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.
7.05.040 Repealed.
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.
7.10.050 Repealed.
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.
7.10.140 Repealed.
7.10.145 Park, Trail, and Open Space Prohibitions.
7.10.150 Repealed.
7.10.154 Unlawfully Remaining on School Property.
7.10.155 Park Exclusion.
7.10.160 Repealed.
7.10.165 Unlawful Camping.
7.10.170 Repealed.
7.10.180 Repealed.
7.10.190 Repealed.
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.
7.15.050 Repealed.
7.15.060 Repealed.
7.15.070 Repealed.
7.15.080 Repealed.
7.15.090 Repealed.
7.15.100 Repealed.
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.
7.17.070 Penalty.

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.
7.20.060 Enforcement.

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.
7.25.050 Recyclables Collection Registration.
7.25.055 Repealed.
7.25.057 Construction Debris Registration.
7.25.060 Exemptions.
7.25.065 Repealed.
7.25.070 Service Areas; Licensing.
7.25.080 Term of License.
7.25.085 Notice And Comment.
7.25.090 License and Registration Subject to Police Power.
7.25.100 Sub-Contracts for Service and Transfer of License.
7.25.110 Indemnification, Bond and Insurance.
7.25.120 License Fee.
7.25.135 Rates for Collection Service.
7.25.145 Ownership of Solid Waste, Recyclable Materials and Yard Debris, and Entry into Receptacles.
7.25.155 Repealed.
7.25.165 Repealed.
7.25.175 Uncontrollable Event.
7.25.185 General Licensee Responsibilities and Restrictions.
7.25.195 Customer Service Requirements.
7.25.205 Hours of Collection Activity.
7.25.215 Collection of Solid Waste Recyclable Materials and Yard Debris.
7.25.220 Recycling Service.
7.25.225 Yard Debris Service.
7.25.230 Collection of Other Materials.
7.25.235 Billing Procedures.
7.25.240 Termination of Service.
7.25.245 Receptacles.
7.25.250 Missed Collection.
7.25.255 Refusal of Collection Service.
7.25.260 Cleanup on Route; Prevention of Leaking and Spilling Loads.
7.25.265 Covers for Open Body Vehicles.
7.25.270 Vehicle and Receptacle Identification.
7.25.275 Compliance with Federal, State and Local Regulations.
7.25.280 Safety and Maintenance.
7.25.285 Compliance with Zoning Ordinances.
7.25.290 Promotion and Education.
7.25.295 Reporting.
7.25.300 Spring Cleanup.
7.25.305 Collection Frequency.
7.25.310 Collection of Extra Receptacles.
7.25.315 Disposal of Collected Solid Waste, Recyclable Materials and Yard Debris.
7.25.320 Access for Inspections and Delivery of Notice.
7.25.400 General Customer Requirements.
7.25.405 Payment Responsibility (Customer).
7.25.410 Notification of Missed Collection or Billing Errors (Customer).
7.25.415 Location of Receptacles and Standards for Collection Areas (Customer).
7.25.420 Set Out Time for Receptacles (Customer).
7.25.425 General Preparation of Materials (Customer).
7.25.430 Weight of Receptacles (Customer).
7.25.435 Putrescible Waste Storage (Customer).
7.25.440 Preparation of Recyclable Materials (Customer).
7.25.445 Preparation of Yard Debris Materials (Customer).
7.25.450 Yard Debris Collection Exemption Program (Customer).
7.25.455 Other Solid Waste (Customer).
7.25.460 Disposal of Unacceptable Solid Waste Materials (Customer).
7.25.500 Dispute Resolution.
7.25.600 Fines and Penalties.
7.25.610 Suspension, Modification or Revocation of License.

7.27 ILLEGAL DUMPING

7.27.010 Title.
7.27.020 Establishment and Purpose.
7.27.030 Refuse Hauling Regulations.
7.27.040 Dumping and Littering Prohibited.
7.27.050 Repealed.
7.27.060 Evidence.
7.27.110 Enforcement.

7.30 DRUG LABORATORY HOUSE NUISANCE CODE

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.

7.35 ANIMAL CONTROL

7.35.010 Animal Control.

7.40 CURFEW AND TRUANCY EDUCTION

7.40.005 Definitions.
7.40.010 Night Curfew Imposed.
7.40.015 Truancy Reduction Imposed.
7.40.020 Repealed.
7.40.030 Parental Responsibility.
7.40.040 Police Custody.
7.40.045 Citation in Lieu of Custody.
7.40.050 Subsequent Violations.

7.45 EMERGENCY CODE

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.

7.50 PENALTIES AND ABATEMENT

7.50.005 Definitions.
7.50.010 Repealed.
7.50.020 Notice of Violation.
7.50.030 Protest and Hearing.
7.50.040 Repealed.
7.50.050 Temporary Waiver of Enforcement Actions; Adjustments to Penalties.
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.
7.50.210 Summary Abatement.
7.50.220 Repealed.
7.50.221 Abatement.

7.50.222 Administrative Abatement Warrant.
7.50.225 Repealed.
7.50.230 Repealed.
7.50.235 Repealed.
7.50.240 Abatement Cost Notice.
7.50.250 Repealed.
7.50.260 Collection of Abatement Costs.
7.50.270 Repealed.
7.50.300 Citation.
7.50.310 Repealed.
7.50.320 Repealed.
7.50.330 Other Remedies for Violations.
7.50.400 Civil Actions.
7.50.500 Consent to Inspections.
7.50.510 Authorization to Inspect.
7.50.520 Administrative Inspection Warrant; Right of Entry; Inspection Warrants.
7.50.600 Repealed.
7.50.610 Repealed.
7.50.620 Repealed.
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.

7.60 SPECIAL RESPONSE FEE

7.60.010 Special Response Fee.

7.65 EMERGENCY AMBULANCE TRANSPORT FEE

7.65.010 Emergency Ambulance Transport Fee.

7.70 TRI-MET AUTHORITY FOR TRANSIT SHELTERS AND TRANSIT LOADING PLATFORMS

7.70.010 Definitions.
7.70.020 Tri-Met Authority to Regulate.

7.80 GRAFFITI CODE

7.80.010 Title.
7.80.020 Declaration of Purpose.
7.80.025 Definitions.
7.80.030 Graffiti Nuisance Property.
7.80.040 Renumbered.
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.
7.80.100 Repealed.
7.80.110 Repealed.
7.80.120 Parental Responsibility; Parental Civil Liability.

7.85 CHRONIC NUISANCE PROPERTIES

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.

7.90 DRUG FREE ZONES

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.l60 Designation and Listing of Drug-Free Zones.
7.90.170 Violation of an Exclusion - Penalties.

7.99 ENFORCEMENT

7.99.010 Violation.
7.99.020 Authority to Inspect.
7.99.030 Fines, Penalties, and Other Enforcement Tools.

Article 7.05

GENERAL

Sections:

7.05.010 Offenses Outside City Limits.
7.05.020 Conspiracy.
7.05.030 Attempt to Commit Offenses.
7.05.035 Concealment.
7.05.040 Repealed.
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)

7.05.040 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1268, Amended, 12/17/1992)

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, and general principles of justification, apply to offenses classified as misdemeanors and made punishable by this chapter.
(Ord. No. 1700, Amended, 03/03/2011)

Article 7.10

OFFENSES

Sections:

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.
7.10.050 Repealed.
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.
7.10.140 Repealed.
7.10.145 Park, Trail, and Open Space Prohibitions.
7.10.150 Repealed.
7.10.154 Unlawfully Remaining on School Property.
7.10.155 Park Exclusion.
7.10.160 Repealed.
7.10.165 Unlawful Camping.
7.10.170 Repealed.
7.10.180 Repealed.
7.10.190 Repealed.
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 of 1971 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 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. 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 law enforcement 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. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 09/19/2000; 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, 12/171992)

7.10.050 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000; 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, 09/19/2000; 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, 09/19/2000; 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 single or multi-family 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 man-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. 1700, Amended, 03/03/2011; Ord. No. 1642, Amended, 05/03/2007; Ord. No. 1507, Amended, 09/19/2000; 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, 09/19/2000; 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, 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 recreational 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) sanitary protection of water shed;

(iv) construction, maintenance or repairs;

(v) conservation of fish and wildlife;

(vi) excessive traffic;

(vii) unsafe or crowded parking or street conditions;

(viii) damage to a park 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)(d), other than law enforcement or authorized public officials, commit the offense of Unlawfully Remaining in a Park. Vehicles remaining in the 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)(d) 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. 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)

7.10.140 Repealed.

(Ord. No. 1256, Repealed, 7/21/1992)

7.10.145 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, 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 or remote controlled;

(e) operate, park, stand or use any non-motorized vehicle

(f) ride or lead a horse;

(g) pick, cut, mutilate or remove flowers, shrubs, foliage, trees or plant without written permission from the manager;

(h) mutilate, deface, damage, move or remove any park equipment, including but not limited to tables, benches, buildings, signs, markers, plaques, barriers, fountains, faucets, traffic recorders or other structures or facilities;

(i) dig, dredge, deface or remove any dirt, 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;

(j) dump personal 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;

(k) use firearms, explosives or any device that includes a projectile of any kind, except in areas designated for such use by the manager; or

(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.

(2) Groups of 15 persons or more may not use a sports fields or picnic shelters as designated by a 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 who violates any provision of the Gresham Revised Code or state law and who is damaging park property or disturbing other persons in the park.

(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. 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, 12/3/2002; Ord. No. 1543, Amended, 03/19/2002; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992; Ord. No. 1256, Enacted, 07/21/1992)

7.10.150 Repealed.

(Ord. No. 1256, Repealed, 7/21/1992)

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 may exclude from a city park, trail, or open space any person who, while in that city park, trail, or open space violates any law regarding controlled substances, or engages in conduct that:

(a) is classified as a felony or misdemeanor under the following chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such felony or misdemeanor 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, except for 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; or

(b) otherwise involves a controlled substance, including possession of marijuana less than one ounce; or

(c) has resulted in injury to any person or damage to any property; or

(d) constitutes a violation of any of the following provisions of this code:

(i) GRC 7.10.070 – Indecent Exposure;

(ii) GRC 7.10.060 – Unlawful Prostitution Procurement Activities;

(iii) GRC 7.10.040 – Unlawful Discharge of a Firearm;

(iv) GRC 7.10.130 – Public Drinking; or

(v) GRC 7.10.075 – Public Urination or Defecation.

(e) 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 commits acts that are not protected, but which violates applicable provisions or law, may be subject to exclusion.

(2) Exclusion under this article shall be for 30 days. If the person to be excluded has been excluded from any park, trail, or open space at any time within two years before the date of the present exclusion, the exclusion shall be for 90 days. If the person to be excluded from one or more parks, trails, or open spaces on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for 180 days.

(3) If the person's behavior does not rise to the level of the behavior described in section (1)(a)-(d) above, but is causing either a significant and immediate threat to public health and safety, or a serious disturbance that is preventing other people from enjoying the park, trail, or open space, the person may be excluded from that park, trail, or open space for a period of 24 hours only. If a person receives two exclusions under this section and then commits additional violations, any further exclusions the person receives under this section may be for a period of 30 days.

(4) No person shall enter or remain in any 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 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.

(5) 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 violation. An exclusion shall not be issued if the person promptly complies with the warning and desists from the violation. Notwithstanding the provisions of this subsection, no warning shall be required if the person is to be excluded for committing any act:

(a) punishable as a felony,

(b) involving controlled substances,

(c) which resulted in an injury to any person, or

(d) which resulted in damage to any property.

(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. Warnings of consequences for failure to comply shall be prominently displayed on the notice.

(7) A person receiving notice of exclusion from a 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 manager within 10 days of receipt of the exclusion notice. Failure to file written notice of appeal within 10 days will be deemed a waiver of further action.

(8) Hearing Procedures.

(a) When a 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 and conducted within five business days of receipt of the request, excluding holidays, Saturdays and Sundays. 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 and may present evidence.

(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. 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 decision of the hearings officer is final.

(9) At any time within the period of exclusion, a person receiving a notice of exclusion may apply in writing to the Chief of Police or designee for a waiver of some or all of the effects of the exclusion. The application must show good cause for the waiver requested. If the Chief or designee grants a waiver, the Chief or designee shall promptly notify the Gresham Police Department's Record Section and the Gresham Parks and Recreation Division of such action. In exercising discretion under this subsection, the Chief or designee shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be in the 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 Chief 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 Chief or designee to grant or deny, in whole or in part, a waiver is committed to the sole discretion of the Chief or designee, and is not subject to appeal or review.

(10) 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.

(11) 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 predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the predicate exclusion had not been issued. If multiple exclusions issued to a single person for a single park, trail, or open space are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.

(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)

7.10.160 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.10.165 Unlawful Camping.

(1) No person shall camp in any public place or on any public street or right-of-way, other than an area approved by the city for the permitted use and built for the purpose of camp grounds or overnight parks.

(2) No person shall camp on private property without the written permission of the owner of the property, and in no event for more than 72 hours. Exceptions may be granted under emergency conditions as determined by the manager.

(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. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Enacted, 12/17/1992)

7.10.170 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.10.180 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.10.190 Repealed.

(Ord. No. 1609, Repealed, 08/02/2005; Ord. No. 1561, Amended, 12/3/2002; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1336, Enacted, 11/17/1994)

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 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. 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.**
7.15.050 **Repealed.**
7.15.060 **Repealed.**
7.15.070 **Repealed.**
7.15.080 **Repealed.**
7.15.090 **Repealed.**
7.15.100 **Repealed.**
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 the Gresham Nuisance Code, 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 or other public utilities.

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 iceboxes, refrigerators, motor vehicles, and structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, poison oak, or poison sumac that may prove hazardous for inquisitive minors.

Clear Vision Area. A triangular area, two sides of which are lot lines for a distance specified in this subsection, or, where the lot lines have rounded corners, the lot lines 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 lot 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.

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, other property used for public right-of-way purposes, or on publicly owned property or in an easement. This is also known as the planting strip and parking strip. The planter strip is typically used for landscaping and may be used for utilities.

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 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.

(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, 12/3/2002; Ord. No. 1541, Amended, 02/19/2002; 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, 12/03/2002; 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 are not removed within a reasonable time, 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. Domesticated animal excrement may be accumulated if 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 adjoining any street or alley 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 pedestrian use of a public sidewalk or is a hazard to bicycle or vehicular use of 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 over-hangs 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 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, 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) The person in charge of property shall maintain the sidewalks, planter strips, and amenities or structures placed therein, adjacent to their property in good repair and to meet the requirements of this subsection. No person in charge of property shall allow a condition on their property to adversely affect the public right-of-way or public facilities within the public right-of-way.

(a) The person in charge of property that has a condition that adversely affects the public right-of-way, public facilities, or is responsible for maintaining the adjacent sidewalk, planter strip, and the amenities or structures placed therein, shall be liable to any person injured because of any negligence in failing to maintain the sidewalk in good condition or in failing to meet the requirements of this subsection. 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 to maintain the sidewalk, planter strip, and the amenities or structures place therein, in good condition or in failing to meet the requirements of this subsection.

(b) When amenities or structures are placed in or on a sidewalk or planter strip, the person in charge of the adjacent property shall maintain those amenities or structures in a safe and functional condition.

(c) No person in charge of property shall permit or cause to exist on a sidewalk or planter strip adjoining the 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 pedestrian traffic; or

(iii) drainage across the sidewalk from a rain drain, pipe or other collector.

(d) The person in charge of property that allows a condition on property to adversely

effect the public right-of-way or public facilities within the public right-of-way shall remediate the condition to eliminate the adverse affect and shall repair any damage to the public right-of-way or public facilities caused by the condition. The person in charge of property that permits or cause to exist any vegetation that is a nuisance under GRC 7.15.040(2)(d-f) shall repair any damage caused by the nuisance.

(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 fence with barbed, concertina, or razor wire, unless constructed in compliance with the development code, a fence otherwise designed to cause physical injury, or an electric fence which is capable of generating an electric shock to persons.

(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. 1700, 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, 12/03/2002; Ord. No. 1541, Amended, 02/19/2002; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

7.15.050 Repealed.

(Ord. No. 1702, Repealed, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1458, Amended, 11/05/1998; Ord. No. 1268, Amended, 12/17/1992)

7.15.060 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.15.070 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.15.080 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.15.090 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.15.100 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.15.110 Storage Containers on Private Property.

(1) Storage containers may be placed on property with a single-family dwelling 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. 1709, Enacted, 12/01/2011)

7.15.120 Vehicle Repair.

No person shall perform vehicle repairs on property with a single family dwelling or duplex on more than two days within a seven day period.

(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 and commercial, industrial, or multi-family driveway.	20 feet
(d) At the intersection of a street and single-family or duplex driveway.	10 feet

(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. 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.

Single Family Dwelling: A detached building on a single lot or parcel designed for occupancy by one family.
(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. On the lot or parcel where the three or fewer chickens are kept the person must have a single family dwelling in which the person resides.

(2) Only chickens greater than four months old count towards the total of three.

(3) No person shall keep roosters.
(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.
(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 7.20

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, compact disc players, phonographs, radios, stereo systems, tape players, tape recorders, televisions, and video cassette recorders.

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.

Public Right-of-Way. The area between boundary lines of a street or other area dedicated to the public.

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.
(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; or

(c) is plainly audible at any time between 7:00 a.m. and 10:00 p.m. the same day at a distance of at least 100 feet from the source of the sound.

(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) 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, 09/19/2000; 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 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.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002)

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, 12/03/2002; Ord. No. 1268, Amended, 12/17/1992)

Article 7.25

SOLID WASTE CONTROL

Sections:

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.
7.25.050 Recyclables Collection Registration.
7.25.055 Repealed.
7.25.057 Construction Debris Registration.
7.25.060 Exemptions.
7.25.065 Repealed.
7.25.070 Service Areas; Licensing.
7.25.080 Term of License.
7.25.085 Notice And Comment.
7.25.090 License and Registration Subject to Police Power.
7.25.100 Sub-Contracts for Service and Transfer of License.
7.25.110 Indemnification, Bond and Insurance.
7.25.120 License Fee.
7.25.135 Rates for Collection Service.
7.25.145 Ownership of Solid Waste, Recyclable Materials and Yard Debris, and Entry into Receptacles.
7.25.155 Repealed.
7.25.165 Repealed.
7.25.175 Uncontrollable Event.
7.25.185 General Licensee Responsibilities and Restrictions.
7.25.195 Customer Service Requirements.
7.25.205 Hours of Collection Activity.
7.25.215 Collection of Solid Waste Recyclable Materials and Yard Debris.
7.25.220 Recycling Service.
7.25.225 Yard Debris Service.
7.25.230 Collection of Other Materials.
7.25.235 Billing Procedures.
7.25.240 Termination of Service.
7.25.245 Receptacles.
7.25.250 Missed Collection.
7.25.255 Refusal of Collection Service.
7.25.260 Cleanup on Route; Prevention of Leaking and Spilling Loads.
7.25.265 Covers for Open Body Vehicles.
7.25.270 Vehicle and Receptacle Identification.
7.25.275 Compliance with Federal, State and Local Regulations.
7.25.280 Safety and Maintenance.
7.25.285 Compliance with Zoning Ordinances.
7.25.290 Promotion and Education.
7.25.295 Reporting.
7.25.300 Spring Cleanup.
7.25.305 Collection Frequency.
7.25.310 Collection of Extra Receptacles.
7.25.315 Disposal of Collected Solid Waste, Recyclable Materials and Yard Debris.
7.25.320 Access for Inspections and Delivery of Notice.
7.25.400 General Customer Requirements.
7.25.405 Payment Responsibility (Customer).
7.25.410 Notification of Missed Collection or Billing Errors (Customer).
7.25.415 Location of Receptacles and Standards for Collection Areas (Customer).
7.25.420 Set Out Time for Receptacles (Customer).
7.25.425 General Preparation of Materials (Customer).
7.25.430 Weight of Receptacles (Customer).
7.25.435 Putrescible Waste Storage (Customer).
7.25.440 Preparation of Recyclable Materials (Customer).
7.25.445 Preparation of Yard Debris Materials (Customer).
7.25.450 Yard Debris Collection Exemption Program (Customer).
7.25.455 Other Solid Waste (Customer).
7.25.460 Disposal of Unacceptable Solid Waste Materials (Customer).
7.25.500 Dispute Resolution.
7.25.600 Fines and Penalties.

7.25.610 Suspension, Modification or Revocation of License.

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: (1) 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; and (2) are based on the percentage of expenses incurred for services provided to Gresham and Wood Village customers. 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; 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, and yard debris in receptacles; transferring of solid waste, recyclable materials, 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.

Collector. The person or entity who provides collection service.

Commercial. Stores; offices, including manufacturing and industrial offices; restaurants; warehouses; schools; colleges and universities; hospitals; and other industrial, manufacturing, and non-manufacturing entities; but does not include business activities in residential dwellings.

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.

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 5 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.

Dwelling Unit. Structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, as defined by ORS 90.100(9).

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 collector 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.

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, 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 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.

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.

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 340-093-030.

Multi-Family or Multi-Family Complex. Any building, group of buildings, housing complex or manufactured home park that contains five or more dwelling units. A multi-family 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 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 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 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 340-90-70, 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 family dwelling or a multi-family 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. Expressed as a percentage, the return on gross revenues for the period ending March 31, 2010 shall be approximately 10 percent of gross revenues.

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 340-90-070, 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 or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals. (OAR 340-90-010(36)).

Source separated recyclable materials. Any recyclable material separated from solid waste prior to collection.

Term. The length of the license, as provided for in this ordinance.

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, stumps or other similar bulky wood materials, rocks or dirt.

(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 and yard debris from residential, multi-family, 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. 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, construction debris and yard debris within the City of Gresham is maintained by the manager.
(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 are issued for the period beginning July 1st and ending the following June 30th. If an application is received after July 1st, the period shall commence on the date of registration and end the following June 30th.

(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) A registrant must submit a signed, complete, and accurate report of the types and quantities of recyclable materials collected at all of its collection sites within Gresham, at such intervals as required by the city and on a form provided or approved by the manager.

(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.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1586, Amended, 4/15/04; Ord. No. 1540, Amended, 02/05/2002; Ord. No. 1509, Enacted, 10/03/2000)

7.25.055 Repealed.

(Ord. No. 1509, Repealed, 10/03/2000; Ord. No. 1441, Enacted, 05/07/1998)

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 are issued for the period beginning July 1st and ending the following June 30th. If an application is received after July 1st, the period shall commence on the date of registration and end the following June 30th.

(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.

(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 submit a signed, complete, and accurate report of the number of hauls, tons collected, type of materials collected, and recycling or disposal facility used for each haul, for the preceding quarter.

(b) Violation of GRC 7.25.057(4)(a) will result in revocation of the registration.

(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 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 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. For residential properties of four or fewer living units, the solid waste, recyclable materials 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. 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)

7.25.065 Repealed.

(Ord. No. 1509, Repealed, 10/03/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 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 shall be dated with the effective

date of the resolution and maintained in the office of the manager. Amendments to the map may be made by council resolution, and copies of amendments 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 within 30 days after the effective date of the annexation. 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.

(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. 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 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**. 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 that guarantees performance by the licensee of the duties and obligations of a licensee under this ordinance. The bond amount will be an average of the licensee's quarterly license fee from the previous fiscal year, rounded to the nearest thousand. The bond 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 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.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 12/03/2002; 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 city personnel. 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. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002; 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 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 the return on revenue as defined in this ordinance, 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. 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. 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 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, 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 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. 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)

7.25.155 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1611, Amended, 10/06/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Renumbered, 05/07/1998; 1441, Amended, 05/07/1998; Ord. No. 1399, Amended, 10/03/1996)

7.25.165 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1399, Amended, 10/03/96; Ord. No. 1441, Renumbered, 05/07/1998; 1441, Amended, 05/07/1998)

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 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, as defined by ORS 459.386, and comply with all requirements of ORS Chapter 459 and all rules adopted by the Environmental Quality Commission, the State Health Division, 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. 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 answered 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 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 availability of 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. 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 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, and yard debris materials in predominately commercial and industrial areas.
(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 and yard debris provided the materials comply with the preparation requirements and other requirements set forth in this ordinance.
(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 listed in GRC 7.25.440(2) 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) Multi-family Customers. A licensee shall provide each of its multi-family customers with adequate receptacles for the collection of all of the recyclable materials collected in the residential curbside program, except for motor oil. The licensee will provide a sufficient number of receptacles to set up collection areas at a ratio of one area for recyclable materials for every three areas for solid waste, or at a level established or approved by the manager. 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 Collection. The licensee shall keep glass bottles and jars separate from paper recyclables in the collection vehicle and maintain that separation when unlading 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. 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. 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. 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 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. 1441, Enacted, 05/07/1998)

7.25.245 Receptacles.

(1) General. For 20-gallon can and 32-gallon can service levels, the customer shall provide the receptacle. Only the licensees shall provide receptacles that it mechanically collects, except that a customer may provide a compactor. All compactors shall comply with applicable federal and state safety regulations and shall be compatible with the licensee's equipment.

(2) Recycling Bins. The licensees shall provide a recycling rollcart and one 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 or customers 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 recycling 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. Cans should be equipped with a handhold on the bottom and two handles in good working condition.

(4) 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.

(5) 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 can, 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, excessive wear, or other damage to the receptacle.

(6) 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 lids from blowing away or rain from getting into the receptacles. When possible, the licensees and registration holders shall place drop boxes on private property locations.

(7) In-ground Cans. Licensees are not required to remove a receptacle from an in-ground or "sunken" location.

(8) 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.

(9) 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. 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 or Yard Debris. A licensee may refuse collection service when the preparation of solid waste, recyclable materials 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. 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. Licensees and registrants shall ensure that all solid waste, recyclable materials and yard debris collection vehicles are clearly identified by displaying the licensee's name and telephone number prominently and conspicuously on both sides of the vehicle.

(2) Receptacle Identification. Licensees and registrants shall ensure that all of its containers, drop boxes and compactors are clearly identified by displaying the licensee's name and telephone number prominently and conspicuously.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1441, Enacted, 05/07/1998)

7.25.275 Compliance with Federal, State and Local Regulations.

Licensees 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 to the manager:

(1) A monthly report 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 on a form provided or approved by the manager.

(2) A monthly report listing the names and addresses of commercial customers that were offered waste evaluations during the reported month and that received waste evaluations from the licensee during the reported month. The report shall be submitted on a form provided or approved by the manager.

(3) An annual report to the manager on recycling activities. The report shall contain detailed information on education and promotion activities, worksheets on collection and disposal, and other information as required by the manager.
(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 of a 30-yard or larger container per event.
(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 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 collection service shall be not less than weekly and as agreed upon by a licensee and customer. The collection frequency for compactors may be up to, but not exceeding, every 14 days. Collection of recyclable materials 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. 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 residential, multi-family 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 multi-family 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 his/her tenants or, if the dwelling complex contains four or fewer units, self-haul solid waste from tenants to a metro approved disposal facility;

(b) provide a sufficient number of receptacles of adequate size to prevent the overflow of solid waste, recyclable materials and yard debris from occurring. 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, yard debris, and recyclable materials, except for compactors, which shall be collected at least every 14 days; and

(d) if the dwelling complex has four or fewer units and the owner is self-hauling tenants' solid waste, provide for the same level and frequency of collection of source-separated recyclable materials 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) 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.

(4) 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 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 or yard debris processing facility.

(5) The owner of any multi-family complex shall provide its tenants with the opportunity to recycle all of the materials collected in the residential curbside program, except for motor oil.

(6) Prior to the issuance of any citation for a violation of GRC 7.25.400, the city shall first provide written notice to the person of the nature of the violation and the steps to be taken to avoid citation. For noncompliance with the Business Recycling 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. Only after that time may a citation or civil penalty for a violation be issued.

(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, 12/03/2002; Ord. No. 1509, Amended, 10/03/2000; Ord. No. 1507, Amended, 10/02/2000; 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) Multi-family 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 multi-family complex with five or more dwelling units shall provide tenants with separate receptacles or areas for the collection of the same materials collected in the residential curbside program except for motor oil.

(c) Number of Collection Areas. In order to ensure that tenants are provided with a convenient opportunity to recycle, the owner of any multi-family complex with five or more dwelling units will establish collection areas at a ratio of one area for recyclable materials for every three areas for solid waste, or at a level established or approved by the manager.

(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, lesees, 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. 1700, Amended, 03/03/2011; Ord. No. 1666, Amended, 04/15/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 05/07/1998)

7.25.420 Set Out Time for 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.

(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, 12/03/2002; Ord. No. 1441, Enacted, 05/07/1998)

7.25.430 Weight of Receptacles (Customer).

(1) Cans and Carts. The customer shall limit the weight of a receptacle and its contents to the maximum weights listed as follows:

Receptacle/Type Capacity	Maximum Weight
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) 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 300 pounds gross loaded contents per loose cubic yard; but if an overweight container is collected, the licensee may charge the customer for disposal costs on the excess over 300 pounds. 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. 1441, Enacted, 05/07/1998)

7.25.435 Putrescible Waste Storage (Customer).

(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.

(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, 09/19/2000; Ord. No. 1493, Amended, 02/15/2000; Ord. No. 1441, Enacted, 05/07/1998)

7.25.440 Preparation of Recyclable Materials (Customer).

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 32-gallon cans or 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. The customer may contract with the licensee for use of a 60-gallon roll cart for the collection of yard debris.

(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:

Receptacle Type/Capacity	Maximum weight
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. 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, 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. 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.
7.27.050 Repealed.
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, 09/19/2000; Ord. No. 1271, Enacted, 12/31/1992)

7.27.050 Repealed.

(Ord. No. 1590, Repealed, 9/16/2004)

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, 12/03/2002; Ord. No. 1507, Amended, 09/19/2000; 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 State Health Division relating to illegal drug manufacturing sites adopted in accordance with ORS 453.855 - 453.912 are adopted with the modification in GRC 7.30.030.

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 ORS 453.876. This prohibition shall not apply to licensed decontaminators, the Assistant Director of Health 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. 1700, Amended, 03/03/2011; Ord. No. 1268, Amended, 12/17/1992; Ord. No. 1459, Amended, 11/05/1998)

Article 7.35

ANIMAL CONTROL

Sections:

7.35.010 Animal Control.

7.35.010 Animal Control.

The Multnomah County Animal Control Law, Multnomah County Code Chapter 13, is adopted by the city. Such provisions apply within the city and shall be administered and enforced by Multnomah County, Oregon. A copy of Multnomah County Animal Control Law is on file in the office of the manager.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1454, Amended, 10/01/1998; Ord. No. 1268, Amended, 12/17/1992)

Article 7.40

CURFEW AND TRUANCY REDUCTION

Sections:

7.40.005 Definitions.
7.40.010 Night Curfew Imposed.
7.40.015 Truancy Reduction Imposed.
7.40.020 Repealed.
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, 09/19/2000; Ord. No. 1432, Amended, 10/07/1997; Ord. No. 1268, Amended, 12/17/1992)

7.40.015 Truancy Reduction Imposed.

(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, 09/19/2000; Ord. No. 1432, Enacted, 10/07/1997)

7.40.020. Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

7.40.030. Parental Responsibility.

(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, 09/19/2000; 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.
(Ord. No. 1432, Amended, 10/07/1997; Ord. No. 1268, Amended, 12/17/1992)

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 sale, carrying, or possession of any weapons or explosives of any kind on public streets, public places, or any outdoor place;

(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.

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 a provided in GRC 7.45.050.

(2) Violation 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. 1294, Amended, 11/04/1993; Ord. No. 1268, Enacted, 12/17/1992)

Article 7.50

PENALTIES AND ABATEMENT

Sections:

GENERAL

7.50.005 Definitions.
7.50.010 Repealed.
7.50.020 Notice of Violation.
7.50.030 Protest and Hearing.
7.50.040 Repealed.
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.
7.50.220 Repealed.
7.50.221 Abatement.
7.50.222 Administrative Abatement Warrant.
7.50.225 Repealed.
7.50.230 Repealed.
7.50.235 Repealed.
7.50.240 Abatement Cost Notice.
7.50.250 Repealed.
7.50.260 Collection of Abatement Costs.
7.50.270 Repealed.

CITATION

7.50.300 Citation.
7.50.310 Repealed.
7.50.320 Repealed.
7.50.330 Other Remedies for Violations.

CIVIL ACTIONS

7.50.400 Civil Actions.

PERMIT AND LICENSURE INSPECTIONS

7.50.500 Consent to Inspections.
7.50.510 Authorization to Inspect.
7.50.520 Administrative Inspection Warrant; Right of Entry; Inspection Warrants.
7.50.600 Repealed.
7.50.610 Repealed.
7.50.620 Repealed.

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)

7.50.010 Repealed.

(Ord. No. 1690, Repealed, 07/15/2010; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1561, Enacted, 12/03/2002)

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 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. 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 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 person requesting the hearing and to the manager.

(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. 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)

7.50.040 Repealed.

(Ord. No. 1690, Repealed, 07/15/2010; 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 State Structural Specialty Code or the Uniform Fire Code.

(Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1561, Enacted, 12/03/2002)

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 48hours 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, 12/03/2002)

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, 12/03/2002)

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. 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, 12/03/2002)

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, 12/03/2002)

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, 12/03/2002)

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, 12/03/2002)

ABATEMENT

7.50.200 Repealed.

(Ord. No. 1669, Repealed, 04/16/2009; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1458, Amended, 11/05/1998; Ord. No. 1268, Enacted, 12/17/1992)

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, 12/03/2002; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1268, Enacted, 12/17/1992)

7.50.220 Repealed.

(Ord. No. 1669, Repealed, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1633, Amended, 11/16/2006; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1534, Amended, 10/02/2001; Ord. No. 1517, Amended, 03/20/2001; 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 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) Subject to GRC 7.50.030(12), 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. 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: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement; the building or property to be entered; the basis upon which cause exists to remove or abate the violation; and 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. Violation of this section may be subject to a fine or penalty in the maximum amount of $500.

(e) Abatement Consent Forms.

(i) The manager shall develop consent forms allowing the Manager to enter onto property to abate the code violations. These consent forms shall be made available to the public.

(ii) 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. 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)

7.50.225 Repealed.

(Ord. No. 1669, Repealed, 04/16/2009; Ord. No. 1649, Amended, 12/18/1007; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1599, Amended, 03/03/2005; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1458, Enacted, 11/05/1998)

7.50.230 Repealed.

(Ord. No. 1669, Repealed, 04/16/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1599, Amended, 03/03/2005; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1458, Enacted, 11/05/1998)

7.50.235 Repealed.

(Ord. No. 1669, Repealed, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Enacted, 12/18/2007)

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, 12/03/2002; Ord. No. 1534, Amended, 10/02/2001; Ord. No. 1268, Enacted, 12/17/1992)

7.50.250 Repealed.

(Ord. No. 1590, Repealed, 9/16/2004)

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, 12/03/2002; Ord. No. 1540, Amended, 02/05/2002; Ord. No. 1268, Enacted, 12/17/1992)

7.50.270 Repealed.

(Ord. No. 1669, Repealed, 04/16/2009; Ord. No. 1655, Enacted, 07/15/2008)

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 (GRC) or Gresham Community Development Code (GCDC) 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. 1690, Amended, 07/15/2010; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1561, Enacted, 12/03/2002)

7.50.310 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1381, Amended, 02/01/1996; Ord. 1268, Amended, 12/17/1992)

7.50.320 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1690, Amended, 07/15/2010; Ord. No. 1649, 12/18/2007; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1381, Amended, 02/01/1996; Ord. No. 1268, Amended, 12/17/1992)

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 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. 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, 12/03/2002)

PERMIT AND LICENSURE INSPECTIONS

7.50.500 Consent to Inspections Relating to Permits and Licensure.

If the owner or person in control of the property refuses to allow entry for purposes of inspection, the license or permit is subject to revocation pursuant to the applicable revocation process.
(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 or permit is required, the authority to inspect does not depend on whether the license or permit 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.
(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)

7.50.600 Repealed.

(Ord. 1669, Repealed, 04/16/2009; Ord. No. 1633, Enacted, 11/16/2006)

7.50.610 Repealed.

(Ord. No. 1702, Repealed, 03/03/2011; Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Amended, 12/18/1007; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1599, Amended, 03/03/2005; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1458, Enacted, 11/05/1998)

7.50.620 Repealed.

(Ord. No. 1702, Repealed, 03/03/2011; Ord, No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1599, Amended, 03/03/2005; Ord. No. 1561, Renumbered, 12/03/2002; Ord. No. 1458, Enacted, 11/05/1998)

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 decision. The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.

(2) A 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 record 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. 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 administrative penalties issued to significant 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 9.1040 to enforce tree regulations.
(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, 12/03/2002; 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 tricks 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.
7.80.040 Renumbered.
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.
7.80.100 Repealed.
7.80.110 Repealed.
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)

7.80.040 Renumbered.

(Ord. No. 1700, Renumbered GRC 7.80.025, 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, aerosol paint container, felt tip marker, etching device, or graffiti stick. Unlawfully possessing a graffiti implement is a violation.
(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) above.

(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. 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)

7.80.100 Repealed.

(Ord. No. 1633, Repealed, 11/16/2006; Ord. No. 1609, Enacted, 08/02/2005)

7.80.110 Repealed.

(Ord. No. Repealed, 03/03/2011; 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 under the age of 18 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. 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(5) 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 Property.

(1) property on which three or more Chronic Nuisance Activities have occurred during any 120 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 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; or

(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;

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.

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. 1702, Enacted, 03/03/2011)

7.85.020 Notice and Determination Procedure.

(1) Except where otherwise provided, prior to a determination that a property is a chronic nuisance property, the chief of police or designee shall provide an opportunity to property owner or person in charge of property to abate the chronic nuisance property voluntarily by the following procedures set forth in subsection (2), below.

(2) When the chief of police or designee receives a police report or police reports documenting the occurrence of two or more chronic nuisance activities on or within 300 feet of property within Gresham during any 120 calendar day period, the chief of police or designee may notify the property owner or person in charge of property in writing that the property is in danger of becoming a chronic nuisance property. The notice shall contain:

(a) the street address or a legal description sufficient for identification of the property;

(b) a statement that the property is in danger of becoming a chronic nuisance property, with a concise description of the nuisance activities that exist or have occurred;

(c) a request that the property owner or person in charge of property respond to the chief of police or designee within 10 calendar days to discuss the nuisance activities. The chief of police or designee shall offer the property owner or person in charge an opportunity to propose a course of action that will abate the chronic nuisance activities giving rise to the violation.

(3) After the notification procedure in subsection (2), above, has been completed, the property may be determined by the chief of police or designee to be a chronic nuisance property if the chief of police or designee receives a report within 120 days documenting an additional nuisance activity on or within 300 feet of a property.

(4) After a determination by the chief of police or designee that the property is a chronic nuisance property, the chief of police or designee shall provide the property owner or person in charge of property a notice in writing that contains the following:

(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.

(5) 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.

(6) 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. 1702, Enacted, 03/03/2011)

7.85.025 Determination When Notice is Not Required.

If a property is a chronic nuisance property as defined in subsections (2) or (3) of the definition for a Chronic Nuisance Property set forth in GRC 7.85.010, the property need not be provided notice pursuant to GRC 7.85.020(2) in order for the chief of police or designee to determine the property is a chronic nuisance property. After a determination that the property is a chronic nuisance property, the property owner or person in charge shall be provided notice as set forth in subsections GRC 7.85.020(4), (5), and (6) and be subject to enforcement remedies as authorized under this article.
(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(5), was issued and submit a Chronic Nuisance Abatement Plan to the chief of police or designee 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. 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(5);

(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(5).

(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(5); 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

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.l60 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.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1632, Enacted, 09/14/2006)

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.

If the city council designates an area meeting the criteria of GRC 7.90.020 of this code to be a drug-free zone, Council shall do so by ordinance. The Gresham police chief, or his or her designee, will prepare a report every two years and make a recommendation to city council whether there is a need for the continuation of the drug-free zones enumerated in GRC 7.90.160. If the report does not recommend discontinuing or changing a drug-free zone no Council action will be needed.
(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 (a) – (m) of subsection (3), 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. 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 subsection (1) of GRC 7.90.040 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 subsection (4) of GRC 7.90.070.

(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; and

(b) information concerning the right to appeal the exclusion to the City of Gresham 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 of Gresham hearings officer as provided in GRC 7.90.070.
(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 of Gresham 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 subsection (1) of GRC 7.90.040 within a drug-free zone.

(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 made to the hearings officer of the City of Gresham 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 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 Gresham Police Department 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. 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 he 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 he 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 he 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 162 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 Street; thence northerly along the west curb line of N. Main Street 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. 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.

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.

(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)