Chapter 9

BUSINESS LICENSES AND REGULATION

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Article 9.05

GENERAL LICENSES

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9.05.010 Definition.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Chapter 9, the following mean:

Business. Any activity, trade, occupation, profession, or pursuit that generates revenue, whether for profit or non-profit.

License Year. Commences on the first day of the month a license is issued and ends on the first day of the same month one year later.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1693, Amended, 09/07/2010; Ord. No. 1507, Amended, 09/19/2000)

9.05.020 Licenses Required.

(1) No person shall engage in any business within the city, or transact any business specified in this chapter, without first obtaining a license and paying the license fee prescribed.

(2) The provisions of GRC Article 9.05 shall be in addition to any other license requirements or license fees contained in this code, unless otherwise specified.

(3) Each business location of every business within the City of Gresham is required to obtain a business license.

(4) A non-profit business is required to obtain a business license. A business with an IRS 501(c)(3) classification can file proof with the city and obtain a waiver of the business license fee.

(5) No business license shall be issued to any person to engage in a business that does not comply with federal, state or city law.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1693, Amended, 09/07/2010; Ord. No. 1507, Amended, 09/19/2000)

9.05.030 License Fee.

(1) Except as provided in GRC 9.05.040, the license fee for each business shall be established by council resolution.

(2) Nothing in this chapter shall be construed to vest any right in a license as a contract obligation on the part of the city as to the amount of the fee or the character of the license issued. The license fee may be changed at any time by the city, and all license fees required shall be payable in advance. The license fee is not refundable.

(3) For any business that has obtained a Type I temporary use permit under the Gresham Community Development Code, the base business license fee shall be one half the established fee.
(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1507, Amended, 09/19/2000)

9.05.040 Exclusions and Applicability.

(1) The license required by GRC 9.05.020 shall not apply to a person whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary, or to a nonresident engaged exclusively in a wholesale business.

(2) The agent of a nonresident proprietor engaged in a business on which a license is levied by GRC 9.05.020 shall be liable for obtaining the license and paying the license fee. A person representing, or exhibiting by sign or advertisement, that he is engaged in a business in the city for which a license is required by GRC

9.05.020 shall be considered to be engaged in that business and shall be liable for the payment of the license fee.

(3) GRC 9.05.020 shall not apply to businesses subject to the license required by GRC 9.55.060 (rental residential units), or businesses subject to the transient lodging tax.

(4) Any business whose sole operation is in a special event with a duration of three days or less shall not be required to apply for or pay a business license fee. A special event is a temporary community or public event such as the Jazz Festival or Get Together Days.

(5) The license required by GRC 9.05.020 shall apply to a person whose primary business is the receipt and delivery of packages from and to third parties. The license is not required of a person whose only business in the city is the delivery of materials or products that were purchased at the person's place of business in another jurisdiction.

(6) Except for a person whose principal place of business is in the city, the license required by GRC 9.05.020 shall not apply to a person who is engaged in construction or landscape activity and has obtained a regional construction license issued by Metro.

(7) Any garage sales or bazaars with a duration of 14 days or less within a calendar year shall not be required to apply for or pay a business license fee.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1534, Amended, 10/02/2001; Ord. No. 1507, Amended, 09/19/2000)

9.05.050. Applications.

(1) The license fee required by GRC 9.05.020 shall be due at the same time each year. This anniversary date will be the first day of the same month in which the license application was originally filed. Application shall be made to the city on forms prescribed by the manager.

(2) The manager shall issue a license when application has been approved and payment of the required fee has been received. Each business shall post the license on the premises or it shall be kept on the person licensed, and it shall be exhibited to a police or other officer of the city upon demand.

(3) The application for the license shall include:

(a) The business for which the application is made.

(b) The name of the applicant or his agent.

(c) The commercial location with the site address, or address used for Income Tax purposes.

(d) The amount of fee to be paid.

(e) A statement describing the type of business or service provided or manufactured and the business Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) code, if applicable.

(f) Business owner's name of an individual or partnership or business name if a business entity.

(g) Business owner's home address if an individual or address of business entity.

(h) Business owner's Social Security number or Federal Tax ID number.

(i) Business owner's date of birth (if applicable).

(j) Business owner's drivers license number (if applicable).

(k) Building and/or site information.

(l) A notice that the application is a public record and that the city shall exempt from disclosure information of a personal nature to the extent permitted by the Oregon Public Records and other applicable laws.

(m) Response to wastewater, stormwater and environment-related questions that facilitate determination of compliance with local, state and federal regulatory requirements. City review of such information does not guarantee compliance with or reduce the responsibility of the applicant to comply with said laws. The manager may exempt certain types of business activities from this requirement.

(4) The license shall specify;

(a) Name of the business for which the license is issued.

(b) Registered business site address.

(c) Owner name.

(d) Type of licenses held.

(e) Amount of license fees paid.

(f) License account number.

(g) Expiration date of license.

(h) Business mailing address.

(5) The manager may revoke or refuse to issue or renew a business license if the business does not comply with federal, state or city law provisions.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1693, Amended, 09/07/2010; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1507, Amended, 09/19/2000)

9.05.060 Transfer or Assignment of License.

If a person sells or transfers a business for which a license has been paid, the license is transferable to the new owner after receipt of the handling fee established by council resolution. The handling fee shall be accompanied by a new license application. The new owner will retain the old license number, transferred to the new business name (if applicable). Issuance of the transferred license will occur after all department approvals.
(Ord. No. 1507, Amended, 09/19/2000)

9.05.070 License Term.

Licenses issued under GRC 9.05.050 shall be valid for one license year.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000)

9.05.080 Repealed.

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

9.05.090 More Than One Business.

If a person is engaged in more than one business, the person shall obtain the license required by GRC 9.05.020 for each business conducted, whether conducted at a single or multiple locations.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000)

9.05.100 Independent Contractors.

(1) A business that makes space available for independent contractors to conduct business (e.g., hair salons, flea markets) or arranges for independent contractors to perform a service essential to that business (e.g., installation of products or equipment sold) shall obtain the license required by GRC 9.05.020.

(2) No person or person in charge of property shall lease, license, or otherwise make space available for an independent contractor if the independent contractor has not obtained a license required by GRC 9.05.020.

(3) For the purposes of this section, independent contractor means a person or business entity that provides services for remuneration and who, in the provision of the services, meets the criteria of ORS 670.600.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Enacted, 12/03/2002)

9.05.110 Posting License.

A business shall post the license required by GRC 9.05.020 on the business premises. If a business utilizes an independent contractor as provided by GRC 9.05.100, the independent

contractor shall post the license on the business premises or the business shall post a copy of the independent contractor's license on the business premises.
(Ord. No. 1561, Enacted, 12/03/2002)

Article 9.10

LIQUOR LICENSES

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9.10.010 Purpose.

These sections establish criteria for recommending to the Oregon Liquor Control Commission (OLCC) that it grant, deny, modify or renew liquor licenses for premises within the city. This process is intended to make fair, effective, and efficient recommendations. These sections are necessary to ensure that premises licensed to sell or dispense liquor meet community expectations, and that such businesses are conducted in a lawful manner which does not unreasonably disturb the peace and tranquility of the city and its neighborhoods.
(Ord. No. 1511, Amended, 12/19/2000)

9.10.020 Forms.

Applicants for OLCC licenses shall provide the manager with the appropriate OLCC license application forms. The manager may require additional information appropriate for conducting the investigations required for council recommendations.

9.10.030 Temporary Licenses.

The manager is authorized to approve applications for temporary OLCC licenses such as special events, special beer and special wine licenses. Such applications may be processed administratively after the fee established by council has been paid. The manager may make an unfavorable recommendation to the OLCC if the manager finds that the applicant does not meet the criteria established by GRC 9.10.060. Either the applicant or manager may refer an application to the council for a public hearing.

9.10.040 Regular Licenses.

The manager accepts applications for regular OLCC liquor licenses only when the following conditions are met:

(1) all required forms are properly completed and in order;

(2) the applicant has obtained a city business license; and

(3) the processing fee established by council resolution has been paid.

9.10.050 Investigation.

The manager shall coordinate an investigation of each application to determine the appropriate recommendation to the OLCC. The manager shall provide a copy of each application to the appropriate city departments for investigation and report. Reports from these departments must be included with each manager's unfavorable or conditionally favorable recommendation to the council.
(Ord. No. 1511, Amended, 12/19/2000)

9.10.060 Manager Recommendation.

(1) The manager may make an unfavorable or conditionally favorable recommendation to the council on any application based on the following guidelines:

(a) is the applicant in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess;

(b) has the applicant made false statements to the city or OLCC in connection with the application;

(c) is the applicant incompetent or physically unable to carry on the management of the establishment proposed to be licensed;

(d) has the applicant been convicted of violating any of the alcoholic liquor laws of this state, general or local, or been convicted at any time of a felony;

(e) has the applicant maintained an unsanitary establishment or not maintained the premises in accordance with the building code and fire and life safety code of the city and the state;

(f) is the applicant of good repute and moral character;

(g) does the applicant have a good record of compliance with the alcoholic liquor laws of this state and the rules of OLCC when previously licensed;

(h) is the applicant the legitimate owner of the business proposed to be licensed, or do other persons have ownership interests in the business that have not been disclosed;

(i) has the applicant demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed;

(j) is the applicant able to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the OLCC;

(k) has the applicant maintained the premises in accordance with the building code and fire and life safety code of the city and the state;

(l) does the applicant seek licensing of premises not consistent with city land use designations;

(m) has the applicant demonstrated an unwillingness or inability to cooperate with the city or neighbors to resolve driving under the influence of liquor concerns or community disputes related to a licensed establishment;

(n) is there any other specific reason consistent with the purposes of these provisions that the manager concludes warrant an adverse recommendation to the council based upon public health, safety, welfare, convenience, or necessity; or.

(o) does the applicant comply with ORS 471.313(4) and (5) and OAR 845-005-0320, 325, 326 and 355.

(2) The manager may make an unfavorable or conditionally favorable recommendation to the council on any application if there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes but is not limited to, obtrusive or excessive noise, music or sound vibrations, public drunkenness, fights, altercations; harassment, unlawful drug sales, alcohol or related litter, trespassing on private property, and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(3) The manager's unfavorable or conditionally favorable recommendation to council and any unfavorable recommendation to

the OLCC must be supported by reliable factual information which includes but is not limited to personal observations of activities in or around the proposed licensed locations, as opposed to opinion, hearsay, feelings, beliefs or speculation.
(Ord. No. 1511, Amended, 12/19/2000)

9.10.065 Manager Review.

The manager is authorized to file a favorable recommendation with the OLCC for all regular OLCC liquor license original applications and renewals which receive a favorable manager's recommendation.
(Ord. No. 1511, Enacted, 12/19/2000)

9.10.070 Council Review.

Council shall be notified of all regular OLCC liquor license original applications and renewals. If the manager makes an unfavorable recommendation, a public hearing shall be held to allow all interested parties a reasonable opportunity to be heard by the council. The manager shall request additional time to submit the recommendation and the hearing shall be scheduled so that a recommendation can be filed with the time limit of the extension.
(Ord. No. 1511, Amended, 12/19/2000; Ord. No. 1522; Amended, 05/15/2001)

9.10.080 Contents of Public Hearing Notice.

Before the council recommends denial of a liquor license application, notice of the public hearing must be given to the applicant either personally or by certified mail postmarked not later than 10 days prior to the hearing. The notice shall contain:

(1) the date, time and place of the hearing;

(2) a copy of the recommendation of the manager together with all supporting reports and documents; and

(3) a statement that information about procedures and rights of parties may be obtained from the manager.

9.10.090 Publication of Public Hearing Notice.

If a public hearing is scheduled, the manager shall publish in a newspaper of general circulation in the city a notice specifying a time, date and location of the hearing and business name and address of applicant. The notice shall inform the public that testimony may be given for or against the application.

9.10.100 Public Hearing Procedures.

When a public hearing before the council is held:

(1) the applicant and the manager may present written and oral evidence and may rebut opposing evidence;

(2) the hearing shall be limited to production of evidence relevant to the recommendation of manager, unless the council decides to hear additional evidence; and

(3) after consideration of all relevant evidence, the council shall make its recommendation. The recommendation shall be based on substantial evidence relative to the GRC 9.10.060 criteria and shall be final. In the case of an adverse recommendation, the council shall make findings of fact which shall be forwarded to the OLCC along with the council recommendation against the application.

9.10.110 Recommendation to OLCC.

If the council finds that an applicant does not meet the criteria established by GRC 9.10.060, it may make a favorable recommendation with a letter of warning. The manager shall deliver to the applicant in person or by certified mail a summary of the reports relating to the application, and a notice to correct the problems cited. A copy of this notice and summary shall be sent to OLCC. During the following license period, the manager shall monitor the progress of the applicant in correcting such problems and report to the council. At the time of the next license renewal, council shall review the application notwithstanding a favorable manager's recommendation. The applicant shall

have the burden of proof to establish that the license should receive a favorable recommendation for renewal. If the council finds that the applicant has not made substantial progress in correcting the conditions which resulted in the letter of warning, then the council may make an unfavorable recommendation to OLCC without further public hearing.
(Ord. No. 1511, Amended, 12/19/2000)

9.10.120 Resubmission of Applications.

If the council makes an unfavorable recommendation on any license application, the council shall not consider a new application from the same applicant while an administrative or court appeal relating to such license is pending. The manager may resubmit an application to the council in less than six months from the date of a council unfavorable recommendation only if the conditions that caused such recommendation have been remedied.

Article 9.15

PRECIOUS METAL AND GEM DEALERS AND SECOND HAND DEALERS

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9.15.010 Purpose.

The purpose of GRC Article 9.15 is to provide strict regulation of business activities that present an extraordinary risk of being used as a means of concealing the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of stolen goods and materials that are processed in such businesses. Therefore, this section is intended to reduce this type of criminal activity by providing timely notice to police of such business transactions. The council finds that the regulations provided herein are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

9.15.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in this article, unless the context requires otherwise, the following mean:

Acceptable Identification. A valid driver's license or identification card issued by any state in the United States which has a photograph of the Seller, federally issued photo ID card or passport, or a valid driver's license issued by a foreign government which has a photograph of the Seller.

Chief of Police. Gresham Chief of Police or the person(s) the Chief of Police designates to enforce this article.

Dealer. Secondhand Dealer, Precious Metal and Gem Dealer, or Pawnbroker.

New. Anything conspicuously not used.

Pawnbroker. Any person engaged in the business of loaning money for the person or for any other person upon personal property, personal security, pawns or pledges, or the business of purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors or their assigns at prices agreed upon at or before the time of such purchase.

Permit. The Secondhand Dealer Permit or Precious Metal and Gem Dealer Permit required under GRC 9.15.030.

Precious Metal and/or Gem.

(1) Any metal or gem that is valued for its character, rarity, beauty, or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires and pearls, jewelry containing precious metal and gems, and any other such metals or gems, coins, whether actual

currency or commemorative, scrap metal, sterling silver items (including, but not limited to, flatware, candleholders, coffee and tea sets, or serving pieces) and any other gem or stone or imitation thereof, whether as a separate item or in combination as a piece of jewelry; but excluding the following items when being purchased by a bona fide business for investment purposes:

(a) gold bullion bars (0.995 fine or better);

(b) silver bullion bars (0.995 fine or better); and

(c) all coins, whether actual currency or commemorative, from all countries.

(2) As used in this definition, the term "for investment purposes" means that the business purchases such items and retains them, in the same form as they were purchased, for resale to persons who are purchasing such items primarily as an investment.

Precious Metal and Gem Dealer. Any person engaged in, conducting, managing or carrying on a business that is required to be licensed under GRC 9.05.020 for the purpose of purchasing precious metals or gems from any person not representing a bona fide, licensed business.

Principal. Any person who will be directly engaged or employed in the management or operation of a Precious Metal and Gem or Secondhand Dealer business, including any owners and any shareholders with a 5% or greater interest in the company.

Purchase. The transfer of any property regulated by this article for valuable consideration, including, but not limited to, sales, consignments, memoranda between a Dealer and a private party seller, leases, trade-ins, loans, abandonments, and property taken in a voluntary transaction for the refinement of metal. Any purchase of Regulated Property or Precious Metal and Gems by a Dealer will be presumed to be a purchase on behalf of the Dealer's business. Notwithstanding the foregoing, "purchase" does not include:

(1) Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon; or

(2) Memoranda between a Dealer and another Dealer.

Regulated property.

(1) Used items:

(a) Watches.

(b) Electronic equipment. Examples include:

(i) Audio equipment, including but not limited to, tape recorders or players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, car stereos, car speakers, microphones, broadcasting equipment, citizen band radios/transceivers, digital audio recorders or players.

(ii) Video equipment, including but not limited to, televisions, videotape or videodisc recorders or players, video cameras, video projectors, video monitors, digital video recorders or players.

(iii) Electrical office equipment, including but not limited to, telefax machines, printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, modems, monitors, any computer equipment or accessories having uniquely identifiable parts, or identifiable software.

(iv) Telephones or telephone equipment, including but not limited to, answering machines, cellular telephones, or satellite telephones.

(v) Video game equipment, including but not limited to, game units and games that are handheld or console.

(vi) Other electronic equipment, including but not limited to, global positioning systems, electronic navigation devices or radar detectors.

(c) Photographic and optical equipment and any accompanying bags, including but not limited to, cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment both optical and electronic, rifle scopes, spotting scopes, electronic sighting equipment, tripods, accessories and components, digital image recorders or display devices.

(d) Power yard and garden tools, including but not limited to, garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders, or ladders.

(e) Power equipment and tools, including but not limited to, air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, logging equipment, welding or cutting equipment or components, measuring devices and gauges, or construction equipment.

(f) Automotive and hand tools, including but not limited to, wrench sets, socket sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, timing lights, testing and analyzing equipment or components.

(g) Musical instruments and any accompanying cases or bags, including but not limited to, electronic keyboards, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, electronic synthesizers, or mixing boards.

(h) Firearms, including but not limited to, rifles, shotguns, handguns, revolvers, pellet guns, or BB guns.

(i) Sporting equipment limited to kayaks, bicycles, golf clubs and bags, pool cues or cases, snow or water skis, snow or water boards, fishing rods or reels, skates, saddles or tack.

(k) Outboard motors and boating accessories limited to outdrives, propellers, inboard engines, electric boat motors, boat covers, tops, or unlicensed boat trailers.

(l) Household appliances, including but not limited to, microwave ovens, sewing machines, vacuums, mixing and food preparation equipment.

(m) Items other than those purchased by a bona fide licensed business for investment purposes, limited to: a) gold bullion bars (0.995 fine or better); b) silver bullion bars (0.995 fine or better); c) all tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency whose intrinsic, market or collector value is greater than the apparent legal or face value; or d) postage stamps, stamp collections and philatelic items whose intrinsic, market or collector value is greater than the apparent legal or face value.

(n) Gift cards, in store credit cards, or activated phone cards;

(2) New items.

(a) New items purchased from a registered business are exempt from regulation under GRC Article 9.15 if the Dealer has a bill of lading, receipt, invoice or the equivalent for the new items that specifies the seller's business name, physical and mailing address, date of transaction and a description of the purchased items. The bill of lading, receipt, invoice or the equivalent must be held by the Dealer for one year or as long as the property is in the Dealer’s

possession, whichever is longer. Upon reasonable belief that a specific registered business is dealing in stolen property or is acquiring property in violation of this or any jurisdiction's secondhand dealer requirements, the Chief of Police may deem that new items purchased from that specific registered business are Regulated Property.

(b) Gift cards, in store credit cards, or activated phone cards;

(3) The Chief of Police may update this list at any time in order to enhance the city's ability to reduce property crimes and recover stolen goods.

(4) Regulated Property does not include any of the following property:

(a) Vehicles required to be registered with the Oregon Motor Vehicles Division

(b) Boats required to be certified by the Oregon Marine Board

(c) Books and comic books

(d) Glassware, objects d'art, or sports cards and sports memorabilia

(e) Furniture

(f) Refrigerators, freezers, stoves, ovens, dishwashers, washers, and dryers

Secondhand Dealer.

Any person engaged in, conducting, managing or carrying on:

(1) a business that is required to have a business license under GRC 9.05.020 that purchases or sells any Regulated Property ; or

(2) garage sales offering any Regulated Property that are publicized by either advertisements or signs, and exceed three days in duration or 10 days total in a calendar year.

Trade Show. An event open to the public, held in a venue other than a Dealer's business location, at which vendors may exhibit, buy, sell, or trade items that may include Regulated Property or Precious Metal and Gems.

Used. Anything that has been put into action or service.

(Ord. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011)

9.15.030 Permit Required.

(1) No person shall be a Precious Metal and Gem Dealer or Secondhand Dealer, as defined herein, without obtaining a Precious Metal and Gem Dealer or Secondhand Dealer's permit and paying the established permit fee.

(2) Each business location of the operator that engages in, conducts or carries on a precious metal and gem dealer's or secondhand dealer's business shall apply for and obtain a separate Precious Metal and Gem Dealer or Secondhand Dealer's permit and pay the established permit fee.

(3) Renewal of a Precious Metal and Gem Dealer or Secondhand Dealer's permit shall be made annually to the manager. Permits issued under GRC Article 9.15 shall run concurrently with the operator's business license. The renewal date for the permit shall be the same as for the operator's business license and shall expire unless renewed.

(Ord. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1561, Amended, 12/03/2002)

9.15.035 Permit Fee.

The Precious Metal and Gem Dealer or Secondhand Dealer's permit fee shall be established by council resolution.

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

9.15.040. Application for Permit.

(1) An application for a precious metal and gem dealer's or secondhand dealer's permit shall include payment of the established fee and set forth the following:

(a) written proof that the applicant and principal(s) are at least 18 years of age;

(b) the name, address, and telephone number of the business to be operated and a description of the exact nature of the business;

(c) business occupation or employment of the principal(s) for the three years immediately preceding the date of application;

(d) the business license and permit history of the principal(s) operating a business identical to or similar to those required by this section, or by the transient merchants section;

(e) whether such person, previously operating such business in this or any other city or state under any license or permit, has had such license or permit revoked or suspended, the reason(s) therefore, and the business activity or occupation of the person subsequent to such action of suspension or revocation;

(f) a completed personal history report for all owners, part-owners, partners, principals officers, directors, agents, investors or any other persons having a 5% or greater financial interest in the applicant's business, and employees, that includes each person's address, telephone number, birth date and a copy of an Oregon State Police Open Records criminal history report issued in the last 30 days for each owner, part-owner, partner, principal officer, director, agent investor, or any other person having a 5% or greater financial interest in the applicant's business, and all employees, documenting that each individual meets the criminal background criteria of GRC 9.15.050(1)(d);

(g) whether the business or proposed business is the undertaking of a sole proprietorship, partnership, corporation, or other entity; if a publicly-traded company and listed on a major stock exchange, only the general manager of the business location applying for a permit and the manager overseeing the Secondhand Dealer or Precious Metal and Gem Dealer operations are required to be listed on the application;

(h) any criminal arrests or convictions as defined in state law or its equivalent under the laws of the United States, or the states or territories of the United States, of each applicant and natural person enumerated in paragraphs (a) through (g) of this section;

(i) the web address of any and all web pages used to purchase or offer for sale Regulated Property or Precious Metal and Gems on behalf of the Dealer, and any and all internet auction account names used to purchase or offer for sale Regulated Property or Precious Metal and Gems on behalf of the Dealer.

(j) any other information the Chief of Police believes is necessary to accomplish the goals of this article.

(2) The Dealer shall notify the Chief of Police of any changes in the information required in subsection (1) within 10 business days of the change occurring.

(3) The application form required pursuant to this section, which contains personal and business information, shall remain confidential to the maximum extent permitted by law.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011)

9.15.050 Issuance and Renewal of Permit.

Upon filing an application and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant and the manager shall issue the permit if no cause for denial exists.

(1) The application for a Permit shall be denied if:

(a) The applicant, or any other person who will be engaged directly in the management or operation of the business, or any person who owns a five percent or more

interest in the business, has previously owned or operated a business regulated by this section or by GRC 9.05.020 and the permit for the business has been revoked for cause that would be grounds for revocation pursuant to this article, or if the business has been found to constitute a public nuisance and abatement has been ordered.

(b) The operation as proposed by the applicant would not comply with all applicable requirements of this code including, but not limited to, the building, health, planning, zoning and fire codes.

(c) Any statement in the application is found to be false or any required information is withheld.

(d) Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below:

(i) any felony;

(ii) any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, theft, or any attempt or conspiracy to commit any of these offenses.

(e) The Dealer does not maintain a fixed physical business location.

(2) Notwithstanding the mandatory direction of subsection (1)(a), the manager may grant a Permit, with the concurrence of the Chief of Police, despite the presence of one or more of the factors enumerated if the manager concludes that the applicant has established to the manager's satisfaction that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of this article.

(3) The Permit shall be valid only for a single location, and shall be displayed on the premises so as to be visible to patrons. When the business location is to be changed, the address of the new location shall be provided in writing to the manager for approval at least 10 days prior to the change.

(4) Permits issued for subsequent locations pursuant to GRC 9.15.030(2) shall be subject to the requirements of subsection (3) of this section except that they shall expire on the same date as the first permit with no pro ration of fees.

(5) Permits issued under this section shall be valid for one year and run concurrently with the Dealer's business license. The renewal date for the permit shall be the same as for the Dealer's business license and shall expire unless the Dealer renews the Permit by submitting the required renewal form and paying the required fee.

(6) A new application is not required to be submitted to the city in order to renew the Permit. However, if the Dealer has hired a new employee, or if the criminal background status of an existing employee has changed, the Dealer must complete and submit the information required in GRC 9.15.040(1) for any such employee. New employees or employees with changed criminal background status may not purchase Regulated Property or Precious Metal and Gems until all required information has been reviewed and approved by the Gresham Police Department. The criteria used such employees will be the same as those used in the review of an initial application in GRC 9.15.050.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004)

9.15.060 Repealed.

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

9.15.070 Repealed.

(Ord. No. 1590, Repealed, 09/16/2004)

9.15.080 Submitting Transaction Reports.

(1) Except as provided below, at the time of purchasing an article of Regulated Property or Precious Metal and Gems, the Dealer shall

complete a transaction report at the close of each business day in an electronic format designated by the Chief of Police. The transaction report shall include the following information or documents:

(a) seller's name, address, and any other information required by the Chief of Police to accomplish the purposes of this article;

(b) a copy of the Seller's valid acceptable identification, or a photograph or still video, taken by the Dealer, of each person selling or loaning on an item of Regulated Property or Precious Metal and Gems. A video or photograph must be referenced by time and date and the transaction report number shall correspond to the tag affixed to the Regulated Property or Precious Metal and Gems pursuant to GRC 9.15.100. The photograph, videotape or copied identification must be kept by the Dealer for one year;

(c) a completed, signed, Declaration of Ownership from the Seller in which the Seller certifies in writing that Seller has the legal right to pledge or sell the property that is subject to the transaction, is competent to do so, and that the property is not rented or leased; and

(d) a thumbprint of the seller on the Declaration of Ownership (thumbprints may be produced using digital format with prior approval of the Chief of Police).

(2) The information contained in the transaction report is subject to the Oregon Public Records law.

(3) Except as provided below, a Dealer shall deliver a transaction report to the Chief of Police at the close of each business day.

(4) After submitting a written request, Dealers that purchase less than 50 items of Regulated Property or Precious Metal and Gems during any one-year period may deliver a transaction report to the Chief of Police in paper format on a weekly basis.

(5) A copy of transaction reports for each purchase shall be retained by the dealer for a period of not less than one year.

(6) The council may establish by resolution an administrative fee for reviewing the transation report.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1329, Amended, 11/03/1994)

9.15.085 Property to be Tagged for Identification.

(1) A Dealer purchasing Regulated Property or Precious Metal and Gems shall affix a tag to the property with a number that corresponds to the number on a separate corresponding transaction report required to be maintained pursuant to GRC 9.15.080.

(2) Except as provided below, after the applicable holding period has expired, the transaction number must remain identifiable on the property until the sale of the property.

(3) After the applicable holding period has expired, the following items do not need to remain tagged:

(a) hand tools or items sold with other like items and have no identifiable numbers or markings;

(b) items that are remanufactured.

(Ord. No. 1743, Enacted, 09/18/2014)

9.15.090 Holding Period Before Sale of Regulated Property or Precious Metal and Gems.

(1) No Regulated Property or Precious Metal and Gems purchased by a Dealer shall be sold for a period of 30 calendar days after purchase. The Regulated Property or Precious Metal and Gems shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during the holding period. The property shall be located on the business premises during normal business hours during this holding period so it can be inspected as provided in GRC 9.15.110. Notwithstanding

this requirement, if it is shown that extreme financial hardship will result from holding an item for the 30 day period, the Chief of Police may authorize the sale or transfer of the item before the expiration of this period. Such authorization must be in writing.

(2) Pawnbroker loan transactions are exempt from the 30-day hold requirements in subsection (1) because of the redeemable nature of the loans and the holding requirements in ORS Chapter 726. If the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of this article remain in effect.

(3) In addition to the above sections, the Chief of Police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and, therefore, may modify the holding period and/or reporting requirements for those types of transactions.

(4) The chief of police, upon reasonable belief that the specific property is the subject of theft, shall notify in writing any precious metal and gem dealer or secondhand dealer not to dispose of any specifically described property, and the property shall be seized as evidence of the crime. Upon completion of the criminal case, the property shall be returned to the victim of the theft.
(Ord. No. 1743, Amended, 09/18/2014)

9.15.095 Exceptions to Transaction Report Requirements and Holding Periods; No Exception to Delivery of Report.

(1) A Dealer is required to complete and retain a transaction report for each purchase of Regulated Property or Precious Metal and Gems pursuant to GRC 9.15.080, but is not required to obtain the seller's identification, photograph the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of Ownership if the property is received from a Dealer who has a valid permit in accordance with this article. The purchasing Dealer must keep a receipt or statement for the item purchased selling Dealer that includes the seller's name and a description of the item. The receipt or statement must be retained at the purchasing Dealer's business location for one year or until the item is sold, whichever is longer. The purchasing Dealer must record the name and address of the seller in the name and address fields of the transaction report, and the date of the purchase. The item does not have to comply with the hold period requirements if the seller has already done so.

(2) A Dealer is required to complete a transaction report and hold property prior to sale pursuant to GRC 9.15.090, but is not required to obtain the seller's identification, photograph of the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of Ownership if the Dealer complies with this article otherwise and:

(a) The item is purchased through consignment by a Dealer from a person who lives more than 150 miles from the City of Gresham and the consigned property is mailed, shipped, or sent by courier to the Dealer.

(b) The item is purchased during a trade show. At the time of the transaction, the Dealer must write on the transaction report a complete, legible and accurate description of the Regulated Property or Precious Metal and Gems of sufficient detail to distinguish like objects one from the other. The Dealer must also record the name and date of the event and the address of the venue in the name, date, and address fields of the transaction report. Items purchased during a trade show may be sold or traded during the trade show without being held. Items still in a Dealer's possession at the end of the show will be subject to the hold period requirement in effect for that Dealer's purchases of Regulated Property or Precious Metal and Gems.

(c) The item is purchased from a business whose purchases of Regulated Property or Precious Metal and Gems consist exclusively

of donated items and/or purchases from a 501(c)(3) organization. The Dealer must record the name and location address of the business in the name and address fields of the transaction report and the date of the purchase.

(d) The item is purchased through an internet transaction. The Dealer must record on the transaction report the seller's email address or seller's identification, the name of the internet website that listed the item, and the date of the purchase.

(e) The item is purchased by the Dealer from a yard sale, garage sale, estate sale or swap meet. The Dealer must record on the transaction report the physical address of the sale location and the date of the purchase.

(3) Transactions subject to subsections (1) and (2) are required to submit the transaction reports to the Manager in accordance with GRC 9.15.080(2) and (3).
(Ord. No. 1743, Enacted, 09/18/2014)

9.15.100 Repealed.

(Ord. No. 1743, Repealed, 09/18/2014)

9.15.110 Inspection of Property and Records.

Dealers shall permit the Chief of Police to enter the business at any time to inspect property purchased in the course of business, and to inspect the records required to be maintained pursuant to this article.
(Ord. No. 1743, Amended, 09/18/2014)

9.15.115 Property Not to be Sold or Redeemed in Violation of Police Hold.

(1) Upon probable cause that an item is the subject of a crime, the Chief of Police or peace officer may issue a written or oral order requiring the Dealer to hold said property in a separate Police Hold area, without alteration or change, and not allow it to be sold or redeemed for a specific period, not to exceed the statute of limitations for the crime being investigated. If such order is given orally, the Chief of Police or peace officer shall confirm it in writing within 30 days.

(2) Upon probable cause that an item is the subject of a crime, the Chief of Police may take physical custody of an item, for a period of time as determined by the Chief of Police, not to exceed the statute of limitations for the crime being investigated. Seizure of property will be carried out in accordance with Oregon Revised Statutes.

(3) If a peace officer, other than a Gresham Police Officer, orders a hold or seizes any property from a Dealer, the Dealer must notify the Chief of Police not later than five calendar days from the day the order or seizure occurs. The Dealer must provide the name of the agency, name of the peace officer, number of the receipt left for the seizure and description of the seized property. Notification to the Chief of Police may be given by phone, fax, email or in person.

(4) A Police Hold area must meet the following criteria:

(a) located out of public view and access;

(b) marked "Police Hold;" and

(c) contain only the items that have been placed on Police Hold.

(5) If it is not possible or practical to move or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on "Police Hold" and kept from public view and access.
(Ord. No. 1743, Enacted, 09/18/2014)

9.15.117 Release of Property.

(1) The Chief of Police may not release seized property or authorize the release of

property placed on a Police Hold to anyone other than to the person from whom the property was seized except as provided below.

(a) the Chief of Police may release seized property or property placed on a Police Hold to another law enforcement agency if the other agency provides documentation to the satisfaction of the Chief of Police of the stolen status of the property, or

(b) a person who reported the property as stolen; and

(i) a stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and

(ii) a notice has been delivered to the Dealer holding the property or from whom the property was seized.

(2) The notice required by this section will state that the property will be released to the person who has filed the stolen property report unless the Dealer files a motion for return of seized property within 10 days of the date of the notice and in the manner set forth in the notice.

(3) The notice required by this section will be sent by certified mail, return receipt requested, or delivered in person to the Dealer at the email or physical address shown on the Dealer's permit application or most recent permit renewal application, or to the Dealer at the address shown in the transaction report required by GRC 9.15.080. Electronic notification shall satisfy this delivery requirement if such electronic notification is acknowledged by an authorized representative of the Dealer.

(4) The notice required by this subsection will provide the information necessary for a claimant to submit a motion for return of seized property.

(5) The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.

(Ord. No. 1743, Enacted, 09/18/2014)

9.15.120 Repealed.

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

9.15.130 Precious Metal, Gem, and Second Hand Dealer Prohibited Acts.

(1) No Dealer shall receive any property from any person:

(a) known to the principal, employee or Dealer to be prohibited from selling by a court order;

(b) known to be under the age of 18 years unless the person's parent or guardian completes the applicable information on the Declaration of Ownership;

(c) from whom the principal, employee, or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past 10 years whether the person is acting in his or her own behalf or as the agent of another who meets the above criteria;

(2) No Dealer shall receive any property known to be prohibited by this article including:

(a) medications;

(b) gift cards, in store credit cards, or activated phone cards;

(c) property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible.

(3) No Dealer shall receive property that a reasonable person under similar circumstances would believe is more likely than not stolen. A later determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a Dealer has violated this subsection.

(4) Notwithstanding subsection (3), a Dealer may receive property for which the Dealer has an

objectively reasonable basis to believe is more likely than not stolen if the Dealer is doing so with the intention of recovering the item for a specifically identified victim. The Dealer must notify the Chief of Police of the purchase and the name of the specific person believed to be the victim by the end of the business day that the purchase is made. Notification may be made by phone, fax, or email. An item purchased under this section must be immediately placed under a 30-day Police hold.

(5) If a Dealer receives information that leads to an objectively reasonable basis to believe that any property at his or her business location has been previously lost or stolen, he or she must report that belief to the Gresham Police Department by the end of the business day that the information was received. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.

(Ord. No. 1743, Amended, 09/18/2014; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.15.140 Enforcement.

(1) A violation shall have occurred when any requirement or provision of this article has not been complied with. Violation of any provision of this article may be subject to enforcement action by the manager.

(2) Any condition caused or permitted to exist in violation of any provision of this article is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(3) In addition to any other remedies provide herein, violation of any provision of this article may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(4) Violation of any provision of this article may result in a denial, suspension, or revocation of the Precious Metal and Gem Dealer or Second Hand Dealers permit in accordance with the provisions set forth in GRC Article 9.99.

(Ord. No. 1743, Enacted, 09/18/2014)

Article 9.20

TRANSIENT MERCHANTS

Sections:

9.20.010 Purpose.
9.20.020 Definitions.
9.20.030 Business License and Bond Required.
9.20.040 Property Sale Limitation.
9.20.050 Repealed.
9.20.060 Advertising to Disclose License and Bond.
9.20.070 Repealed.
9.20.080 Property to be Tagged for Identification.
9.20.090 Record Forms.
9.20.100 Inspection of Property and Records.
9.20.110 Repealed.

9.20.010 Purpose.

The purpose of this article is to provide strict regulation of certain types of businesses that the council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of goods and materials that are frequently the subject of theft that are processed in such businesses. Therefore, this article is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The council finds that the regulations provided are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

9.20.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 9.20, unless the context requires otherwise, the following mean:

Transient Merchant. Every person, partnership, association or corporation engaged or participating in the city in the temporary, transitory business, for which a business license is required, of purchasing any precious metal or gem, as defined in GRC 9.15.020, from any person when such transient merchant is not a permanent merchant in the city as demonstrated by the maintaining of business premises within the city and a valid business license as required by GRC 9.05.020.
(Ord. No. 1700, Amended, 03/03/2011)

9.20.030 Business License and Bond Required.

(1) No person, partnership, association or corporation shall engage in business as a transient merchant without first procuring a business license as required by GRC 9.05.020 and complying with the provisions of this article.

(2) Every transient merchant shall have conspicuously posted near the entrance to his or her place of business or in an equally conspicuous place the business license required by GRC 9.05.020 or some temporary proof of compliance issued by the Business License Division.

(3) No person shall engage in business as a transient merchant until the person has filed with the manager a $10,000 financial assurance acceptable to the manager for the benefit of any person damaged by false, fraudulent or misleading representations of the transient merchant or the purchase of stolen precious metal or gems by the merchant.

(4) Violation of transient merchant licenses and bonds may be subject to a fine or penalty in the maximum amount of $1,000.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1574, Amended, 8/14/2003; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.20.040 Property Sale Limitations.

(1) No transient merchant shall sell precious metals or gems, as defined in GRC 9.15.020 for a period of 15 full days after purchasing such

precious metals or gems. All precious metals or gems so purchased shall be kept during the 15 day period in a safe deposit box, or its equivalent, at a bank, savings and loan association, or other financial institution within the corporate limits of the city approved by the chief of police. The transient merchant shall, before the end of the business day in which the items were so placed, provide written notice to the chief of police of the locations where the items are being kept.

(2) The chief of police, upon reasonable belief that the specific property is the subject of theft, shall notify in writing any precious metal and gem dealer or secondhand dealer not to dispose of any specifically described property, and the property shall be seized as evidence of the crime. Upon completion of the criminal case, the property shall be returned to the victim of the theft.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.20.050 Repealed.

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

9.20.060 Advertising to Disclose License and Bond.

Every advertisement, notice, flier, commercial, pamphlet or other advertising device used within the city to attract attention to the business, location, presence, or arrival in the city of a transient merchant shall contain the following statement, which shall be conspicuously presented to the attention of any person whose attention is attracted by the advertising device:

> "(name of merchant) _____ has obtained the business license and posted financial assurance as required by the City of Gresham, Oregon."

(Ord. No. 1574, Amended, 8/14/2003)

9.20.070 Repealed.

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

9.20.080 Property to be Tagged for Identification.

Any transient merchant who purchases any precious metal or gem shall affix to the piece of property a tag upon which shall be written a number in legible characters that correspond to the number on the record forms.

9.20.090 Record Forms.

(1) At the time of the purchase of a precious metal or gem defined in GRC 9.15.020, all transient merchants shall describe the property upon a form provided by the police department.

(2) The dealer shall fill in all of the data required by the form and require the person selling the article to sign his or her name on the form.

(3) The form shall be filled out in clearly legible printing and in English.

(4) Property shall be purchased by the dealer after the seller has presented acceptable identification at the time of the transaction as the manager of the Business License Division in consultation with the chief of police promulgates as sufficient.

(5) The information shall be confidential and privileged from disclosure to the maximum extent possible under applicable law.

(6) Every transient merchant regulated by this article shall deliver to the chief of police daily all forms, or legible copies, describing all the property purchased during that day.

9.20.100 Inspection of Property and Records.

All persons licensed to do business as transient merchants, and any person employed by such merchants, shall permit the chief of police entry to the place of business maintained within the city to inspect articles purchased and being held pursuant to GRC 9.20.040 and the records required by this article. The inspection shall be during normal business hours.

9.20.110 Repealed.

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

Article 9.25

REPEALED

Sections:

9.25.010 Repealed.
9.25.020 Repealed.
9.25.030 Repealed.
9.25.040 Repealed.
9.25.010 Repealed.

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

9.25.020 Repealed.

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

9.25.030 Repealed.

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

9.25.040 Repealed.

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

Article 9.30

AUTO DEALERS

Sections:

9.30.010 **Endorsement Required.**
9.30.020 **Applcation.**

9.30.010 Endorsement Required.

No person shall conduct a business of selling motor vehicles in the capacity of a dealer without having an endorsement issued by the manager. An auto dealers endorsement is in addition to a business license required by GRC 9.05.020.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000)

9.30.020 Application.

Application for an auto dealers endorsement shall be made to the manager on forms prescribed by the State of Oregon.

(1) A nonrefundable fee established by council resolution shall be due at the time the city endorses the application issued by the Department of Motor Vehicles.

(2) Endorsements under GRC 9.30.010 are not transferable.

(3) Endorsements are valid until expiration of the vehicle dealer certificate issues by the Department of Motor Vehicles.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000)

Article 9.35

SOCIAL GAMES

Sections:

9.35.010 Bingo and Social Games.
9.35.020 License Required.
9.35.030 Application.
9.35.040 License Fee.

9.35.010 Bingo and Social Games.

The city authorizes the playing or conducting of bingo and social games in accordance with state law by non-profit charitable, fraternal and religious organizations that have received recognition by the Internal Revenue Service (IRS) of exempt status under sections 501(c)(3) or 501(c)(8) of the IRS Code.
(Ord. No. 1700, Amended, 03/03/2011)

9.35.020 License Required.

(1) No person shall conduct the playing of bingo or social games without having a social games license issued by the manager.

(2) The manager shall issue a license when the application has been approved and payment of the required fee has been received.

(3) Renewal of a social games license shall be made annually to the manager. Licenses issued under GRC Article 9.35 shall run concurrently with the operator's business license. The renewal date for the license shall be the same as for the operator's business license and shall expire unless renewed.

(4) Licenses issued under GRC 9.35.020 are not transferable.
(Ord. No. 1700, Amended, 03/03/2011)

9.35.030 Application.

The application shall be made on a form provided by the manager and shall include payment of the required fee and proof of written determination by the IRS of exempt status.
(Ord. No. 1700, Amended, 03/03/2011)

9.35.040 License Fees.

A nonrefundable annual fee established by council resolution shall accompany the application.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1507, Amended, 09/19/2000)

Article 9.40

AMUSEMENT DEVICES

Sections:

9.40.010 Definitions.
9.40.015 License Required.
9.40.020 License Fees.

9.40.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC 9.40.020, the following mean:

Amusement Device. A pool table, pinball machine or mechanically controlled and operated game of skill, electronic game machines, and musical instruments or machines, commonly known as "juke boxes," operated for a commercial purpose. An electronic game machine shall not include machines which are part of the operation of the state lottery.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19.2009; Ord. No. 1496, Amended, 04/18/2000)

9.40.015 License Required

(1) No person subject to GRC Article 9.05 shall operate or permit the operation or playing of any amusement device or video game without first obtaining an amusement device license.

(2) The manager shall issue a license when the application has been approved and payment of the required fee has been received by the city.

(3) Renewal of an amusement device license shall be made annually to the manager. Licenses issued under GRC 9.40.015 shall run concurrently with the operator's business license. The renewal date for the license shall be the same as for the operator's business license and shall expire unless renewed.

(4) Licenses issued under GRC 9.40.015 are not transferable. However, if an operator sells or transfers a business for which a license has been obtained, the new operator shall not be required to obtain a new license for the remainder of the license term, unless additional amusement devices are installed.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1496, Enacted, 04/18/2000)

9.40.020 License Fees.

(1) An operator of an amusement device shall pay an annual nonrefundable license fee based on the number of amusement devices operated. The amount of the fee per device shall be established by council resolution.

(2) The license is not based on ownership of any amusement device and is not a tax on property. The license is required for the privilege of operating or permitting the operation or playing of any amusement device in the city.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1496, Amended, 04/18/2000)

Article 9.45

STREET AND SIDEWALK VENDORS

Sections:

9.45.010 Definitions.
9.45.020 Permit Required.
9.45.030 Permit Fee.
9.45.040 Application.
9.45.050 Fire Inspection.
9.45.060 Location Review.
9.45.070 Issuance of Conditions of Permit.
9.45.080 Restrictions.
9.45.090 Repealed.
9.45.100 Enforcement.

9.45.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 9.45, the following mean:

Conduct business. Selling or offering for sale food of any type or fresh cut flowers, souvenirs, or other merchandise for immediate delivery.

Sidewalk. That portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.

Commercial area. Land designated for commercial use by the Gresham Community Development Plan.

Community event. Activity specifically approved by the council granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding ten days to a community based organization.

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

9.45.020 Permit Required.

No person shall conduct business on any city street or sidewalk without first obtaining a Street and Sidewalk Vendor permit from the manager. This requirement does not apply to city parks, open spaces, trails, and city facilities governed by GRC Article 6.13.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005)

9.45.030 Permit Fee.

(1) The permit fee to conduct business on a street or sidewalk shall be established by council resolution.

(2) Permits issued under GRC 9.45.020 are not transferable. However, if a person sells or transfers a business for which permit fees have been paid, the purchaser shall not be required to pay an additional permit fee for the remainder of the license year.

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

9.45.040 Application.

Application for a Street or Sidewalk Vendor permit shall be made by a form approved by the manager and shall be accompanied with payment of the required fee. The application shall include, but not be limited to, the following information:

(1) Name and address of applicant;

(2) The expiration date of applicant's city business license;

(3) Type of merchandise to be sold;

(4) A valid copy of all necessary permits required by state or local health authorities;

(5) A signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for damage to property or injury to persons occasioned by any activity carried on under the terms of the permit. Permittee shall secure, maintain and furnish certificates of insurance coverage of a type and amount as required by the city attorney.

(6) Means to be used in conducting business including, but not limited to, a description of any mobile container or device, to be used for transport or to display merchandise.

(7) A separate application shall be required for each mobile container or device to be used for transportation or display.

(8) The location(s) from which business will be conducted and the written consent of the owners of the property adjacent thereto. No application shall apply for a total of more than three locations.
(Ord. No. 1700, Amended, 03/03/2011)

9.45.050 Fire Inspection.

Prior to the issuance of any permit, the fire marshal shall inspect and approve any mobile device or pushcart to be used to determine if any cooking or heating apparatus is in conformance with the provisions of the city fire code.

9.45.060 Location Review.

Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether such location is within a commercial area and that the use of such location for street or sidewalk vending is compatible with the public interest in use of street and sidewalk areas as public right-of-way. In making the determination, the manager may consider the width of sidewalk, the proximity and location of existing street furniture, including but not limited to signposts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands as well as the presence of bus stops, truck loading zones, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1590, Amended, 09/16/2004)

9.45.070 Issuance and Conditions of Permit.

Permits issued shall be in a form prescribed by the manager and shall contain the following conditions:

(1) Each permit shall be issued for a period to coincide with the term of applicant's city business license and shall expire unless renewed.

(2) The permit issued shall be personal only and not transferable in any manner.

(3) The permit is valid only when used at the location designated on the permit.

(4) The permit is subject to the conditions and restrictions of this article.

(5) The permit as it applies to a given location may be suspended by the council for a period up to 10 days when council action providing for a "community event" shall so provide.
(Ord. No. 1700, Amended, 03/03/2011)

9.45.080 Restrictions.

(1) A person issued a Streets or Sidewalks Vendor permit may transport and display food or flowers or other merchandise upon any mobile device or pushcart, provided that the device occupies no more than 16 square feet of the sidewalk area, and does not exceed three feet in width, excluding wheels, six feet in length, including any handle, and no more than five feet in height, excluding canopies, umbrellas, or transparent enclosures. In areas where the sidewalk measures 15 feet or more between the property line and curb, a width of four feet may be allowed. No person shall use any device, chair, stand, box container, or table that does not comply with the requirements of this section or place such a device on the sidewalk.

(2) No person shall conduct business on a sidewalk in any of the following places:

(a) Within 10 feet of the intersection of the sidewalk with any other sidewalk;

(b) Within 8 feet of the adjacent property line;

(c) Within 10 feet of the extension of any building entrance or doorway, to the curbline.

(3) All persons conducting business on a street or sidewalk shall display in a prominent and visible manner the permit issued by the manager under the provisions of this article and conspicuously post the price of all items sold.

(4) All persons conducting business on a street or sidewalk shall pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this article shall carry a suitable container for the placement of litter by customers or other persons.

(5) All persons conducting business on a street or sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the street or sidewalk or to remove his vending cart entirely from the street or sidewalk if necessary to avoid such congestion or obstruction.

(6) No person shall conduct business as defined in this article at a location other than that designated on the permit.

(7) No permittee may make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to the wares.

(8) No permitted cart or device shall be left unattended on a street or sidewalk nor remain on the street or sidewalk between midnight and 6:00 a.m.

(9) No permittee may conduct business in violation of the council action providing for a community event.
(Ord. No. 1700, Amended, 03/03/2011)

9.45.090 Repealed.

(Ord. No. 1590, Repealed, 09/16/2004)

9.45.100 Enforcement.

In addition to the remedies set forth in GRC Article 9.99, the placement of any cart or device on any street or sidewalk in violation of the provisions of this article is declared to be a public nuisance. A public safety officer may cause the removal of any cart or device found on a street or sidewalk in violation of this article and may store the cart or device until the owner redeems it by paying the removal and storage charges established by the manager.
(Ord. No. 1700, Amended, 03/03/2011)

Article 9.50

REPEALED

Sections:

9.50.010 Repealed.
9.50.020 Repealed.
9.50.030 Repealed.
9.50.040 Repealed.
9.50.050 Repealed.
9.50.060 Repealed.
9.50.070 Repealed.

9.50.010 Repealed.

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

9.50.020 Repealed.

(Ord. 1602, Repealed, 04/01/2005; Ord. No. 1507, Amended, 09/19/2000)

9.50.030 Repealed.

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

9.50.040 Repealed.

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

9.50.050 Repealed.

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

9.50.060 Repealed.

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

9.50.070 Repealed.

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

Article 9.55

RESIDENTIAL RENTALS

Sections:

9.55.010 Definitions.
9.55.015 Purpose.
9.55.035 Scope.
9.55.040 Repealed.
9.55.050 Repealed.
9.55.060 Residential Rental Property License Required.
9.55.070 License and Other Fees for Residential Rentals.
9.55.080 Repealed.
9.55.090 Inspection Required.
9.55.100 Inspection Standards.
9.55.110 New License Inspection Process.
9.55.115 Renewal License Inspection Process.
9.55.117 Private Inspection Program.
9.55.120 Necessity of Tenant Consent.
9.55.130 Repealed.
9.55.140 Term of License.
9.55.150 Repealed.
9.55.160 Enforcement.
9.55.170 Repealed.

9.55.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in GRC Article 9.55, the following terms mean:

Accessory Dwelling. A dwelling unit either within or added to a dwelling or over a garage that is accessory to a single family dwelling. The accessory unit functions as a complete, independent living facility with provisions within the unit for a separate kitchen, bathroom, and sleeping area.

Ancillary Dwelling. A second dwelling unit located on the same lot as a single-family dwelling.

Basement. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Cellar. A portion of a building located partly or wholly underground, and having one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Common Areas. Those interior and exterior areas of the residential rental property as defined herein or which the occupants have access, including, but not limited to, entrances, exits, hallways, stairways, basements, cellars, laundry rooms, attics, porches and yards.

Designated Agent. A person or entity designated by the property owner to represent the property owner's interests in the subject property.

Dormitory. A building, or a space in a building, in which group sleeping accommodations are provided for more than 16 persons who are not members of the same family in one room or a series of closely associated rooms under joint occupancy and single management, with or without meals, but without individual cooking facilities.

Dwelling. Any building located in the city, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as defined below shall not be regarded as a dwelling. For purposes of GRC Article 9.55, the term shall be synonymous with "residential rental property."

Dwelling Unit. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Occupant/Occupier. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Owner-Occupied. Any dwelling where the owner resides in one of the dwelling units.

Person(s). As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Premises. The entire interior and exterior portions of a dwelling, including the common areas thereof; the facilities and appurtenances

therein, and the grounds, areas and facilities held out for the use of occupants generally, or whose use is promised to the tenant/occupant.

Property. Includes all lands, including all structures, improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith.

Property Maintenance Code of Gresham. GRC Article 10.30. The Property Maintenance Code of Gresham may also be cited as the PMC.

Residential Rental Property. A property with one or more residential rental units, regardless of whether anyone is currently residing in each unit.

Residential Rental Property License. A license issued to a property owner that permits the operation of a Residential Rental Property within the city, subject to the terms and conditions of this article.

Residential Rental Unit. A dwelling containing one or more separate living quarters (kitchen, bathroom and sleeping area, one or more of which is rented, leased or let in exchange for monetary or other compensation.

Rooming House. A non-owner occupied building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two-family dwelling.

Rooming Unit. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Sleeping Unit. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Temporary Housing. A tent, trailer, or similar structure which is used as human shelter for not more than 30 consecutive days, or more than 90 days, in any calendar year.

Tenant. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649 Amended, 12/18/2007; Ord. No. 1507, Amended, 09/19/2000)

9.55.015 Purposes.

The council finds and declares that in order to protect the public safety, health and welfare of the people of the city from hazards and injury, and in order to prevent blight, the licensing and inspection of certain residential rental property in accordance with the provisions of GRC Article 9.55 are necessary.
(Ord. No. 1649, Enacted, 12/18/2007)

9.55.035 Scope.

GRC Article 9.55 is intended to:

(1) protect the public health, safety and general welfare by regulating the interior and exterior of new and existing residential rental property by establishing minimum requirements and standards for interior and exterior conditions of structures and premises for protection from the elements, life safety, other hazards and for safe and sanitary maintenance as required by the PMC, GRC Article 10.30;

(2) establish the responsibility of residential rental property owners; and

(3) provide for administration, enforcement and penalties.
(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.040 Repealed.

(Ord. No. 1544, Repealed, 04/02/2002)

9.55.050 Repealed.

(Ord. No. 1649, Repealed, 12/18/2007; Ord. No. 1507, Amended, 09/19/2000)

9.55.060 Residential Rental Property License Required.

(1) Except where otherwise provided, no person shall maintain or operate a residential rental property within the city without first obtaining a residential rental property license. Application for a residential rental property license shall be filed with the manager on a form provided by the city.

(2) GRC Article 9.55 shall apply to the following residential rental property classifications:

(a) owner-occupied dwellings containing one or more residential rental units;

(b) non-owner occupied dwellings containing one or more residential rental units; and

(c) Owner-occupied dwellings containing one or more sleeping units or rooming units rented, leased or let in exchange for monetary or other compensation.

(3) Residential Rental Property shall be deemed to be operated / rented and subject to the provisions of this chapter if any unit within the property has been occupied by a tenant within the last 12 months.

(4) GRC Article 9.55 provisions pertaining to licensing and inspection shall not apply to:

(a) motels, hotels, rooming houses, assisted living facilities, adult foster care homes administered by the state of Oregon, or temporary housing as defined in GRC 9.55.010; or

(b) approved accessory or ancillary dwellings, sleeping units, or rooming units, occupied by a person or persons from whom the owner does not collect any monetary or other compensation.

(5) Upon execution of a written agreement establishing a reasonable annual inspection program and inspection standards that meet the minimum requirements of GRC Article 10.30, between the city and the Housing Authority of Portland or other governmental agency engaged in the business of providing residential rental housing, the manager may forego application of the inspection provisions of GRC Article 9.55 to residential rental properties owned, operated or subject to the inspection requirements of the governmental agency or entity with whom such a written agreement exists.

(6) In order to obtain or renew a residential rental property license, the owner or designated agent must submit an application containing the following information concerning each residential rental property that they own in the city:

(a) the owner(s) name, address, telephone number(s), fax number and email address, if applicable;

(b) the name, address, telephone number(s), fax number and email address of the owner's designated agent, if applicable;

(c) address of the residential rental property and the number of rental units in it;

(d) whether the owner or designated agent resides in the residential rental property; and

(e) the number and specific unit identification of Section 8 rental units administered by the Housing Authority of Portland in the residential rental property, if any.

(7) The owner or designated agent must certify the truthfulness and accuracy of the information that is provided in the residential rental property license application.

(8) The owner or designated agent must submit the completed residential rental property license application to the manager within the deadline specified in the licensing requirement notice provided by the city.

(9) The owner or designated agent must inform the manager of any change concerning the information contained in the residential rental property license application within 30 calendar days of such change.

(10) The application shall be accompanied by the fees required for the residential rental property license.

(11) The license shall be renewed annually following payment of the requisite license fees and compliance with any inspection requirements.

(12) A license issued under GRC Article 9.55 is transferable to a new owner after receipt of the handling fee established by council resolution. The handling fee shall be accompanied by a new rental property license application. The new owner will retain the old license number, transferred to the new owner's name, if applicable.

(13) Licenses issued under GRC 9.55.060 shall be valid for one license year unless revoked or suspended for violation of GRC Article 9.55 or GRC Article 10.30.

(14) The provisions of GRC Article 9.55 shall not be deemed to restrict the right of the city to inspect any property pursuant to any applicable federal, state or local law or regulation, including complaints filed under the PMC, GRC Article 10.30.

(15) Renting/operating residential rental property without a license to do so constitutes a violation of GRC Article 9.55, and is subject to the penalties and remedies set forth in GRC 9.55.160.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended & Renumbered, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1507, Amended, 09/19/2000)

9.55.070 License and Other Fees for Residential Rentals.

(1) Any person that owns or operates residential rental property shall pay an annual nonrefundable fee set by council resolution. The fee shall be based on the total number of residential rental units. For the purposes of this section, a lodging house shall constitute one residential rental unit.

(2) A person operating a mobile home park shall pay an annual nonrefundable license fee set by council resolution. Any person who owns land upon which a mobile home is located when that mobile home is owned by another person shall be construed as operating a mobile home park.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended and Renumbered, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002)

9.55.080 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended and Renumbered, 12/18/2007; Ord. No. 1561, Enacted, 12/03/2002)

9.55.090 Inspection Required.

(1) A residential rental property not previously licensed must submit a complete application and pay the applicable fees. The residential rental property shall then be subject to inspection pursuant to GRC 9.55.110.

(2) Any inspection of an owner-occupied dwelling containing one or more residential rental units shall not include inspection of the owner's unit.

(3) A residential rental property that is required to renew its license shall be subject to inspections pursuant to GRC 9.55.115.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.100 Inspection Standards.

Residential rental properties shall meet the standards set forth in the PMC, GRC Article 10.30.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.110 New License Inspection Process.

(1) For residential rental property not previously licensed in the city, an inspection may be scheduled to occur within 60 calendar days of submission of a completed residential rental property license application and payment of the licensing fee by the owner or designated agent of the property.

(2) Inspection shall comply with the procedures set forth in GRC 9.55.115(2) through (12).

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.115 Renewal License Inspection Process.

(1) For a residential rental property previously licensed in the city, a sampling of the residential rental properties subject to licensure, and the residential rental units within such residential rental property, will be identified for inspection on an annual basis using a non-discriminatory methodology adopted by the manager.

(2) At least 21 calendar days notice will be given to the owner or designated agent of the licensed residential rental property identified or designated for inspection prior to inspection of the property or premises. An inspection may be conducted with less than 21 day notice with the approval of the property owner or designated agent.

(3) The city will provide the owner or designated agent with an approved notice and consent form for each designated residential rental unit within the residential rental property. The owner or designated agent shall take all reasonable steps, as defined in a policy adopted by the manager, to secure the written consent of the residential rental unit tenant prior to the inspection. In the event the owner or designated agent fails to take all reasonable steps to secure the written consent of the tenant, the owner may be charged a per unit fee to pay for the costs to the city to obtain tenant's consent to inspect the property.

(4) If a designated unit is vacant or not being rented on the date and time of inspection, the owner or designated agent may sign the consent form in lieu of a tenant.

(5) If the owner or designated agent is unable to secure a tenant's consent for inspection, or the tenant otherwise objects to the inspection, an administrative inspection warrant may be obtained by the manager as provided in GRC 7.50.520 in order to inspect the identified residential rental unit(s).

(6) A residential rental unit tenant shall have the option of being present at the initial inspection or any reinspection(s) of said residential rental unit.

(7) An inspection checklist comprised of housing related criteria will be used to determine whether the minimum standards of the PMC have been met.

(8) The owner or designated agent must be on the premises and accessible at all times during scheduled property inspections. If such person is not on the premises and accessible by telephone during a scheduled inspection, the inspection may be rescheduled. In the event any portion of the inspection is rescheduled because the inspection could not be completed, the owner may be charged a rescheduling fee per each rental unit which requires a rescheduled inspection.

(9) When a residential rental property has been identified and/or designated for inspection, a representative, non-discriminatory sampling of rental units within the residential rental property shall be identified or designated for inspection pursuant to the methodology established and adopted by the manager. The methodology established by the manager shall be based on a statistically random process which may include additional criteria designed to ensure a level of confidence in the condition of the remaining units within the residential rental property

(10) Following each inspection, the inspector will complete an inspection checklist for each residential rental unit inspected and provide a copy of the completed form to the owner or designated agent and the residential rental unit tenant.

(11) The owner or designated agent will be given written Notice of Violation should the premises or any residential rental unit(s) inspected fail to meet the standards set forth in the PMC, GRC Article 10.30.

(a) In the event no imminent threat to public health and/or safety is found to exist, the owner or designated agent shall be given a Notice of Violation pursuant to GRC 7.50.020.

(b) In the event an imminent threat to public health and/or safety is found to exist, the condition or defect may be summarily abated as provided in GRC 7.50.210.

(i) In addition to summary abatement, the residential rental license may be suspended or revoked, and the tenant(s) relocated with the assistance of the city and/or emergency housing service providers.

(ii) Residential rental units found to be directly affected by life threatening health or safety condition(s) or defect(s) shall not be occupied unless and until the designated condition and/or defect has been satisfactorily corrected as determined by subsequent inspection.

(iii) All costs of abatement, including all tenant relocation costs incurred by the city, shall be the responsibility of the residential rental property owner and assessed and enforced as provided for in GRC 7.50.240 and GRC 7.50.260.

(12) A residential rental property license may be suspended, revoked, or a renewal license not issued, unless and until all conditions and/or defects concerning the residential rental property have been corrected.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.117 Private Inspection Program.

(1) Notwithstanding the above inspection process requirements, the manager is authorized to adopt a program to permit certain residential rental property owners to retain private inspectors to conduct the annual inspection of residential rental property and units identified or designated for licensure inspection. Any such program developed shall:

(a) Require the execution of a written agreement between the property owner and the city to ensure the purpose of GRC Article 9.55 and the standards of the PMC are met;

(b) Be available only to owners of residential rental property in which all rental units identified or designated for inspection in the immediately preceding annual inspection period satisfactorily met all requirements of the PMC at the time of the first inspection;

(c) Apply only to the initial inspection of the rental units identified or designated for annual inspection by the city. In the event violations are found, all reinspection and any enforcement action that may be necessary shall remain the responsibility of the city.

(Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.120 Necessity of Tenant Consent.

Before the manager may inspect a residential rental unit for which the tenant has not provided consent, an administrative inspection warrant must be secured as provided for in GRC 7.50.520. An administrative inspection warrant may also be sought upon an owner's refusal to allow access to residential rental property or premises for inspection.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.130 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1649, Enacted, 12/18/2007)

9.55.140 Term of License.

Unless voided, revoked or otherwise suspended for conditions or defects under the PMC, GRC Article 10.30, the residential rental property license term shall be for a one year period commencing from the license issuance date. Upon expiration of the license term, or following revocation or suspension of the residential rental property license, the license

must be renewed or reinstated, as appropriate, in order to be effective.
(Ord. No. 1649, Enacted, 12/18/2007)

9.55.150 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1649, Enacted, 12/18/2007)

9.55.160 Enforcement.

(1) If a residential rental property license is denied, suspended or revoked, it shall be unlawful for the owner to permit new occupancy of any vacant unit(s) within the property until a valid residential rental property license has been issued. If a unit with violations, as determined by inspection, is or becomes vacant it shall be unlawful for the owner to permit re-occupancy of the unit(s) until all violations have been repaired, the unit reinspected and found to be in compliance with the PMC, GRC Article 10.30, or other applicable laws.

(2) If, upon inspection, a condition or defect is found to exist that constitutes an imminent threat to public health and/or safety as contemplated by GRC 9.55.115(11), city water services may be discontinued; provided, however, that prior to the disconnection or discontinuance of any city utility service the manager must:

(a) give notice to the owner or designated agent and the tenant of the affected unit(s) of the proposed utility service discontinuance, the reasons for such action; and

(b) make a specific finding after review of the inspection checklist and report that disconnection or discontinuance of city water services is necessary to deter occupancy or habitation in the affected unit(s) in which the public health and/or safety is harmed or endangered by the continued occupancy of habitation of the unit(s).

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Enacted, 12/18/2007)

9.55.170 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1649, Enacted, 12/18/2007)

Article 9.60

TRANSIENT LODGING TAX

Sections:

9.60.010 Definitions.
9.60.020 Tax Imposed.
9.60.030 Rules for Collection of Tax by Operator.
9.60.040 Operator's Duties.
9.60.050 Exemptions.
9.60.060 Operator's Registration Form.
9.60.070 Collections, Returns and Payments.
9.60.080 Delinquency Penalties.
9.60.090 Deficiency Determinations.
9.60.100 Overpayments.
9.60.110 Notice Determination.
9.60.120 Redemption Petition.
9.60.130 Fraud; Refusal to Collect; Evasion.
9.60.140 Operator Delay.
9.60.150 Redeterminations.
9.60.160 Security for Collection of Tax.
9.60.170 Refunds to Operator.
9.60.180 Refundsby City to Transient.
9.60.190 Refunds by Operator to Tenant.
9.60.200 Records Required From Operators.
9.60.210 Examination of Records.

9.60.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 9.60, unless the context requires otherwise, the following mean:

Accrual accounting. A system of accounting in which the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

Cash accounting. A system of accounting in which the operator does not enter the rent due from a transient on the records until rent is paid.

Motel. A structure, or any portion of a structure, that is occupied or intended or designed for transient occupancy, or any space designed for the temporary use of a mobile home or travel trailer for 30 days or less for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and includes space in mobile home or trailer parks, or a similar structure or space or portions thereof so occupied, provided that the occupancy is for less than 30 days.

Occupancy. The use or possession, or the right to use or possession, for lodging or sleeping purposes of any room or rooms in a motel.

Operator. The person who is proprietor of the motel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be considered to be an operator for the purposes of GRC Article 9.60 by either the principal or the managing agent shall be considered to be compliance by both.

Person. As used in this article, “person” also includes but is not limited to, a social club, fraternal organization, fraternity, sorority, public or private dormitory, or any other group or combination acting as a unit.

Rent. The consideration charged, whether or not received by the operator, for the occupancy of space in a motel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

Rent package plan. The consideration charged for both food and rent when a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax shall be the same charge made for rent when it is not a part of a package plan.

Tax. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

Transient. An individual who occupies or is entitled to occupy space in a motel for a period of 30 consecutive days or less, counting portions of days as full days. The day a transient checks out of the motel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. An individual occupying space in a motel shall be considered a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenant actually extends occupancy more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be considered a transient.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.020 Tax Imposed.

For the privilege of occupancy in a motel in the city, each transient shall pay a tax in the amount set by council resolution. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment by the operator to the city. The transient shall pay the tax to the operator of the motel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services or commodities.

9.60.030 Rules for Collection of Tax by Operator.

(1) Every operator renting rooms or space for lodging or sleeping purposes, unless the occupancy is exempt, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the city.

(2) In cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

(3) The manager shall enforce the provisions of GRC Article 9.60 and may adopt rules and regulations necessary to aid in the enforcement.

(4) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

9.60.040 Operator's Duties.

An operator shall collect the tax imposed by GRC 9.60.020 at the same time as the rent is collected from the transient. The amount of tax shall be separately stated on the operator's records and on the receipt given by the operator. An operator of a motel shall not advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by GRC Article 9.60.

9.60.050 Exemptions.

The tax required by GRC 9.60.020 shall not be imposed upon:

(1) An occupant for more than 30 successive days.

(2) An occupant whose rent is of a value less than $2.00 per day.

9.60.060 Operator's Registration Form.

An operator of a motel in the city shall register with the manager on a form provided by the manager within 15 days after commencing business. The registration shall include the name under which an operator transacts or intends to transact business, the location of the place or places of business, and any other information to facilitate the collection of tax the manager may require. The registration shall be signed by the operator.

9.60.070 Collections, Returns and Payments.

(1) The tax shall be paid by the transient to the operator at the time that rent is paid. The taxes collected by an operator are due and payable to the manager on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The initial return may be for less than the three months preceding the due date. The quarters are:

1st Quarter	January, February, March
2nd Quarter	April, May, June
3rd Quarter	July, August, September
4th Quarter	October, November, December

(2) On or before the fifteenth day of the month following each collection quarter, a return for the preceding quarter's tax collections shall be filed with the manager. The return shall be filed in a form prescribed by the manager.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The manager may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of the operator for the period, an explanation in detail of any discrepancy between the amounts, and the amount of rents exempt, if any.

(4) The operator shall deliver the return, together with the amount of the tax due, to the manager's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(5) For good cause, the manager may extend for not more than one month, the time for making a return or payment of tax. No further extension shall be granted, except by the transient lodgings tax review committee. An operator to whom an extension is granted shall pay a late payment charge on the amount of tax due, without proration for a fraction of a month. If a return is not filed, and the tax and late payment charge due is not paid by the end of the extension granted, then the late payment charge shall become a part of the tax for computation of penalties prescribed in GRC 9.60.080.

(6) The manager may, in order to insure payment or facilitate collection by the city of taxes in an individual case, require returns and payment of the amount of taxes for other than quarterly periods.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.080 Delinquency Penalties.

(1) An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.

(2) An operator who has not been granted an extension of time for remittance of tax due, and who fails to pay a delinquent remittance on or before the expiration of 30 days following the date on which the remittance became delinquent, shall pay a second delinquency penalty of 15 percent of the amount of the tax due, the amount of the tax, and the 10 percent penalty first imposed.

(3) If the manager determines that the nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of 25 percent of the amount of the tax shall be added in addition to the penalties stated in subsections (1) and (2).

(4) In the event the amount of the required tax to be paid is not able to be calculated, an operator who fails to remit the tax due prior to delinquency may be subject to a fine or penalty in the amount of $5,000.

(5) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay late payment charge at the rate of 0.5 percent per month, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

(6) Each penalty imposed and the late payment charge accrued under the provisions of this section shall be merged with and become a part of the tax required to be paid.

(7) An operator who fails to remit the tax within the time required may petition the manager for waiver and refund of the penalty or any portion of it. The manager may, if good cause is shown, direct a refund of the penalty or a portion of it.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.090 Deficiency Determinations.

If the manager determines that the returns are incorrect, the manager may compute and determine the amount required to be paid upon the basis of the facts contained in the return or upon the basis of any information in the manager's possession. Deficiency determination may be made on the amount due for one or more than one period; and the amount so determined shall be due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as provided in GRC 9.60.080.

9.60.100 Overpayments.

In making a determination, the manager may offset overpayments, if any, which may have been previously made, against a deficiency for a subsequent period, or against penalties and late payment charges on the deficiency. The late payment charge on the deficiency shall be computed as provided in GRC 9.60.080.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.110 Notice of Determination.

(1) The manager shall give the operator a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at the address as it appears on the records of the manager. In case of service by mail, the service is complete at the time of deposit in the post office.

(2) Except in the case of fraud or intent to evade the tax, every deficiency determination shall be made and notice mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever is later.

9.60.120 Redemption Petition.

A determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the manager has given notice. However, the operator may petition for redemption and refund if the petition is filed before the determination becomes final.

9.60.130 Fraud; Refusal to Collect; Evasion.

(1) If an operator fails or refuses to collect the tax, to make the report and remittance of the tax, makes a fraudulent return, or otherwise willfully attempts to evade the tax payment, the manager shall proceed to obtain facts and information on which to base an estimate of the tax due. When the manager has determined the tax due, and the late payment charge and penalties, the manager shall give notice of the amount so assessed as provided in GRC 9.60.110.

(2) The determination and notice shall be made and mailed within three years after discovery by the manager of any fraud, intent to evade, or failure or refusal to collect the tax, or failure to file a return. The determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the notice, as provided in GRC 9.60.060.

(3) The operator may petition for redemption and refund if the petition is filed before the determination becomes final.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.140 Operator Delay.

If the manager believes that the collection of a tax will be jeopardized by delay, or if a determination will be jeopardized by delay, the

manager shall make a determination of the tax required to be collected, noting the fact upon the determination. The amount determined shall be due and payable immediately after service of notice. However, after the payment has been made, the operator may petition for redemption and refund of the determination, if the petition is filed within 10 days from the date of service of notice by the manager.

9.60.150 Redeterminations.

(1) An operator against whom a determination is made under GRC 9.60.090, or any person directly interested, may petition for a redetermination, redemption and refund within the time required in GRC 9.60.140. If a petition for redetermination and refund is not filed within the time required, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the manager shall reconsider the determination and, if the operator has so requested in his petition, shall grant the operator an oral hearing and give the operator 10 days notice of the time and place of the hearing. The manager may continue the hearing if necessary.

(3) The manager may decrease or increase the amount of the determination as a result of the hearing; and, if an increase is determined, the increase shall be payable immediately after the hearing. The decision of the manager shall be final.

(4) The order or decision of the manager on a petition for redetermination becomes final 10 days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the transient lodgings tax review committee within 10 days after service of the notice.

(5) A petition for redetermination or appeal therefrom shall not be effective unless the operator has first complied with the payment provisions.
(Ord. No. 1590, Amended, 09/16/2004)

9.60.160 Security for Collection of Tax.

(1) The manager may require an operator to deposit security in the form of cash, bond, or other security, as the manager determines. The amount of the security shall be fixed by the manager, may be increased or decreased by the manager, but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns.

(2) At any time within three years after the tax becomes due and payable, or at any time within three years after a determination becomes final, the manager may bring an action in the courts of this state, or any other state, or of the United States, in the name of the city to collect the amount delinquent, together with penalties and late payment charges.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.170 Refunds to Operator.

When any tax, penalty or late payment charge has been paid more than once or has been erroneously or illegally collected or received by the manager, it may be refunded, provided that a verified claim is filed in writing with the manager within three years from the date of payment, stating the specific reason upon which the claim is founded. The claim shall be made on forms provided by the manager. If the claim is approved, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected and the balance refunded to the operator.
(Ord. No. 1700, Amended, 03/03/2011)

9.60.180 Refunds by City to Transient.

If the tax has been collected by the operator and deposited with the manager, and it is later determined that the tax was erroneously or illegally collected or received by the manager, it may be refunded to the transient, provided that a verified claim stating the specific reason on which the claim is founded is filed in writing with the manager within three years from the date of payment.

9.60.190 Refunds by Operator to Tenant.

If the tax required by this ordinance has been collected by the operator and it is later determined that the tenant occupies the motel for a period exceeding 30 days without interruption, the operator shall refund to the tenant the tax previously collected by the operator from that tenant. The operator shall account for the collection and refund to the manager. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund.

9.60.200 Records Required From Operators.

Every operator shall keep guest records, accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months.

9.60.210 Examination of Records.

The manager may examine during normal business hours the books, papers, and accounting records relating to room sales of any operator, after notification to the operator. The manager may investigate the business of the operator in order to verify the accuracy of a return made or, if no return is made by the operator, to ascertain and determine the amount required to be paid.

Article 9.65

ADULT CARE HOMES

Sections:

9.65.010 Adult Care Homes.

9.65.010 Adult Care Homes.

(1) The Multnomah County Adult Care Home Licensure Law, Multnomah County Code 23.600, et seq., is adopted by reference and made a part of this chapter. Such provisions apply within the city and shall be administered and enforced by Multnomah County, Oregon. A copy of Multnomah County Adult Care Home Licensure Law is on file in the office of the manager.

(2) Nothing in this section shall create a cause of action against the city, its agents, or employees for the enforcement or failure to enforce any provision of this section.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1368, Amended, 08/31/1995; Ord. No. 1454, Amended, 10/01/1998)

Article 9.70

ECONOMIC IMPROVEMENT DISTRICT

Sections:

9.70.005 Purpose and Process Description.
9.70.010 Definitions.
9.70.020 Initiation.
9.70.030 Economic Improvement Plan.
9.70.040 Council Action Plan.
9.70.050 Ordinance Proposing Creation of an Economic Improvement District and Calling for the First Public Hearing.
9.70.060 Volutary Assessment.
9.70.070 First Public Hearing and Resolution Establishing District.
9.70.080 Second Public Hearing and Adoption of Final Assessment and Fee Ordinance.
9.70.090 Final Assessmen and tFee Ordinance.
9.70.100 Advisory Committee and Agreement with Existing Association.
9.70.110 Expenditure of Assessment Revenues.
9.70.120 Limitations on Imposition of Assessment and Fees.
9.70.130 Extension of Assessment or Business License Fee Period.
9.70.140 Early Termination.

9.70.005 Purpose and Process Description.

The purpose of this article is to establish procedures for the creation of Economic Improvement Districts and for assessment and business license fees to finance projects within such districts. The process, in summary, for establishment includes:

(1) initiation of an economic improvement district on motion of the council or on petition;

(2) passage of an ordinance proposing establishment of an Economic Improvement District and the assessments and fees to finance an economic improvement within the district;

(3) the conduct of a first public hearing, after giving 30 days notice, to allow affected property owners and persons conducting business within the proposed district to comment on the proposed district, improvement project and assessments and fees;

(4) the passage at the first public hearing, if the council chooses to go forward to establish the district, of a resolution establishing the district, approving the economic improvement plan, determining the amount of assessments and fees to be charged, the duration of the charges and setting the date, time and place of a second public hearing;

(5) the conduct of a second public hearing, after giving 30 days notice, to hear and consider testimony in support and opposition to the proposed assessments or fees and to receive written objections; and

(6) the passage at the second public hearing, if the council is able and chooses to go forward, of a final assessment or business license fee ordinance.
(Ord. No. 1343, Enacted, 12/20/1994)

9.70.010 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of GRC Article 9.70, the following definitions mean:

Economic Improvement.

(1) the planning or management of development or improvement activities;

(2) landscaping or other maintenance of public areas;

(3) promotion of commercial activity or public events;

(4) conducting activities in support of business recruitment and development;

(5) provision of improvements in parking systems or parking enforcement; or

(6) any other economic improvement activity that specially benefits property or persons conducting business.

Exempt property. Residential real property and any portion of a structure used for residential purposes and, in addition, those properties exempt from general property taxation under state law.

Business license fee. Any fee paid by a person to the city for any form of license that is required by the city in order to conduct business in the city.

Conducting business. Engaging in any business, trade, occupation or profession in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person's own behalf.

Subject property. Real property within the economic improvement district except for exempt property.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1343, Enacted, 12/20/1994)

9.70.020 Initiation.

The council may initiate an economic improvement district on its own motion; upon the petition, for financing by assessment, of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed district; or upon petition, for financing by business license fee, of 33 percent of the persons conducting business within the proposed district. The improvement shall be paid for in whole or in part by special assessment or business license fee. The council may ultimately decline for any reason within its sole discretion to establish a proposed economic improvement district. This article shall not give to any person the right to have an economic improvement district established.
(Ord. No. 1343, Enacted, 12/20/1994)

9.70.030 Economic Improvement Plan.

Any petition filed by the owners or persons conducting business shall contain a proposed economic improvement plan for the proposed economic improvement district. If the council, on its own motion, decides to consider such a district, it shall instruct the manager to prepare, or assist in preparing, the economic improvement plan. The economic improvement plan shall contain the following:

(1) a description of economic improvement project proposed to be undertaken or constructed;

(2) a preliminary estimate of the probable annual cost of the proposed economic improvements;

(3) the proposed formula for apportioning, assessing or charging the cost of economic improvements against properties, or persons conducting business that are specially benefited by the economic improvement which formula may be:

(a) an assessment based on the assessed value, square footage or other basis, of the property involved; or

(b) a business license fee on persons conducting a business, trade, occupation or profession in pursuit of gain carried on or practiced in the economic improvement district; or

(c) a combination of assessment and business license fee;

(4) the proposed boundaries designated by map or perimeter description of an economic improvement district within which subject properties would be assessed or business license fee collected to finance the cost of the economic improvement;

(5) the number of years, to a maximum of five, in which assessments or business license fees are proposed to be levied or imposed;

(6) a statement whether the property assessment will be a voluntary assessment or mandatory assessment; and

(a) if voluntary, that the scope and level of improvements could be reduced depending on the amount of money collected; or

(b) if mandatory, that the assessment will be considered a tax under the Oregon Constitution, Article XI Section 11(b) and may be reduced to fit within the property tax limitation thereby affecting the level and scope of services described.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.040 Council Action on Plan.

The council may by motion approve the proposed plan, modify the plan and approve it, or abandon the proposed economic improvement, independently or as part of the council review of the ordinance proposing creation of an economic improvement district.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.050 Ordinance Proposing Creation of an Economic Improvement District and Calling for the First Public Hearing.

After the initiation of a proposed economic improvement district and improvement project the council shall, by ordinance:

(1) Call a first public hearing to be held on the question of establishment of such economic improvement district, approval of the economic improvement plan and the proposed assessment or business license fee.

(2) Provide that: notices of the proposed hearing shall be mailed or delivered personally to affected property owners and persons conducting business within the proposed district; such notices shall announce the intention of the council to construct or undertake the economic improvement project in accordance with the proposed economic improvement plan and to assess benefited properties or impose a business license fee for a part or all of the cost; the notice shall state the time and place of the public hearing; the hearing shall be set not sooner than 30 days after the mailing or delivery of said notices to the affected property owners and persons conducting business within the proposed district; and at the public hearing the affected property owners or persons conducting business shall be allowed to appear at the hearing and support or object to the proposed district, improvement, assessment or business license fee.

(3) Provide the information contained in the proposed economic improvement plan,that may be included by attachment of the plan as an exhibit.

(4) Provides that if, after the first hearing held under subsection (1) above, the council finds that the economic improvements would afford special and peculiar benefit to subject parcels or persons conducting business within the proposed economic improvement district different in kind or degree from that afforded to the general public, and that the economic improvement district should be established and the plan adopted, then the council may adopt a resolution stating those findings and establishing the district, determining the amount of assessments and fees to be charged, the number of years the assessments and fees will be charged, the notice to be given of the second public hearing and its date, time and place.

(5) Provides that the council shall then determine whether the property or businesses benefited shall bear all or a portion of the cost.

(6) Provides that the council shall:

(a) determine, based on the actual or estimated cost of the economic improvement, the amount of the assessment on each lot in the district or the amount of the business license fee to be charged to any person conducting business in the district;

(b) direct the manager to mail or personally deliver notice of such proposed assessment or business license fee to the owner of each lot to be assessed or business to be charged; the notice shall state:

(i) the amount of the assessment proposed on the property of the owner receiving the notice, or the business license fee to be charged to the owner of the business receiving the notice;

(ii) that council will hold a public hearing on the proposed assessment or business license fee on a specified date that shall not be held sooner than 30 days after the mailing or personal delivery of the notice;

(iii) the time and place of a second public hearing at which affected property owners or business owners may appear to support or object to the proposed assessment or business license fee and that at the second hearing the council may consider objections and may adopt, correct, modify or revise the proposed assessments or business license fees;

(iv) that the assessments will not be made, the business license fee or surcharge to existing business license fee will not be charged, and the economic improvement project will be terminated when written objections are received at the second public hearing from owners of property upon which more than 33 percent of the total amount of assessments is levied, or if a business license fee is charged, from more than 33 percent of persons conducting business within the economic improvement district who will be subject to the proposed license fee;

(c) Consider objections at the second hearing and may adopt, correct, modify or revise the proposed assessments or charges. In the case of a voluntary assessment under GRC 9.70.060, the council shall exclude from assessment, property which the owner has requested to be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.060. Voluntary Assessment.

(1) Pursuant to the requirements as set forth above, the ordinance proposing creation of an economic improvement district and calling for the first public hearing may, at the discretion of the council, provide that:

(a) When the council receives written objections at the second public hearing only from owners of property upon which less than 33 percent of the total amount of assessments is levied, the economic improvement project may be undertaken or constructed, but that assessment shall not be levied on any lot or parcel of property if the owner of that property submitted written objections at the public hearing. Notwithstanding any other provision of law, an owner of property who fails to submit written objections at the public hearing as provided for in the ordinance shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the assessment ordinance.

(b) The council, after excluding from assessment property belonging to such owners, shall determine the amount of assessment on each of the remaining lots or parcels in the district.

(c) That if the amount of the assessment on remaining properties is revised pursuant to subsections (a) and (b) above to an amount different than that provided in the notice of the second hearing, notice of such proposed revised assessment shall be mailed or personally delivered to the owner of each lot to be assessed, which shall state the amount of the assessment proposed on the property of the owner receiving the notice.

(2) When assessments are levied against property within an economic improvement district in accordance with an assessment ordinance that contains the provision described in subsection (1) of this section:

(a) Any new owner of benefited property in the district or any owner of benefited property who excluded the property from assessment by submitting written objections to the council may subsequently agree to the assessment of the owner's property in the district. The council shall apportion the costs to the property for the remaining time in which assessments will be levied.

(b) The assessed property may not be relieved from liability for that assessment.

(c) If the council considers it necessary to levy assessments upon property in the district for longer than the period of time specified in the assessment ordinance, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice and right of remonstrance described in GRC 9.70.050(6) and GRC 9.70.060(1).

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.070 First Public Hearing and Resolution Establishing District.

The council shall provide notice and conduct its first public hearing in accordance with the ordinance proposing creation of an economic improvement district and as set forth in GRC 9.70.050 and GRC 9.70.060. At the conclusion of the first public hearing, if the council determines to go forward with the district, project and proposed funding, the council shall adopt a resolution in accordance with GRC 9.70.050(4) – (6).

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.080 Second Public Hearing and Adoption of Final Assessment and Fee Ordinance.

The council shall provide notice and conduct its second public hearing in accordance with the resolution establishing the economic improvement district and as set forth in GRC 9.70.050(4) – (6_ and GRC 9.70.060. The council may continue the hearing to a date and time certain. Written objections shall be considered to have been received by the council at the hearing if actually received at the hearing of if received by the city manager prior to the commencement of the hearing. At the conclusion of the second public hearing, if the council determines and is able to go forward with the project and assessments or fees, the council shall pass a final assessment and fee ordinance in accordance with GRC 9.70.090. The ordinance will include establishment of the amount of the assessments and business license fees to be charged, the duration of the assessments and business license fee requirement, penalties for nonpayment or failure to obtain license and classification of assessments and fees as to constitutional limits.

(Ord. No. 1343, Enacted, 12/20/1994)

9.70.090 Final Assessment and Fee Ordinance.

If written objections in the requisite 33 percent are not received as provided in GRC 9.70.050, the council may adopt a final ordinance levying the appropriate assessments or business license fees. Upon adoption of the final ordinance, the manager shall enter each such assessment in the docket of city liens. All such assessments shall be collected in the same manner as local improvement assessments. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law.

(Ord. No. 1540, Amended, 02/05/2002; Ord. No. 1343, Enacted, 12/20/1994)

9.70.100 Advisory Committee and Agreement with Existing Association.

Any assessment ordinance adopted as herein provided may require creation, for each economic improvement district, of an advisory committee to allocate expenditure of moneys for economic improvement activities within the scope of this ordinance. If an advisory committee is created, the council shall strongly consider appointment of owners of property within the economic

improvement district to the advisory committee. An existing association of property owners, tenants or persons conducting business within an economic improvement district may enter into agreement with the city to provide the proposed economic improvement.
(Ord. No. 1343, Enacted, 12/20/1994)

9.70.110 Expenditure of Assessment Revenues.

Money derived from assessments or fees levied under the procedures set forth in this ordinance shall be spent only for the economic improvements set forth in the Economic Improvement Plan and for the cost of city administration of the economic improvement district.
(Ord. No. 1343, Enacted, 12/20/1994)

9.70.120 Limitations on Imposition of Assessments and Fees.

The city is not authorized to:

(1) Levy assessments in an economic improvement district in any year that exceed one percent of the real market value of all the real property located within the district.

(2) Levy assessments on residential real property or any portion of a structure used for residential purposes.

(3) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.

(4) Impose a business license fee to raise revenue for an economic improvement that does not primarily benefit persons conducting business within the economic improvement district.
(Ord. No. 1343, Enacted, 12/20/1994)

9.70.130 Extension of Assessment or Business License Fee Period.

When the council considers it necessary to levy assessments upon property, or impose business license fees upon persons conducting business, in an economic improvement district for longer than the period of time specified in the ordinance that created the district, the council shall enact an ordinance that provides for continued assessments or business license fees for a specified number of years and grants to the owners of property or persons conducting business in the district the notice and right of remonstrance described in GRC 9.70.050.
(Ord. No. 1343, Enacted, 12/20/1994)

9.70.140 Early Termination.

By ordinance the council may terminate the activities of an economic improvement district in whole or in part prior to the normally scheduled termination date for the district. The ordinance shall provide that all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments or fees for the district, following payment of all obligations and costs of administration incurred on behalf of the district, shall be returned to the owners of the subject properties or the persons conducting business in the district in amounts proportionate to the amounts of the assessments or fees they paid for the district. In the event of early termination of only a part of the activities of an economic improvement district, the council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future district assessments or fees, with any funds remaining being returned to the owners or persons conducting business as otherwise provided in this section.
(Ord. No. 1343, Enacted, 12/20/1994)

Article 9.75

PRIVATE PROPERTY IMPOUNDS

Sections:

9.75.010 Towing of Vehicles from Private Property.
9.75.020 Definitions.
9.75.030 PPI Tower's License Required.
9.75.040 Application.
9.75.050 Insurance and Indemnification Requirements.
9.75.060 Towing Regulations.
9.75.070 Towing and Storage Rates.
9.75.080 General Conditions.
9.75.090 Towing Procedures.
9.75.100 Prohibitions.
9.75.110 Release at Scene (RAS).
9.75.120 Signage Requirements.
9.75.130 Inspection and Maintenance of Records.
9.75.140 Citizen Complaints.
9.75.150 Enforcement.

9.75.010 Towing of Vehicles from Private Property.

(1) **Short Title.** GRC Article 9.75 shall be known as the Private Property Impound (PPI) Code.

(2) **Purpose.** The purpose of the PPI Code is to require that towing from private parking facilities be performed fairly, in accordance with defined standards, and at reasonable rates. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure protection from unreasonable rates and unscrupulous towing practices.

(3) **Conformity to State and Federal Laws.** The PPI Code shall be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property and applicable federal statutes.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for the purposes of the PPI Code, the following definitions apply. Terms, phrases, words, abbreviations and their derivatives used, but not specifically defined in this section, either shall have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, shall have the meanings commonly accepted in the community.

Vehicle Owner's Agent. A person bearing documentation from the registered vehicle owner officially authorizing the person to possess or operate the vehicle.

Police Tow. A vehicle towed as recovered stolen, prisoner's property, driver or vehicle not properly licensed or registered, no insurance, held under a formal or temporary Police Hold, or otherwise designated as a police tow by the Gresham Police Department.

PPI Tower. Any tower duly registered and licensed under this PPI Code to perform private property impound tows within the City of Gresham.

PPI Tower's License. The license issued to a tower demonstrating it has agreed to comply with the requirements of this PPI Code.

Private Parking Facility. Any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking.

Private Parking Facility Owner. The owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner.

Private Property Impound (PPI). The impoundment of a vehicle from a private parking facility at the request of the Private Parking Facility Owner without the prior consent of the vehicle's registered owner.

Release at Scene (RAS) Fee. The fee allowed to be charged when a vehicle owner/owner's agent returns to where the vehicle was parked before the PPI Tower has departed with vehicle in tow. The RAS fee is not applicable until the hookup is complete and tow truck is in motion.

Tow Desk. City of Gresham Police Department Records desk.

Tower. Any person or entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

Vehicle Owner. The person registered with the State of Oregon Department of Motor Vehicles as the owner of the vehicle.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.030 PPI Tower's License Required.

(1) No tower shall tow or store vehicles towed from private parking facilities unless the tower has a PPI Tower's License issued by the manager.

(2) The manager shall issue a license when the application has been approved and the required insurance certificate has been submitted.

(3) Application for a PPI Tower's License shall be made annually to the manager. Licenses issued under this PPI Code shall run concurrently with the tower's business license. The renewal date for the license shall be the same as for the tower's business license and shall expire unless renewed.

(4) PPI Tower's License is not transferable.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.040 Application.

(1) Application for a PPI Tower's License shall be made on a form approved by the manager. The application shall include, but not be limited to, the following information:

(a) The legal business name, address, address of all storage facilities, telephone numbers, fax numbers, email address and emergency contact phone number.

(b) Names of all owners, part-owners, partners, principal parties, officers, directors, agents, investors or any other persons having a financial interest in the applicant's business.

(c) Names of owner or employee who is responsible for complaint resolution.

(d) List of business owners, vehicle owners, drivers and any staff having contact with vehicles including the following information:

(i) first, middle, and last name;
(ii) date of birth;
(iii) driver's license number; and
(iv) any other necessary information for criminal background check.

(e) Such other information as the manager may require.

(f) Proof of insurance in the form of an Insurance certificate that demonstrates the PPI Tower in sin compliance with the insurance requirements in this PPI Code.

(2) The manager shall issue a license when the application has been approved.

(3) A PPI Tower's License may be denied under the following circumstances:

(a) a PPI Tower's application is incomplete or contains a false, fraudulent or misleading statement;

(b) business owners, vehicle owners, drivers or staff having contact with vehicles have an invalid driver's license; or

(c) business owners, vehicle owners, drivers or staff having contact with vehicles have an outstanding arrest warrant.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.050 Insurance and Indemnification Requirements.

(1) As a condition of the issuance of a permit, PPI Tower's subject to the PPI Code agree to hold harmless, defend and indemnify the City of Gresham, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI Tower's License.

(2) PPI Tower shall maintain such public liability and property damage insurance and furnish certificates of insurance coverage of the type and amount required by the city attorney.

(a) The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the license. The insurance shall be without prejudice to coverage otherwise existing.

(b) The insurance shall name as additional insureds the city, and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insureds on the policy.

(c) The insurance shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the manager.

(d) The adequacy of the insurance shall be subject to the approval of the city attorney.

(e) Failure to maintain liability insurance shall be cause for immediate revocation of the license by the manager.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.060 Towing Regulations.

(1) A tower may tow a vehicle from a private parking facility only under the following circumstances:

(a) the tower has been issued a current PPI Tower's License;

(b) the private parking facility complies with the signage requirements set forth in this PPI Code;

(c) the vehicle shall be towed directly to the tower's storage facility;

(d) no person or persons occupy the vehicle; and

(e) express written authorization has been issued to the PPI Tower by the private parking facility owner, or person in lawful possession of the property, in compliance with ORS 98.812 and ORS 98.830;

(2) Police tows are not subject to the regulations of this PPI Code.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.070 Towing and Storage Rates.

A schedule of approved maximum rates and fees for PPI towing, RAS, and storage shall be adopted by city council. Such schedule shall be published annually and supplied to all applicants with the application materials for new licenses and renewals. PPI Towers may submit a request for an increase in the approved maximum fees not later than two months before the end of any calendar year. Prior to making any changes in the PPI rate schedule, city council shall hold a public hearing for the purpose of determining fair and reasonable prices.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.080 General Conditions.

PPI Towers licensed under this PPI Code shall:

(1) perform all PPI tows in a safe manner, taking care not to cause damage to the person or

property of others while towing or storing a vehicle;

(2) practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle;

(3) cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle;

(4) all tow trucks used to perform PPI tows shall be permanently identified on each side of the vehicle with tower's name, city, state, and telephone clearly marked in letters not less than three inches high; and

(5) prominently display at the vehicle release location a placard containing the current schedule of approved PPI rates, and keep a copy of the current schedule of approved PPI rates in the tow vehicle.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.090 Towing Procedures.

PPI Towers shall follow the following procedures when performing a PPI Tow:

(1) Using a digital camera with time and date stamp, photograph the vehicle in the location left by the vehicle operator prior to attaching the equipment, and the parking facility signage, in order to demonstrate that the vehicle to be towed is in violation of the private parking facility regulations.

(2) In the event a vehicle owner or operator returns to the area where the vehicle is parked when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward, the PPI Tower must immediately discontinue the towing of the vehicle. The PPI Tower may charge a RAS fee in accordance with GRC 9.75.100.

(3) Tow Desk Notification: RAS or no fee. The PPI Tower must notify the Tow Desk within 15 minutes of a RAS fee being collected or after a vehicle was released without a fee.

(4) Tow Desk Notification: Towed Vehicle. The PPI Tower must notify the Tow Desk within 15 minutes after the PPI Tower takes possession of a vehicle by providing the details of the tow including: 1) the location of the tow, 2) the color, model, make and license plate of the vehicle towed, 3) and the vehicle's VIN number.

(5) The PPI Tower must have staff or dispatch service available at all times to provide information about the location of a towed vehicle and/or instructions for release of a towed vehicle.

(6) The PPI Tower must offer to call for or provide transportation to the vehicle owner/operator from within the immediate vicinity of the tow scene to the location of the towed vehicle storage and otherwise comply with ORS 822.230(3)(d).

(7) The PPI Tower must have personnel available at the storage facility to release a vehicle within 30 minutes after receiving a request for vehicle release.

(8) The PPI Tower must accept at least the following methods of payment for any fees or rates assessed:

(a) Cash. Adequate cash must be available at all times at the storage facility and with the tow drivers for the purpose of making change; or

(b) Credit Card. Any valid credit card or debit card bearing the VISA or Mastercard emblem and issued in the name of the registered vehicle owner/owner's agent must be accepted.

(9) The PPI Tower shall only release the vehicle to the registered or legal vehicle owner, or owner's agent. The PPI Tower shall require the person seeking release to submit proof of ownership, vehicle title, or registration in addition to valid photo-identification.

(10) The PPI Tower must issue to the vehicle owner/owner's agent a clearly legible receipt complete with all required information, and with all fees and considerations itemized.

(11) Tow Desk Notification: Release of Vehicle. The PPI Tower must notify the Tow Desk within eight hours after the release of a vehicle to the registered vehicle owner/owner's agent, acceptance of a vehicle title in lieu of payment, or foreclosure of a possessory lien by providing the Tow Desk the vehicle's VIN number and the action taken.

(12) The PPI Tower must exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, and in the event a vehicle has not been redeemed within two hours after it reaches the PPI Tower's storage lot, call local Animal Control authority to make a custody arrangements and document the location to which the animal is taken.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.100 Prohibitions.

(1) PPI Towers registered under this PPI Code shall not:

(a) charge any fee not listed in, or in excess of, those included in the fee and rate schedule established by city council;

(b) require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed, or relieving the PPI Tower from responsibility for the condition of the vehicle or its contents;

(c) solicit PPI towing business by means of payment of a gratuity, commission or any other consideration to the private property owner, operator, manager or employee;

(d) remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached;

(e) use predatory practices, such as parking within 1,000 feet of, or post a monitor at, a private parking facility for the purpose of covert observation in order to obtain PPI tows, unless:

(i) the monitor provides a verbal warning to persons leaving their cars; or

(ii) signs are posted clearly warning that the lot has on-site monitoring and the hours during which monitoring occurs.

(f) assess or collect a surcharge fee in lieu of towing; or

(g) make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this PPI Code.

(Ord. No. 1701, Enacted, 03/03/2011)

9.75.110 Release At Scene (RAS).

(1) In the event a vehicle owner/ owner's agent returns to the where the vehicle was parked before the PPI Tower has left the area, the PPI Tower may collect a RAS fee if the following conditions have been satisfied:

(a) the hook up of equipment to the vehicle to be towed is complete, including the hook up of safety equipment; and

(b) the tow truck's transmission is engaged and it has commenced driving forward.

(2) The RAS fee shall be the fee established by council resolution.

(3) Under the conditions of subsection (1), above, the PPI Tower must immediately halt the tow and inform the vehicle owner of the amount of the RAS fee. The vehicle owner/owner's agent or operator has 15 minutes to pay the RAS fee. If the vehicle owner/owner's agent or operator fails to make payment within 15 minutes, the PPI Tower may proceed to tow the vehicle to the storage facility.

(4) In the event that a vehicle owner or operator returns to the vehicle while the PPI Tower is still attaching equipment to the vehicle or is outside of the tow truck, the PPI Tower shall

release the vehicle to the vehicle owner or operator at no charge.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.120 Signage Requirements.

(1) No PPI Tower shall tow a vehicle from a private parking facility unless the facility meets the following signage requirements:

(a) At least one sign must be posted and clearly legible by an operator of a motor vehicle at each entry or driveway into the parking lot and not more than 10 feet from the public right-of-way or lot line.

(b) Each required sign shall comply with the below specifications:

(i) posted so that the center of the sign is not more than eight feet and not less than four feet above the ground;

(ii) be at least 18" x 24" in size;

(iii) state that parking is prohibited, reserved, or otherwise restricted;

(iv) state who is authorized to park in the spaces, the permitted hours, and any other restrictions;

(v) state the towing and storage of a vehicle in violation of the rules shall be at the owner's expense; and

(vi) clearly display the PPI Tower's name and 24-hour telephone contact number to obtain a release of a vehicle.

(2) A tower or private parking facility owner may request an exception to the rules for signage requirements. Such request must be made in writing to the manager, describing why the sign requirements cannot be met and proposing an alternative posting scheme for approval.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.130 Inspection and Maintenance of Records.

The PPI Tower shall, upon request of the City of Gresham, produce the original records of any PPI tow for purposes of auditing, enforcement, or complaint resolution. Such records shall be delivered to the city during normal business hours within 24 hours of written notice by the manager. All PPI Tower's records shall be retained in retrievable form by the PPI Tower for a minimum of three years from the date of the tow.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.140 Citizen Complaints.

(1) A vehicle owner or vehicle operator whose vehicle has been impounded, or who has paid an RAS fee, has 90 days from the date of the tow to file a written complaint against the PPI Tower with the manager.

(2) The manager shall provide a copy of the written complaint to the PPI Tower within 15 days of receipt.

(3) The PPI Tower shall provide a written statement of response within 10 days of the date it received the complaint, unless an extension is granted by the manager. The response shall include all documentation requested by the manager, including a copy of the agreement or signed invoice authorizing the tow, an explanation for how the circumstances justified the tow, and the photographs of the vehicle and signs at the scene of the tow as required under this PPI Code.

(4) After reviewing the complaint and the response provided by the PPI Tower, the manager shall determine whether the tow was properly performed under this PPI Code and, if not, the appropriate remedy as set forth in GRC 9.75.150. The manager shall submit a written decision and mail it to each party within 75 days from the date of the original complaint.

(5) In the event either party disagrees with the decision rendered by the manager, he or she may protest the decision to an independent hearings officer pursuant to GRC 7.50.030. The losing party shall pay for the costs of the hearings officer and such costs shall be delinquent if not paid within 30 days from the date of the hearing officer's decision. If applicable, delinquent costs may be entered in the docket of city liens pursuant to GRC 2.92.030 and/or recorded in the Multnomah County deed records.

(6) The hearings officer may impose a remedy as set forth in GRC 9.75.150 or otherwise provided in the code. Failure on the part of the PPI Tower to comply with the hearings officer's decision may result in the suspension or revocation the PPI Tower's license.
(Ord. No. 1701, Enacted, 03/03/2011)

9.75.150 Enforcement.

(1) A violation of any section of this PPI Code may be subject to a fine or penalty in the maximum amount of $500.00. Each day a violation occurs or continues is a separate offense.

(2) Upon a finding of a violation of any section of this PPI Code by a PPI Tower, the manager or a hearings officer may direct release of a vehicle at no charge, or a refund of all or part of fees paid by a vehicle owner/owner's agent for towing and storage, in lieu of, or in addition to, civil penalties or other remedies under the code.

(3) Nothing in this section is intended to prevent any person from pursuing private legal remedies.

(4) In addition to any other provisions of this PPI Code, violation of any provisions of this PPI Code may result in denial, suspension or revocation of the license as set forth in GRC Article 9.99.

(5) Additional remedies for enforcement of a violation of this PPI Code are set forth in GRC Article 7.50.
(Ord. No. 1701, Enacted, 03/03/2011)

Article 9.80

REPEALED

Sections:

9.80.010 Repealed.
9.80.020 Repealed.

9.80.010 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1343, Renumbered and Amended, 12/20/1994)

9.80.020 Repealed.

(Ord. No. 1700, Repealed, 03/03/2011; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Enacted, 09/16/2004)

Article 9.90

REGULATION OF PAYDAY LENDING

Sections:

9.90.010 Purpose.
9.90.020 Definitions.
9.90.030 Permits.
9.90.040 Administrative Authority.
9.90.050 Payment of Principal Prior to Payday Loan Renewal.
9.90.060 Cancellation of Payday Loan.
9.90.070 Payment Plan for a Payday Loan.
9.90.080 Remedies.
9.90.090 Appeals.
9.90.100 Complaints.
9.90.110 Severability.

9.90.010 Purpose.

The city finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This chapter shall be construed in conformity with the laws and regulations of the State of Oregon.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, as used in this article unless the context requires otherwise, the following mean:

Payday Lender. A lender in the business of making payday loans as defined by ORS 725.600.

Payday Loan. A payday loan as defined by state law.

Borrower. A natural person who receives a payday loan.

Cancel. To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

Manager. The City Manager or designee.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1627, Enacted, 4/20/2006)

9.90.030 Permits.

Within 60 days of the effective date of the ordinance enacting this article, any Payday Lender operating in the City of Gresham shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Gresham and shall be renewed annually. The application shall be in a form to be determined by the manager. The manager shall require the Payday Lender to report its fee schedule in the Payday Lender's permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Gresham. The amount of the fee shall be set by council resolution.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.040 Administrative Authority.

(1) The manager is authorized and directed to enforce all provisions of this article. The manager shall have the power to investigate any and all complaints regarding alleged violations of this article. The manager may delegate any or all authority granted under this section to a designee.

(2) The manager is authorized to adopt and enforce administrative rules interpreting and applying this article. The manager or designee shall make written findings of fact and conclusions of law to support all decisions.

(3) Prior to adoption of a new administrative rule, the manager shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

(a) At the public hearing, the manager or designee shall hear oral and written testimony concerning the proposed rule. The manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

(b) The manager shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

(c) Unless otherwise stated, all rules shall be effective upon adoption by the manager. All rules adopted by the manager shall be filed in the Office of Governance and Management of the City of Gresham. Copies of all current rules shall be available to the public upon request.

(d) Notwithstanding subsections 1 and 2 of this section, the manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

(4) Inspection of Records. The City of Gresham reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the manager or designee.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.050 Payment of Principal Prior to Payday Loan Renewal.

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least 25 percent of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.060 Cancellation of Payday Loan.

(1) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrow:

(a) Informs the Payday Lender in writing that the Borrow wishes to cancel the Payday Loan and any future payment obligations; and

(b) Returns to the Payday Lender the uncashed check or proceeds given to the Borrow by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

(2) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.070 Payment Plan for a Payday Loan.

(1) A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

(2) A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(3) After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

(4) The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

(5) The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the payment plan.

(6) A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this article. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this article.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.080 Remedies.

(1) Failure to comply with any part of this article or the administrative rules may be punishable by civil penalties. The manager may impose a civil penalty of up to $1,500.00 for a substantial violation of the article or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

(2) Civil penalties shall be payable to the City of Gresham.

(3) Civil remedies. Nothing in this section is intended to prevent any person from pursuing any available legal remedies.

(4) No civil penalties shall be assessed within 60 days of the effective date of this ordinance.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.090 Appeals.

Any person upon whom a civil penalty has been imposed, or who has been directed by the manager to resolve a complaint, may protest to a hearings officer pursuant to GRC 7.50.030.
(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1627, Enacted, 04/20/2006)

9.90.100 Complaints.

The manager shall have the authority to investigate any and all complaints alleging violation of this chapter or administrative rules.

(1) The manager (or designee) may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the manager shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.

(2) The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the manager by telephone or in writing within two business days from initial contact by the manager.

(3) If the proposed resolution is satisfactory to the manager, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the manager.

(4) If the proposed resolution is not satisfactory to the manager, the manager shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed

alternative resolution it shall be subject to remedies as provided in GRC 9.90.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by GRC 9.90.090.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.110 Severability.

If any provision of this article, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Article and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the article shall be severed.
(Ord. No. 1627, Enacted, 04/20/2006)

Article 9.99

ENFORCEMENT

Sections:

9.99.010 Violation.
9.99.020 Late Payment Charge.
9.99.030 Authority to Inspect.
9.99.040 Fines, Penalties, Abatement and Other Enforcement Tools.
9.99.050 Denial, Suspension, or Revocation of a License or Permit.

9.99.010 Violation.

A violation shall have occurred when any requirement or provision of this chapter has not been complied with. Violation of any provision of this chapter may be subject to enforcement action by the manager.
(Ord. No. 1700, Enacted, 03/03/2011)

9.99.020 Late Payment Charge.

(1) A late payment charge shall be charged to all accounts for which the license or permit fees are not paid when due. The amount of the late payment charge shall be established by council resolution.

(2) The unpaid license or permit fee, including late payment charges, constitutes a debt to the city which the manager may initiate legal action to collect.

(3) If the unpaid license fee, including late payment charge, relates to a rental license, the fee and charges shall be entered in the docket of city liens pursuant to GRC 2.92.030 and/or recorded with Multnomah County deed records. When entered in the city lien docket, the notice shall constitute a lien upon the property in violation of the code. The lien shall be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or otherwise provided by law.
(Ord. No. 1700, Enacted, 03/03/2011)

9.99.030 Authority to Inspect.

The manager may enter any property, building, or premises in accordance with GRC 7.50.500 through GRC 7.50.520, to perform an inspection in order to ensure compliance with any provision of this chapter.
(Ord. No. 1700, Enacted, 03/03/2011)

9.99.040 Fines, Penalties, Abatement and Other Enforcement Tools.

(1) Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of this chapter may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any provision of this chapter may be subject to a fine or penalty in the maximum amount of $1,000.

(4) Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty.
(Ord. No. 1700, Enacted, 03/03/2011)

9.99.050 Denial, Suspension, or Revocation of a License or Permit.

(1) In addition to any basis for denial, suspension or revocation provided by the applicable article, a license or permit applied for under this chapter may be denied, suspended or revoked for any of the following causes:

(a) fraud, misrepresentation or false statement contained in the application for a license or permit;

(b) fraud, misrepresentation or false statement made by the license or permit holder or a member of the license or permit holder's organization in the course of carrying on the licensed activity;

(c) conducting the licensed activity in violation of code provisions governing nuisances;

(d) conducting the licensed activity in violation of law, or in a manner that constitutes a menace to the public health and safety;

(e) failure to comply with an agreement contained in the application or with any requirement under this chapter;

(f) withdrawal of the written consent of a property owner previously consenting to the permittee conducting business;

(g) suspension, revocation or cancellation of any necessary health permit;

(h) failure to secure and maintain in current and unexpired status any required insurance.

(2) Upon denial, suspension or revocation, the manager shall give notice of such action to the license or permit holder in writing. Such notice shall include the following:

(a) a statement explaining the action taken,

(b) the reasons for the action,

(c) the date the decision becomes effective, and

(d) the opportunity to protest the decision as set forth in GRC 7.50.030.

(3) Notice of denial, revocation or suspension of any permit or license issued pursuant to this article, shall be sent by regular and certified mail, return receipt requested. In the event the suspension or revocation is effective immediately, notice shall also be delivered by posting it on the property at the location listed on the person's license or permit application.

(4) Unless otherwise provided the action shall be effective 10 days after the date of the notice.

(5) Any license or permit applicant or holder aggrieved by a denial, suspension, revocation, or non-renewal of a license or permit regulated under this section, may protest such action to a hearings officer pursuant to GRC 7.50.030.

(6) Unless otherwise provided, submitting a protest of a revocation or suspension of a license or permit shall stay the effectiveness of the suspension or revocation until the protest hearing is held and the hearings officer issues a decision.

(7) A license or permit may be suspended in the event of an imminent threat to public health and safety and in circumstances in which it is necessary to take immediate action in order to prevent serious harm. Suspension under this section is effective upon the date the notice is posted on the property. Subsection (6), above, does not apply to suspensions under this section.
(Ord. No. 1700, Enacted, 03/03/2011)