall be severed.

(Ord. No. 1627, Enacted, 04/20/2006)

Article 9.99

ENFORCEMENT

Sections:

- 9.99.010 Violation.
- 9.99.020 Late Payment Charge.
- 9.99.030 Authority to Inspect.
- 9.99.040 Fines, Penalties, Abatement and Other Enforcement Tools.
- 9.99.050 Denial, Suspension, or Revocation of a License, Permit or Registration.

9.99.010 Violation.

A violation shall have occurred when any requirement or provision of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.
(Ord. No. 1700, Enacted, 03/03/2011)

9.99.020 Late Payment Charge.

(1) Pursuant to GRC 2.92.010(1), a late payment charge shall be charged to all accounts for which the license or permit fees are not paid when due.

(2) If the unpaid license fee, including late payment charge, relates to a rental license, the fee and charges shall be entered in the docket of city liens pursuant to GRC 2.92.030 and may be recorded in the Multnomah County deed records. When entered in the city lien docket, the notice shall constitute a lien upon the property in violation of the code. The lien shall be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or otherwise provided by law.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Enacted, 03/03/2011)

9.99.030 Authority to Inspect.

The manager may enter any property, building, or premises in accordance with GRC 7.50.500 through GRC 7.50.520, to perform an inspection in order to ensure compliance with any provision of this chapter.

(Ord. No. 1700, Enacted, 03/03/2011)

9.99.040 Fines, Penalties, Abatement and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any provision of this chapter may be subject to a fine or penalty in the maximum amount of \$1,000.

(4) Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty.

(Ord. No. 1700, Enacted, 03/03/2011)

9.99.050 Denial, Suspension, or Revocation of a License, Permit or Registration.

(1) In addition to any basis for denial, suspension or revocation provided by the applicable article, a license, permit, or registration applied for under this chapter may be denied, suspended or revoked for any of the following causes:

(a) fraud, misrepresentation, untrue, misleading, or incomplete statements in connection with the application, renewal, or update for a license, permit, or registration;

(b) failing to meet all requirements of local, city, county, regional, and state laws and regulations, including but not limited to, other permitting, inspection, or licensing requirements and land use regulations;

(c) fraud, misrepresentation or false statement made by the licensee, permit holder, registrant or a member of the licensee, permit holder, or registrant's organization in the course of carrying on the licensed, permitted, or registered activity;

(d) conducting the licensed, permitted, or registered activity in violation of code provisions governing nuisances;

(e) conducting the licensed, permitted, or registered activity in violation of law, or in a manner that constitutes a menace to the public health and safety;

(f) failure to comply with an agreement contained in the application or with any requirement under this chapter;

(g) withdrawal of the written consent of a property owner previously consenting to the licensee, permittee, or registrant conducting business;

(h) suspension, revocation or cancellation of any necessary health permit;

(i) failure to secure and maintain in current and unexpired status any required insurance.

(2) Upon denial, suspension or revocation, the manager shall give notice of such action to the license, permit holder, or registrant in writing. Such notice shall include the following:

(a) a statement explaining the action taken,

(b) the reasons for the action,

(c) the date the decision becomes effective, and

(d) the opportunity to protest the decision as set forth in GRC 7.50.030.

(3) Notice of denial, revocation or suspension of any permit, license, or registration issued

pursuant to this article, shall be sent by regular and certified mail, return receipt requested. In the event the suspension or revocation is effective immediately, notice shall also be delivered by posting it on the property at the location listed on the person's license, permit, or registration application.

(4) Unless otherwise provided the action shall be effective 10 days after the date of the notice.

(5) Any license, permit, or registration applicant or holder aggrieved by a denial, suspension, revocation, or non-renewal of a license, permit, or registration regulated under this section, may protest such action to a hearings officer pursuant to GRC 7.50.030.

(6) Unless otherwise provided, submitting a protest of a revocation or suspension of a license or permit shall stay the effectiveness of the suspension or revocation until the protest hearing is held and the hearings officer issues a decision.

(7) A license or permit may be suspended in the event of an imminent threat to public health and safety and in circumstances in which it is necessary to take immediate action in order to prevent serious harm. Suspension under this section is effective upon the date the notice is posted on the property. Subsection (6), above, does not apply to suspensions under this section. (Ord. No. 1752, Amended, 05/05/2015; Ord. No. 1700, Enacted, 03/03/2011)

Chapter 10
BUILDINGS AND HOUSING

Articles:

10.05 BUILDING CODES

- 10.05.010 Title.
- 10.05.020 Purpose.
- 10.05.030 Scope.
- 10.05.040 Definitions.
- 10.05.050 Adoption of Oregon Structural Specialty Code.
- 10.05.060 Adoption of Oregon Mechanical Specialty Code.
- 10.05.070 Adoption of Oregon Plumbing Specialty Code.
- 10.05.080 Adoption of Oregon Electrical Specialty Code.
- 10.05.090 Adoption of Oregon Residential Specialty Code.
- 10.05.095 Adoption of Oregon Energy Efficiency Specialty Code.
- 10.05.100 Adoption of Oregon Manufactured Dwelling and Park Specialty Code.
- 10.05.105 Adoption of the Oregon Solar Installation Specialty Code.
- 10.05.110 Amendment of Administrative Provisions.
- 10.05.120 Building Official Connection after Order to Disconnect.
- 10.05.125 Violation.
- 10.05.130 Local Appeals.
- 10.05.140 Liability.
- 10.05.150 Permit Expiration Extension and Reinstatement.
- 10.05.160 Permit Not Transferable.
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10.15 BUILDING PERMITS

- 10.15.010 Payment Required.
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10.20 BURGLARY AND ROBBERY ALARM SYSTEMS

- 10.20.010 Purpose and Scope.
- 10.20.020 Definition.
- 10.20.030 Alarm Users Permit Required.
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- 10.20.090 Hearing.
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- 10.20.110 Confidentiality; Statistics.
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10.25 FIRE AND LIFE SAFETY CODE

- 10.25.010 Adoption of Fire and Life Safety Code.
- 10.25.020 Definitions.
- 10.25.030 Establishment and Duties of Life Safety Division.
- 10.25.070 Amendments to the Fire Code.
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- 10.25.090 Fire Safety Inspection Program.
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10.26 FIRE ALARM SYSTEMS

- 10.26.010 Purpose and Scope.
- 10.26.020 Definitions.
- 10.26.025 Violation.
- 10.26.030 Fines for Excessive False Alarms.
- 10.26.040 Hearing.
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10.27 PERMIT-REQUIRED CONFINED SPACE RESCUE

- 10.27.010 Permit-Required Confined Space Rescue.
- 10.27.020 Subscriber Fee.
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10.30 PROPERTY MAINTENANCE CODE

- 10.30.010 Short Title.
- 10.30.020 Purpose.
- 10.30.025 Definitions.
- 10.30.030 Scope and Application.
- 10.30.033 Exterior Conditions and Derelict Structures.
- 10.30.035 Adoption of International Property Maintenance Code.
- 10.30.060 Responsibility.
- 10.30.070 Modifications.
- 10.30.140 Emergency Repair.
- 10.30.170 Weather Proofing and Screens.
- 10.30.200 Derelict Structures Prohibited.
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- 10.30.210 Closing and Securing Derelict Structures.
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- 10.30.230 Complaint Process.
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- 10.30.310 Receivership Authority.
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- 10.30.400 Decommissioning and Removal of Renewable Energy Systems.

10.50 PROPERTY TAX EXEMPTION FOR NEW, TRANSIT SUPPORTIVE, MULTIPLE-UNIT HOUSING OR MIXED USE DEVELOPMENT

- 10.50.155 Continuation of Prior Exemption.

10.60 MARINAS AND FLOATING STRUCTURES

- 10.60.010 Statement of Purpose and Intent.
- 10.60.020 Scope.
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- 10.60.040 Administration and Enforcement.
- 10.60.050 Regulations for Floating Structures.

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- 10.60.070 Construction Other than Floating Homes.
- 10.60.080 Engineered Construction.
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10.70 MOVING OF BUILDINGS

- 10.70.010 Movement of Buildings.
- 10.70.020 Moving of Buildings, Permits Required.
- 10.70.030 Liability.
- 10.70.040 Movement on State Highways.
- 10.70.050 Enforcement.

10.99 ENFORCEMENT

- 10.99.010 Violation.
- 10.99.020 Authority to Inspect.
- 10.99.030 Fines, Penalties and Other Enforcement Tools.

Article 10.05

BUILDING CODES

Sections:

- 10.05.010 [Title.](#)
- 10.05.020 [Purpose.](#)
- 10.05.030 [Scope.](#)
- 10.05.040 [Definitions.](#)
- 10.05.050 [Adoption of Oregon Structural Specialty Code.](#)
- 10.05.060 [Adoption of Oregon Mechanical Specialty Code.](#)
- 10.05.070 [Adoption of Oregon Plumbing Specialty Code.](#)
- 10.05.080 [Adoption of Oregon Electrical Specialty Code.](#)
- 10.05.090 [Adoption of Oregon Residential Specialty Code.](#)
- 10.05.095 [Adoption of Oregon Energy Efficiency Specialty Code.](#)
- 10.05.100 [Adoption of Oregon Manufactured Dwelling and Park Specialty Code.](#)
- 10.05.105 [Adoption of the Oregon Solar Installation Specialty Code.](#)
- 10.05.110 [Amendment of Administrative Provisions.](#)
- 10.05.120 [Building Official Connection after Order to Disconnect.](#)
- 10.05.125 [Violation.](#)
- 10.05.130 [Local Appeals.](#)
- 10.05.140 [Liability.](#)
- 10.05.150 [Permit Expiration Extension and Reinstatement.](#)
- 10.05.160 [Permit Not Transferable.](#)
- 10.05.170 [Inspections.](#)
- 10.05.180 [Fees.](#)
- 10.05.190 [Severability.](#)
- 10.05.200 [Enforcement.](#)

10.05.010 Title.

These regulations shall be known as The City of Gresham Building Code, may be cited as such and will be referred to herein as "this code."
 (Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Amended, 07/17/1997)

10.05.020 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 this city who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.
 (Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Amended, 07/17/1997)

10.05.030 Scope.

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

(2) 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.

(3) Where, in any specific case, there is a conflict between this code and Oregon Revised Statutes, the statute shall govern.
 (Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Amended, 07/17/1997)

10.05.040 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for the purpose of the code, the following definition shall apply:

Building Official. Shall mean the City Building Official or designee.
 (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Amended, 07/17/1997)

10.05.050 Adoption of the Oregon Structural Specialty Code.

(1) The Oregon Structural Specialty Code, as adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified by GRC 10.05.110, is adopted and enforced as part of GRC Article 10.05.

(2) Grading: Appendix J of the Oregon Structural Specialty Code, as amended or revised by the State of Oregon, and except as modified in this code, is adopted and enforced as part of GRC Article 10.05.

(3) The provisions of the Oregon Structural Specialty Code, in addition to its individual scoping provisions, shall also apply to demolition of structures, equipment and systems regulated by the Oregon Structural Specialty Code.

(4) Application and Permits: (OSSC 104.2) The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provision of the Oregon Structural Specialty Code or other local ordinances.

(5) The following shall be regulated by the Oregon Structural Specialty Code, except as modified in this code, and enforced as part of GRC Article 10.05:

(a) Signs: Appendix H of the Oregon Structural Specialty Code, as amended or revised by the State of Oregon.

(b) Tanks:

(i) Tanks that contain, house or support water or fire-suppression material, or equipment required for the protection of essential or hazardous facilities or special occupancy structures.

(ii) Tanks that are housing, supporting, or containing toxic or explosive substances.

(c) Monopoles: Cellular phone, radio, and other telecommunication and broadcast towers.

(d) Ground-mounted photovoltaic: Ground-mounter photovoltaic systems over 10 feet in height measured to the highest point of installation.

(e) Fences: Fences over 7 feet in height.

(f) Retaining Walls:

(i) Retaining walls over 4 feet in height measured from the bottom of the footing to the top of the wall.

(ii) Retaining walls located adjacent to a building or structure a distance of no more than 2 times the height of the wall.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997; Ord. No. 1490, Amended, 01/18/2000)

10.05.060 Adoption of the Oregon Mechanical Specialty Code.

The Oregon Mechanical Specialty Code, as adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, is adopted and enforced as part of GRC Article 10.05.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.070 Adoption of the Oregon Plumbing Specialty Code.

The Oregon Plumbing Specialty Code, as adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, is adopted and enforced as part of GRC Article 10.05.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.080 Adoption of the Oregon Electrical Specialty Code.

The Oregon Electrical Specialty Code, as adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, is adopted and enforced as part of GRC Article 10.05.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.090 Adoption of the Oregon Residential Specialty Code.

(1) The Oregon Residential Specialty Code, as adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, is adopted and enforced as part of GRC Article 10.05.

(2) The provisions of the Oregon Residential Specialty Code, in addition to its individual scoping provisions, shall also apply to demolition of structures, equipment and systems regulated by the Oregon Residential Specialty Code.

(3) Application and Permits: (ORSC 104.2) The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provision of the Oregon Structural Specialty Code or other local ordinances.

(4) The following shall be regulated by the Oregon Residential Specialty Code, except as modified in this code, and enforced as part of GRC Article 10.05:

(a) Ground-mounted photovoltaic: Ground-mounter photovoltaic systems over 10 feet in height measured to the highest point of installation.

(b) Fences: Fences over 7 feet in height.

(c) Retaining Walls:

(i) Retaining walls over 4 feet in height measured from the bottom of the footing to the top of the wall.

(ii) Retaining walls located adjacent to a building or structure a distance of no more than 2 times the height of the wall.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.095 Adoption of the Oregon Energy Efficiency Specialty Code.

The Oregon Energy Efficiency Special Code, as adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified by this code, is adopted and enforced as part of GRC Article 10.05.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1688, Enacted, 07/01/2010)

10.05.100 Adoption of the Oregon Manufactured Dwelling and Park Specialty Code.

(1) Parks: The manufactured dwelling park and mobile home park rules adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, are adopted and enforced as part of GRC Article 10.05.

(2) Manufactured Home Installations: The manufactured dwelling rules adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, are adopted and enforced as part of GRC Article 10.05.

(3) Recreational Park and Organization Camp Regulations: The recreational park and organizational camp rules adopted by OAR Chapter 918, as amended or revised by the State of Oregon, and except as modified in this code, are adopted and enforced as part of GRC Article 10.05.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.105 Adoption of the Oregon Solar Specialty Code.

The Oregon Solar Installation Specialty Code, as adopted by OAR Chapter 918 as amended or revised by the State of Oregon, and except as modified in this code, is adopted and enforced as part of GRC Article 10.05.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1699, Enacted, 10/01/2010)

10.05.110 Amendment of Administrative Provisions.

(1) The following administrative sections of Chapter 1 of the Oregon Structural Specialty Code are supplemented by this code as follows:

(a) Section 104.4, Inspection, is supplemented by GRC 10.05.170, Inspections.

(b) Section 104.6, Right of Entry, is supplemented by GRC 7.50.500 to 7.50.520 relating to Permit and Licensure Inspections.

(c) Section 104.8, Liability, is supplemented by GRC 10.05.140, Liability.

(d) Section 105.5, Expiration, is supplemented by GRC 10.05.150, Permit Expiration Extension and Reinstatement.

(e) Section 109, Fees, is supplemented by GRC 10.05.180, Fees.

(f) Section 113, Board of Appeals, is supplemented by GRC 10.05.130. Local Appeals.

(g) Section 114, Violations, is supplemented by GRC 10.05.125, Violation, and 10.05.200, Enforcement.

(h) Section 115, Stop Work Order, is supplemented by GRC 7.50.100 to 7.50.160 relating to Stop Work Orders.

(2) In the event of any conflict between the Oregon Structural Specialty Code and the Gresham Revised Code provisions described in

GRC 10.05.110(1), the provisions of the Gresham Revised Code shall prevail.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1684, Amended, 02/18/2010; Ord. No. 1607, Enacted, 07/21/2005)

10.05.120 Building Official Connection after Order to Disconnect.

Connection after Order to Disconnect: No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.125 Violation.

No person shall engage in any of the prohibited acts described in ORS 455.450 and 455.453.

(Ord. No. 1756, Enacted, 08/20/2015)

10.05.130 Local Appeals.

(1) The Assistant Building Official or designee shall review any appeal of a plans examiner or inspector. The appeal may be verbal or in writing. The appeal must be made within 48 hours of the decision. There is no cost for this appeal. A decision will generally be issued within 24 hours of the appeal.

(2) The Building Official shall review any appeal of an Assistant Building Official decision. The appeal must be in writing. The appeal must be made within 72 hours of the decision. There is no cost for this appeal. A written decision will generally be issued within 48 hours of the appeal.

(3) Persons aggrieved by a decision of the Building Official may appeal to the State of Oregon in accordance with ORS 455.475.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.140 Liability.

(1) The building official charged with the enforcement of this code, acting in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the building official or employee because of such act or omission performed by the building official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be defended by this city until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the city.

(2) This code shall not be construed to relieve from or lessen the responsibility of any non-city agent or employee, including but not limited to any builder, contractor, agent or employee of any builder or contractor or any person owning, operating or controlling any building or structure, for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.150 Permit Expiration Extension and Reinstatement.

(1) Every permit issued by the building official shall expire by limitation and become null and void 24 months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished. However, at the time of permit issuance the building official may approve a period exceeding 24 months for completion of work when the

permittee submits a report in writing demonstrating that the complexity or size of the project makes completing the project within 24 months impossible.

(2) Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete 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 90 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

(3) Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

(a) The Building Code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.

(b) No changes have been made or will be made in the original plans and specifications for such work.

(c) The original permit expired less than 90 days from the request to reinstate.

(d) The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.160 Permit 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 thereunder.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.170 Inspections.

It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. The permit holder shall not proceed with construction activity until authorized to do so 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.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.180 Fees.

Fees charged under this code shall be adopted by council resolution.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.190 Severability.

If any section, paragraph, subdivision, clause, sentence, or provisions of this code shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the code, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this code notwithstanding the parts to be declared unconstitutional or invalid.

(Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

10.05.200 Enforcement.

(1) Any person violating any of the provisions herein, as the monetary penalty to be assessed, shall have imposed upon them a civil penalty in an amount not to exceed \$5,000 per violation or, in the case of a continuing violation, not more than \$1,000 for each day of the violation. Each day a violation continues to exist shall constitute a separate violation for which a separate civil penalty may be assessed. The provisions of GRC 7.50.700 through GRC 7.50.750 shall apply to the imposition of civil penalties under this section.

(2) In addition to any other penalty or enforcement process provided by law, any person determined to be responsible for violation of any of the provisions herein may be required to correct the violation.

(3) In addition to subsections (1) and (2) of this section, violation of any of the provisions herein shall also constitute a nuisance and may be abated as provided in GRC Article 7.50.

(4) Additionally, the administrative provisions adopted by GRC 10.05.110 apply to any violation of the provisions herein.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1684, Amended, 02/18/2010; Ord. No. 1607, Repealed/Replaced, 07/21/2005; Ord. No. 1424, Enacted, 07/17/1997)

Article 10.15

BUILDING PERMITS

Sections:

10.15.010 Payment Required.

10.15.020 Payment of Charges.

10.15.010 Payments Required.

Applications for building permits within the city shall not be approved until the applicant has paid the required service charges for water service, sewer service, public sidewalk, and driveway approach.

10.15.020 Payment of Charges.

(1) Notwithstanding any other provision of the Gresham Revised Code, the Gresham Community Development Code or the Gresham Building Code, a final inspection for residential, commercial or industrial development or a certificate of occupancy for commercial or industrial development shall not be performed or issued until all applicable system development and facility charges have been paid or financed pursuant to the Gresham Revised Code.

(2) The failure of the city to collect system development, facility or any other charge at any point when due or past due, shall not constitute a waiver of the charge(s).

(Ord. No. 1540, Enacted, 03/07/2002)

Article 10.20

BURGLARY AND ROBBERY ALARM SYSTEMS

Sections:

- 10.20.010 [Purpose and Scope.](#)
- 10.20.020 [Definition.](#)
- 10.20.030 [Alarm Users Permit Required.](#)
- 10.20.040 [Fees for Excessive False Alarms.](#)
- 10.20.050 [No Response to Excessive Alarms.](#)
- 10.20.060 [Special Permits.](#)
- 10.20.070 [User Instructions.](#)
- 10.20.080 [Automatic Dialing Device; Certain Interconnections Prohibited.](#)
- 10.20.090 [Hearing.](#)
- 10.20.100 [Sound Emission Cutoff Feature.](#)
- 10.20.110 [Confidentiality; Statistics.](#)
- 10.20.120 [Allocation of Revenues and Expenses.](#)
- 10.20.130 [Interpretation.](#)
- 10.20.140 [Enforcement.](#)

10.20.010 Purpose and Scope.

(1) The purpose of this article is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency responses to false alarms and thereby protect the emergency response capability of the county from misuse.

(2) This article governs burglary and robbery alarm systems, requires permits, establishes fees, provides for allocation of revenues and deficits, provides for fees for excessive false alarms, provides for no response to alarms, provides for punishment of violations, and establishes a system of administration.

(3) Revenue generated in excess of costs to administer this article shall be allocated for the use of participating law enforcement agencies to recover costs associated with alarm responses and for public education and training programs in reduction of false alarms in accordance with GRC 10.20.120.

(Ord. No. 1587, Amended, 04/20/2004)

10.20.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of this article, the following mean:

Alarm Business. The business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

Alarm System. Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police are expected to respond.

Alarm User. The person, firm, partnership, association, corporation, company, or organization of any kind that owns, controls, or occupies any building, structure or facility in which an alarm system is maintained.

Automatic Dialing Device. A device that is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response. Such a device is an alarm system.

Bureau of Emergency Communications. The city/county facility used to receive emergency and general information from the public to be dispatched to the respective police departments using the bureau.

Burglary Alarm System. An alarm system signaling an entry or attempted entry into the area protected by the system.

Coordinator. The individual designated by the sheriff to issue permits and enforce the burglar alarm provisions of this article.

Economically Disadvantaged Person. A person receiving public assistance or Supplemental Nutrition Assistance Program (SNAP), or both.

False Alarm. An alarm signal, eliciting a response by police when a situation requiring a response by the police does not in fact exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

Interconnect. To connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

No Response. Peace officers shall not be dispatched to investigate a report of an alarm signal.

Police Chief. The Chief of Police of the city, or designee.

Primary Trunk Line. A telephone line serving the Bureau of Emergency Communications that is designated to receive emergency calls.

Robbery Alarm System. An alarm system signaling a robbery.

Sheriff. Sheriff of Multnomah County or designated representative.

Sound Emission Cutoff Feature. A feature of an alarm system that will cause an audible alarm to stop emitting sound.

System Becomes Operative. The alarm system is capable of eliciting a response by police.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1587, Amended, 04/20/2004)

10.20.030 Alarm Users Permits Required.

(1) Every alarm user shall obtain an alarm user's permit for each system from the coordinator's office within 30 days of the time

when the system becomes operative. Users of systems using both robbery and burglary alarm capabilities shall obtain separate permits for each function. Application for a burglary or robbery alarm user's permit and a fee for each shall be filed with the coordinator's office each year. Each permit shall bear the signature of the sheriff and be valid for a one year period. The permit shall be physically upon the premises using the alarm system and shall be available for inspection by the sheriff.

(2) Alarm Permit Fees and related fees shall be set by council resolution.

(3) If a residential alarm user is a resident of the premises in which the alarm is located and is over the age of 62 or is an economically disadvantaged person and is a resident of the residence, and if no business is conducted in the residence, a user's permit may be obtained from the coordinator's office without the payment of a fee.

(4) A late fee will be charged to an alarm user who fails to obtain a permit within 30 days after the system becomes operative, or to an alarm user who is more than 30 days delinquent in renewing a permit.

(5) If an alarm user fails to renew a permit within 30 days after the permit expires, the coordinator shall notify the alarm user, by certified mail, that unless the permit is renewed and all fees are paid within 30 days from the date of mailing of the certified letter, police response to the alarm will thereafter be suspended. If the permit is not renewed and all fees are not paid the coordinator shall suspend police response to the alarm and make notifications as provided in GRC 10.20.050(2)(a)-(e).

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1587, Amended, 04/20/2004)

10.20.040 Fees For Excessive False Alarms.

(1) Fees for excessive false alarms will be assessed by the coordinator for excessive false alarms during a permit year. Fees for excessive false alarms shall be set by council resolution.

(2) The coordinator shall notify the alarm user and the alarm business by regular mail of a false alarm, fees for excessive false alarms and the consequences of the failure to pay the fees. The coordinator shall also inform the alarm user of the right to appeal the validity of the false alarm to the sheriff, as provided in GRC 10.20.090. If the fee has not been received in the coordinator's office within 30 days from the day the notice of fee was mailed by the coordinator and there is no appeal pending on the validity of the false alarm, the coordinator shall send the notice of fee(s) to be paid by certified mail along with a notice of late fee. If payment is not received within ten days of the day the notice of late fee was mailed, the coordinator shall initiate the no response process and may initiate the enforcement of penalties. (Ord. No. 1587, Amended, 04/20/2004)

10.20.050 No Response to Excessive Alarms.

(1) After the second false alarm, the coordinator shall send a notification to the alarm user by mail, which will contain the following:

(a) that the second false alarm has occurred;

(b) that if two more false alarms occur within the permit year the police will not respond to any subsequent alarms without the approval of the sheriff or the police chief;

(c) that the approval of the sheriff or police chief can only be obtained by applying in writing for reinstatement. The sheriff or police chief may reinstate the alarm user upon a finding that reasonable effort has been made to correct the false alarms;

(d) that the alarm user has the right to contest the validity of a false alarm determination through a False Alarm Validity Hearing. The request for a hearing must be in writing and within ten days of receipt of the notice from the coordinator. (See GRC 10.20.090(1)).

(2) After the fourth false alarm within the permit year, there shall be no police response to

subsequent alarms without approval of the sheriff or the police chief. The coordinator shall send a notification of the police response suspension to:

(a) the Director of the Bureau of Emergency Communications;

(b) the sheriff, if the alarm occurred in an unincorporated area; or

(c) the police chief;

(d) the alarm user by certified mail; and

(e) the persons listed on the alarm user's permit who are to be contacted in case of an emergency, by certified mail.

(3) The suspension of police response to an alarm shall begin ten days after the date of delivery of the notice of suspension of service to the alarm user unless a written request for a False Alarm Validity Hearing has been made in the required time period as listed in GRC 10.20.090.

10.20.060 Special Permits.

An alarm user required by federal, state, county or municipal law, regulation, rule, or ordinance to install, maintain and operate an alarm system shall be subject to these alarm systems regulations, provided:

(1) A permit shall be designated a special alarm user's permit.

(2) A special alarm user's permit for a system that has four false alarms in a permit year shall not be subject to the no response procedure and shall pay the regular fees.

(Ord. No. 1587, Amended, 04/20/2004; Ord. No. 1304, Amended, 03/17/1994)

10.20.070 User Instructions.

(1) Every alarm business selling, leasing, or furnishing to any user an alarm system installed on premises located in the area subject to GRC 10.20.010 - 10.20.130, shall furnish the user with instructions that provide information to enable

the user to operate the alarm system properly and to obtain service for the alarm system at any time. The alarm business shall also inform each alarm user of the requirement to obtain a permit and where it can be obtained.

(2) Standard form instructions shall be submitted by every alarm business to the sheriff. If the sheriff finds the instructions are incomplete, unclear, or inadequate, the sheriff may require the alarm business to revise the instructions to comply with GRC 10.20.070(1) and then to distribute the revised instructions to its alarm users.

10.20.080 Automatic Dialing Device: Certain Interconnections Prohibited.

(1) No person shall program an automatic dialing device to select a primary trunk line and no alarm user may fail to disconnect or reprogram an automatic dialing device that is programmed to select a primary trunk line within 12 hours of receipt of written notice from the coordinator that it is so programmed.

(2) No person shall program an automatic dialing device to select any telephone line assigned to the county and no alarm user may fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the coordinator that an automatic dialing device is so programmed.

(Ord. No. 1700, Amended, 03/03/2011)

10.20.090 Hearing.

(1) An alarm user may appeal the validity of a false alarm determination by the coordinator to the sheriff. The appeal shall be in writing and shall be requested within 10 days of the alarm user having received notice of the alarm from the coordinator. Failure to contest the coordinator's determination in the required time period results in a conclusive presumption for all purposes that the alarm was false.

(2) If a hearing is requested, written notice of the time and place of the hearing shall be served on the user by the sheriff by certified mail at least 10 days prior to the date set for the hearing, which

shall not be more than 21 nor less than 10 days after the filing of the request for hearing.

(3) The hearing shall be before the sheriff. The coordinator and the alarm user shall have the right to present written and oral evidence, subject to the right of cross-examination. If the sheriff determines that the false alarms alleged have occurred in a permit year, the sheriff may issue written findings waiving, expunging or entering a false alarm designation on an alarm user's record. If false alarm designations are entered on the alarm user's record, the coordinator shall pursue fee collection of unpaid fees as set out in GRC 10.20.040(2).

(4) The sheriff may appoint another person to be a hearings officer to hear the appeals and to render judgment.

(Ord. No. 1587, Amended, 04/20/2004)

10.20.100 Sound Emission Cutoff Feature.

(1) Alarm systems that emit audible sound that can be heard outside the building, structure or facility of the alarm user, shall be equipped with a sound emission cutoff feature which will stop the emission of sound 15 minutes or less after the alarm is activated.

(2) When an alarm system can be heard outside a building, structure, or facility for more than 15 minutes continuously or intermittently, and the alarm user or alarm business is not available or able to silence the device, the police chief or sheriff may physically disconnect the sounding device.

(3) The police chief or sheriff shall not be liable for costs associated with reconnecting the alarm system. The alarm owner shall be liable for the cost of reconnecting the system.

(Ord. No. 1304, Amended, 03/17/1994)

10.20.110 Confidentiality; Statistics.

(1) All information submitted in compliance with GRC 10.20.010 - 10.20.130 shall be held in confidence and shall be deemed a public record exempt from disclosure pursuant to ORS

192.502(4). Any violation of confidentiality shall be deemed a violation of GRC 10.20.010 - 10.20.130. The coordinator has responsibility for the maintenance of all records under GRC 10.20.010 - 10.20.130.

(2) Subject to the requirements of confidentiality, the coordinator shall develop and maintain statistics to assist alarm system evaluation for use by members of the public.

10.20.120 Allocation of Revenues and Expenses.

(1) The alarm permit fee collected under GRC 10.20.030 shall be allocated to Multnomah County for the administration of the alarm ordinance and to the city for cost recovery of police response and to offset costs for alarm prevention education activities provided by the city.

(2) All fees and forfeitures of security deposits collected pursuant to GRC Article 10.20, and administered by Multnomah County officers or employees, will be revenue of Multnomah County; provided, however, that Multnomah County shall maintain records sufficient to identify the sources and amounts of that revenue.

(3) Multnomah County shall maintain records in accordance with sound accounting principles sufficient to determine on a fiscal year basis the direct costs of administering GRC Article 10.20 by Multnomah County officers or employees, including salaries and wages (excluding the sheriff individually), travel, office supplies, postage, printing, facilities, office equipment and other properly chargeable costs.

(4) Not later than July 31 of each year, Multnomah County shall render an account to the city for administering GRC Article 10.20. The account shall establish the net excess revenue or cost deficit for the preceding fiscal year and shall allocate that excess revenue, if any, or deficit, if any, to the county and the city proportionately as the number of permits issued for alarm systems within the corporate limits of the city bears to the whole number of permits issued in Multnomah

County; provided, that no allocation shall be made if the net excess revenue or deficit is less than \$2,500.00.

(5) Distribution by the county of any excess revenue or payment of allocated deficit amounts by the city shall be made not later than September 1 of each fiscal year.

(6) "Sound accounting principles" as used in this section, shall include, but not be limited to, practices required by the terms of any state or federal grant or regulations applicable thereto which relate to the purpose of GRC Article 10.20. (Ord. No. 1587, Amended, 04/20/2004; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1304, Amended, 03/17/1994)

10.20.130 Interpretation.

GRC 10.20.010 - 10.20.130 shall be liberally construed to effect the purpose of these sections and to achieve uniform interpretation and application of these sections, the Multnomah County Alarm Ordinance and ordinances of other municipal corporations within Multnomah County with the same purpose.

10.20.140 Enforcement.

(1) Enforcement of GRC 10.20.010 - 10.20.130 may be by civil action as provided in ORS 30.315, or by criminal prosecution, as provided in ORS 203.810 for offenses under county law.

(2) The failure or omission to comply with any part of GRC 10.20.010 - 10.20.130 shall be deemed a violation and may be so prosecuted, subject to the penalty provided in GRC 10.99.030. (Ord. No. 1370, Amended, 08/15/1995)

Article 10.25

FIRE AND LIFE SAFETY CODE

Sections:

- 10.25.010 [Adoption of Fire and Life Safety Code.](#)
- 10.25.020 [Definitions.](#)
- 10.25.030 [Establishment and Duties of Life Safety Division.](#)
- 10.25.070 [Amendments to the Fire Code.](#)
- 10.25.080 [Appeals.](#)
- 10.25.090 [Fire Safety Inspection Program.](#)
- 10.25.100 [Fines and Penalties.](#)

10.25.010 Adoption of Fire and Life Safety Code.

(1) The Oregon Fire Code as amended or revised by the State of Oregon, including Oregon adopted appendices, except as amended by GRC 10.25.070, is hereby adopted and enforced as part of GRC Article 10.25, and shall be known as the Fire and Life Safety Code of the City of Gresham (hereafter known as "Fire Code").

(2) Whenever a reference is made to any portion of this code or any other applicable law or ordinance, the reference applies to all amendments and additions now or hereafter adopted by the State of Oregon and the City of Gresham.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1689, Amended, 07/01/2010; Ord. No. 1641, Amended, 04/05/2007; Ord. No. 1594, Amended, 10/01/2004; Ord. No. 1585, Amended, 03/01/2004; Ord. No. 1560, Amended, 12/03/2002; Ord. No. 1504, Amended, 07/11/2000; Ord. No. 1409, Amended, 01/02/1997; Ord. No. 1267, Amended, 12/17/1992)

10.25.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of this article, the following mean:

Business. Any activity, trade, occupation, profession, or pursuit conducted for the purpose of generating revenue, whether for profit or non-profit, regardless of occupancy type assigned by code language.

Jurisdiction. Wherever the Fire Code uses the term jurisdiction, the City of Gresham.

Fire Code Official. Wherever the Fire Code uses the term Fire Code Official, the City of Gresham Fire Chief or Fire Marshal.

Illegal Occupancy. Any business occupying a building or on a premises without a city business license, or the changing of an occupancy without proper building and planning department permits or certificate of occupancy.

Occupancy. The lawfully permitted purpose for which a building or part thereof is used or intended to be used.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1641, Amended, 04/05/2007; Ord. No. 1594, Amended, 10/01/2004; Ord. No. 1560, Amended, 12/03/2002; Ord. No. 1504, Amended, 07/11/2000; Ord. No. 1409, Amended, 01/02/1997)

10.25.030 Establishment and Duties of Life Safety Division.

The Fire Code shall be enforced by the Life Safety Division of the Gresham Fire and Emergency Services, which shall be operated under the direction of the fire chief.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1689, Amended, 07/01/2010; Ord. No. 1641, Amended, 04/05/2007; Ord. No. 1560, Amended, 12/03/2002; Ord. No. 1504, Amended, 07/11/2000; Ord. No. 1409, Amended, 01/02/1997; Ord. No. 1267, Amended, 12/17/1992)

10.25.070 Amendments to the Fire Code.

The Fire Code is amended and changed as follows:

1. Section 104.2 is amended to add:

104.2.1. The jurisdiction shall set by resolution fees for special use permits.

2. Section 106.2 is amended to add:

106.2.3. The jurisdiction shall set by resolution fees for the following:

- a. Initial business fire inspections.
- b. Reinspections.

- c. Failure to abate hazards.
- d. False alarms.

3. Section 308.1.4, Exceptions, is amended to read:

Exceptions:

- 1. One and two family dwellings.

4. Section 308.1.4 is amended to add:

308.1.4.1 Liquefied-petroleum-gas-fueled cooking devices.

LP-gas burners having an LP-gas container with a water capacity greater than 2.5 pounds (nominal 1 pound LP-gas capacity) shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exception:

- One and two family dwellings.

5. Section 505.1 is amended to read:

Address Numbers.

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inch and larger when required by Gresham Fire and Emergency Services Standard Operating Guideline 3.1.5.

6. Section 804.1.2 is amended to read:

Restricted occupancies.

Natural cut trees shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2, R-4 and SR occupancies.

Exceptions:

- 1. Trees located in areas protected by an approved automatic sprinkler system installed in accordance with Section 903.1.1 or 903.1.2 shall not be prohibited.
- 2. Within dwelling units of R-2 occupancies.

7. Section 5701.4 is amended to read:

Permits.

Permits for the installation of all flammable or combustible liquid tanks and/or storage of all flammable or combustible liquids within or outside of buildings are required within all areas of the city.

8. Section 5701.4 is amended to add:

5701.4.1 Plans.

Construction documents shall be submitted with each permit application for flammable or combustible liquid tanks and/or the storage of same.

Exception:

- 1. As required by 5701.6.

9. Section 6101.2 is amended to read:

Permits.

Permits for the installation of all liquefied petroleum gas (LPG) tanks and/or storage of all LPG are required within all areas of the city. Distributors shall not fill a gas container for which a permit is required unless a permit for installation has been issued for that location by the fire code official.

10. Section 6101.2 is amended to add:

6101.2.1 Plans.

Plans shall be submitted with each permit application for liquefied petroleum gas (LPG) tanks and/or storage of the same.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1689, Amended, 07/01/2010; Ord. No. 1641, Amended, 04/05/2007; Ord. No. 1594, Amended, 10/01/2004; Ord. No. 1560, Amended, 12/03/2002; Ord. No. 1521, Amended, 05/15/2001; Ord. No. 1504, Amended, 07/11/2000; Ord. No. 1481, Amended, 09/21/1999; Ord. No. 1409, Amended, 01/02/1997; Ord. No. 1330, Amended, 11/03/1994; Ord. No. 1282, Amended, 05/20/1993; Ord. No. 1267, Amended, 12/17/1992)

10.25.080 Appeals.

An appeal related to fire prevention statutes shall be made as provided by ORS 479.180.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1594, Amended, 10/01/2004; Ord. No. 1409, Amended, 01/02/1997)

10.25.090 Fire Safety Inspection Program.

(1) Purpose and Scope. The purpose of this section is to set forth the requirements of a Fire Safety Inspection Program within the City of Gresham for violations of the Fire Code. The provisions of this section shall apply to each business location of every business within the City of Gresham.

(2) Hazard Level Designations. A hazard level designation for each individual business will be determined by the Fire Marshal based on occupancy classification and existing hazards. The Fire Marshal will utilize the hazard ratings issued for occupancy designations by the National Fire Protection Association (NFPA), 13, "Installation of Sprinkler Systems," and as designated by OFC Chapter 2. In cases of multiple occupancy classifications, hazard level placement will normally correspond to the occupancy classification with the highest rated hazard level.

(3) Fire Safety Inspections. Each business location of every business located within the City of Gresham is subject to a fire safety inspection by Gresham FES each calendar year. An inspection

fee will be assessed when the inspection is conducted. Inspection fees shall be established by council resolution and correspond to the hazard level designation for each business location as determined by the Fire Marshal.

(4) Fire Safety Re-inspections. When violations of the OFC are found in the course of an annual inspection, Gresham FES shall conduct a re-inspection, after allowing the appropriate time for voluntary abatement of the violation. Fees for reinspection shall be established by council resolution.

(5) Failure to Abate OFC Violations. Failure to abate OFC violations shall constitute a public nuisance, and subject the violator to fines, penalties, and nuisance abatement remedies established in GRC Article 7.50, or as otherwise authorized by law, including any enforcement remedies, orders, or powers under the OFC.

(6) Business License Inspections. Any person or business entity that applies for a license to conduct business in a physical location within the City of Gresham must obtain a Business License Inspection by Gresham FES, and pay a fee for that inspection, as established by council resolution. Any person or business entity that applies for a renewal of any license to conduct business in a physical location within the City of Gresham may be subject to a Business License Inspection by Gresham FES, and pay a fee for that inspection, as established by council resolution, if a history of OFC code violations have been found within said business location and a general fire safety inspection has not been completed there within the previous 12 months.

(7) Liens. Any fees, including fire safety inspection and reinspection fees, and business license inspection fees, shall, if not paid within 30 days of imposition, constitute a valid lien against the property in favor of the City of Gresham, and shall remain a lien against the property until fully paid. The manager may record the lien in the Multnomah County deed records. The city shall collect an administrative fee as set by council resolution for the release of any lien issued by the city.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1641, Amended, 04/05/2007; Ord. No. 1594, Amended, 10/01/2004; Ord. No. 1560, Amended, 12/03/2002; Ord. No. 1521, Enacted, 05/15/2001)

10.25.100 Fines and Penalties.

(1) Violations of the following sections of the Fire Code may be subject to a fine or penalty in the maximum amount of \$5,000:

(a) Section 401.8, Interference with Fire Department Operations;

(b) Section 109.3.2, Abatement of Violation;

(c) Section 901.8, Removal of, or Tampering with Fire Equipment;

(d) Section 401.5, False Alarms; or

(e) Section 2703.3, Unauthorized Discharge of Hazardous Materials.

(2) Other sections. Except as otherwise provided, violation of any other provision of the Fire Code may be subject to a fine or penalty in the amount of \$1,000.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Enacted, 03/03/2011)

Article 10.26

FIRE ALARM SYSTEMS

Sections:

- 10.26.010 [Purpose and Scope.](#)
- 10.26.020 [Definitions.](#)
- 10.26.025 [Violation.](#)
- 10.26.030 [Fines for Excessive False Alarms.](#)
- 10.26.040 [Hearing.](#)
- 10.26.050 [Enforcement.](#)

10.26.010 Purpose and Scope.

(1) The purpose of this article is to encourage fire alarm users and fire alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary fire department emergency responses to false alarms and thereby protect the emergency response capability of the city from misuse.

(2) This article governs fire alarm systems, provides for penalties and fines for excessive false alarms, and establishes a system of administration. Fire alarm system installation and maintenance are governed by applicable provisions of GRC Article 10.25. Fire and Life Safety Code. (Ord. No. 1381, Amended, 07/01/1995; Ord. No. 1330, Enacted, 11/03/1994)

10.26.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of this article, the following mean:

Alarm Business. The business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any fire alarm system in or on any building, structure or facility.

Alarm User. The person, firm, partnership, association, corporation, company, or

organization of any kind that owns, controls, or occupies any building, structure or facility in which a fire alarm system is maintained.

Coordinator. The individual designated by the Fire Chief to enforce the provisions of this article.

False Alarm. An alarm signal, eliciting a response by the fire department when a situation requiring a response by the fire department does not in fact exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

Fire Alarm System. Any assembly of equipment, mechanical or electrical, arranged to signal the presence of products of combustion or the flow of an extinguishing agent through an automatic fire extinguishing system or a device manually activated by a person to signal the presence of fire requiring urgent attention and to which the fire department is expected to respond.

Fire Chief. The Chief of the Fire Department of the city, or designee. (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1330, Enacted, 11/03/1994)

10.26.025 Violation.

(1) No alarm user shall cause or permit a false alarm.

(2) Three or more false alarms occurring within one year prior to the date of the false alarm occurrence may be subject to a fine or penalty in the maximum amount of \$1,000.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 10/19/2000; Ord. No. 1381, Amended, 02/01/1996)

10.26.030 Fines For Excessive False Alarms.

(1) After the second false alarm, fines will be assessed by the coordinator for excessive false alarms occurring within one year prior to the date of the false alarm occurrence. The amount of the fine for excessive false alarms shall be set by council resolution.

(2) The coordinator shall notify the alarm user and the alarm business by regular mail of a false alarm and the fine and the consequences of the failure to pay the fine. The coordinator shall also inform the alarm user of the right to appeal the validity of the false alarm to the fire chief, as provided in GRC 10.26.040. If the fine has not been received in the coordinator's office within 30 days from the day the notice of fine was mailed by the coordinator and there is no appeal pending on the validity of the false alarm, the coordinator shall send the notice of fine by certified mail along with a notice of late fee. The amount of the late fee shall be set by council resolution.

(Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1330, Enacted, 11/03/1994)

10.26.040 Hearing.

(1) An alarm user may appeal the validity of a false alarm determination by the coordinator to the fire chief. The appeal shall be in writing and shall be requested within 10 days of the alarm user having received notice of the false alarm and fine from the coordinator. Failure to contest the coordinator's determination in the required time period results in a conclusive presumption for all purposes that the alarm was false. The fire chief shall review the record and affirm, modify or reverse the coordinator's decision.

(2) The fire chief's decision may be protested to a hearings officer pursuant to GRC 7.50.030.

(3) The fire chief and hearings officer shall determine if three or more false alarms have occurred in the year prior to the date of the false alarm in question and shall issue written findings waiving, expunging or entering a false alarm designation on an alarm user's record. If false alarm designations are entered on the alarm user's record, the coordinator shall pursue fine collection as set by council resolution.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1330, Enacted, 11/03/1994)

10.26.050 Enforcement.

Enforcement of this GRC Article 10.26 may be by civil action as provided in ORS 30.315 for the fines set forth in GRC 10.26.030; or the

coordinator may issue a citation to the violator. A person convicted of a violation of this article shall be fined in accordance with the penalty provisions of GRC Article 10.99.

(Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1381, Enacted, 02/01/1996)

Article 10.27

**PERMIT-REQUIRED CONFINED
SPACE RESCUE**

Sections:

10.27.010 [Permit-Required Confined Space
Rescue.](#)

10.27.020 [Subscriber Fee.](#)

10.27.030 [Non-subscriber Fee.](#)

**10.27.010 Permit-Required Confined Space
Rescue**

The Gresham Fire Department may develop a program to provide rescue services within its response area for permit-required confined spaces as set forth in OAR Chapter 437.

(Ord. No. 1377, Enacted, 11/16/1995)

10.27.020 Subscriber Fee.

Employers having permit-required confined spaces within the fire department's response area may subscribe to the confined space rescue service by paying a subscriber fee, as established by council resolution. The subscriber fee shall be based on the number of permit-required confined spaces.

(Ord. No. 1377, Enacted, 11/16/1995)

10.27.030 Non-subscriber Fee.

If permit-required confined space rescue services are provided by the city to an employer that has not subscribed to this service, the city shall charge the employer a non-subscriber fee as established by council resolution.

(Ord. No. 1377, Enacted, 11/16/1995)

Article 10.30

PROPERTY MAINTENANCE CODE

Sections:

- 10.30.010 [Short Title.](#)
- 10.30.020 [Purpose.](#)
- 10.30.025 [Definitions.](#)
- 10.30.030 [Scope and Application.](#)
- 10.30.033 [Exterior Conditions and Derelict Structures.](#)
- 10.30.035 [Adoption of International Property Maintenance Code.](#)
- 10.30.060 [Responsibility.](#)
- 10.30.070 [Modifications.](#)
- 10.30.140 [Emergency Repair.](#)
- 10.30.170 [Weather Proofing and Screens.](#)

DERELICT STRUCTURES

- 10.30.200 [Derelict Structures Prohibited.](#)
- 10.30.205 [Inspection of Property in Default.](#)
- 10.30.210 [Closing and Securing Derelict Structures.](#)
- 10.30.220 [Derelict Structure Registration.](#)

ENFORCEMENT

- 10.30.230 [Complaint Process.](#)
- 10.30.270 [Temporary Waivers of Enforcement Action.](#)
- 10.30.280 [Hardship Waivers of Enforcement Action.](#)
- 10.30.290 [Enforcement.](#)
- 10.30.310 [Receivership Authority.](#)
- 10.30.320 [Lien.](#)
- 10.30.340 [Application of Other Codes.](#)
- 10.30.360 [Coordination of Enforcement.](#)
- 10.30.400 [Decommissioning and Removal of Renewable Energy Systems.](#)

10.30.010 Short Title.

This article shall be known and may be cited as the Property Maintenance Code of Gresham, hereinafter referred to as the "PMC."
 (Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.020 Purpose.

The council finds and declares that conditions that promote blight and deterioration or that create a hazard to the public health and safety, are injurious to the health, safety and general welfare of the public, and that the provisions of the PMC are necessary to protect the public health, safety and general welfare.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1535, Enacted, 11/01/2001)

10.30.025 Definitions.

In addition to the definitions set forth in GRC 1.05.010 and, in addition to the definitions set forth in the ICCPMC, the following definitions shall apply to the PMC:

Where terms are not defined in the PMC or other code section and are defined in the state building, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those state codes. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words "premises," "building" or other similar words are stated in the PMC, they shall be construed as though they were followed by the words "or any part thereof." Unless otherwise expressly stated, the following terms shall, for the purposes of the PMC, have the following meanings:

Attractive nuisance. A condition that can attract children and be detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned buildings, abandoned wells, shafts, basements, excavations, abandoned freezers or refrigerators with self-latching doors, motor vehicles, structurally unsound fences or structures, lumber, trash, fences, debris, or water feature that may prove hazardous for inquisitive minors.

Boarded building. An unoccupied or derelict building that has been secured against entry by material such as plywood, boards or other similar material placed over openings that are designed for and/or are required for windows and doors,

and which is visible off the premises and is not both lawful and customary to install on an occupied structure.

Building. Any structure occupied or intended for any occupancy.

Building code. GRC Article 10.05.

Derelict Structure. Any structure that is:

- (1) unoccupied and unsecured,
- (2) partially constructed and does not have a valid structural building permit;
- (3) partially constructed; with a valid structural building permit, and within any 180-day period has not received full approval for the next applicable structural inspection in the following order:
 - (a) footing and foundation;
 - (b) framing, including lateral force resisting system; and
 - (c) roofing, including specified roof drainage, and the exterior surfaces of the structure are not protected from the elements in a manner to render the structure weather resistant and prevent decay.
- (4) maintained in a condition that is unfit for human habitation as provided by ICCPMC Section 108;
- (5) maintained in an unsafe condition as defined by ICCPMC Section 304 and that is an imminent threat to public health and safety; or
- (6) while vacant, the structure has been subject to a city-initiated abatement pursuant to GRC Article 7.50.

Deterioration. A lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance.

Lender. Any person that makes, extends or holds a loan secured by real property and includes, but not limited to, mortgages, beneficiaries under trust deeds, vendors under conditional land sales contracts, trustees and a successor in interest to any mortgage, beneficiary, vendor, or trustee.

Manager. The city manager or the manager's designee.

Notice of Default. A written notice to a borrower stating that a default on a mortgage, deed of trust, or other loan agreement, is in default, and that legal action may be taken to cure the default or foreclosure on the security interest.

Renewable Energy System. Systems which produce energy from sources that do not use up finite natural resources. Examples include, but are not limited to, solar, wind, biomass, geothermal, and micro-hydro systems.

Unoccupied. Vacant or not being used for a lawful occupancy.

Unsecured. A structure where entry by unauthorized persons is not rendered impossible and includes, but is not limited to, a structure without:

- (1) any portion of its exterior wall greater than one square foot in area;
- (2) any portion of its roof greater than one square foot in area;
- (3) one or more exterior doors;
- (4) one or more exterior doors which cannot be manually locked;
- (5) one or more exterior windows; or
- (6) one or more exterior windows which cannot be manually locked.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1726, Amended, 07/18/2013; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.030 Scope and Application.

The purpose of this article is to:

(1) Establishes the property maintenance requirements applicable to all residential rental property as defined in GRC Article 9.55.

(2) Establish property maintenance requirements applicable to derelict structures as defined in GRC 10.30.025.

(3) Establish property maintenance requirements applicable to exterior conditions of all properties in the city.
(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Amended, 11/01/2001)

10.30.033 Exterior Conditions and Derelict Structures.

(1) The following provisions relating to exterior conditions and derelict structures apply to all property in the city:

(a) Administrative provisions of the PMC are as follows: GRC 10.30.020; GRC 10.30.025; GRC 10.30.060; GRC 10.30.070; GRC 10.30.170; GRC 10.30.230; GRC 10.30.270; GRC 10.30.280; GRC 10.30.290; GRC 10.30.310; GRC 10.30.320; GRC 10.30.340; and GRC 10.30.360.

(b) Emergency repair provision of GRC 10.30.140.

(c) Weatherproofing and Screens provision of GRC 10.30.170.

(d) Derelict Structures Provisions of GRC 10.30.200; GRC 10.30.210; and GRC 10.30.220.

(e) Section 108 Unsafe Structures and Equipment, Section 109 Emergency Measures, and Section 110 Demolition, of the International Property Maintenance Code, 2012 Edition, prepared by the International Code Council, as hereinafter amended or revised (“ICCPMC”).

(f) Rodent harborage provision of ICCPMC, Section 302.5.

(g) Swimming pools provision of ICCPMC, Section 303.1.

(h) Exterior surfaces provision of ICCPMC, Section 304.

(i) Street numbers provision of ICCPMC, Section 304.3, as amended by GRC 10.30.035(4).

(j) Foundation walls provision of the ICCPMC, Section 304.5.

(k) Exterior walls provision of the ICCPMC, Section 304.6.

(l) Roofs and drainage provision of the ICCPMC, Section 304.7.

(m) Decorative features provision of the ICCPMC, Section 304.8.

(n) Windows and doors provision of the ICCPMC, Section 304.13.

(o) Glazing provision of the ICCPMC, Section 304.13.1.

(p) Accessory structures provision of the ICCPMC, Section 302.7.

(q) Sidewalks and driveways provision of the ICCPMC, Section 302.3.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Amended, 11/01/2001)

10.30.035 Adoption of International Property Maintenance Code.

(1) The International Property Maintenance Code, 2012 Edition, prepared by the International Code Council, as thereafter amended or revised (“ICCPMC”), except as repealed or amended below, is hereby adopted as part of the PMC.

(2) When the phrase “the code official shall” is used in the ICCPMC with respect to enforcement, it refers to the manager’s discretionary option, rather than a mandatory obligation, to choose the course of action that would be appropriate when a violation of the code is found. The phrase “code official shall” does not impose on the city a mandatory duty to implement particular enforcement procedures.

(3) The following sections of the ICCPMC are repealed:

(a) Section 102.6 of the ICCPMC.

(b) Sections 103.1, 103.2 and 103.3 of the ICCPMC.

(c) Section 106 of the ICCPMC.

(d) Section 108.2 of the ICCPMC. The Derelict Structures provisions of GRC 10.30.200, GRC 10.30.210, GRC 10.30.220, and GRC 10.30.230 are adopted in its place.

(e) Section 111 of the ICCPMC.

(f) Section 304.14 of the ICCPMC.

(g) Section 404.5 of the ICCPMC.

(4) The following sections of the ICCPMC are amended to read as follows:

101.1 Title. These Regulations shall be known as the Property Maintenance Code of Gresham, hereinafter referred to the “PMC.”

102.3 Application of Other Codes. Repairs, additions or alterations to a structure, or changes of occupancy and all other work required under the PMC shall be done in accordance with the procedures and provisions of the codes and provisions adopted in GRC Articles 10.05, 10.15, 10.20, 10.25, 10.26 and 10.60.

103.4 Liability. The provisions and protections of the Oregon Tort Claims

Act, ORS 30.265 et. seq. shall apply to all city officials, agents and employees charged with the enforcement of the PMC. The PMC shall not be construed to relieve from or lessen the responsibility of any non-city agent or employee, including but not limited to any owner, owner’s agent, builder, contractor, agent or employee of any builder or contractor, or any person owning, operating or controlling any building, structure or premises, for any damages to persons or property caused by defects or violations of this code, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

103.5 Fees. Fees charged under the PMC shall be adopted by council resolution.

201.3 Terms Defined in Other Codes. Where terms are not defined in the PMC and are defined in the codes and provisions adopted in GRC Articles 10.05, 10.15, 10.20, 10.25, 10.26 and 10.60, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All premises and exterior property shall be maintained free from invasive or noxious weeds in accordance with GRC 7.15.020, GRC 7.15.040 and GRC Article 10.25 and any action taken thereunder.

302.8 Motor Vehicles. Except as provided in other provisions of the GRC, no vehicle shall be kept on residential premises in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, except and unless it is covered by a manufactured vehicle cover designed specifically for that purpose, enclosed within a permitted structure, or behind a fence.

302.9 Defacement of Property. The owner or occupant of property, or person in charge of property, shall comply with the requirements of GRC Article 7.80.

304.3 Street Numbers. Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way as required by the Fire Code. This section shall apply if, due to deterioration or loss, the numbers must be otherwise repaired, placed or replaced.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes. Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within thirty (30) calendar days of the incident that caused the defect.

304.13.3 Window Sill Height. Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements shall have a sill height of no more than 44 inches above the floor or above an approved, permanently installed step. The step must not exceed 12 inches in height and must extend the full width of the window. The top surface of the step must be a minimum of six feet from the ceiling above the step.

Exception: Window sill heights constructed in accordance with code requirements in place for sleeping rooms at the time of construction.

304.13.4 Minimum Dimensions. Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements shall have a minimum net clear opening at least 20 inches wide, at least 22 inches high, and, if constructed after July 1, 1974, at least five square feet in area.

Exception: Window dimensions constructed in accordance with code requirements in place for sleeping room at the time of construction.

304.13.5 Ability to Open. Every window required for ventilation or emergency escape shall be capable of being easily opened and held open by window hardware. Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

305.3.1 Interior Dampness. Every residential rental unit, including basements, and crawl spaces, shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

401.3 Alternative devices. In lieu of the means for natural light and ventilation prescribed in Sections 402 and 403 of this code, artificial light or mechanical ventilation complying with GRC Article 10.05 shall be permitted.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

Exception: Range hoods constructed in accordance with code requirements in place at the time of construction.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or

tempered and cold running water in accordance with the provisions of GRC 10.05.070.

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 120°F (49°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a year-round room temperature of 68°F (20°C) in all habitable rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section. Portable heating devices may not be used to meet the dwelling heat requirements of this code. No inverted or open flame fuel-burning heater shall be permitted. All heating devices or appliances shall be of an approved type.

602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a year-round temperature of not less than 68°F (20°C) in all habitable rooms.

602.4 Occupiable Work Spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a year-round temperature of not less than 68°F

(20°C) during the period the spaces are occupied.

603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function. Mechanical ventilation systems for range hoods and bathrooms shall be maintained in sound working order meeting manufacturer specifications for operation and function.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with GRC 10.05.080. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with GRC Article 10.25.

702.2 Aisles. The required width of aisles in accordance with GRC Article 10.25 shall be unobstructed.

702.3 Locked Doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by GRC Article 10.05.

704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with GRC Article 10.25.

704.2 Smoke Alarms. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or a dwelling unit with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with GRC Article 10.25.

705.1 Carbon Monoxide Detectors. Carbon monoxide alarms shall be installed, maintained and repaired in residential units in accordance with ORS Chapter 90.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

10.30.060 Responsibility.

(1) Unless otherwise provided for, the manager shall be responsible for the ultimate enforcement of all of the provisions of the PMC. The manager may appoint such enforcement officers, technical assistants, inspectors and other employees as may be necessary for the administration of the PMC. For the purpose of the PMC, any person so appointed will be deemed a

“code official” as defined in the ICCPMC. The manager is authorized to designate an employee who shall exercise all the powers of the manager during the temporary absence or disability of the manager.

(2) Where work is required to be done to correct violations under the PMC any and all permits required for such work by the Building Code shall be obtained. All final inspections shall be approved for the associated permits prior to the violations being considered resolved.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.070 Modifications.

In the event of extreme hardships involved in carrying out provisions of the PMC relating to external conditions and derelict structures, the manager shall have the right to vary or modify the provisions of the PMC upon application of an owner, provided that the spirit and intent of the law is observed and that the public health and safety is assured.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended 04/01/2005; Ord. No. 1535, Enacted, 11/01/2001)

10.30.140 Emergency Repair.

The use of tarps or similar material for the purpose of an emergency repair, or temporarily in place of a customary building component such as a roof, siding or a door, shall not exceed 90 days in any consecutive 12 month period; provided, however, that this subsection is subject to, and does not supersede, the requirements of the Building Code and Fire Code. The use of tarps or similar material in place of a customary building component is not permitted under the Building Code.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.170 Weather Proofing and Screens.

Where windows and doors have been sealed by plastic or other materials for weather proofing, said materials shall be maintained in a workmanlike manner. Window and door screens, while not required by the PMC, shall be maintained in a sound working condition.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

DERELICT STRUCTURES

10.30.200 Derelict Structures Prohibited.

(1) No person shall own or operate a property that contains a derelict structure.

(2) A derelict structure, once identified, shall be inspected and maintained by the property owner or lender in accordance with this code until it is lawfully occupied, to ensure it does not become a general nuisance, chronic nuisance, or does not violate the Property Maintenance Code.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.205 Inspection of Property in Default.

(1) Within 30 days of issuing a Notice of Default to a borrower for property located in the City of Gresham, the lender shall perform an inspection to determine if the property is or appears to be a derelict structure as defined in GRC 10.30.025.

(2) If the property is or appears to be a derelict structure, the lender shall register the property and comply with GRC 10.20.220.

(3) Unless the borrower remedies the Notice of Default and the property is not or does not appear to be a derelict structure, the lender shall inspect the property monthly during the period of the Notice of Default, any foreclosure process, or while the lender has title to the property. If during these monthly inspections, the property becomes or appears to become a derelict structure, the lender shall register the property as a derelict structure per GRC 10.30.220.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1770, Enacted, 03/23/2017)

10.30.210 Closing and Securing of Derelict Structures.

(1) The manager may order appropriate measures to render a derelict structure secure from

entry. The securing of the structure shall be by methods calculated to render entry very difficult, including, but not limited to, the use of lag bolts in the boarding of entry points, instead of nailing.

(2) In order to perform the function or duty authorized or required under this section, city representatives and their agents shall have the right at reasonable times to enter upon the property and render a derelict structure secure from entry. If consent to inspect or secure the property is refused, abatement and/or inspection warrants under GRC 7.50.222 and GRC 7.50.520 shall be utilized.

(3) The costs incurred by the city in boarding or securing a derelict structure may be assessed to the property owner and collected as costs of abatement under GRC 7.50.240 and GRC 7.50.260.

(4) The manager may order the perimeter of the lot upon which a derelict structure is located to be secure from unauthorized entry if there are reports that the property is subject to trespass, vandalism, or other nuisance or chronic nuisance activities. Examples of securing the perimeter of a lot includes installing a temporary six-foot fence with structurally sound top and bottom rails, posted no trespassing notices and warnings, secured to prevent unauthorized entry, and maintained in good condition. The requirements of the perimeter fence are at the discretion of the manager.

(Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.220 Derelict Structure Registration.

(1) The manager shall maintain a list of derelict structures.

(2) The owner or lender of a derelict structure shall register the structure with the manager within 10 calendar days of the manager's written direction to register, or the determination by the lender that the property is or appears to be a derelict structure. Registration shall be completed on forms provided by the manager, and shall include:

(a) the location of the property;

(b) the ownership of the property, including address, phone number, and email address;

(c) the name of the lender, balance of the mortgage or deed of trust on the property, and lender's contact number, including phone, address, and email address;

(d) the expected period of its vacancy;

(e) a schedule for inspection and maintenance of the property during the period of vacancy, with a minimum of monthly inspections and maintenance to ensure compliance with the city code;

(f) the agent responsible for inspection and maintenance, including address, phone number, and email address;

(g) a plan and schedule for repairs that will allow re-occupancy and use of the structure, or for its demolition to remove the structure from derelict status; and

(h) a provision whereby the owner of the structure shall indemnify, defend and hold the city harmless from any and all claims asserted against the city by third parties stemming from injuries to persons or to property as a result of the condition or accessibility of the structure.

(3) The plan required by subsection (2)(g) of this section shall include the following:

(a) how the property will comply with the general nuisance requirements of GRC Article 7.15;

(b) how the property will be kept free of all weeds, dry brush, trash, junk and other items that give the appearance that the property is abandoned;

(c) how the property will be kept free of all graffiti, tagging and other markings. Any removal or painting over of graffiti shall be

with an exterior grade paint that matches the color of the exterior of the structure;

(d) if pools and spas will not be completely drained, how pools and spas will be kept in working order so that water remains clear and free of pollutants and debris. Pools and spas must comply with the minimum security fencing requirements of Property Maintenance Code;

(e) how the property will be secured in a manner so it is not accessible to unauthorized persons.

(4) Fee. An initial registration application and a registration renewal must be accompanied by a non-refundable fee in the amount established by council resolution.

(5) The registration and plan are subject to review and approval by the manager. Failure by the owner, person in charge of property, or lender to implement the terms of the approved derelict structure registration and plan is a violation of this code.

(6) A derelict structure, once identified and registered, shall be inspected and maintained by the property owner, lender or designated local agent on a schedule and in a manner to ensure the property is in compliance with GRC Article 10.30, the Gresham Revised Code and the approved derelict structure registration and plan, until the structure is no longer a derelict structure.

(7) The lender or local designated agent shall post a direct contact name and 24-hour contact phone number for persons to report problems or concerns, and the posting shall be placed on the interior of a window facing the street to the front of the property so it is visible and legible from the street. If no such area exists, the posting shall be placed on the exterior of the property in a location visible and legible from the street to the front of the property. An exterior posting shall be printed with on and with weather resistant materials.

(8) Any change in the information provided pursuant to this subsection shall be given to the manager within 30 calendar days of the change.

When the owner or lender believes the structure is no longer derelict the owner shall contact the manager and request an inspection to determine that the structure is no longer derelict.

(Ord. No. 1783, Amended, 05/01/2018; Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

ENFORCEMENT

10.30.230 Complaint Process.

(1) Complaints of a derelict structure or for violations of the PMC are to be directed to the manager. The manager shall take the necessary steps to determine the existence of any violations, including any not listed in the original complaint; take steps to require property owners to remedy conditions and defects found to violate the PMC; initiate suspension or revocation of a residential rental property license or other remedies under GRC Article 9.55 if applicable; initiate enforcement procedures under GRC Article 7.50; or take other such action as may be appropriate to ensure compliance with the PMC.

(2) When the complaint relates to a derelict structure or exterior property conditions only, the manager may direct a copy of the complaint to the relevant neighborhood association or the Neighborhood Coalition. The affected neighborhood association or the Neighborhood Coalition may provide information and evidence to the manager concerning the complaint. Neither the neighborhood association nor the Neighborhood Coalition has any authority to enforce any aspect of the PMC.

(3) The manager may initiate an inspection of residential rental property, a specific residential rental unit, if necessary, or a derelict structure, to determine the validity of the complaint. Any such inspection may be in addition to residential rental property inspections contemplated under GRC Article 9.55.

(4) If the property owner, designated agent, or tenant refuses to allow an inspection of the premises or residential rental unit that is the subject of the complaint, the city may obtain an

administrative inspection warrant as provided for in GRC 7.50.510 and GRC 7.50.520.

(5) For residential rental units, following each inspection, the inspector will complete an inspection checklist for each residential rental unit inspected and provide a copy of the completed form to the owner or designated agent and the residential rental unit tenant. The occupier will receive a copy of the notice of inspection checklist.

(6) If the manager determines that the complaint is verified, or the residential rental unit subject to the complaint failed to meet the standards set forth in the PMC, GRC Article 10.30, the manager will initiate enforcement as provided in GRC Article 7.50 or GRC 10.30.210 as applicable.

(7) In the event any life threatening health and/or safety condition or defect is found to exist, the condition or defect may be summarily abated as provided in GRC Article 7.50.

(a) In addition to summary abatement, the residential rental license may be denied, suspended or revoked, and the tenant(s) relocated with the assistance of the city and/or emergency housing service providers.

(b) Residential rental units found to be directly affected by life threatening health and/or safety condition(s) or defect(s) shall not be occupied unless and until the designated condition and/or defect has been satisfactorily corrected as determined by subsequent inspection.

(c) All costs of abatement, including all tenant relocation costs incurred by the city in this section, shall be the responsibility of the residential rental property owner and assessed as provided for in GRC Article 7.50.

(8) An existing license may be suspended, or a renewal license not issued, unless and until all conditions and/or defects concerning the licensed residential rental property subject to the complaint have been corrected.

(9) Complaints under this section shall be considered confidential by the city and shall not be subject to public disclosure under the Oregon Public Records Act, unless disclosure is required by law.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.270 Temporary Waivers of Enforcement Action.

(1) The manager may issue a temporary waiver of enforcement action, which will give a period of time that the manager determines is reasonable, but no longer than six months, to correct the violations found. The length of time given will depend on several factors, such as the extent and cost of the repairs, seriousness of the conditions, financial capacity of the owner, and the time of year. During the waiver period, the affected residential rental unit(s) may not be occupied.

(2) The manager may revoke the waiver if any of the conditions that allowed the owner to qualify for a waiver change. Because the waiver is granted to a specific property owner, the waiver automatically terminates upon change in ownership. The manager may, assist the owner in obtaining information regarding financial or other assistance to make the necessary repairs.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.280 Hardship Waivers of Enforcement Action.

(1) The manager may issue a hardship waiver of enforcement action only if the owner currently legally resides on the property. A hardship waiver may be issued only in those instances when the owner is found by the manager to be over 65 years of age, disabled, or classified as “very low income” under the US Department of Housing and Urban Development (HUD) standards. Hardship waivers shall not exceed three years. The income level of the owner will be reevaluated before the end of the three year waiver period. Application for a hardship waiver must be filed with the manager in writing. The manager may require the owner to supply all information necessary to

demonstrate the owner’s eligibility for the waiver. The owner must submit a separate application for waiver for each notice of complaint and violation.

(2) The manager may revoke the waiver if any of the conditions that allowed the owner to qualify for a waiver change. Because the waiver is granted to a specific property owner, the waiver automatically terminates upon change in ownership or tenure of the property.

(3) The owner may reapply for new hardship waivers to become effective at the expiration of the term of any hardship waiver previously granted.

(4) The manager may assist the owner in obtaining information concerning financial or other assistance to make the necessary repairs.

(Ord. No. 1535, Enacted, 11/01/2001)

10.30.290 Enforcement.

(1) Violation of any section of the PMC may be subject to a fine or penalty in the maximum amount of \$1,000. A violation applies to each property or residential rental unit in violation of the PMC. Each day a violation occurs or continues is a separate violation.

(2) The remedies available under GRC 9.55.160 shall also be available to address violations of the PMC.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.310 Receivership Authority.

In addition to, and not in lieu of any other provisions of the PMC, when residential property is found to violate the PMC, the violation is a threat to the public health and safety, and the legal owner has not acted in a timely manner to correct the violation(s), the manager may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1535, Enacted, 11/01/2001)

10.30.320 Lien.

Abatement costs, late payment charges, reinspection fees, or other fees or charges imposed under the PMC, shall constitute a valid lien against the property in favor of the city of Gresham if not paid within 30 calendar days of imposition of the fees. The lien shall remain valid against the property until fully paid. The manager may record the lien in the Multnomah County deed records. The city may collect an administrative fee for the release of any lien issued by the city that shall be set and adjusted by council resolution.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1535, Enacted, 11/01/2001)

10.30.340 Application of Other Codes.

Nothing in the PMC shall be construed to relieve a person from complying with any federal, state or local law, including any other provisions of the GRC, or the requirement to obtain all necessary permits and approvals.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1535, Enacted, 11/01/2001)

10.30.360 Coordination of Enforcement.

The manager shall make reasonable effort to arrange for the coordination of enforcement efforts and any necessary inspections in an effort to minimize conflicts between the activities of affected city departments.

(Ord. No. 1535, Enacted, 11/01/2001)

10.30.400 Decommissioning and Removal of Renewable Energy Systems.

(1) Renewable energy systems that have reached the end of their useful life or have been abandoned shall be decommissioned and removed.

(2) A renewable energy system that is no longer in use or that has reached the end of its useful live shall be considered abandoned.

(3) Absent notice from an owner that a renewable energy system has been abandoned, a renewable energy system shall be considered abandoned when it does not operate for more than one year.

(4) If the owner of a renewable energy system demonstrates extenuating circumstances for the reasons a renewable energy system has not been in operation, the owner of a renewable energy system may submit a written request to the manager requesting an extension to the time period before it will be determined to be abandoned. The manager shall grant such reasonable requests.

(5) The owner of a renewable energy system shall decommission and remove a renewable energy system within 90 days of the date that it is abandoned.

(6) Decommissioning and removal shall consist of:

(a) deactivating a renewable energy system from use;

(b) physical removal of all equipment, wiring, mounting, security barriers, foundations and transmission lines;

(c) disposal of any solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and

(d) stabilization or re-vegetation of the site as necessary to minimize erosion.

(7) Upon written request to the manager, the owner may be permitted to leave landscaping or designated below-grade foundations to minimize erosion and disruption to the vegetation.

(Ord. No. 1726, Enacted, 07/18/2013)

Article 10.50

**PROPERTY TAX EXEMPTION FOR
NEW, TRANSIT SUPPORTIVE,
MULTIPLE-UNIT HOUSING OR
MIXED USE DEVELOPMENT**

Sections:

10.50.155 [Continuation of Prior Exemption.](#)

10.50.155 Continuation of Prior Exemptions.

Any project granted an exemption under GRC Article 10.50 prior to July 16, 1998 shall not be affected by the amendments to GRC Article 10.50 made on or after that date, and any project granted an exemption after July 16, 1998 and prior to January 1, 2006 shall not be affected by the amendments to or repeal of GRC 10.50.015 through GRC 10.50.145, and shall be subject to provisions in effect at the time the exemption was granted, and for this purpose those provisions of GRC Article 10.50 (Ordinance No. 1370 as amended by Ordinance Nos. 1445 and 1466) shall continue to be in effect and shall continue to apply to the project and exemption as if the amendments made to GRC Article 10.50 on July 16, 1998, and the repeal of GRC Article 10.50, GRC 10.50.015 through GRC 10.50.145 were not in effect. Projects granted an exemption shall continue to receive the exemption according to the same schedule and subject to the same disqualification provisions that were in effect and applied at the time the project was granted an exemption.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1445, Enacted, 07/16/1998)

Article 10.60

MARINAS AND FLOATING STRUCTURES

Sections:

- 10.60.010 [Statement of Purpose and Intent.](#)
- 10.60.020 [Scope.](#)
- 10.60.030 [Definitions.](#)
- 10.60.040 [Administration and Enforcement.](#)
- 10.60.050 [Regulations for Floating Structures.](#)
- 10.60.060 [Regulations Pertaining to Floating Homes, Combos, Boat Houses and Related Accessory Structures.](#)
- 10.60.070 [Construction Other than Floating Homes.](#)
- 10.60.080 [Engineered Construction.](#)
- 10.60.090 [Electrical Installations.](#)
- 10.60.100 [Plumbing Installations.](#)
- 10.60.110 [Mechanical Installations.](#)

10.60.010 Statement of Purpose and Intent.

It is the purpose of this ordinance to promote the public's health, safety and welfare through the regulation of floating structures and their appurtenances. These regulations recognize that waterborne structures, by their very nature confront different environmental factors than do structures located on land. Furthermore, it is recognized that waterborne structures have distinctive design requirements such that strict adherence or application of the land oriented Specialty Codes is not always appropriate and that modifications or exceptions should be made in appropriate circumstances in the application of those codes.

(Ord. No. 1636, Enacted, 01/18/2007)

10.60.020 Scope.

The provisions of this ordinance apply to the construction, addition, prefabrication, alternation, repair, use, and occupancy of floating structures. This ordinance does not apply to the construction, maintenance, or operation of vessels or boats, except a boat shall not discharge waste into the

waters of the city except as allowed by federal (Coast Guard approved sanitation devices) or state regulations.

Floating structures moved into or constructed in the City of Gresham shall comply with the latest edition of the Oregon Specialty Codes and this ordinance as for new construction. Floating Homes, combos and their accessory structures shall be built to the Oregon Residential Specialty Code and all others shall be classified by the Building Official per their building use in the Oregon Specialty Codes. (Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1636, Enacted, 01/18/2007)

10.60.030 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for the purpose of GRC Article 10.60, the following mean:

Addition. An increase in the floor area or height of a structure or building.

Alteration. Any change or modification of existing construction.

Berth. An open (uncovered) waterside area defined by floating walkways and finger-floats, for the wet storage of a boat.

Boathouse. A covered floating structure used primarily for the wet or dry storage of a boat.

Combo. A boathouse-floating home combination.

Dangerous Structure. Any structure that has the potential to threaten the safety of person or property.

Fire Apparatus Access Roads. Roads providing the driving surface for fire department vehicles responding to an emergency, extending from a public right-of-way to a point nearest a moorage or marine gangway or pier.

Floating Home or Houseboat. A floating structure used primarily as a dwelling unit, including boat houses, combo structures, and accessory structures.

Floating Structure. A structure supported by a flotation system and held in place by piling and mooring devices, including but not limited to boathouses, floating homes, marinas, and walkways.

Gangway. A variable slope structure intended to provide pedestrian access between a fixed pier or shore and a floating structure.

Marina. Floating structure(s) used primarily for the service, and/or repair, sale or moorage of boats in berths, but may include other occupancies.

Moorage. A site used for the mooring of one or more floating structures or boats and includes the piling, mooring connectors, piers, ramps, gangways, walkways, and the land area used in conjunction therewith.

Moorage: Pre-existing Non-conforming. Built or annexed before 1985.

Moored or Mooring. The attachment of a boat or floating structure in one location temporarily or permanently to piles, walkways, gangways, piers or other structures.

Mooring Connectors. A connection between a floating structure, floating home, boathouse, berth, or marina, and a pile, pier, walkway, ramp, gangway or other structure, with the capability to hold the structure in place under reasonably expected conditions.

Mooring Site. A site within a moorage designed or used for the mooring of a boat, boathouse, floating home or other occupied floating structure.

New Construction. A new building or structure or an addition to an existing building or structure.

Pier. A non-floating fixed platform extending out over the water from shore to which gangways are usually attached.

Ramp. A fixed sloped structure providing pedestrian access between portions of a moorage, which are at different elevations.

Repair. The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

State of Oregon Specialty Codes. A code of regulations adopted and enforced under GRC Chapter 10 commonly referred to as the Structural Specialty Code, Mechanical Specialty Code, Plumbing Specialty Code, Electrical Specialty Code, Residential Specialty Code, Fire Code, Energy Efficiency Specialty Code, Manufactured Dwelling and Park Specialty Code, and the Solar Installation Specialty Code.

Tender House. A non-habitable, floating accessory building.

Transient Tie-Up. A floating structure used exclusively for the open moorage of pleasure boats on a short term, maximum 72-hour stay.

Walk. A fixed portion of a floating home structure providing access to and around a floating home.

Walkway. A covered or open floating structure used for ingress or egress to a mooring site. There are three types:

(1) **Finger-float.** A fingerlike floating structure, usually attached perpendicular to a main walkway, which physically defines a berth and provides direct pedestrian access to and from a berthed boat or floating home.

(2) **Main Walkway.** A floating structure to which several finger-floats are attached, thereby providing direct pedestrian access between the berths and marginal walkways or shore.

(3) **Marginal Walkway.** A floating structure, which provides pedestrian access between two or more main walkways and/or shore.

Waste. Means garbage, litter, or sewage including kitchen, bath and laundry waste except for effluent from Coast Guard approved sanitation devices. (Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1636, Enacted, 01/18/2007)

10.60.040 Administration and Enforcement.

(1) Responsibility.

(a) The Building Division shall administer and enforce the provisions of this ordinance except that the Fire Marshal shall have the responsibility for the inspection of existing moorages as well as the testing and inspection of standpipes. In the event that the Fire Marshal determines a violation of this ordinance has occurred at a moorage under his jurisdiction, he shall report the same to the Building Division which will then have the enforcement authority thereof.

(b) The State of Oregon Marine Board shall have responsibility for enforcing pleasure boat rules and regulations pertaining to operation and carriage requirements; and issuance of a certificate of Title, identifying number plate, and disposition of all abandoned floating homes, combos and boathouses; and rules and regulations regarding floatation encapsulation. The State of Oregon Department of Environmental Quality shall have responsibility for enforcing violations pertaining to the dumping of waste into the waters of the city.

(c) Nothing in this ordinance is intended to displace or conflict with any other relevant federal, state statute, rule or regulation nor grant exemption there from.

(2) Permits and Inspections.

(a) It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, or convert any structure regulated by this ordinance, except as provided for herein, or cause the same to be done without first obtaining a separate permit for each structure from the building official as required by this ordinance.

(b) Exemption from the permit requirements of this ordinance shall not be deemed to grant authorization for any work to

be done in any manner in violation of the provisions of this ordinance or any other rules or regulations of the City of Gresham, the State of Oregon, or the Federal government. Failure to comply with the terms of this ordinance, subjects a person to such remedies as the building official, in the exercise of their reasonable discretion, deems appropriate and as may be otherwise limited by law. Unless otherwise exempted, separate, building, plumbing, electrical and mechanical permits are required for any work performed covered by this ordinance.

(c) Permits and inspections shall be required for the following:

(i) For all work, including fire protection systems, a permit shall be obtained before beginning construction, additions, alteration or repairs (other than ordinary repairs), using application forms furnished by the building official. Ordinary repairs are nonstructural repairs and do not include addition to, alteration of, or replacement or relocation of water supply, sewer, drainage, drain leader, gas, waste, vent or similar piping, electrical wiring, or mechanical or other work for which a permit is required by the building official.

(ii) Permanent connections to docks for plumbing, electrical, structural and mechanical work, where existing or new floating homes or combos are moved into or moved within the City of Gresham.

1) Arrangements with regard to permits and inspection for projects constructed outside of Gresham but intended for use in Gresham are to be made with the Building Official prior to the commencement of construction or installation.

(iii) The new construction of public and private floating structures such as, but not limited to, moorage, marinas, yacht clubs, places of assembly, living quarters, marine service stations and

repair facilities; and attendant piling, mooring connectors, piers, ramps, gangways, walkways, land structures, roadways and parking areas.

(iv) Any new and/or alteration to any electrical, plumbing, heating/air conditioning installation on a floating structure, including wood stoves.

(d) Inspection requests.

(i) The permit holder or permit holder's agent shall be responsible to request inspection and obtain approval prior to proceeding with the next phase of work.

(ii) Owners of gated marinas are required to provide full access to their marinas for the purpose of inspections and investigations. Where needed the city will be provided a key card or access code for official use only.

(3) Fees. Fees shall be paid in advance for all permits and inspections as required by other ordinances of the City of Gresham.

(4) Right of Appeal. A person aggrieved by a requirement, decision, or determination arising out of this article may appeal pursuant to GRC 10.05.130.

(5) Alternate materials, methods, and systems. The provisions of this code are not intended to limit the appropriate use of materials, appliances, equipment or methods of design or construction not specifically prescribed by this ordinance, provided the Building Official determines that the proposed alternate materials, appliances, equipment or methods of design or construction are at least equivalent of that prescribed in this ordinance in suitability, quality, strength, effectiveness, fire resistance, durability, dimensional stability, safety and sanitation.

(6) Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, or when the strict application of the Specialty Codes does not allow

the use of traditional nautical design, the Building Official may grant modifications for individual cases, providing that findings are first made that a special individual reason makes the strict letter of the codes impractical, that the modification is in conformity with the purpose and intent of the codes and that such modification does not lessen any fire protection requirements or any degree of structural integrity.

(Ord. No. 1636, Enacted, 01/18/2007)

10.60.050 Regulations for Floating Structures.

(1) General.

(a) Floating structures and moorages shall comply with these specific regulations as well as applicable Specialty Codes, including NFPA 303, and all other applicable regulations of the city, state, and federal governments. Where conflicts exist between these specific regulations and other regulations, this ordinance shall apply. All installations lawfully in existence at the time of the adoption of this ordinance may continue, provided such continued use is not dangerous to life or adjoining property and is maintained in good working order.

(b) Existing floating structures moved to the City of Gresham shall comply with this ordinance as though they were new construction or they must be approved by the Building Official.

(2) Maintenance. All floating structures and supporting structural systems, electrical, plumbing and mechanical installations and devices required by this ordinance shall be maintained in good serviceable condition.

(Ord. No. 1636, Enacted, 01/18/2007)

10.60.060 Regulations Pertaining to Floating Homes, Combos, Boat Houses and Related Accessory Structures.

(1) Floating Homes, Boat Houses and Combo Structures.

(a) Regulations pertaining to alterations and additions to floating homes. Alterations of up to 50 percent, by size, and additions of up to 25 percent, by size, may be made with like materials in a like manner without regard to new construction clearance above water and separation requirements.

(b) Retroactive Identification Required of Existing Floating Homes. Within 60 days of the adoption of this ordinance, all floating homes shall be identified by number or letter minimum 4 inches in height and visible from the dock.

(2) Separation Required Between Existing Floating Structures.

(a) Separation required between existing floating homes:

(i) The separation existing at the time of the adoption of this ordinance between one floating home and another is approved.

(ii) Floating homes relocated within a moorage or moved from one moorage to another shall be spaced a minimum of six feet apart between the nearest exterior walls and four feet apart at the nearest roof projections, or be provided with the alternative protection system as required in GRC 10.60.060(2)(b).

(iii) Main floor additions to existing floating homes, up to 25 percent by size, may be built with the same separation that existed at the time of the adoption of this ordinance.

(iv) New, main floor additions to existing floating homes, in excess of 25 percent by size, and second floor additions of any size, shall be spaced a minimum of 6 feet apart between the nearest exterior walls and 4 feet apart at the nearest roof projections, or be provided with the alternative protection

system as required in GRC 10.60.060(2)(b).

(b) Alternate protection systems to minimum separation between adjacent floating homes. When the wall-to-wall separation is less than six feet, or the roof-to-roof separation is less than four feet, the structure being moved or added to shall be equipped throughout with a complete automatic sprinkler system installed in compliance with NFPA 13D or alternate methods approved by the building official.

(3) Separation Required Between New Floating Structures.

(a) Distance between floating homes.

(i) Floating homes at new moorages shall be spaced a minimum of 10 feet apart between the nearest exterior walls and eight feet apart between the nearest roof projections.

(ii) Separation distances may be reduced to six feet apart between the nearest exterior walls and four feet apart between the nearest roof projections when one of the following is provided:

1) A complete sprinkler system is installed in compliance with NFPA 13D.

2) One hour rated exterior walls with protected openings.

(b) Occupancy separation. A covered boat well, in a floating home, enclosed on more than two sides shall be separated from the habitable space per the Oregon Residential Specialty Code requirements for Garages and Carports with water resistant gypsum board on the boat well side.

(4) Materials and installations.

(a) Structural materials within 18 inches of the water.

(i) Structural members and connectors shall be fabricated of materials or be coated or treated such that the materials will resist deterioration due to their proximity to the water, except logs used for flotation, steel piling and steel stringers.

(ii) Framing lumber shall be pressure treated with an approved preservative; framing connectors shall be hot-dipped galvanized or noncorrosive metal except for pins; plywood shall have exterior type adhesive; exposed plywood shall be exterior grade.

(b) Thermal insulation. Main floor insulation shall be of a type approved for damp locations.

(c) Under-floor ventilation. All enclosed floating home, combo, or boathouse wood construction systems, shall be ventilated in accordance with the building code.

(5) Conventional Construction Methods and Materials for Floating Homes.

(a) Floating homes. The following methods and materials are approved without engineering provided the highest point of the roof structure measured from the top of the first floor joists does not exceed 75 percent of the minimum width of the log float.

(i) The logs and stringers forming the floats under floating homes and living portions of combos shall conform to these provisions:

1) The structure on the float cannot be larger than the float, except for decks.

2) Raft logs are to be 16 inch minimum diameter at the tip and shall be spaced no greater than 18 inches between tangent points.

3) Bearing walls should align over stringers or centerline of logs.

When not feasible, adequate support for bearing walls shall be provided.

4) If the building inspector finds the completed log raft insufficiently stable for the intended structure he or she may then require the stringer layout to compose a rigid frame by the addition of side chords and fixed joints or cross bracing.

5) Logs shall be Douglas Fir, Sugar Pine, Lodge Pole Pine, Western (Idaho) White Pine, Alaska Yellow Cedar and Sitka Spruce, sound and free of all bark above the water line.

6) In a floating home foundation float at least 50 percent of all logs shall be full length. Segmented logs must be alternated between full-length logs. All outboard logs shall be full length of the float.

7) Logs shall be notched so as to provide sufficient bearing for the stringers. The seat of the notch shall be a minimum of 4-1/2 inches above the water level.

8) Timber stringers shall be nominally a minimum of 4 inches by 10 inches for one story construction and 6 inches by 10 inches for two story or higher construction and shall be pressure treated to a retention of 0.4 pounds per cubic foot or refusal. Steel stringers shall be wide flange shapes with a minimum depth of 10 inches and minimum thickness of .25 inches.

9) Stringers inside of bearing walls shall be placed on the logs not more than four feet on center and fixed to the logs with headed steel rods a minimum of 5/8 inches in diameter and a minimum of 20 inches long. These pins are to penetrate the log at least 10 inches. Outside log connections and log ends are to have two pins.

10) The wood construction below the joists is to be inspected for proper construction and soundness of logs, including dapped bearing connections, prior to installation of joists.

(b) Flootation. Floating homes need only have adequate flotation to maintain a clearance above the water that will result in the lowest floor being dry under all applicable load conditions.

(c) Connections:

(i) Floating homes shall be anchored with connections to the logs. There shall be a minimum of two attachment points to the logs and these points shall be a minimum of one foot from each end.

(ii) The connections shall consist of a steel bracket or other approved connection. The bracket is to be 3/8 inch thick and adequate in size to support the pins. Pins are to be a minimum of 4 inches apart. This bracket shall be fixed with a minimum of three, headed steel rods a minimum of 5/8 inch in diameter and penetrate the log at least 10 inches.

(iii) The connections from the bracket to the walkway or piling shall consist of chain with a minimum link wire diameter of 1/2 inch. If attached to walkway logs, the boom chain shall be looped around the second log or most secure log of the walkway.

(d) Walkways.

(i) Floating walkway supports may consist of pressure treated six inch x six inch stringers not more than six feet-0 inches on center or four inch x six inch stringers not more than five feet-zero inches on center anchored to the logs with headed steel rods as described above. Single headed steel rods may be used at interior logs. Maximum joist spacing is two feet-zero inches on center.

(ii) Walkways shall be adequately secured to pilings.

(iii) A two-foot wide walk providing a clear and unobstructed egress shall be provided on all sides of all floating homes where emergency egress is required on the main floor, with a continuous path to the main dock.

(e) Mooring connections.

(i) The intent of the provisions of subsection (c), above, is to provide construction that shall be adequate to keep the structure in place under all reasonable load conditions. In some instances it may be necessary for the builder to provide additional measures.

(ii) Bumpers or impact absorbing cushions must be attached to the foundation float near anchorage connection points, minimum two per floating home float.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1636, Enacted, 01/18/2007)

10.60.070 Construction Other than Floating Homes.

(1) Moorages.

(a) Identification. All moorages shall be provided with identification as follows:

(i) All moorages shall be identifiable by name and address from the street on which they front at or near the point of emergency vehicle access. The design must be in high contrast with their background and the symbols must not be less than 6 inch in height with a stroke of not less than 3/4 inch.

(ii) The head of the gangway providing access to the moorage shall be obviously identifiable from the point of emergency vehicle access; or in those cases having a secondary access road, from the shore end of the access road; or

the facility shall be signed as required to provide such identification.

(iii) When door to gangway is locked, install an approved lock box and provide key or card key for Fire Department access.

(iv) The location and identification of all floating structures shall be obvious from the head of the gangway or a sign shall be provided indicating the layout of the moorage and the walkway and structure identification method.

(v) The walkway and structure identification shall be logical and obvious.

(2) Existing Moorages.

(a) Fire protection standpipe shall be installed per NFPA 14.

(i) The following described fire protection standpipe system shall be required at all moorages within one year of the effective date of this ordinance; or an agreement shall be established within six months of the effective date of this ordinance for such an installation to be completed within 3 years from the date of the agreement, unless an alternative arrangement has been previously approved by the Fire Marshal.

EXCEPTIONS:

1. Installations requiring the use of pumps may have an additional year for the installation of the pump or pumps.

2. Installations for moorages serving only pleasure boats may have an additional three years for the installation of the complete system (six years total) from the date of adoption of this ordinance.

3. Installations for moorages used exclusively for loading and

off loading boats or vessels and transient tie-up moorages.

(ii) Moorages having any portion of a floating structure more than 250 feet from the point of fire apparatus set up, shall have a dry standpipe system designed and installed in accordance with the Fire Code, NFPA 14 and the following:

1) Have a water supply that complies with any one of the following:

a. Municipal water providing 1000 GPM through an approved fire hydrant located within 50 feet of the closest point of fire department access to a moorage site exit ramp with a Fire Department Connection (FDC) within 50 feet of this fire hydrant.

b. Rivers or associated bodies of water with pump or pumps capable of providing 250 GPM at 100 psi to any single outlet on the standpipe system. Pumps are to be powered with natural gas or propane and be listed by Underwriters Laboratory.

2) Have standpipe sized to provide 250 gallons per minute at 100 psi pressure to any single outlet with a maximum input pressure of 150 psi.

3) Have adequate drain valves installed to ensure complete drainage.

4) Have gate valve outlets made of noncorroding metal, 2-1/2 inch I.D. with National Standard threads spaced a distance apart as follows:

a. For moorages having marine service stations, floating homes or other type of structures having permanent living quarters, valves are to be every 100 feet and

within 50 feet of the end of walkways.

b. For moorages serving only boathouses, valves are to be every 150 feet and within 75 feet of the end of the walkways.

c. For moorages having only open moorage of pleasure boats, standpipes shall only be required along the marginal walkway with valves required only at intersecting main walkways, or not less than every 200 feet and 100 feet from the end of marginal walkways not having intersecting main walkways.

5) All fire protection standpipe systems shall be installed under benefit of permit from the Gresham Building Department.

6) Standpipe systems shall be tested in accordance with the Fire Code and NFPA 14. The Fire Marshal shall be notified at least 24 hours in advance of all tests and tests shall be done in their presence or the presence of their representative. An annual service test will be conducted by a qualified service agency to assure the continuity of the system.

7) Fire extinguishers rated not less than 3A:40BC shall be secured in place beginning at the start of the walkway system and repeated at intervals not to exceed 150 feet on all walkways and finger floats.

(b) Regulations pertaining to repairs to moorages.

(i) Repairs requiring the replacement of 50 percent or more of the piling shall be made in accordance with the provisions for new construction.

(ii) Repairs requiring the replacement of less than 50 percent of the piling may be made with like materials in a like manner.

(iii) Walks: The following repairs of existing walks are allowed without permit or inspection:

1) Replacement of the decking, stringers and flotation logs.

2) Repair or replacement of up to 50 percent of the concrete portions of a concrete float.

(iv) The repairing of any portion of a moorage in like manner to the original construction is allowed providing the resulting repair or replacement does not cause an unsafe or overloaded condition.

(c) Regulations pertaining to alterations and additions to moorages.

(i) Walkways and supporting structure.

EXCEPTION: Gangways and standpipes required as a result of any addition shall be provided in conjunction with such addition.

(3) New Moorages

(a) Fire apparatus access roads. Access to moorages shall be by fire apparatus access roads capable of supporting the minimum weight as determined by the fire code official. Such roads shall be a minimum 20 feet wide, and 26 feet wide at fire hydrant locations, with not less than 13 feet-6 inches overhead clearance. They shall be provided from the nearest public way to the head of the gangway. Fire apparatus turnarounds shall be required on any fire access road having a dead end exceeding 150 feet.

(b) Moorage exits. Two exit gangways are required whenever any one of the following conditions apply:

(i) The marginal walkway exceeds 250 feet.

(ii) Total distance from the nearest point of apparatus set-up (usually at the head of a gangway) to the most remote portion of the moorage exceeds 800 feet.

EXCEPTION: Moorages used for the moorage of pleasure boats without covers (open moorage configuration) and having not more than two floating homes need have only one exit gangway.

When two exit gangways are required, they shall be separated by the maximum distance possible so as to avoid the possibility of any one fire cutting off exit or access to both exit gangways.

(c) Fire protection.

(i) Moorages having any portion of a floating structure more than 250 feet from the point of fire apparatus set up, shall have a dry standpipe system designed and installed in accordance with the Fire Code, NFPA 14 and the following:

1) Have a water supply that complies with any one of the following:

a. Municipal water providing 1000 GPM through an approved fire hydrant located within 50 feet of the closest point of fire department access to a moorage site exit ramp with a Fire Department Connection (FDC) within 50 feet of this fire hydrant.

b. Rivers or associated bodies of water with pump or pumps capable of providing 250 GPM at 100 psi to any single outlet on the standpipe system. Pumps are to be powered with natural gas or propane and be

listed by Underwriters Laboratory.

2) Have standpipe sized to provide 250 gallons per minute at 100 psi pressure to any single outlet with a maximum input pressure of 150 psi.

3) Have adequate drain valves installed to ensure complete drainage.

4) Have gate valve outlets made of noncorroding metal, 2-1/2 inch I.D. with National Standard threads spaced a distance apart as follows:

a. For moorages having marine service stations, floating homes or other type of structures, having permanent living quarters, valves are to be every 100 feet and within 50 feet of the end of walkways.

b. For moorages serving only boathouses, valves are to be every 150 feet and within 75 feet of the end of the walkways.

c. For moorages having only open moorage of pleasure boats, standpipes shall only be required along the marginal walkway with valves required only at intersecting main walkways, or not less than every 200 feet and 100 feet from the end of marginal walkways not having intersecting walkways.

5) All fire protection standpipe systems shall be installed under benefit of permit from the Gresham Building Department.

6) Standpipe systems shall be tested in accordance with the Fire Code and NFPA 14. The Gresham Fire Department shall be notified at least 24 hours in advance of all tests

and tests shall be done in their presence or the presence of their representative. An annual service test will be conducted by a qualified service agency to assure the continuity of the system.

EXCEPTION: Installations for moorages used exclusively for loading and off loading boats or vessels and transient tie-up moorages.

(ii) Fire extinguishers rated not less than 3A:40BC shall be placed in cabinets on posts beginning at the start of the walkway system and repeated at intervals not to exceed 150 feet on all walkways and finger floats.

(4) Gangways, Ramps, Walkways and Walks.

(a) Illumination. Gangways, ramps and walkways shall be illuminated by lights designed, constructed and maintained to provide a minimum average of 1-foot candle of light per square foot at the walking surface.

EXCEPTION: Recreational boat launching and transient tie up facilities.

(b) Slope and Surface. Gangways and ramps shall have a maximum slope of 1 vertical to 2.5 horizontal and shall have a non-slip walking surface or surface cleats securely fastened in place with a maximum spacing center to center of 1 foot 6 inches.

(c) Gangway width and rails. Gangways shall have a minimum, unobstructed width of five feet when a single gangway is required and four feet when more than one gangway is required and shall be provided with guardrails and handrails as required by the building code. Intermediate landings shall not be required for gangways.

EXCEPTION: Gangways serving an occupant load less than 10 and gangways serving recreational boat launching and

transient tie up facilities need not be more than 4 feet in width.

(d) Walkway width. Walkways shall have a minimum, unobstructed width of six feet, except for finger-walkways, which may be three feet in width. Cleats, bull rails, mooring connectors, utility stands and the like may project into the required width of main and marginal walkways.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1636, Enacted, 01/18/2007)

10.60.080 Engineered Construction.

(1) General. Except those structures conforming to the conventional construction methods and materials, the minimum structural design of floating structures and moorages shall be in conformity with all applicable sections of the State Building Code and the requirements of this section.

(2) Engineer of Record.

(a) Hereafter, where the term "engineer of record" is written it shall mean either engineer or architect of record.

(b) The piling, mooring connectors, the gangway, and flotation system for all floating structures shall have an engineer or architect of record who is registered in Oregon.

(c) The Engineer of Record shall be responsible for establishing the design criteria and completing the design of the complete project. The Engineer of Record shall do this by preparing and certifying complete construction drawings and calculations for structural strength and flotation. The design criteria shall be substantiated by the Engineer of Record and noted on the first sheet of the construction drawings.

(d) If engineers or architects other than the Engineer of Record have been engaged to design a portion of the project (piles for example), the Engineer of Record is to:

(i) Verify that the other engineer(s) or architect(s) have provided drawings and calculations certified by an Oregon engineer or architect.

(ii) Verify that the other engineer(s) or architect(s) have used design criteria (loads, load combinations, etc.) that have been established by the Engineer of Record.

(iii) Verify the compatibility of the portion's design with the design of the complete project.

(iv) Verify that the designs of structural connections between the portion(s) of the project designed by other engineers and portions designed by the Engineer of Record have been accomplished by an engineer or architect registered in Oregon.

(v) Place review approval stamp on all drawings and calculations prepared by the other engineers showing that a. through d. have been accomplished.

(3) Loading.

(a) All floating structures, piling, mooring devices and gangways shall be designed and constructed to sustain, within the stress limitations specified in the State Building Code, all applicable loads specified in the State Building Code and this ordinance.

(b) Current loads shall be calculated on the basis of maximum current anticipated at the location of the structure.

(c) Wave and wake loads shall be calculated on the basis of the maximum possible wave and/or wake that can be expected at the location of the structure.

(d) Impact loads from boats, debris and other objects shall be considered with a minimum velocity of 2 feet per second.

(e) Gangways not more than 6 feet wide shall be designed to sustain a live load of 50 psf unless they serve structures that contain an occupancy where more than 50 people may occupy a room at one time such as some dining establishments or meeting rooms. Those gangways and all those more than 6 feet wide shall be designed to sustain a live load of 100 psf.

EXCEPTION: Gangways not more than 6 feet wide serving public recreational boat launching and transient tie up facilities may be designed to sustain a live load of 40 psf.

(f) All floating structures, piling, mooring connectors, gangways and ramps shall be designed and constructed to resist lateral forces produced by the reasonable combination of expected wind, current, wave/wake and impact loads at the location.

(4) Mooring connectors.

(a) Every floating structure shall be moored with connectors having the capacity to hold the structure in place under all expected conditions.

(b) All structures the mooring connectors are attached to, including walkways, pilings, or others, shall be designed to withstand the loads from the mooring connectors. The engineer of record's design criteria for the project shall include the maximum dimensions of the floating structure(s) as these determine the loads on the mooring connectors and their supports.

(5) Piling.

(a) The floating structure shall be attached to piling which is adequate to resist lateral forces produced by any normally expected combination of wind, current, wave, wake and impact.

(b) The minimum height of the top of the piling shall be a minimum of two feet above the 100 year flood elevation as shown on the

Federal Insurance Rate Maps published by the Federal Emergency Management Agency.

(6) Flotation. The following applies to all floating structures:

(a) Floating structures shall be constructed and maintained to provide a flotation system that complies with the requirements of this article. The flotation devices shall be structurally sound and securely attached to the framing for the superstructure, except that foam flotation blocks may be held in place by friction only. The flotation systems shall provide support adequate to provide a level and safe walking surface under all reasonable load conditions.

EXCEPTION: Floating homes, boathouses and combos need only have adequate flotation to maintain a minimum of 4 ½ inch clearance above water under all applicable conditions.

(b) Clearance Above Water. The clearance above water as measured from the water line to the top of the lowest point on the floor or deck under usual dead load conditions, shall not be less than 1 foot-0 inches for walkways, and not less than 1 foot-8 inches for all other floating structures.

(c) Live Loads. In addition to dead loads, the flotation system shall be adequate to support the maximum condition of the following minimum live loads. Depending on use, higher loads may be more appropriate.

(i) 40 psf applied to the gross floor area.

(ii) A concentrated load of 300 lbs. at stairs.

(iii) For nonresidential occupancies, the live load required by the State Building Code for the particular nonresidential occupancy.

(iv) Pedestrian walkways or ramps 40 psf.

(v) At locations where live loads are transmitted from gangways to floating structures, the live load may be reduced 40 percent on the gangway for purposes of calculating the reaction only. Additional flotation may have to be provided to compensate for this reaction on the floating system to maintain the prescribed clearance above water.

(d) Stability with short term, off-center loading or wind loading. The floating structure when subjected to either off-center loading or wind loading shall not exceed the following limitations:

(i) The maximum angle of list shall not exceed 4.0 degrees, or the clearance above water when measured from the water line to the top of the first floor or deck shall not be less than 1/3 of the normal clearance above water, whichever is the more restrictive.

(ii) The ratio of resisting moment (Mr) to applied moment (Ma) shall be equal or greater than unity: The resisting moment due to buoyancy (Mr) shall be computed about a longitudinal axis passing through the center of gravity at a list angle of not more than 4.0 degrees.

(iii) The minimum off-center loading shall be considered as applicable to the completed structure and shall be considered in addition to all dead loads. It shall consist of a minimum live load of 100 pounds per lineal foot of floor length at the first floor and 50 pounds per lineal foot of floor length at each additional floor or loft. If the width of the floor or loft exceeds 20 feet then the load shall consist of 5 pounds times the width of the floor per lineal foot of floor length at the first floor and 2.5 pounds times the width of the floor per lineal foot of floor length at each additional floor or loft. These uniform live loads are to be applied halfway between the center of gravity and the outside edges of the floors. The overturning moments resulting from the

off-center loadings (Ma) shall be computed about both sides of the center axis of gravity.

(iv) Other appropriate eccentric or off-center loading due to wind, snow, ice, live loads or combinations of these shall also be considered.

(Ord. No. 1636; Enacted, 01/18/2007)

10.60.090 Electrical Installations.

(1) All electrical work shall be designed and installed in accordance with the State of Oregon Electrical Specialty Code, NFPA 303, The Oregon Residential Specialty Code and this article. Permits and inspections are required for all work.

(2) Transformer pads shall not be located closer than eight feet to combustible surfaces and two feet to noncombustible surfaces.

(3) Existing overhead power drops shall be maintained a minimum of 12 feet above walking surfaces and/or the ordinary high water line.

(4) New docks and replacement drops shall be installed under the dock.

(5) Electrical installations within two feet of the water shall be considered to be in a wet environment, except that installations inside a structure and not exposed to the water may be considered to be in a dry environment.

(Ord. No. 1636, Enacted, 01/18/2007)

10.60.100 Plumbing Installations.

(1) Plumbing installations shall be designed and installed in accordance with the Oregon Plumbing Specialty Code, The Oregon Residential Specialty Code and this article. Permits and inspections shall be required for all work.

(2) Sewage ejectors shall be installed in accordance with the manufacturer's instructions and the Oregon Plumbing Specialty Code, except that the head pressure required for testing drainage systems is reduced from 10 feet to 5 feet for ejectors installed at individual floating homes.

(3) Flexible connectors for water lines shall be approved by the National Sanitation Foundation and be of the type approved for mobile home installations or marine use.

(4) Piping materials shall be as specified in the Oregon Plumbing Specialty Code.

(5) Continuously running water through the moorage supply line is an acceptable alternate to pipe insulation to avoid pipe freezing.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1636, Enacted, 01/18/2007)

10.60.110 Mechanical Installations.

All mechanical work including but not limited to heating, air conditioning, ventilating, gas piping and woodstoves, shall be designed and installed in accordance with the State of Oregon Mechanical Specialty Code, The Oregon Residential Specialty Code and this article. Permits and inspections shall be required for all work.

(Ord. No. 1636, Enacted, 01/18/2007)

Article 10.70

MOVING OF BUILDINGS

Sections:

10.70.010 [Movement of Buildings.](#)

10.70.020 [Moving of Buildings, Permits Required.](#)

10.70.030 [Liability.](#)

10.70.040 [Movement on State Highways.](#)

10.70.050 [Enforcement.](#)

10.70.010 Moving of Buildings.

It shall be unlawful for any person to move any building over or upon any street within the city without having first obtained the necessary permits from the city to do so.

(Ord. No. 1768, Enacted, 10/20/2016)

10.70.020 Moving of Buildings, Permits Required.

(1) Placement or removal of buildings from sites within the city requires a building permit. In addition to all requirements set forth in the building regulations, a building to be moved and placed within the city shall be located and used in a manner consistent with all zoning and land use ordinances of the city, together with any other applicable ordinances, laws or governmental regulations.

(2) Buildings being moved on city rights-of-way must first obtain an oversized or overweight vehicle permit from the city.

(Ord. No. 1768, Enacted, 10/20/2016)

10.70.030 Liability.

(1) The permittee shall agree to hold harmless, defend and indemnify the City of Gresham, its officers, agents, and employees, for all claims, demands, actions and suits, including all attorney fees and costs for damage to property or injury to a person arising out of moving of a building. The permit shall not constitute an authorization for damaging property nor constitute

a defense against whatever liability the permittee incurs for personal injury or property damage caused by the moving.

(2) The permittee shall secure, maintain, and furnish certificates of insurance coverage of a type and amount as required by the city attorney.

(Ord. No. 1768, Enacted, 10/20/2016)

10.70.040 Movement on State Highways.

If the building being moved travels through the city exclusively on Interstate 84, no city oversized or overweight vehicle permit is required.

(Ord. No. 1768, Enacted, 10/20/2016)

10.70.050 Enforcement.

Violation of any provision of this article, including failure to obtain the necessary permits, may be enforced in accordance with the provisions set forth in GRC Article 10.99, and may be subject to a fine or penalty in the maximum amount of \$10,000.00.

(Ord. No. 1768, Enacted, 10/20/2016)

Article 10.99

ENFORCEMENT

Sections:

- 10.99.010** [Violation.](#)
- 10.99.020** [Authority to Inspect.](#)
- 10.99.030** [Fines, Penalties and Other Enforcement Tools.](#)

10.99.010 Violation.

A violation shall have occurred when any requirement or provision of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.

(Ord. No. 1700, Enacted, 03/03/2011)

10.99.020 Authority to Inspect.

The manager may enter any property, building or premises in accordance with GRC 7.50.500 through GRC 7.50.520, to perform an inspection in order to ensure compliance with any provision of this chapter.

(Ord. No. 1700, Enacted, 03/03/2011)

10.99.030 Fines, Penalties, and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any section of this chapter may be subject to a fine or penalty in the maximum amount of \$1,000. Each day on which a violation occurs or continues is a separate violation.

(Ord. No. 1700, Enacted, 03/03/2011)

CHAPTER 11

INFRASTRUCTURE

Articles:

- 11.05 SYSTEM DEVELOPMENT CHARGES
- 11.05.010 Purpose.
- 11.05.020 Definitions.
- 11.05.030 Authorized Expenditure of System Development Charges.
- 11.05.040 System Development Charge Methodology.
- 11.05.050 Payment of System Development Charges.
- 11.05.060 System Development Charge Credits.
- 11.05.070 System Development Charges Attach to the Land.
- 11.05.080 Determination of Allocated System Capacity.
- 11.05.090 Financing/Deferral of System Development Charges.
- 11.05.100 Review Procedures.
- 11.10 LOCAL IMPROVEMENT DISTRICT ASSESSMENTS AND LIENS
- 11.10.010 Initiation.
- 11.10.015 Multiple Owners.
- 11.10.020 Report.
- 11.10.025 Informational Meeting.
- 11.10.030 Council Action Report.
- 11.10.040 Resolution of Intent to Form a Local Improvement District.
- 11.10.045 Notice of Public Hearing.
- 11.10.050 Hearing.
- 11.10.055 Resolution Forming the Local Improvement District.
- 11.10.060 Estimated Assessment.
- 11.10.070 Call for Bids.
- 11.10.080 Financing Resolution.
- 11.10.090 Proposed Assessment.
- 11.10.095 Proposed Assessment Hearing.
- 11.10.100 Assessment Resolution.
- 11.10.110 Method of Assessment.
- 11.10.120 Alternate Financing Methods.

- 11.10.130 Remedies.
- 11.10.140 Notice of Assessment.
- 11.10.150 Bancroft Bonding Act.
- 11.10.160 Authority to Issue Bonds.
- 11.10.170 Lien Records and Recording.
- 11.10.180 Interest.
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- 11.10.200 Errors in Assessment Calculations.
- 11.10.210 Deficit Assessment.
- 11.10.220 Reassessment.
- 11.10.230 Rebates.
- 11.10.240 Abandonment.
- 11.10.250 Curative Provision.
- 11.10.260 Bancrofted Assessments.
- 11.10.270 NonBancrofted Assessments.
- 11.10.280 Foreclosure.
- 11.15 REIMBURSEMENT DISTRICTS
- 11.15.010 Definitions.
- 11.15.020 Purpose and Scope.
- 11.15.030 Application for a Reimbursement District.
- 11.15.040 Manager's Report.
- 11.15.045 Informational Meeting.
- 11.15.050 Amount to be Reimbursed.
- 11.15.055 Alternate Financing Methods.
- 11.15.060 Public Hearing.
- 11.15.070 Notice to Applicant and Affected Property Owners of Public Hearing.
- 11.15.080 Establishment of Reimbursement District.
- 11.15.085 Early Connection.
- 11.15.090 Adoption of Reimbursement Resolution.
- 11.15.100 Notice of Adoption Resolution.
- 11.15.110 Recording of the Resolution.
- 11.15.115 Term of Reimbursement Resolution.
- 11.15.120 Contesting the Reimbursement District.
- 11.15.130 Obligation to Pay.
- 11.15.140 Administration.
- 11.15.150 Applicability.

Article 11.05

SYSTEM DEVELOPMENT CHARGES

Sections:

- 11.05.010 Purpose.
- 11.05.020 Definitions.
- 11.05.030 Authorized Expenditure of System Development Charges.
- 11.05.040 System Development Charge Methodology.
- 11.05.050 Payment of System Development Charges.
- 11.05.060 System Development Charge Credits.
- 11.05.070 System Development Charges Attach to the Land.
- 11.05.080 Determination of Allocated System Capacity.
- 11.05.085 Early Connection.
- 11.05.090 Financing/Deferral of System Development Charges.
- 11.05.100 Review Procedures.

11.05.010 Purpose.

The purpose of a system development charge is to impose an equitable portion of the cost of capital improvements upon those developments that create the need for or increase the demands on capital improvements.
(Ord. No. 1773, Enacted, 07/01/2017)

11.05.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, unless the context requires otherwise, for purposes of this article, the following mean:

Allocated System Capacity. The system capacity that the manager determines that a specific property may utilize subject to compliance with applicable laws and payment of user fees. The allocated system capacity shall be based on the SDC methodology in effect at the time of the determination.

Capital Improvement. Facilities or assets used for the following:

- (1) water supply, treatment, and distribution;
- (2) wastewater collection, transmission, treatment, and disposal;
- (3) stormwater including drainage, water quality, and flood control;
- (4) transportation; or
- (5) parks and recreation including trails and city managed open spaces.

Improvement Fee. The fee for costs associated with capital improvements to be constructed.

Qualified Public Improvements. A capital improvement that is required as a condition of development approval, identified in the plan and list adopted pursuant to ORS 223.309 and either:

- (1) not located on or contiguous to property that is the subject of development approval; or
- (2) located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

Reimbursement Fee. The fee for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the city determines that unallocated system capacity exists.

System. Capital improvements owned or operated by the City of Gresham to provide the services for which a system development charge is collected.

System Development Charge (SDC). A reimbursement fee, an improvement fee, or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a building permit.

System Development Charge (SDC) Credit. The amount, expressed in units or dollars, which can be applied to the improvement fee portion of a

system development charge, based on the construction of a qualified public improvement or as otherwise authorized by this article.

(Ord. No. 1773, Enacted, 07/01/2017)

11.05.030 Authorized Expenditure of System Development Charges.

(1) A reimbursement fee system development charge may be spent only on capital improvements associated with the systems for which the fees are assessed including expenditures relating to repayment of indebtedness.

(2) An improvement fee system development charge may be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to the need for increased capacity to provide service for future users.

(3) Any capital improvement being funded wholly or in part with system development charge revenues must be included in the plan and list that meets the requirements of ORS 223.309.

(4) System development charge revenues may also be expended on the cost of a master plan for a system, the design of capital improvements to be built with SDC revenue, and the cost of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.

(5) System development charges may not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements or for the expenses of the operation or maintenance of the systems.

(Ord. No. 1773, Enacted, 07/01/2017)

11.05.040 System Development Charge Methodology.

The methodology by which the amount of the system development charge is determined shall be set by council resolution.

(Ord. No. 1773, Enacted, 07/01/2017)

11.05.050 Payment of System Development Charges.

(1) With the exception of the uses listed in GRC 11.05.050(2), system development charges are due upon issuance of the initial structural building permit, except when a shell building is being constructed for later improvement. In that case, Transportation SDC's will be due upon issuance of the initial tenant improvement building permit for each tenant space as it is developed.

(2) For construction of a single detached dwelling and dwellings for middle housing, system development charges are due prior to the request for final inspection related to all applicable Oregon Specialty Codes.

(3) System development charges unrelated to construction, including but not limited to a change in use or operations, or an improvement that does not require a structural building permit, which increases the utilization of the system, are due at the time of change or improvement. In the case of new connections from existing buildings to the city's wastewater system, such as conversions from septic systems to city wastewater, SDCs are due upon issuance of the associated building or plumbing permit.

(4) System development charges for manufactured homes are due upon placement of the manufactured home.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1773, Enacted, 07/01/2017)

11.05.060 System Development Charge Credits.

(1) Upon acceptance for ownership and operation, an SDC credit shall be given for a qualified public improvement as described in the

applicable SDC methodology in effect at the time the associated development permit is issued.

design professional, and the person that will receive the SDC credit.

(2) Upon recording in the deed records, an SDC credit shall be given for the conveyance or dedication of land or easement necessary for the future construction of capital improvements, or a conservation easement, as described in the applicable SDC methodology.

(4) The SDC credit for a qualified public improvement shall not exceed the amount that is included in the project list for the applicable SDC methodology in effect at the time the associated development permit is issued.

(3)

(5) Council, when forming a local improvement district (GRC Article 11.10) or a reimbursement district (GRC Article 11.15), may provide that a property required to pay a local improvement district assessment or reimbursement district charge may receive system development charge credits in an amount based on the extent the applicable improvement was included in the methodology establishing the system development charge.

(a) An SDC credit shall be given for the following:

(6) The SDC credit for qualified public improvements may only be used for the improvement fee portion of the system development charge. Notwithstanding ORS 223.304(5), the SDC credit may be granted for the cost of that portion of such improvement that includes the governmental unit's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit.

(i) site-specific park master plan;

(ii) park conceptual site design; or

(iii) engineered plans and specifications for a qualified public improvement, provided that the manager has entered into an agreement with the person receiving the SDC credits related to preparing the engineered plans and specification.

(b) The manager shall issue the SDC credits for plans only if the project is included in the applicable SDC project list and

(7) SDC credits shall expire 10 years from the date the credit is issued.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

(i) the plan, design, and specifications are in compliance with all applicable standards;

(ii) the plan, design, and specifications are submitted to and approved by the manager;

(iii) the plan, design, and specifications are submitted in a format specified by the manager; and

(iv) the city has received full ownership of or, at the option of the city, an unrestricted license to use, all work products related to the plan, design and specification, executed by the licensed design professional, the client of the

11.05.070 System Development Charges Attach to the Land.

(1) A system development charge shall be the obligation of the property for which an SDC is due and shall not be personal to the person paying the system development charge. System development charges shall be a lien on the property from the date due. The lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650 or as otherwise provided by law.

(2) SDC credits and allocated system capacity shall not be personal to any person but shall run with the land and shall not be transferred to other properties, except as follows:

(a) An SDC credit in an amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, may be applied against improvement fees that accrue in subsequent phases of an original development that is a “phased development project” or “phased subdivision” as defined by the Gresham Community Development Code.

(b) The manager may authorize a transfer of SDC credits to other properties if the public interest would be furthered by the transfer. In the event the SDC methodology includes an area specific SDC, transfers are limited to the area in which the development is located. A fee for transfer of SDC credits shall be set by council fee resolution.

(3) The city owns the system, system capacity, and allocated system capacity. The property, and the owner(s) or tenant(s) of the property, shall have no right, title, or interest of any kind in the system, system capacity, and allocated system capacity except having use of the system subject to compliance with applicable laws and payment of user fees.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1773, Enacted, 07/01/2017)

11.05.080 Determination of Allocated System Capacity.

(1) Upon receipt of an application that may result in the payment of a system development charge, the manager shall make a written determination of the current allocated system capacity for the subject property. The manager shall base the determination on the property’s current or past use of each system, whichever is larger, and such other information that is known and reasonably available to the manager. The applicant may submit information to the manager regarding a property’s allocated system capacity, including but not limited to information about the

subject property’s use of the system since, but not before, the initial adoption of the associated SDC.

(a) If the determination of proposed allocated system capacity is greater than the current use of system capacity, no refund of previously paid system development charges shall be made.

(b) If the determination of proposed allocated system capacity is less than the current use of system capacity, no system development charge shall be due except for any portion of the current use that was an unauthorized or illegal use of the system.

(2) Unrelated to a development application, the manager may determine, or any person may request the manager to determine, a property’s allocated system capacity. The fee for a request for determination shall be set by council resolution.

(3) Unauthorized or illegal uses of a system shall not accrue allocated system capacity.
(Ord. No. 1773, Enacted, 07/01/2017)

11.05.090 Deferral and/or City Financing of System Development Charges.

(1) The council, by resolution, shall establish a program for the deferral and/or financing of system development charges by the city consistent with good business practices, state law and the goal of promoting economic development.

(2) Except as otherwise provided in the resolution, financing shall be in the same manner as provided for the financing of assessments for local improvements. Foreclosure of SDC financing agreements shall occur in the same manner as foreclosure of assessments.

(3) The city does not waive its priority lien position with regards to deferral and/or financing of system development charges unless specifically authorized in the SDC deferral or financing agreement and adequate alternative security, as determined by the manager, is provided.

(4) The council, by resolution, may establish fees for the deferral, financing or apportionment of system development charges.
(Ord. No. 1773, Enacted, 07/01/2017)

11.05.100 Review Procedures.

(1) A person may challenge the calculation of a system development charge, the calculation of allocated system capacity, or the propriety of an expenditure of system development charge revenues.

(2) The manager's decision regarding the calculation of a system development charge or allocated system capacity may be protested to a hearings officer in the manner and time provided by GRC 7.50.030. The manager shall give adequate notice regarding the procedure for review.

(3) A decision regarding an expenditure may be appealed to council on the record pursuant to GRC 1.05.025. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

(4) The decision maker shall determine whether the calculation, allocation, or expenditure is in accordance with this article and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decision. If the decision maker determines that there has been improper expenditure of system development charge revenues, a sum equal to the misspent amount must be deposited within one year to the credit of the account or fund from which it was spent.

(5) In the decision regarding the calculation of a system development charge, the decision maker shall advise the person of the right to petition for review pursuant to ORS 34.010 to 34.100.
(Ord. No. 1773, Enacted, 07/01/2017)

Article 11.10

LOCAL IMPROVEMENT DISTRICT ASSESSMENTS AND LIENS

Sections:

- 11.10.010 [Initiation.](#)
- 11.10.015 [Multiple Owners.](#)
- 11.10.020 [Report.](#)
- 11.10.025 [Informational Meeting.](#)
- 11.10.030 [Council Action Report.](#)
- 11.10.040 [Resolution of Intent to Form Local Improvement District.](#)
- 11.10.045 [Notice of Public Hearing.](#)
- 11.10.050 [Hearing.](#)
- 11.10.055 [Resolution Forming the Local Improvement District.](#)
- 11.10.060 [Estimated Assessment.](#)
- 11.10.070 [Call for Bids.](#)
- 11.10.080 [Financing Resolution.](#)
- 11.10.090 [Proposed Assessment.](#)
- 11.10.095 [Proposed Assessment Hearing.](#)
- 11.10.100 [Assessment Resolution.](#)
- 11.10.110 [Method of Assessment.](#)
- 11.10.120 [Alternate Financing Methods.](#)
- 11.10.130 [Remedies.](#)
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- 11.10.150 [Bancroft Bonding Act.](#)
- 11.10.160 [Authority to Issue Bonds.](#)
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- 11.10.180 [Interest.](#)
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- 11.10.200 [Errors in Assessment Calculations.](#)
- 11.10.210 [Deficit Assessment.](#)
- 11.10.220 [Reassessment.](#)
- 11.10.230 [Rebates.](#)
- 11.10.240 [Abandonment.](#)
- 11.10.250 [Curative Provision.](#)
- 11.10.260 [Bancrofted Assessments.](#)
- 11.10.270 [NonBancrofted Assessments.](#)
- 11.10.280 [Foreclosure.](#)

11.10.010 Initiation.

(1) The council may initiate any public street, park, trail, open space, water, wastewater, sidewalk, stormwater or other local improvement

district on its own motion or upon the petition of the owners of a majority of the square footage of real property in the proposed local improvement district. The improvement shall be paid for in whole or in part by special assessment according to benefit.

(2) A district may include lots and parcels within the corporate limits of the city and within the city’s urban service area boundary as shown on the Gresham Urban Services Boundary map, Appendix B, Volume 2, Policies, Gresham Community Development Plan. (Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.015 Multiple Owners.

For purposes of initiation and remonstrances, multiple owners of a single lot or parcel have a total of one "vote" and their single "vote" shall be divided according to ownership percentage. (Ord. No. 1773, Enacted, 07/01/2017)

11.10.020 Report.

The manager shall make a written preliminary engineering report for the proposed local improvement project, which shall contain the following:

(1) A map or plat showing the general nature, location and extent of the proposed improvement, the lots or parcels and the city adopted plan designation of the land to be assessed for the payment of any part of the cost.

(2) An estimate of the cost of the improvement, including, but not limited to master planning, construction and any legal, administrative and engineering costs attributable to the improvement.

(3) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

(4) An estimate of the assessment amount for each benefited lot and parcel based on the recommended method of assessment.

(5) The description and assessed value of each lot, parcel of land, or portion thereof, to be specially benefited by the improvement, with the names of the record owners and, when available, the names of any contract purchasers.

(6) A statement of outstanding assessments against the property to be assessed.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.025 Informational Meeting.

(1) After completion of the report and at least 14 days prior to council action on the report pursuant to GRC 11.10.030, the lead petitioner shall conduct an informational meeting regarding the proposed local improvement district. The lead petitioner shall mail a Notice of Informational Meeting to the owners of record of all properties within the proposed local improvement district at least 14 days prior to the informational meeting. The notice shall contain the time and place of the meeting and such additional information as directed by the manager. A signed affidavit of mailing shall be submitted to the city within five days of mailing the notice. At the informational meeting, the lead petitioner shall describe the proposed local improvement district, city staff shall explain the local improvement district process, and all owners and/or their representatives may comment and/or request additional information. The lead petitioner shall submit to the manager an attendee sign-in sheet and meeting notes within 10 days of the meeting.

(2) If the council initiates the local improvement district on its own motion, the manager shall conduct the informational meeting as provided in GRC 11.10.025(1).
(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.030 Council Action on Report.

The council may approve the report, modify the report and approve it, or abandon the proposed

local improvement.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.040 Resolution of Intent to Form Local Improvement District.

(1) If council approves the report or modifies and approves the report, council shall declare by resolution its intention to make the local improvement by formation of a local improvement district. This resolution shall include specific findings stating the reasons it is in the public interest to proceed with the local improvement. The resolution shall include the engineering report as approved or modified, and the estimated costs assigned to each parcel.

(2) In the resolution declaring the intent to form a local improvement district, the council may provide that the engineering and construction work shall be done in whole or in part by the city, by a contract, by another governmental agency, or by any combination thereof.
(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.045 Notice of Public Hearing.

(1) Notice of public hearing shall be provided by mail and publication as provided by this section.

(2) The published notice and mailed notice shall state:

(a) the report on the improvement is subject to public examination in the Gresham City Hall and include a link on the city’s website where it may be accessed;

(b) the council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 14 days following the publication of notice, at which time objections and remonstrances to the improvement will be heard;

(c) if there are valid written remonstrances from both 1) the owners of a majority of the square footage of real property in the proposed local improvement district and 2) the owners of a majority of the lots and parcels in the proposed local improvement district, then no further action to affect the improvement will be taken for six months;

(d) the estimated total cost of the improvement to be paid by special assessment;

(e) an estimate of the cost to each property specially benefited; and

(f) a legal description of the specific property to be specially benefited by the improvement.

(3) The published notice shall contain a general description of the project together with:

(a) a map showing the boundaries of the local improvement district and the lots as shown on the Multnomah County Assessor's map, or

(b) a general description of all the property to be specially benefited by the improvement, including a list of the owners of the property. The published notice need not contain the item described in GRC 11.10.045(2)(f).

(4) The published notice shall provide contact information for property owners to request a copy of the report or additional information.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.050 Hearing.

At the time set forth in the notice pursuant to GRC 11.10.045, council will hold a public hearing on the proposed improvement at which time objections and remonstrances to the improvement will be heard.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.055 Resolution Forming the Local Improvement District.

If at the time of the public hearing on the proposed local improvement the number of valid written remonstrances is less than a majority from both 1) the owners of a majority of the square footage of real property in the proposed local improvement district and 2) the owners of a majority of the lots and parcels in the proposed local improvement district, the council may, by resolution, form the local improvement district and authorize the improvement to be carried out in accordance with the resolution declaring the intent to form the local improvement district. Unless the time period is extended by council, the resolution shall be adopted within 60 days of the hearing. The resolution may specify the time period for the manager to commence and complete construction of the improvement.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.060 Estimated Assessment.

The city may elect to make an estimated assessment for the local improvement at any time after forming the local improvement district and prior to completion of the project. The estimated assessment shall follow the procedures for making the final assessment as provided in GRC 11.10.140. Upon completion of the project, the city shall make the final assessment. The estimated assessment resolution may be adopted at the same council meeting as the formation resolution.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.070 Call for Bids.

The council may direct the manager to advertise for proposals for engineering and bids for construction of all or any part of the local improvement project at any time after council initiates the local improvement district. No contract for engineering or construction of the improvement may be entered into until after the local improvement district is formed. When the proposed project is to be carried out in cooperation with any other governmental agency,

the manager may adopt the plans, specifications, and estimates of the agency. Either agency may bid the project.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.080 Financing Resolution.

The council may provide by resolution for the financing of the local improvement by authorizing warrants or bonds pursuant to the applicable provisions of ORS Chapter 287A and ORS 223.235. The financing resolution may be adopted at the same council meeting as the formation resolution, but the two actions shall not be combined into a single resolution.
(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.10.090 Proposed Assessment.

After the work is done and the actual cost is known, the manager shall prepare the proposed assessment for all property within the assessment district. The proposed assessment shall be presented to council for review.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.095 Proposed Assessment Hearing.

After review by council, notice of the proposed assessment shall be mailed to the owner of each property to be assessed. Council shall hold a public hearing to receive objections to the proposed assessments. Each notice shall state the amount of assessment proposed on that property, the date by which objections must be filed with the manager, and the date, time and place a public hearing will be held to receive objections to the proposed assessment. All objections shall be in writing and state the grounds of the objections.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.100 Assessment Resolution.

After the public hearing, council shall consider all objections and may adopt, correct, or revise the proposed assessments. The council shall determine the amount of the final assessment to be charged against each property within the district, according to the special and peculiar benefits accruing to the property from the local improvement, and shall levy the final assessment

by resolution.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.110 Method of Assessment.

In assessing the costs of the local improvement, the council may:

(1) use any just and reasonable method of determining the extent of an improvement district consistent with the benefits derived;

(2) use any just and reasonable method of apportioning the sum to be assessed among the properties determined to be specially benefited; and

(3) authorize payment by the city of all or part of the cost of the improvement when, in the opinion of the council, the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment of the total costs of the improvement by the benefited property.
(Ord. No. 1773, Enacted, 07/01/2017)

11.10.120 Alternate Financing Methods.

(1) Nothing contained in GRC 11.10.110 shall preclude the council from using any other available means of financing local improvements, including but not limited to city funds, federal or state grants-in-aid, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the council may make assessments according to the benefits derived to pay any remaining part of the total costs of the improvement.

(2) The council, in the resolution forming the local improvement district, may provide that a property required to pay a local improvement district assessment may receive system development charge credits in an amount based on the extent the improvement was included in the methodology establishing the system development charge. The credit shall only be applied to the improvement fee system development charge collected for the type of

improvement being constructed and only in the amount the improvements is funded with system development charges in the SDC Methodology. Alternately, council may provide that system development charges paid may offset an equal amount of the local improvement district assessment to the extent the improvement was included in the methodology establishing the system development charge.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.130 Remedies.

Subject to the curative provisions of GRC 11.10.250 and the rights of the city to reassess as provided in GRC 11.10.210 and GRC 11.10.220, legal actions may be filed not earlier than 30 days nor later than 60 days after the adoption of an assessment resolution as provided in GRC 11.10.100. A property owner who has filed written objections with the manager within the time provided may apply for a writ of review on the grounds that the council acted erroneously, arbitrarily, or exceeded its jurisdiction if the facts supporting the grounds have been specifically set forth in the written objections. A property owner who has filed written objections with the manager prior to the adoption of the assessment resolution may commence an action for equitable relief on the grounds that the city is without jurisdiction. No provision of this section shall lengthen any period of redemption or affect the running of any statute of limitation. Any writ of review or legal action shall be abated if the council acts to remedy or cure the alleged errors or defects.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.140 Notice of Assessment.

Within 14 days of adoption of the assessment resolution, the manager shall cause notice of the final assessment. The notice shall identify the local improvement for which the assessment is to be made, each lot to be assessed, and the final assessment for each lot. The notice shall state that the owner of any property to be assessed shall have the right to make application to the city for payment of the final assessment in installments as provided in ORS 223.210. The notice shall also state that if neither payment in full nor an application for installment payments is made

within 20 days from the date of the notice, interest will be charged on the assessment from the date of adoption of the assessment resolution and the property assessed will be subject to foreclosure. The notice shall be sent by certified and regular mail or personally delivered to the owner of each lot or parcel to be assessed. The city may also post the assessments in three public places and/or publish in the newspaper of record.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.150 Bancroft Bonding Act.

(1) The city adopts the definitions contained in the Oregon Bancroft Bonding Act and shall follow its provisions as they relate to local improvements except for the provisions of ORS 223.285 or to the extent the provisions of state law conflict with GRC Article 11.10.

(2) As used herein Bancrofted Assessments mean assessments that will be paid in installments. NonBancrofted Assessments means assessments that will not be paid in installments.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.160 Authority to Issue Bonds.

(1) The manager may issue local improvement bonds upon the receipt of eligible applications that total \$25,000 or more and if it is in the best interest of the city.

(2) The terms of each bond sale shall be determined by council at the time of issuance.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.170 Lien Records and Recording.

After enactment of the assessment resolution, the manager shall enter in the docket of city liens a statement of the amounts assessed against each lot, parcel of land, or portion of land, together with a description of the local improvement, the name of the owners, and the number and date of the assessment resolution. Upon entry in the city lien docket the amount entered shall become a lien against the respective lots, parcels of land, or portions of land that have been assessed for the improvement. All assessment liens of the city

shall be superior and prior to all other liens or encumbrances on property as permitted by state law. The manager may also record the assessment resolution in the Multnomah County deed records.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.180 Interest.

Interest shall be charged on all applications to pay assessments for local improvements in installments as provided by state law. The interest rate shall apply to unpaid assessments or installments. The rate shall be uniform for all assessments within a local improvement district for each bond issue.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.190 Interest Rates and Penalty Fees.

The council may establish, in the assessment resolution, or by other resolution, interest rates, penalties, late payment charges, and collection charges on bonded and unbonded assessments. The interest rate shall take into account the city's financial and administrative costs relating to assessments, issuance of bonds and collection.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.200 Errors in Assessment Calculations.

Alleged errors in the calculation of assessments shall be brought to the attention of the manager, who shall determine whether there has been an error in fact. If the manager finds that there has been an error, the manager shall recommend to the council an amendment to the assessment resolution to correct the error. Upon adoption of the amendment, the manager shall make the necessary correction in the docket of city liens and mail correct notices of assessment to affected property owners.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.210 Deficit Assessment.

(1) If an assessment is made before the total cost of the local improvement is ascertained, and it is found that the amount of the assessment is insufficient to pay the costs of the improvement,

the council may by motion declare the deficit and instruct the manager to prepare a proposed deficit assessment. The council shall set a time for a hearing of objections to the deficit assessment and direct the manager to give notice according to GRC 11.10.140.

(2) After a hearing, the council shall consider any objections and make an equitable deficit assessment by resolution, which shall be entered in the docket of city liens as provided by GRC 11.10.170. The notice of the deficit assessment shall be published and mailed, and the collection of the assessment shall be made in accordance with GRC 11.10.170 and GRC 11.10.180.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.220 Reassessment.

When an assessment or deficit assessment for any local improvement which has been made by the city is set aside, or its enforcement restrained by any court, or when the council questions the validity of the assessment or deficit assessment, the council may make a reassessment in the manner provided by state law.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.230 Rebates.

If the assessment levied is greater than the actual costs of the local improvement, the council shall determine the amount and declare it by resolution. When so declared, the excess amounts shall be entered on the lien docket as a credit against the appropriate assessment. If an assessment has been paid, the property owner who paid the assessment shall be entitled to repayment of the excess or the portion that exceeds the amount unpaid on the original assessment.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.240 Abandonment.

The council may abandon local improvements made under this chapter at any time prior to the completion of the improvements. If liens have been assessed against any property, they shall be

canceled, and any payments made on the assessments shall be refunded.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.250 Curative Provision.

No local improvement assessment shall be invalid because the manager's report fails to contain all of the information required by GRC 11.10.020; or because the declaring resolution, the assessment resolution, the lien docket or required notices do not contain the required information; or by the failure to list the name of, or mail notice to, the owner of any property as required by GRC 11.10.040, GRC 11.10.090 and GRC 11.10.140; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps specified. The council may correct all assessments that are unfair or unjust.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.260 Bancrofted Assessments.

(1) Before property owners are issued property related permits, owners must make all Bancrofted assessment accounts current for all their accounts with the city. Bancrofted assessment accounts must be current prior to individual sales of property.

(a) Property related permits include development permits, building permits, wastewater permits, water permits, stormwater permits, driveway permits, sidewalk permits, and street opening permits.

(b) To make a Bancrofted assessment account current, all delinquent principal, interest, and penalties must be paid.

(2) For a land division, if the assessment balance is made current, the remaining principal balance of the assessment may be apportioned among the newly created lots according to the percent of benefit to each lot. The manager shall determine the percent of benefit to the newly created lots. A land division shall include a partition, subdivision, or condominium plat.

(3) If property owners wish to divide parcels of land and to have assessment balances apportioned among the newly created lots, they must make such requests in writing.

(4) The council may establish by resolution a breakout fee for apportioning the assessment balance among the newly created lots.

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.270 NonBancrofted Assessments.

(1) NonBancrofted assessments are due in full 30 days after enactment of the assessing ordinance and are subject to foreclosure if not paid within that time. The city may bid for property at foreclosure sales, which shall be prior to all bids except those by persons entitled to redeem such property under state law.

(2) The entire assessment balance on an unpaid, NonBancrofted assessment must be paid in full prior to sale of the property or before the city issues a property related permit. Property related permits are defined in GRC 11.10.260(1)(a).

(Ord. No. 1773, Enacted, 07/01/2017)

11.10.280 Foreclosure.

(1) The city will implement collection procedures to collect payment of delinquent assessments. If efforts to collect delinquent assessments fail, the city may initiate foreclosure proceedings in any manner provided by ORS 223.505 to ORS 223.650 or as otherwise provided by law. The manager shall establish administrative procedures for foreclosure.

(2) Actual costs for materials and services, and personal services shall be charged to each foreclosure account. The costs shall be charged as they are incurred during the foreclosure process.

(3) A purchaser of real property at a foreclosure sale may incur costs authorized by the city for maintaining or improving the property during the period allowed for redemption. If the property is subsequently redeemed, the manager may return to the purchaser all or part of the

penalty paid by the person redeeming the
property.
(Ord. No. 1773, Enacted, 07/01/2017)

Article 11.15

REIMBURSEMENT DISTRICTS

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11.15.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 11.15, the following mean:

Formation Resolution. The resolution that determines the boundaries of the reimbursement district, identifies which properties have the opportunity to benefit from the improvement and each property’s estimated share of the cost of the improvement.

Master Planning. A plan that reviews and refines Plan Map sub-district boundaries to guide the design and development of specific land to create

livable communities in accordance with the Comprehensive Plan and ensures that land is planned with an overall intent to create cohesive and livable neighborhoods, mixed use centers, employment areas, and open spaces. Master Plans are intended to display conceptual designs for land use, transportation, parks and open spaces, natural resource areas, and other physical attributes of the subject property. Similarly, public facility information is intended to be submitted at a conceptual level of detail sufficient to demonstrate compliance with the approval criteria.

Public Improvement or Improvement. The construction of wastewater, water, stormwater, street, park, trail, open space or other improvements.

Reimbursement Charge. The charge required to be paid by benefited property owners and identified in the reimbursement resolution adopted by the city council.

Reimbursement District. The area which the city council determines has the opportunity to derive a benefit from master planning or the construction of public improvements financed in whole or in part by a person or the city.

Reimbursement Resolution. The resolution that determines each property’s share of the actual costs of improvement.
(Ord. No. 1773, Enacted, 07/01/2017)

11.15.020 Purpose and Scope.

(1) The purpose of this ordinance is to provide a method to reimburse the city or a person who finances master planning or the construction of public improvements which benefit other properties. It is intended to be used to mitigate the cost of financing such master planning and public improvements by distributing those costs to other benefited property owners at the time those benefited property owners connect to, make use of or derive a benefit from the master planning or improvements.

(2) Property owners are not obligated to pay the reimbursement charge until they connect to,

make use or derive a benefit from the master planning or improvements. Property owners whose property would be subject to the reimbursement charge will be provided an opportunity to review and comment on pertinent information prior to the city establishing a reimbursement district charge.

(3) The process set forth in GRC Article 11.15 is jurisdictional and cannot be waived or extended and failure of a person to follow the provisions of GRC Article 11.15 shall result in the rejection of the application for a reimbursement district.

(4) A reimbursement district may include lots or parcels within the corporate limits of the city and within the city’s urban service boundary as shown on the Gresham Urban Services Boundary Map, Appendix B, Volume 2, Policies, Gresham Community Development Plan.

(5) In addition to construction of improvements, a reimbursement district may be formed to reimburse costs incurred to provide master planning.

(Ord. No. 1773, Enacted, 07/01/2017)

11.15.030 Application for a Reimbursement District.

(1) Any person who chooses or is required as a condition of a development or building permit approval to construct a public improvement or conduct master planning which will or could provide service or benefit to property other than property owned by the person may apply to the city to form a reimbursement district. The public improvement must be in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for development or building permit approval. The city may also initiate formation of a reimbursement district.

(2) The Reimbursement District Application shall include the following:

(a) A written description of the master planning or the location, type, size, and cost of the public improvement for which

reimbursement is sought, and the estimated date of completion of the public improvements or masterplan.

(b) A map showing:

(i) the proposed master planning or the improvement; and

(ii) the properties to be included in the proposed reimbursement district; the land use designation for each of the properties; the front footage abutting the public improvement, if any, the square footage of each of the properties, or similar data necessary for calculating the apportionment of the costs; and the properties owned by the applicant.

(c) A proposed methodology for distributing costs among the benefited properties.

(d) The estimated cost of the improvements as evidenced by at least three bid proposals or the engineer’s estimate. The applicant shall show the estimated cost in an itemized quantity, unit, and price table format including but not limited to labor, materials, equipment, bonding, and overhead. Except when the city is the applicant, the city’s Non-Collusion Affidavit must accompany each bid proposal or the engineer’s estimate submitted to the manager. For master planning, the estimated cost of the master planning as evidenced by multiple bid proposals or the architect’s or designer’s estimate.

(e) A deposit established by council resolution sufficient to cover the administrative review and notice costs of processing the application.

(3) The application for formation of a reimbursement district must be made prior to commencement of master planning or the issuance of a Notice to Proceed with the construction of the public improvement. The Notice to Proceed shall only be issued when all the necessary easements and/or rights-of-way for

the improvements have been acquired. The manager may waive the requirement that easements and/or rights-of-way be acquired prior to the Notice to Proceed if to do so is in the best interest of the city and providing the city and the applicant have an agreement regarding the acquisition of the property.

(4) The applicant may proceed with master planning or the construction of the improvements at their own risk prior to council authorizing the reimbursement district. If the council does not authorize the reimbursement district, the applicant will be responsible for the full cost of the master planning or the improvement.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.15.040 Manager’s Report.

The manager shall review the application for the establishment of a reimbursement district. The applicant shall submit, from time to time, during the review of the application other relevant information requested by the manager. The manager shall prepare a written report for the council within 90 days of the application. The manager may extend the time to submit the report if in the best interest of the city. The manager’s report shall:

(1) recommend whether the reimbursement district should be formed;

(2) recommend the area to be included in the reimbursement district;

(3) state the estimated cost of master planning or public improvement within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

(4) recommend a methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the cost to property which may be partitioned, altered, modified, or subdivided as some future date. The methodology should consider the cost of the master planning or improvements, prior

contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the manager. The methodology may include a safety net, which would provide a reduced cost to connect a dwelling unit to new infrastructure if the dwelling unit was existing at the time of the formation of the reimbursement district and the connection is due to failure of an existing septic system or other requirement to connect the existing dwelling unit to the infrastructure pursuant to the County Sanitarian. The remaining cost would be paid at the time of redevelopment of a property to a higher use. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location.

(Ord. No. 1832, Amended, 09/15/2022; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.15.045 Informational Meeting.

After completion of the report and at least 14 days prior to the public hearing pursuant to GRC 11.15.060, the applicant shall conduct an informational meeting regarding the proposed reimbursement district. Applicant shall mail a Notice of Application and Informational Meeting to the owners of record of all properties within the proposed reimbursement district at least 14 days prior to the informational meeting. The notice shall contain the time and place of the meeting and such additional information as directed by the manager. A signed affidavit of mailing shall be submitted to the city within five days of mailing the notice. At the informational meeting, the applicant shall describe the proposed reimbursement district, city staff shall explain the reimbursement process, and all owners and/or their representatives may comment and/or request additional information. The applicant shall submit to the manager an attendance sign-in sheet and meeting notes within 10 days of the meeting. The manager may modify the report based on comments received at the informational meeting.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.15.050 Amount to be Reimbursed.

(1) The cost to be reimbursed to the applicant shall be limited to the reasonable actual cost of master planning, design, engineering, acquisition costs of property, public easements and right-of-ways, surveying, permit fees, project construction, legal expenses, construction bonding, construction financing costs, and the applicant's overhead for the public improvement. Actual costs shall not be deemed reasonable if the city determines that such costs significantly exceed the prevailing market rate for similar projects constructed during the months of May through October. The city may reduce the costs to the prevailing market rate for purposes of reimbursement.

(2) A reimbursement charge for the improvements shall be computed by the applicant and is subject to the review and approval of the city. The reimbursement charge will be allocated to all properties which have an opportunity to benefit from the improvements, including the applicant's property.

(3) The applicant may request that the reimbursement charge be adjusted for inflation. The council, in the reimbursement resolution, may provide that the reimbursement charge be adjusted for inflation.

(4) The council, in the reimbursement resolution, may provide that the amount to be reimbursed be reduced by the depreciation of the improvement.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1773, Enacted, 07/01/2017)

11.15.055 Alternate Financing Methods.

(1) Nothing contained in GRC Article 11.15 shall preclude the manager or council from using any other available means of financing public improvements, including but not limited to city funds, federal or state grants-in-aid, user charges or fees, system development charges, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the manager shall recommend and the council

shall allocate costs to properties according to the benefits derived to pay any remaining part of the reasonable actual costs of the public improvement.

(2) The council, in the reimbursement resolution, may provide that a property required to pay a reimbursement charge receive a system development charge offset in an amount based on the extent the improvement was included in the methodology establishing the system development charge. The offset shall only be applied to the improvement fee system development charge collected for the type of improvement being constructed and only in the amount the improvements is funded with system development charges in the system development charge resolution.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1773, Enacted, 07/01/2017)

11.15.060 Public Hearing.

(1) The council shall hold a public hearing on the proposed reimbursement district at which time any person may comment on the proposal. The hearing shall be held at the next practical time after the informational meeting.

(2) The formation of the reimbursement district does not result in an assessment against property or lien against property. Therefore, the process is not subject to mandatory termination because of remonstrances.

(3) The city council has the sole discretion after the public hearing to decide whether a resolution forming the reimbursement district shall be adopted.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1773, Enacted, 07/01/2017)

11.15.070 Notice to Applicant and Affected Property Owners of Public Hearing.

Notice of the hearing shall be mailed by the city to the applicant and all owners of property within the proposed district as shown on the most recent county assessor's assessment roll. Notice shall be deemed effective on the date of mailing. Failure

of the applicant or any affected property owner to receive the notice shall not invalidate or otherwise affect public hearing or the formation of the reimbursement district. Notice of the hearing shall be mailed by regular mail at least 14 days before the date of the hearing. The notice shall:

(1) State that a reimbursement district has been proposed that includes the property of the person receiving notice.

(2) Briefly describe the reimbursement district, the master planning or public improvements to be reimbursed, the estimated amount of the reimbursement charge, and the circumstances under which the charge must be paid.

(3) Include a link on the city's website where the manager's report may be accessed.

(4) State the time, date and place of the public hearing and that any person may appear and be heard.

(5) Provide contact information for property owners to request a copy of the manager's report or additional information.

(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.15.080 Establishment of Reimbursement District.

(1) After the public hearing is held, the council shall approve, reject or modify the recommendations contained in the manager's report. The council's decision, if a reimbursement district is established, shall be embodied in a formation resolution.

(2) The formation resolution shall include the manager's report as approved or modified, and identify the estimated costs assigned to each parcel.

(Ord. No. 1773, Enacted, 07/01/2017)

11.15.085 Early Connection.

If a property owner in an established reimbursement district requests to connect to the public improvement prior to Reimbursement Resolution adoption, the property owner may do so if permitted by the manager. An agreement and a deposit, in an amount set by the manager to adequately cover the anticipated reimbursement charge, shall be required.

(Ord. No. 1822, Enacted, 11/08/2021)

11.15.090 Adoption of Reimbursement Resolution.

(1) Within 60 days after the project is completed and accepted by the city, the applicant shall submit to the city the final costs and the proposed assignment of costs for each benefiting property.

(2) The actual costs and allocation of costs must be approved by the city. The applicant shall submit sufficient documentation to establish the reasonableness of the actual costs. The manager may request additional information and conduct such audit and review as deemed necessary to verify the actual costs or establish reasonableness.

(3) The manager shall prepare a proposed reimbursement resolution recommending actual costs and allocation of cost to be approved by council. The reimbursement resolution shall assign costs to each benefited parcel based on the methodology approved by council in the formation resolution.

(4) The city shall provide mailed notice of the proposed reimbursement resolution to the applicant and all owners of property within the district. The notice shall state the amount of the reimbursement charge proposed for each property and include a link to the city's website where a copy of the proposed reimbursement resolution can be accessed. Paper copies of the proposed reimbursement resolution will be supplied upon request. Notice shall be deemed effective on the date of mailing. Notice shall be mailed by regular mail at least 14 days before the date of the council action on the reimbursement resolution. Failure of the applicant or any affected property to receive the notice shall not

invalidate or otherwise affect the reimbursement resolution.

(5) The manager shall submit the proposed reimbursement resolution to the council for approval.

(6) The council shall approve or modify the proposed reimbursement resolution. When the applicant is other than the city, the resolution shall instruct the manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall contain such provisions as the manager deems necessary for the collection and payment of the Reimbursement Charge.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1773, Enacted, 07/01/2017)

11.15.100 Notice of Adoption Resolution.

The city shall notify all property owners within the district and the applicant of the adoption of a reimbursement resolution. The notice shall include a copy of the reimbursement resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement charge and the amount of the charge.

(Ord. No. 1773, Enacted, 07/01/2017)

11.15.110 Recording of the Resolution.

The manager shall enter the reimbursement resolution into the city's notice docket and may record the reimbursement resolution in the Multnomah County deed records so as to provide notice to potential purchasers of property within the district. Failure to make such an entry or recording shall not affect the legality of the reimbursement resolution or the obligation to pay the reimbursement charge. The reimbursement charge shall be due as provided in the reimbursement resolution. The reimbursement charge shall be a lien on the property from the date due.

(Ord. No. 1773, Enacted, 07/01/2017)

11.15.115 Term of Reimbursement Resolution.

The reimbursement resolution shall be valid for a period of 10 years from the date of adoption. The applicant or assignee of the right to reimbursement may request that the reimbursement district be renewed by giving the city written notice of such request within the final year prior to the date of expiration. Renewals shall be for additional 10-year terms until the end of the useful life of the improvement.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.15.120 Contesting the Reimbursement District.

A writ of review pursuant to ORS 34.010 to ORS 34.102 shall be the exclusive means to contest the formation of the district or reimbursement charge, including the amount of the charge designated for each parcel and shall be filed no earlier than the adoption of a reimbursement resolution and no later than 60 calendar days following adoption of a reimbursement resolution.

(Ord. No. 1773, Enacted, 07/01/2017)

11.15.130 Obligation to Pay.

Each property shall pay a reimbursement charge for the property's appropriate share of the cost of public improvements or master planning if that property benefits from the improvement or master plan as determined by a reimbursement resolution.

(Ord. No. 1773, Enacted, 07/01/2017)

11.15.140 Administration.

(1) The right of reimbursement is assignable and transferable. Written notice advising to whom future payments are to be made must be delivered to the manager. Notarized signatures of all parties shall be included in the Notice.

(2) Upon receipt of a reimbursement charge, the city shall cause a record to be made of that property's payment and remit the charge to the applicant or assignee no less frequently than quarterly.

(3) The reimbursement charge is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the city.

(4) Council may, by resolution, establish such fees and deposits as are necessary to implement the provision of GRC Article 11.15. Such fees may include but are not limited to an application fee, or a deposit for processing the application, a fee for collecting and disbursing the reimbursement charges, and a fee for reapportioning the reimbursement charge balance among newly created lots or parcels.

(Ord. No. 1822, Amended, 11/08/2021; Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1773, Enacted, 07/01/2017)

11.15.150 Applicability.

(1) All reimbursement districts formed with costs allocated and/or reimbursement agreements executed prior to the effective date of this ordinance are hereby ratified.

(2) The provisions of the amendments to GRC Article 11.15, shall, to the extent practical, apply to all existing reimbursement districts applications currently under consideration, unless to do so will create a substantial injustice to the applicant, owner of benefiting property, other person, or is not in the best interest of the city.

(Ord. No. 1773, Enacted, 07/01/2017)