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ADMINISTRATION

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Article 2.01
ELECTIONS

Special Election. A city election not held on the date of a regular election.
(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011)

Sections:

2.01.010 Definitions.

2.01.010 **Definitions.**

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

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

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

Elective City Position. The position of mayor or councillor.

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

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

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

Qualified Elector. An individual qualified to vote under Section 2, Article II, Oregon Constitution.

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

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

Article 2.05

INITIATIVE, REFERENDUM AND REFERRAL

Sections:

- 2.05.010** [Petition Requirements.](#)
- 2.05.015** [Ballot Title.](#)
- 2.05.020** [Explanatory Statement Preparation.](#)
- 2.05.030** [Ballot Title and Explanatory Statement Challenge.](#)
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- 2.05.070** [Effective Date of Measures.](#)
- 2.05.080** [Unlawful Acts.](#)
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2.05.010 Petition Requirements.

All election petitions shall conform with the requirements of state law and the Oregon Secretary of State. The election official shall review the prospective petition for compliance with applicable state and city election laws and regulations and, if the prospective petition complies with such requirements, including the ballot title process for initiatives, the election official shall issue written authorization for the circulation of the petition.

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

2.05.015 Ballot Title.

(1) After the city attorney has provided the ballot title as provided by state law, the election official shall submit the ballot title to council for approval and provide a copy of the ballot title to the chief petitioners.

(2) Council shall review the ballot title and file the ballot title approved by council with the election official.

(3) Upon receipt of the approved ballot title from council, the election official shall publish in

the next edition of a newspaper of general circulation in the city a notice of receipt of ballot title, including notice that an elector may file a petition for review of the ballot title not later than seven business days after the council approved ballot title was filed with the election official.

(Ord. No. 1756, Renumbered [formerly GRC 2.04.030] and Amended, 08/20/2015)

2.05.020 Explanatory Statement Preparation.

(1) If an initiative or referendum is submitted to the city electors or the council refers a measure to the city electors, an explanatory statement for the measure may be prepared by the council. The council approved explanatory statement shall be filed with the election official.

(2) If the explanatory statement is not prepared under subsection (1) of this section, the election official shall send two copies of the measure to the attorney. Not later than the fifth business day after receiving the copies, the attorney shall provide an explanatory statement for the measure and send a copy to the election official.

(3) The election official shall submit the explanatory statement to council for approval. If the measure was an initiative or referendum, the election official shall also provide a copy of the explanatory statement to the chief petitioners.

(4) Council shall review the explanatory statement and file an explanatory statement approved by council with the election official.

(5) Upon receipt of the approved explanatory statement from council, the election official shall publish in the next edition of a newspaper of general circulation in the city a notice of receipt of explanatory statement, including notice that an elector may file a petition for review of the explanatory statement not later than seven business days after the council approved explanatory statement was filed with the election official.

(Ord. No. 1756, Renumbered [formerly GRC 2.04.045] and Amended, 08/20/2015)

2.05.030 Ballot Title and Explanatory Statement Challenge.

(1) Any elector dissatisfied with a ballot title approved by council may petition the council seeking a different ballot title by stating in writing the reasons the ballot title is insufficient, not concise, or unfair. The petition shall be filed not later than the seventh business day after the ballot title is filed with the election official. The council shall review the ballot title, and the measure referred, hear arguments from interested persons, if any, and certify to the election official a ballot title for the measure that meets the requirements of state law.

(2) Any elector dissatisfied with an explanatory statement approved by council may petition the council seeking a different explanatory statement by stating in writing the reasons the explanatory statement is insufficient, not concise, or unfair. The petition shall be filed not later than the seventh business day after the explanatory statement is filed with the election official. The council shall review the explanatory statement, the measure referred, and the ballot title, hear arguments from interested persons, if any, and certify to the election official an explanatory statement for the measure that meets the requirements of state law.

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

(Ord. No. 1756, Renumbered [formerly GRC 2.04.050] and Amended, 08/20/2015)

2.05.040 Signature Requirements.

The signature requirements for a petition shall be determined by the number of electors registered in the city at the last regular election before the prospective petition is filed.

(Ord. No. 1756, Renumbered [formerly GRC 2.04.060] and Amended, 08/20/2015)

2.05.050 Date of Election.

If a petition contains the required number of verified signatures, a measure election shall be held at the next regular election, unless an earlier election date is approved by the council.

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

2.05.060 Council Referral of Measures.

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

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

2.05.070 Effective Date of Measures.

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

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

2.05.080 Unlawful Acts.

(1) No person other than a registered elector who is a resident of the city shall sign a petition.

(2) No person shall sign a petition with a name not her or his own.

(3) No person shall knowingly sign the same petition more than once.

(4) No person shall knowingly circulate or deposit with the election official a petition that contains a signature signed in violation of GRC Articles 2.01 through 2.08.

(5) No person shall procure or attempt to procure a signature on a petition by fraud.

(6) No person shall knowingly make a false statement concerning a petition.

(7) No person shall make a document required or provided for by GRC Articles 2.01 through 2.08 that contains a false statement.

(8) No city officer or employee shall willfully violate a provision of GRC Articles 2.01 through 2.08.

(Ord. No. 1756, Renumbered [formerly GRC 2.04.170] and Amended, 08/20/2015)

2.05.090 Penalties.

A violation of a provision of GRC 2.05.080 may be enforced as set forth in GRC Article 7.50, or as otherwise authorized by law and may be subject to a fine or penalty in the maximum amount of \$500.

(Ord. No. 1756, Renumbered [formerly GRC 2.04.180] and Amended, 08/20/2015)

Article 2.08
CANDIDATES

Sections:

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

2.08.010 Eligibility.

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

2.08.020 Nomination Petition or Declaration of Candidacy.

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

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

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

(a) No elector may sign more than three petitions. If more than three are signed, the signature shall be valid only on the first three valid petitions filed.

(b) The signatures need not all be attached to one paper, but each separate paper of the petition shall be attached to an affidavit of the circulator, indicating the number of signers and stating that each signature on it is

the genuine signature of the person whose name it purports to be.

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

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

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

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

2.08.030 Petition or Declaration Contents.

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

(a) the name by which the candidate is commonly known. A candidate may use a nickname in parentheses in connection with the candidate's full name;

(b) the residence address of the candidate;

(c) the office or position number for which the candidate seeks nomination;

(d) a statement by the candidate that he or she is willing to accept the office if elected;

(e) a statement that the candidate will qualify if elected;

(f) a statement of the candidate's occupation, educational and occupational background and prior governmental experience; and

(g) the signature of the candidate.

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

2.08.040 Filing.

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

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

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

2.08.050 Deficient Petitions.

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

2.08.060 Withdrawal of Candidacy; Refund of Filing Fee.

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

(2) Upon request received not later than the 67th day before the date of the election, the

election official shall refund the filing fee of a candidate who dies, withdraws or becomes ineligible for the nomination.
(Ord. No. 1756, Amended, 08/20/2015)

2.08.070 Certificate of Nomination.

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

2.08.080 Applicability of State Law.

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

Article 2.10

MAYOR, COUNCIL PRESIDENT AND COUNCILLOR DUTIES

Sections:

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

2.10.010 Mayor Duties.

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

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

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

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

2.10.020 Council President Duties.

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

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

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

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

2.10.030 Councillor Duties.

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

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

- (a) attend and participate at council meetings;
- (b) vote on all questions before council;
- (c) represent council as liaison at committee meetings; and

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

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

Article 2.12

COUNCIL PROCEDURE

Sections:

- 2.12.010** [Meetings.](#)
- 2.12.020** [Presiding Officer.](#)
- 2.12.030** [Voting.](#)
- 2.12.040** [Suspension of Rules.](#)
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- 2.12.080** [Ordinances.](#)
- 2.12.090** [Rules of Order.](#)

2.12.010 Meetings.

The council shall meet at least twice each month in the Gresham Civic Center.
(Ord. No. 1722, Amended, 11/20/2012)

2.12.020 Presiding Officer.

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

2.12.030 Voting.

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

2.12.040 Suspension of Rules.

No council rule may be added, amended, rescinded or suspended, except by the vote of a majority of council members present at the meeting at which the action is taken.
(Ord. No. 1475, Amended, 06/01/1999)

2.12.050 Reconsideration.

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

which final action is taken on the matter in question.

2.12.060 Resolutions.

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

2.12.070 Motions, Debate and Withdrawal.

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

2.12.080 Ordinances.

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

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

2.12.090 Rules of Order.

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

Article 2.16

HEARINGS

Sections:

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

2.16.010 Impartiality of Hearings.

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

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

2.16.020 Disqualification of Members.

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

(1) The following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any

business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

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

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

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

2.16.030 Participation by Interested Officers or Employees.

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

2.16.040 Ex Parte Contacts.

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

2.16.050 Abstention or Disqualification.

Except for legislative hearings conducted by the council, disqualification for reasons other than the member's own judgment may be ordered by two-

thirds of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.

2.16.060 Rights of Disqualified Member.

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

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

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

Article 2.18

**COMMISSIONS, COMMITTEES AND
TASK FORCES – COUNCIL CREATED
ADVISORY BODIES**

Sections:

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

2.18.000 Philosophy.

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

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

2.18.010 Creation of Council Advisory Bodies Generally.

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

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

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

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

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

2.18.020 Structure of Advisory Bodies.

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

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

(3) Council may establish Council Citizen Advisory Committees and Commissions

(CCACs) by council legislative action to address functional areas of policy as is of interest to the council.

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

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

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

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

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

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

(7) Each CCAC with subcommittees shall have a Coordinating Committee comprised of the CCAC chair, CA subcommittee chair(s), together with the council liaison(s) and staff liaison(s). The Coordinating Committee shall meet at the call of either the CCAC Chair, council liaison, staff liaison, or two members of the Coordinating Committee. The Coordinating Committee shall assist in the development of the annual CCAC work plan; coordinate the work of the CCAC, CA subcommittees, and any task force or other advisory body operating under its umbrella;

monitor project milestones; and provide input regarding the annual Council Work Plan.

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

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

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

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

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

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

(4) Participation and Attendance.

(a) Unless expressly stated to the contrary elsewhere in the Gresham Revised Code or Oregon law, failure of any commission, committee, task force or other advisory body member to attend three consecutive meetings of the commission,

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

(5) Residency Requirements.

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

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

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

2.18.040 Suspension or Dissolution.

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

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

2.18.050 Term of Membership, Term Limits and Vacancies.

(1) Unless otherwise expressly provided or required by state law, the term of appointment to any standing commission, committee, or subcommittee created under GRC 2.18.010(1), shall be for a period of three years or until the appointment of the successor by the mayor with consent of the council, whichever is later. Council may shorten this period if necessary for transition of committee membership.

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

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

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

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

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

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

2.18.060 Officers; Terms of Office.

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

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

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

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

2.18.070 Council and Staff Support.

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

(a) Council liaisons will facilitate the work of the advisory body, communicate council direction to the advisory body, receive advisory body reports and provide insight to the advisory body through the CCAC Coordinating Committee in an effort to maintain alignment with council goals, work plans and specific project objectives. Liaisons

will review the Council Work Plan with the advisory body to which they have been appointed liaison, and inform the committee of Council meeting agenda items and of Council decisions that may be of interest to the committee. Liaisons will also encourage committee members to attend Council meetings to keep abreast of Council action, policy matters and the activities of the city organization.

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

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

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

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

2.18.080 Purpose; Meetings; Reporting; Other Responsibilities.

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

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

(3) Quorum.

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

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

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

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

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

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

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

Article 2.20

PLANNING COMMISSION

Sections:

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

2.20.010 Planning Commission.

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

The commission shall represent a broad range of professions, and contain no more than two members who are engaged in the same kind of occupation, business, trade, or profession. At least one member, but no more than two, may be engaged principally in buying, selling, or developing real estate. In making appointments to the planning commission, the council shall encourage, but not require, geographic distribution of members from throughout the city.

(Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1479, Amended, 09/07/1999)

2.20.020 Term of Appointment.

Notwithstanding GRC 2.18.050, each member of the commission is appointed to serve a four-year term.

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

2.20.030 Officers.

The chair and vice-chair of the Planning Commission shall be elected or appointed as provided in GRC 2.18.060.

(Ord. No. 1651, Amended, 03/20/2008; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1316, Amended, 07/07/1994)

2.20.040 Purpose, Powers and Duties.

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

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

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

(b) Review, and prepare at council direction, legislation designed to implement the purposes of the Plan. Conduct hearings, prepare findings of fact, and take such actions concerning such legislation as may be required by state and city law.

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

(d) Recommend plans and policies to the council for orderly and coordinated

development, growth management and enhancement of the city.

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

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

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

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

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

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

(k) Advance relationships with other planning entities to encourage the coordination of public and private planning and development activities affecting the city and its environs.

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

(m) Act as the coordinating entity for all council committees, and commissions in so

far as the work of these bodies relates to land use.

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

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

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

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

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

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

2.20.050 Meetings.

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

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

2.20.060 Staff Assistance.

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

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

2.20.070 Citizen Advisory Subcommittees.

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

(1) Design Commission.

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

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

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

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

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

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

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

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

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

(a) Membership. The Community Development and Housing Citizen Advisory Subcommittee (CDHC) shall consist of a minimum of seven to a maximum of 11 members and is established pursuant to GRC 2.18.010. Members shall have an interest in the development of the community and housing to meet the needs of the low and moderate income population of Gresham. Members shall be selected from groups that are representative of a broad spectrum of the population. These groups may include, but are not limited to, low and moderate income residents, residents of prequalified areas, minorities, persons associated with neighborhood organizations, agencies, churches, and persons affiliated with the industrial, real estate or financial sectors.

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

understanding on matters pertaining to community development and housing for low and moderate income persons.

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

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

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

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

(iv) Coordinate its activities as they relate to the general purpose/mission with other council advisory committees, and countywide and regional bodies.

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

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

(3) Council Transportation Advisory Subcommittee (CTAS).

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

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

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

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

(iii) Researching and evaluating ways to continually improve the transportation system, expand the bicycle and pedestrian network, and improve bicycle and pedestrian safety and accessibility throughout the city.

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

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

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

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

(4) Historic Resources Subcommittee.

(a) Membership. The Historic Resources Subcommittee shall consist of seven members. The members shall have a demonstrated interest, knowledge or competence in historic preservation. Before a prospective member is confirmed, the city shall give the State Historic Preservation Office an opportunity to review the individual's qualifications. The city will make an effort to include preservation professionals on the subcommittee, such as historians, restoration specialists and archeologists.

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

(c) Duties and responsibilities include making recommendations regarding:

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

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

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

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

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

(d) The subcommittee may also:

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

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

(e) Meetings. The Historic Resources Subcommittee shall meet at the call of either

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

(5) Urban Forestry Subcommittee (UFS).

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

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

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

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

Article 2.22

LAND USE HEARINGS OFFICER

Sections:

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

2.22.010 Establishment of Land Use Hearings Officer; Purpose.

There shall be a land use hearings officer (hearings officer) to perform most quasi-judicial reviews of land use applications.
(Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1264, Enacted, 11/19/1992)

2.22.020 Appointment.

The land use hearings officer shall be appointed by and serve at the pleasure of the council. The council may appoint one or more hearings officers or one or more alternates to serve as hearings officer. The terms of appointment may be set forth by a professional services contract.
(Ord. No. 1264, Enacted, 11/19/1992)

2.22.030 Hearings Officer Unavailability.

In the event a hearings officer is not available to conduct hearings, whether due to non-appointment, conflict of interest, absence, or other reason, the planning commission shall automatically assume the powers and duties of the hearings officer.
(Ord. No. 1264, Enacted, 11/19/1992)

2.22.040 Hearings.

The hearings officer shall conduct hearings as necessary to review and make decisions on land use applications and other land use matters. The time and place of all hearings shall be scheduled by the manager.
(Ord. No. 1264, Enacted, 11/19/1992)

2.22.050 Powers and Duties.

The hearings officer shall exercise such powers and have such duties as are described in this article, this code, other ordinances and resolutions of the city, and state law. The hearings officer has the power to request, receive, and examine available information, enter upon any land, and make examinations and surveys, and place and maintain necessary monuments and markers, conduct public hearings, prepare a record, enter findings and conclusions, and exercise such other powers as are necessary to carry out the assigned duties of the hearings officer.
(Ord. No. 1264, Enacted, 11/19/1992)

2.22.060 Reports, Advice, Joint Meetings, and Coordination.

The hearings officer shall make such reports on the hearings officer's activities as the council and planning commission may require. The hearings officer shall advise the council and the planning commission concerning any problem or issue related to the powers and duties of the hearings officer. The hearings officer shall meet from time to time in joint public meetings with the council and planning commission. The hearings officer shall cooperate and coordinate with the council, planning commission, and city officers and staff.
(Ord. No. 1264, Enacted, 11/19/1992)

Article 2.24

**GRESHAM REDEVELOPMENT
COMMISSION**

Sections:

2.24.010 [Gresham Redevelopment
Commission.](#)

2.24.010 **Gresham Redevelopment
Commission.**

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

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

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

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

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

Article 2.36

CITIZEN ENGAGEMENT

Sections:

2.36.005 [Citizen Engagement.](#)

2.36.005 **Citizen Engagement.**

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

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

Article 2.40

FINANCE COMMITTEE

Sections:

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

2.40.010 Finance Committee.

The Finance Committee is established pursuant to GRC 2.18.010(1) and shall have seven members. The appointed committee members must be electors residing within the City of Gresham. (Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1539, Amended, 01/10/2002; Ord. No. 1512, Amended, 1/16/2001)

2.40.020 Purpose, Powers and Duties.

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

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

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

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

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

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

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

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

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

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

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

(l) Foster citizen understanding, discourse and engagement in the budgetary process and identify for recruitment individuals for subcommittees and special assignments who possess special expertise in

local government and/or financial management practices.

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

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

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

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

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

2.40.025 Compensation Board (Mayor).

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

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

2.40.027 Compensation Board (City Councilors).

The Gresham Finance Committee shall provide oversight and control over the compensation of City Councilors and shall annually prepare and

approve a compensation schedule for the elected councilors of the City of Gresham. The salary shall not exceed 45% of the compensation paid to an elected Metro councilor.

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

2.40.030 Term of Appointment.

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

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

2.40.050 Meetings.

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

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

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

2.40.060 Suspension of Provisions.

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

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

Article 2.50

PUBLIC SAFETY

Sections:

2.50.005 [Public Safety.](#)

2.50.005 **Public Safety.**

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

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

Article 2.52

**NATURAL RESOURCES AND
SUSTAINABILITY**

Sections:

2.52.005 [Natural Resources and
Sustainability.](#)

2.52.005 **Natural Resources and
Sustainability.**

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

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

Article 2.55

YOUTH ADVISORY COUNCIL

Sections:

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

2.55.010 Youth Advisory Council.

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

(2) Appointments will be made by the mayor with the consent of the council in accordance with GRC 2.18.030.
(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1778, Enacted, 11/02/2017)

2.55.020 Purpose, Powers and Duties.

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

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

- (a) serve as the primary communications link for youth to government, business and the community on a variety of subjects and issues;
- (b) identify and advocate for the needs of youth in our community; and
- (c) identify and carry out events and activities for the community which are important to youth.

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

2.55.030 Meetings.

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

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

2.55.040 Term of Appointment.

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

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

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

Article 2.60

NEIGHBORHOOD ASSOCIATIONS

Sections:

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

2.60.010 Purpose.

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

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

2.60.020 Neighborhood Association.

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

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

2.60.040 Standards.

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

(1) Membership in associations is not limited by race, creed, color, sex, age, heritage, national origin, or income. Any resident, business owner or owner's representative, non-profit organization, or property owner within the recognized boundary of an association is entitled to membership.

Contributions may be collected only on a volunteer basis.

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

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

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

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

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

2.60.050 Association Responsibility.

An association meeting the standards of GRC 2.60.040 may make official recommendations to the council, its commissions, committees, and the manager on any matter affecting livability of the neighborhood, including but not limited to, land use, community facilities, traffic and transportation, and police and fire service. When making official recommendations, associations shall provide a record of meetings held, including a record of attendance and results of any vote.

2.60.060 City Responsibility.

The manager shall provide a recognized association with the following:

- (1) Timely notice of council, planning commission, and council advisory committee meetings whose decisions may affect the neighborhood;
- (2) General information regarding city services and activities as requested;
- (3) Assistance in educational efforts related to citizen participation in city activities;
- (4) Information about the activities of other associations; and
- (5) Other resources as may be determined by the manager.

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

2.60.070 Termination of Recognition.

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

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

**2.60.080 Coalition of Gresham
Neighborhood Associations.**

There has been established in the City of Gresham a Coalition of Gresham Neighborhood Associations which is a volunteer group made up of the elected board members of all recognized Gresham neighborhood associations. The purpose of the Coalition is to provide structure and support for the leaders of Gresham's neighborhood associations to enable more effective cooperation

among Gresham's neighborhood associations. Like the neighborhood associations the Coalition is a separate and distinct entity from the City of Gresham. The Coalition is recognized by the City of Gresham. The standards for Coalition recognition are:

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

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

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

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

(a) annual election of officers;

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

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

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

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

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

Article 2.72

MANAGER

Sections:

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

2.72.010 Personnel Rules.

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

2.72.020 Enforcement of Gresham City Codes.

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

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

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

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

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

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

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

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

Article 2.76

CITY ATTORNEY

Sections:

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

2.76.010 Office of City Attorney.

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

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

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

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

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

2.76.020 Duties.

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

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

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

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

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

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

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

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

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

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

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

2.76.030 Senior Assistant City Attorney.

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

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

2.76.040 Records.

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

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

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

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

2.76.050 Attorney-Client Relationship.

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

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

2.76.060 Settlements.

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

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

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

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

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

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

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

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

Article 2.80

CONTRACTS AND PURCHASES

Sections:

- 2.80.010** **LOCAL CONTRACT REVIEW BOARD.**
- 2.80.015** **Applicable Law.**
- 2.80.020** **Purpose.**
- 2.80.025** **Definitions.**
- 2.80.030** **Authority of Manager.**
- 2.80.040** **General Policy.**
- 2.80.045** **Contracts.**
- 2.80.050** **Exemptions.**
- 2.80.060** **Hearing.**
- 2.80.080** **Award and Approval of Contracts.**
- 2.80.100** **PURCHASES OF MATERIALS, SUPPLIES, SERVICES AND ASSETS.**
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- 2.80.110** **General.**
- 2.80.120** **Minor Purchases.** (\$0 - \$5,000)
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- 2.80.140** **Major Purchases.** (More than \$50,000)
- 2.80.200** **CONTRACTS FOR PERSONAL SERVICES.**
- 2.80.210** **General.**
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- 2.80.220** **Minor Personal Service Contracts.** (\$0 - \$15,000)
- 2.80.225** **General Personal Services Contracts.** (\$15,000 - \$50,000)
- 2.80.230** **Major Contracts for Personal Services.** (More than \$50,000)
- 2.80.300** **CONTRACTS FOR PUBLIC IMPROVEMENTS.**
- 2.80.310** **General.**
- 2.80.320** **Minor Contracts for Public Improvements.** (\$0 - \$5,000)
- 2.80.330** **General Contracts for Public Improvements.** (More than \$5,000 - \$50,000)
- 2.80.340** **Major Contracts for Public Improvements.** (More than \$50,000)
- 2.80.350** **Contract Incentive.**
- 2.80.400** **BIDDING PROVISIONS.**

- 2.80.480** **Qualification of Bidder.**
- 2.80.600** **TEMPORARY RULES.**
- 2.80.900** **FEES.**

2.80.010. LOCAL CONTRACT REVIEW BOARD

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

2.80.015. Applicable Law.

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

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

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

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

2.80.020. Purpose.

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

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

2.80.025 Definitions.

In addition to the definitions set forth in GRC 1.03.010, for purposes of GRC Article 2.80 the following definitions apply:

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

Award. Selection of a vendor or contractor.

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

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

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

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

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

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

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

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

Solicitation. A request by the city for prospective contractors, vendors, or consultants to submit offers including competitive quotations, competitive bids, or competitive proposals.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Enacted, 01/02/2003)

2.80.030 Authority of Manager.

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

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

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

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

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

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

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

2.80.040 General Policy.

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

(2) No contractor, vendor or supplier may be awarded public contracts in excess of \$25,000 in any one fiscal year without competitive quotations, competitive bidding, or competitive proposals, unless exempted by GRC 2.80 or applicable law.

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

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

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

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

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

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

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

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

2.80.045 Contracts.

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

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

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

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

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

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

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

2.80.050 Exemptions.

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

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

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

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

2.80.060 Hearing.

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

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

2.80.080 Award and Approval of Contracts

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

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

(a) Contracts for the budgeted purchase of:

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

(ii) equipment, vehicles, construction equipment, and assets that are \$50,000 or less.

(iii) services (except personal services) of \$50,000 or less.

(b) Contracts for budgeted personal services of \$50,000 or less.

(c) Contracts for personal services relating to the design or construction of public

improvements that are included in the Capital Improvement Plan as funded and within budgeted expenditures.

(d) Contracts for budgeted Public Improvements of \$50,000 or less.

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

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

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

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

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

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

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

(l) Contracts for the purchase of insurance and other contracts relating to

providing employee benefits within budgeted expenditures.

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

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

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

(3) Amendments and Change Orders.

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

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

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

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

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

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

(a) Contracts for the purchase of insurance and other contracts related to

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

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

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

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

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

2.80.100 PURCHASES OF MATERIALS, SUPPLIES, SERVICES AND ASSETS

2.80.105 Federally-funded Purchases or Contracts.

Purchases or contracts of more than \$3,500, funded in whole or in part with federal funds, are required to obtain competitive bids or quotes.

(Ord. No. 1770, Enacted, 03/23/2017)

2.80.110 General.

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

(2) The selection of a vendor or contractor for the purchase of materials, supplies, services and assets, may take into account price as well as considerations including, but not limited to, experience, expertise, product functionality,

suitability for a particular purpose and contractor responsibility. The contract need not be awarded to the contractor submitting the least costly quotation or proposal.

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

2.80.120 Minor Purchases. (\$0 - \$5,000)

Purchases of goods or services of \$5,000 or less may be made by direct appointment without competitive quotations. Competitive quotations shall be obtained when practical, considering the time spent. Usually, these purchases are routine in nature and obtaining competitive quotations generally consumes more time than worthwhile.

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

2.80.130 General Purchases. (More than \$5,000 - \$50,000)

Except for personal services and public improvements, when an order for goods and services is more than \$5,000, but \$50,000 or less, at least three written or oral competitive quotations shall be obtained. The manager may require competitive bidding or competitive proposals for general purchases.

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

2.80.140 Major Purchases. (More than \$50,000)

Except for personal services and public improvements and unless otherwise exempted, purchases of goods and services for more than \$50,000 are subject to competitive bidding or competitive proposals.

(Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1601, Amended, 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

2.80.200 CONTRACTS FOR PERSONAL SERVICES

2.80.210 General.

(1) The selection of personal service contracts shall be based on an evaluation of the

services needed, the abilities of the contractors, the uniqueness of the service, and the general performance of the contractor. The contract need not be awarded to the contractor submitting the least costly quote or proposal.

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

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

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

2.80.215 Direct Appointment.

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

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

2.80.220 Minor Personal Service Contracts. (\$0 - \$15,000)

Personal service contracts for \$15,000 or less may be made by direct appointment without first obtaining competitive quotations or proposals. If practical, considering time spent, reasonable attempts should be made to solicit quotations or proposals and make known to contractors the required request for services.

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

**2.80.225 General Personal Services
Contracts. (\$15,000 - \$50,000)**

When a personal service contract is more than \$15,000, but \$50,000 or less, at least three written or oral competitive quotations shall be obtained. The manager may require competitive proposals. (Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1647, Enacted, 09/20/2007)

**2.80.230 Major Contracts for Personal
Services. (More than \$50,000)**

(1) When a contract for personal services is more than \$50,000, a competitive proposal, specifying the nature of the service needed, a detailed description of the work to be performed, the minimum qualifications of contractors, and any other relevant information on which a selection can be made, must be prepared. Proposals shall be solicited from known contractors, and, if possible, at least three competitive proposals obtained. The manager shall place appropriate notices and advertisements in at least one trade magazine or a newspaper of general circulation.

(2) All proposals submitted must be in writing. The contract need not be awarded to the contractor submitting the least costly proposal. The reasons for selecting the recommended contractor must be stated in writing.

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

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

**2.80.300 CONTRACTS FOR PUBLIC
IMPROVEMENTS**

2.80.310. General.

(1) Contracts for public improvements are for the construction, reconstruction or major

renovation of buildings and structures, streets, parks, water, stormwater and wastewater systems, but do not include emergency work, minor alterations and ordinary repair or maintenance necessary to preserve a public improvement.

(2) Contracts for public improvements are subject to the Public Works Standards, unless otherwise provided in the contract. (Ord. No. 1756, Amended, 08/20/2015; Ord. No. 1601, Amended, 03/01/2005)

**2.80.320 Minor Contracts for Public
Improvements. (\$0 - \$5,000)**

When a contract for public improvement is for \$5,000 or less, competitive quotations are not required. The manager may obtain competitive quotations if it is in the best interest of the city. (Ord. No. 1601, Amended; 03/01/2005; Ord. No. 1561, Amended, 01/02/2003)

**2.80.330 General Contracts for Public
Improvements. (More than
\$5,000 - \$50,000)**

When a contract for public improvements is more than \$5,000, but \$50,000 or less, a competitive solicitation is required resulting in at least three written or oral competitive quotations. The contract need not be awarded to the contractor submitting the least costly proposal. A written record of the source and amount of the quotations must be kept. The manager may require competitive bids or competitive proposals.

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

**2.80.340 Major Contracts for Public
Improvements. (More than
\$50,000)**

When a contract for a public improvement is more than \$50,000, competitive bidding is required.

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

2.80.350. Contract Incentive

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

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

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

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

2.80.400 BIDDING PROVISIONS.

2.80.480 Qualification of Bidder.

(1) The manager may require persons desiring to submit bids or proposals for a contract or class of contract to be prequalified based on the applicable standards of responsibility. If prequalification is not required, the manager shall determine that the lowest bidder or most advantageous proposer has met the applicable standards of responsibility before the award of the contract.

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

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

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

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

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

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

2.80.600 TEMPORARY RULES

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

2.80.900 FEES

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

Article 2.81

DISPOSITION OF PROPERTY

Sections:

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

2.81.000 DISPOSITION OF PROPERTY

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

2.81.010 Definitions.

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

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

2.81.020 Transfers and Donations.

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

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

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

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

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

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

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

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

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

2.81.030 Trade-Ins.

Surplus property may be traded in on similar new property if the manager determines that it would be more beneficial to the city to trade it in than to sell it outright. (Ord. No. 1601, Renumbered, 03/01/2005)

2.81.040 Auction Sales.

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

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

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

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

2.81.050 Other Sales.

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

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

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

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

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

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

2.81.060 Disposal.

If unable to transfer, donate, trade in, or sell surplus property, the manager may dispose of surplus property through the appropriate solid waste licensee or at a solid waste transfer station.

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

Article 2.82

INVENTORY SEARCHES

Sections:

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

2.82.010 Definitions.

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

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

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

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

Police Custody. Either:

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

Police Officer. Any officer of the Gresham Police Department.

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

2.82.020 Contraband.

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

2.82.030 Personal Property Inventory.

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

2.82.040 Inventories of Impounded Vehicles.

- (1) The contents of all vehicles impounded by a police officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:
 - (a) if there is reasonable suspicion to believe that the safety of either the police officer or any other person is at risk, a required inventory will be done as soon as safely practical; or

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

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

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

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

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

(d) reduce the danger to persons and property.

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

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

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

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

(ii) any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to

be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

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

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

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

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

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

(e) Any valuables located during the inventory process shall be listed in a property receipt. A copy of the property receipt shall either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the chief of police.
(Ord. No. 1507, Enacted, 10/19/2000)

2.82.050 Inventories of Persons in Police Custody.

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

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

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

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

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

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

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

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

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

(f) reduce the danger to persons and property.

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

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

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

such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

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

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

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

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

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

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

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

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

(6) All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in GRC

2.80.874(5) will be released to the facility or agency accepting custody of the person so that they may:

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

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

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

Article 2.84

RECORDS

Sections:

2.84.010 [Records Retention and Destruction.](#)

2.84.020 [Fees for City Documents.](#)

2.84.010 **Record Retention and Destruction.**

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

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

2.84.020 **Fees for City Documents.**

The manager may set fees for:

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

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

Article 2.88

REAL PROPERTY TRANSACTIONS

Sections:

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

2.88.010 Council Approval.

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

2.88.020 Manager Approval.

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

- (1) Easements and rights-of-way for streets, trails, and utilities (city may be the grantor or grantee) if donated or purchased for 120 percent or less of either the real market value determined by the County Assessor or the appraised value.
- (2) Plat dedications required by the Community Development Code.
- (3) Purchase and Sale Agreements which are subject to council approval (city may be the grantor or grantee) before closing.
- (4) Acquisition of donated property if part of an approved master plan.
- (5) Licenses or permits to use real property (city may be the licensor or licensee).
- (6) Acquisition or disposition of small parcels to consolidate ownership, resolve encroachments, or improve access to city property if the value is less than \$15,000.
- (7) Quitclaim deeds releasing utility easements that are not in use and do not benefit the general public.

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

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

2.88.030 Public Improvement Documents.

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

- (1) Acceptance of public improvement projects constructed to city standards.
- (2) Agreements for property owners to contribute to the construction of public improvements required by the Community Development Code but to be constructed at a later date.
- (3) Financing agreement related to System Development Charges, Local Improvement Districts, and public improvements.
(Ord. No. 1513, Enacted, 02/06/2001)

2.88.040 Execution of Documents.

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

Article 2.90

ADMINISTRATIVE SERVICE FEES

Sections:

2.90.010 [Fees for Services.](#)

2.90.020 [Application Fees.](#)

2.90.010 Fees for Services.

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

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

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

(c) public records.

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

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

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

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

2.90.020 Application Fees.

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

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

(Ord. No. 1770, Enacted, 03/23/2017)

Article 2.92

LIENS AND COLLECTIONS

Sections:

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

2.92.010 Interest for Financing; Late Payment Charge on Receivables.

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

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

2.92.020 Attorney Fees and Collection Costs.

In addition to a late payment charge, the actual cost of collection, including attorney fees, may be charged to each receivable account. The council, by resolution, may establish a charge in lieu of actual collection costs to be applied to all delinquent accounts. The collection cost or charge shall be added to any lien for the receivable. (Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 01/02/2003; Ord. No. 1540, Enacted, 03/07/2002)

2.92.030 Liens.

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

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

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

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

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

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

(c) Documents that provide notice regarding potential obligations of property including, but not limited to, backwater valve building drain separation variance, backwater prevention device waiver, reimbursement agreements, reimbursement district resolutions, agreements relating to future obligations to

build or fund public improvements, and private stormwater operations and maintenance agreements. The recording of such documents shall not create a lien. The document and the lien docket shall prominently state “NOTICE OF POTENTIAL OBLIGATION.”

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

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

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

- (a) the effective date of recording,
- (b) a reference to the location of source documents or files,
- (c) a description of the real property affected by the recording including the county “R” number, state identification number and a description meeting the requirements of ORS 93.600,
- (d) the lien account number or other account identifier,
- (e) the amount of the original lien or obligation, and
- (f) the current amount of principal balance.

(6) Each lien record for the purpose of an assessment for local improvements shall also include the name or number of the local improvement, a description of each lot or parcel of land or other property against which the final assessment is made, or which bears or is chargeable for a portion of the actual cost of the local improvement, with the name of the owner and the amount of the unpaid final assessment.

(7) Payments of installments, interest, penalties, and late payment charges for

assessments for local improvements shall be noted in the lien docket as they are received, with the date of payment. The payments so made and entered shall discharge the lien to the amount of the payment and from the date of the payment.

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

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

- (a) for the amounts of the unpaid principal amount docketed, with interest at the rate determined by the city; and
- (b) for any additional penalties or collection charges imposed by the city with respect to any amounts that are not paid when due.

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

(11) Any reference in state law or city code to the “recorder of the governmental unit” or similar phrases shall mean the Title, Liens and Collection Coordinator of the Finance and Management Services Department.
(Ord. No. 1787, Amended, 11/01/2018; Ord. No. 1750, Amended, 05/07/2015; Ord. No. 1709, Amended, 12/01/2011; Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1540; Enacted; 03/07/2002)

2.92.040 Refunds and Accounts Payable.

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

payable or refund shall be held until the dispute is resolved.

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

2.92.050 Release of Lien.

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

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

2.92.060 Form of Payment.

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

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

2.92.070 Collection.

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

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

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

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

2.92.080 Adjustment of Accounts.

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

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

2.92.090 Crediting of Utility Payments.

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

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

2.92.100 Issuance of Permits, Licenses and Other Approvals.

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

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

2.92.210 Audit of Books, Records or Persons.

The manager, for the purpose of determining the correctness of any tax or fee imposed, or for the purpose of an estimate of taxes or fees due, may examine or may cause to be examined by an agent or representative designated by the city for that purpose, any books, papers, records, or memoranda, including copies of a person's state and federal income tax return, bearing upon the matter of the tax or fee. All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the manager or an authorized agent of the manager. If any person refuses to voluntarily furnish any of the foregoing information when requested, the manager may immediately seek a subpoena from the circuit court to require that the person or a representative of the person attend a hearing or produce any such books, accounts and records for examination.

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

Article 2.96

REWARDS FOR INFORMATION

Sections:

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

2.96.010 Rewards.

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

2.96.020 Ineligibility.

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

2.96.030 Apportionment of Reward.

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

2.96.040 Amount.

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

Article 2.97

POLICE, FIRE AND PARKS FEE

Sections:

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

2.97.010 Purpose of Police, Fire and Parks Fee.

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

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

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

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

2.97.020 Definitions.

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

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

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

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

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

2.97.030 Establishment of Police, Fire and Parks Fee.

(1) Effective Dates.

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

(b) Effective July 5, 2014, the Police, Fire and Parks Fee is renewed and will continue to be imposed upon all city utility accounts within the Gresham city limits.

(2) The Police, Fire and Parks Fee for each utility account shall be based on a monthly amount applied to the number of residential units and non-residential units allocated to that utility account. The Police, Fire and Parks Fee shall be prorated based on utility billing cycles and, for utility accounts that are opened or closed during the period the Police, Fire and Parks Fee is in effect, the date the utility account is opened or closed.

(3) Residential and Non-Residential Units that are the basis for calculating the Police, Fire and Parks Fee do not in any way create an obligation of the property or Premise and the obligation to pay the Police, Fire and Parks Fee is a personal obligation of the customer responsible for payment of the city utility account. No lien will attach to any Premise because of the nonpayment of the Police, Fire and Parks Fee.

(4) All developed property receives a direct or indirect benefit from police, fire and park services. The Police, Fire and Parks Fee applies to all City of Gresham utility accounts, including those that serve local, state and federal governments, and to city utility accounts that serve Premises that are entitled to an exemption from or deferral of ad valorem property taxes.

(Ord. No. 1739, Amended, 07/05/2014; Ord. No. 1723, Enacted, 12/04/2012)

2.97.040 Amount of the Police, Fire and Parks Fee.

(1) The amount of the Police, Fire and Parks Fee shall be \$7.50 per month for each residential and non-residential unit, subject to the following adjustments:

(a) The amount of the Police, Fire and Parks Fee for a Premise or portion of a Premise with four or more attached residential units shall be:

(i) \$2.50 per month for February and March 2013,

(ii) \$5.00 per month for April and May 2013, and

(iii) \$7.50 per month thereafter.

(b) The Police, Fire and Parks Fee for a Premise or portion of a Premise with four or more attached residential units shall be reduced by 4.1%, which is the average Troutdale/Fairview/Wood Village/Gresham area vacancy rate as reported by the Metro Multifamily Housing Association Apartment Report, Fall 2012, Volume 17.

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

2.97.050 Dedicated Funds.

(1) There shall be a Police, Fire and Parks Fund. All Police, Fire and Parks Fee revenues imposed and collected under this article shall be deposited in the Police, Fire and Parks Fund.

(2) Money in the Police, Fire and Parks Fund shall be used for the purposes of operation and administration of city police, fire and parks services. Ninety-five percent of the Police, Fire and Parks Fund shall be dedicated to police and fire services, and five percent to parks services. The Police, Fire and Parks Fee shall not be used for any other governmental or proprietary functions of the city.

(3) The City Council may designate a portion of the fee to provide financial assistance to low income individuals.

(Ord. No. 1739, Amended, 07/05/2014; Ord. No. 1723, Enacted, 12/04/2012)

2.97.060 Billing.

(1) The customer responsible for paying the city utility account is responsible for payment of the Police, Fire and Parks Fee.

(2) The city shall collect the Police, Fire and Parks Fee by adding the Police, Fire and Parks Fee to the utility bill of each customer in the City of Gresham. The city will bill the Police, Fire and Parks Fee on a schedule approved by the manager.

(3) If a Premise has more than one utility account, the Police, Fire and Parks Fee for the Premise shall be calculated based on the total number of residential units and non-residential units on the Premise. The residential units and non-residential units may be combined into one account or allocated to each account.

(4) Charges for water, wastewater, stormwater, and the Police, Fire and Parks Fee may be billed on the same utility bill. Payment shall be applied first to the Police, Fire and Parks Fee.

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

2.97.070 Payment Due Date.

The Police, Fire and Parks Fee shall be paid within 26 days from the service period ending date on the utility bill.

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

2.97.080 Adjustment of Accounts.

(1) Customers who believe their Police, Fire and Parks Fee, as applied to their Premise, is not within the intent of this article may request, in writing, a review of their Police, Fire and Parks Fee by the manager. The manager may initiate a review of a customer's Police, Fire and Parks Fee.

(a) If a customer's charge is reduced as a result of this review, the corrected Police, Fire and Parks Fee shall begin with the next billing

and a credit or refund shall be made retroactively, not to exceed one year from the last billing.

(b) If a customer's charge is increased as a result of this review, the corrected Police, Fire and Parks Fee shall begin with the next billing and the customer may be billed for the increase retroactively, not to exceed one year from the last billing.

(2) If an existing customer has not been billed for the Police, Fire and Parks Fee, the Police, Fire and Parks Fee shall begin with the next billing and the customer may be billed retroactively, not to exceed one year.

(3) Customers not satisfied with the results of the review by the manager may protest the manager's decision to an independent hearings officer. GRC 7.50.030(1) to (10) shall apply to any protest.

(4) The manager may write off closed accounts and retroactive bills if in the best interest of the city and may write off refunds, unless the customer requested otherwise, if the cost of making the refund would exceed the amount of the refund.

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

2.97.090 Delinquency.

(1) A Police, Fire and Parks Fee is delinquent if payment in full is not received by the city within 26 days from the service period ending date on the regular bill.

(2) If a customer's utility account for Police, Fire and Parks Fee is delinquent, the city may discontinue all water services billed on that account. The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid. The city will follow the procedures identified in GRC 5.99.040.

(3) The city may discontinue all of a customer's current water services at any time the city discovers that the customer has a delinquent Police, Fire and Parks Fee at any property in the city.

(4) The council may set by resolution fees for extra services required in collecting delinquent customer accounts for Police, Fire and Parks Fee. (Ord. No. 1770, Amended, 03/23/2017; Ord. No. 1723, Enacted, 12/04/2012)

Article 2.98

REVIEW OF DEMANDS FOR
COMPENSATION UNDER OREGON
REVISED STATUTES CHAPTER 197
AS AMENDED BY BALLOT MEASURE
37 PASSED NOVEMBER 2, 2004

Sections:

- 2.98.010 Purpose.
- 2.98.020 Definitions.
- 2.98.030 Pre-filing Conference.
- 2.98.040 Demand Requirements.
- 2.98.050 Demand Review Process.
- 2.98.060 Conditions of Approval,
Revocation of Decision and
Transfer of Approval Rights.
- 2.98.070 Ex Parte Contacts, Conflict of
Interest and Bias.
- 2.98.080 Attorney Fees on Delayed
Compensation.
- 2.98.090 Availability of Funds to Pay
Claims.
- 2.98.100 Severability.
- 2.98.110 Applicable State Law, No
Independent Rights Created by
this Article.

2.98.010 Purpose.

The purpose of this article is to accomplish the following regarding demands for compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004:

Process demands for compensation quickly, openly, thoroughly, and consistently with the law; enable present real property owners making demands for compensation to have an adequate and fair opportunity to present their demands to the city’s decision-maker; provide the city’s decision-maker with the factual and analytical information necessary to adequately and fairly consider demands for compensation, and take appropriate action under the alternatives provided by law; preserve and protect limited public funds; preserve and protect the interests of the community by providing for public

input into the process of reviewing demands; and, establish a record of decisions capable of withstanding legal review.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, for purposes of this article the following definitions shall apply:

Appraisal. Means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, the term “appraisal” additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by written certificate.

Demand. Means the “written demand for compensation” required to be made by an “owner” of “real property” under Ballot Measure 37. Demands shall not be considered “made” under Ballot Measure 37 until the city accepts the demand after the requirements for making a demand under this article are fulfilled by the owner of real property.

Exempt land use regulation. Means:

(a) a regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, including Gresham Revised Code Chapter 7, as amended from time to time, and the criminal laws of Oregon and the City of Gresham;

(b) a regulation restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(c) a regulation required to comply with federal law;

(d) a regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(e) a regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

Family member. Means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

Land use regulation. Means any comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of the City of Gresham.

Owner. Means the present owner of real property that is the subject of the demand for compensation, or any interest therein. The owner must be a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

Property. Means any private real property or interest therein. It includes only a single parcel or contiguous parcels in single ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

Reduction in Value. Means the difference in the fair market value of the property before and after enactment, enforcement or application of a land use regulation.

(Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1595, Enacted, 12/02/2004)

2.98.030 Pre-filing Conference.

(1) Before submitting a demand for compensation, the owner must schedule and attend a pre-filing conference with the manager to discuss the demand. The pre-filing conference shall follow the procedure set forth by the manager and may include a filing fee, and notice to neighbors, other organizations and agencies. The filing fee shall be set by council resolution.

(2) To schedule a pre-filing conference, the owner must contact the manager and pay the appropriate conference fee. The pre-filing conference is for the owner to provide a summary of the owner’s demand to the manager, and for the manager to provide information to the owner about regulations that may affect the demand. The manager may provide the owner with a written summary of the pre-filing conference within 10 days after it is held.

(3) The manager is not authorized to settle any demand at a pre-filing conference. Any omission or failure by staff to recite to an owner all relevant applicable regulations will not constitute a waiver or admission by the city.

(4) A pre-filing conference is valid for six months from the date it is held. If no demand is filed within six months of the conference, the owner must schedule and attend another conference before the city will accept a demand. The manager may waive the pre-filing requirements if, in the manager’s opinion, the demand does not warrant that step.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.040 Demand Requirements.

(1) Form, Completeness, Completeness Review, Extension and Tolling of Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, 180-Day Period.

(a) A demand shall only be submitted and accepted for review upon forms established by the manager. A demand shall consist of all materials required by this article. A demand

will not be accepted until found to be complete by the manager after all materials required by this article have been submitted.

(b) The manager shall conduct a completeness review within 15 days after submittal of the demand and shall advise the owner, in writing, of any material remaining to be submitted. The owner shall submit the material needed for completeness within 30 days of the written notice that additional material remains to be submitted. If the owner fails to provide the materials necessary to make the demand complete within the 30 day period the demand shall not be accepted for filing.

(c) The 180-day period required to pass prior to any cause of action being available to owner in circuit court specified in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, shall only commence on the date the manager deems the demand complete, and accepts it for filing. The manager shall note the date of completeness and filing, in writing, upon the demand.

(d) The owner may request an extension for filing a complete demand. A request for an extension or continuance shall be deemed a waiver of the commencement of the 180-day period required to pass prior to any cause of action being available to the owner in circuit court specified in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and this article.

(2) Information and Other Matters Required to be Submitted as Part of the Demand. A demand shall be for a single property and shall be submitted on forms established by the manager, and shall consist of all materials required by this article. A demand will not be accepted for filing without all of the following information:

(a) Fee. An application fee to be paid in advance of acceptance for filing to cover the costs of completeness review and demand processing. This fee shall be established by council resolution. The demand processing fee

shall be refunded if the city or an appellate body determines that just compensation should be paid.

(b) Form. A completed demand form.

(c) Identification of Owner. Identification of the name, physical address, street address, and phone number of the owner. If the applicant is not the owner, this information must also be provided for the owner and authorization to act on behalf of the owner must be provided

(d) Property Description. A legal description of the property as well as a common address for the property.

(e) Proof of Present Property Ownership. Proof, acceptable to the manager, that the property is in the exclusive fee simple ownership of the owner or that the owner has the consent of all owners in the property. The name and mailing address of all owners other than the owner making the demand must be provided.

(f) Nearby Property Owner Information. The names and addresses of all owners of property within 300 feet of the property.

(g) Listing of Nearby Owned Property. Identification of any other property owned by the owner within 300 feet of the boundary of the property.

(h) Title Report. A title report, including the title history, a statement of the date the owner acquired ownership of the property, and the ownership interests of all owners. The title report must also specify any restrictions on use of the property unrelated to the land use regulation including, but not limited to, any restrictions established by Covenants, Conditions and Restrictions (CC&Rs), other private restrictions, or other regulations, restrictions or contracts.

(i) Copy of Existing Regulation. A copy of the land use regulation that the owner making the demand claims restricts the use of

the property, or interest therein, that has had the effect of reducing the fair market value of the property, including the date the owner claims the land use regulation was first enacted, enforced or applied to the property.

(j) Copy of Prior Regulations. A copy of the land use regulation in existence, and applicable to the property, when the owner became the owner of the property, and a copy of the land use regulation in existence immediately before the regulation that was enacted or enforced or applied to the property, that the owner claims restricts the use of the property and, the owner claims, caused a reduction in fair market value due to the regulation described in item (i) above being more restrictive.

(k) Appraisals. A copy of a written appraisal or appraisals by an appraiser, qualified as such in the State of Oregon, indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after enactment, enforcement or application of the land use regulation described in item (i) above, and explaining the rationale and factors leading to that conclusion. If the demand is for more than \$10,000, copies of two appraisals by different appraisers must be included. If the demand is for \$10,000 or less, one appraisal must be provided.

(l) Narrative. The owner shall provide a narrative describing the history of the owner and/or family member's ownership in the property, the history of the relevant land use regulations applicable to the demand, and how the enactment, enforcement or application of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

(m) Statement Regarding Exceptions. A statement by the owner making the demand of why the following exceptions to the requirement for compensation for restrictions or prohibitions on activities or uses found in

Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004 do not apply:

1. commonly and historically recognized public nuisances under common law;
2. protection of public health and safety;
3. regulations required to comply with federal law;
4. use of property for the purpose of selling pornography or performing nude dancing; or,
5. the subject land use regulation was enacted prior to the date of the acquisition of the property by the owner, or prior to acquisition by a family member of the owner who owned the subject property prior to the acquisition or inheritance by the owner [if "family member" status is claimed it must also be addressed in the title report required by item (h) above].

(n) Statement of the Owner's Understanding of the Effect of Any Modification, Removal or Non-Application of Land Use Regulation. A statement by the owner explaining their understanding of what effect a modification, removal or non-application of the land use regulation would have on the potential development of the property, stating the greatest degree of development that the owner believes would be permitted on the property if the identified land use regulation were modified, removed or not applied.

(o) Copies of Prior Permit Applications and Description of Enforcement and/or Application Actions by the city. Copies of any land use actions, development applications or other relevant applications for permits that have previously been filed in connection with the property and the action taken. Any such actions that represent the required "enforcement" and/or "application" of the

land use regulation that are prerequisites to making a demand must be described and identified as such.

(p) Site Plan and Drawings. A copy of the site plan and drawings related to the expected use of the property should the land use regulation be modified, removed or not applied in a readable/legible 8 ½ by 11-inch format.

(q) Statement of Relief Sought. A statement of the relief sought by the owner. (Ord. No. 1595, Enacted, 12/02/2004)

2.98.050 Demand Review Process.

(1) The manager shall assess any demand for compensation and make a recommendation to the city council on the disposition of the demand.

(2) The manager shall mail notice of the demand to the owner and to all owners of record of property, and to all owners of property within three hundred (300) feet of the property that is subject of the notice, as listed on the most recent property tax assessment roll where such property is located. Additional mailed notice shall be sent to the Oregon Department of Land Conservation and Development, Oregon Department of Justice, Metro and such others as the city may designate by council resolution.

(3) The manager’s notice under subsection (2) of this section shall:

(a) state the basis of the demand, the amount of the compensation sought and the regulation that causes the compensation to be alleged to be due;

(b) identify the property by the street address or other easily understood geographical reference;

(c) state that persons noticed may provide written comments on the demand, and provide the date written comments are due or, if a hearing has been requested, the date, time and location of the hearing. Include a general explanation of the requirements for

submission of written comments or, if a hearing is to be held, the requirements for submission of testimony and evidence and the procedure for conduct of hearings;

(d) identify the city representative and telephone number to contact to obtain additional information; and

(e) state that a copy of the demand and the supporting documents submitted by the owner are available for inspection at no cost, and that copies will be provided at reasonable cost.

(4) Before the manager may make a recommendation on the demand, the manager shall provide notice of the demand in accordance with the provisions of subsections (2) and (3) of this section.

(5) Written comments regarding a demand may be submitted to the manager. Any such comments must be received by the manager within 14 days from the date identified in paragraph (3), above. The owner shall have an additional 7 days after the deadline set in paragraph (3), above, to respond to any written comments received by the manager. It is the duty of the owner to determine if comments have been received by the manager.

(6) The manager shall hold a public hearing on the demand if requested by:

(a) the applicant in the initial written demand; or

(b) another person entitled to notice under subsection (2) of this section, provided that person makes the request within seven days from the date provided under subsection (3)(b) of this section.

If the owner requests a hearing, the initial notice under subsections (2) and (3) of this section shall provide the date, time and location of the hearing. If a hearing is requested by other persons entitled to notice a new notice by the manager shall be issued to the remaining persons entitled to notice giving the date, time and location of the hearing.

(7) If a hearing is conducted:

(a) All documents or evidence relied upon by the owner shall be submitted to the manager as a part of the demand. Persons other than the owner may submit documents or evidence at the hearing.

(b) Any staff report used at the hearing shall be available at least 7 days prior to the hearing.

(c) When the manager reopens a record to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

(d) The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings if the city can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(8) The manager shall make a recommendation, applying the standards of Oregon Revised Statutes Chapter 197 as amended by Ballot Measure 37, passed November 2, 2004, to the city council based on all of the information presented. Should compensation be recommended by the manager, the recommendation to the city council may include establishing any relevant conditions for compensation. The manager will consider the city council criteria for decision and may recommend the city council take any of the actions set forth in subsection (11), of this section.

(9) The manager may, in the manager's discretion, retain the services of an appraiser to appraise the property and evaluate the demand to assist in determining the validity of a demand.

(10) Within 21 days from the date of the close of the period for written comments or the conclusion of the hearing, if one is requested, the manager shall make a recommendation to the city council as to whether compensation shall be paid,

the amount of compensation to be paid, and/or whether any specific land use regulation should be modified, removed or not applied to the property.

(a) A copy of the manager's recommendation and notice of the date, time, and place of the city council meeting at which the recommendation will be reviewed shall be sent by mail to the owner, and to all individuals that provided written comments and/or participated in the manager's hearing, not less than 7 days before the scheduled city council meeting, provided a mailing address was previously provided to the manager as part of the review or hearing process.

(11) Review of the Manager's Recommendation and Decision on the Demand by the city council. Review by the city council shall be on the record of the manager's review or hearing, and limited to the completed demand filed with the manager, together with any and all documents and testimony submitted in connection with any review or hearing before the manager. Any staff report by the manager used at the city council review shall be available at least 4 days prior to the city council meeting. The city council shall consider written and/or oral arguments based on the record of the manager's review or hearing made by the owner, and any party entitled to receive notice of the city council review. In making its decision, the city council will consider the standards of Oregon Revised Statutes Chapter 197 as amended by Ballot Measure 37, passed on November 2, 2004; the benefit(s) accruing to the public arising as a result of application of the regulation; and the burden to the public in paying compensation to the owner(s), taking into consideration the available financial resources of the city. The city council may take, but is not limited to taking, any one or more of the following actions on a demand:

(a) Deny the demand based on, but not limited to, any one or more of the following findings:

1. the land use regulation does not restrict the use of the private real property;

2. the fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;

3. the demand was not timely filed;

4. the owner failed to comply with the requirements for making a demand as set forth in this article;

5. the owner is not the present property owner, or the property was not owned by a family member if that is required for compensation, or was not the property owner at the time the land use regulation was enacted, enforced or applied;

6. the land use regulation is an exempt regulation as defined in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004;

7. the land use regulation in question is not an enactment of the city;

8. the city has not taken final action to enact, enforce or apply the land use regulation to the property;

9. the owner is not entitled to compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, for a reason other than those provided herein.

(b) Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record, subject to the availability and appropriation of funds for that purpose.

(c) Modify the regulation.

(d) Remove the regulation.

(e) Not apply the regulation.

(f) Take such other actions as the city council deems appropriate consistent with Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004.

(12) The owner shall bear the burden of proof relating to the demand and entitlement to just compensation. The city shall bear the burden of proof to show that the regulation is exempt under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004. The standard of proof shall be by a preponderance of the evidence.

(13) This article shall be interpreted in a manner consistent with Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and other implementing statutes or regulations and as interpreted by Oregon appellate courts.

(14) The final decision on a demand shall be made by the city council. After review the city council shall, under the standards of Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and the factors enumerated in subsection (11) of this section, determine whether compensation is granted, the amount of compensation if any, whether any exceptions to the requirement for compensation apply or whether the regulation should be modified, removed or deemed not to apply to the property. A copy of the city council decision shall be sent by mail to the owner and to each individual or entity that participated in the manager or city council review process, provided a mailing address was provided to the city as part of the review process.

(Ord. No. 1595, Enacted, 12/02/2004)

**2.98.060 Conditions of Approval,
Revocation of Decision and
Transfer of Approval Rights.**

(1) The city council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under GRC 2.98.050(11).

(2) Failure to comply with any condition of approval is grounds for revocation of the approval of the compensation for the demand, grounds for recovering any compensation paid and grounds for revocation of any other action taken under GRC 2.98.050(11).

(3) In the event the owner, or the owner's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the conditions of approval, the city may institute a revocation or modification proceeding before the city council under the same process for manager and city council review of a demand under this article.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1595, Enacted, 12/02/2004)

2.98.070 Ex Parte Contacts, Conflict of Interest and Bias.

The following rules govern any challenges to the manager's or member of the city council's participation in the review and recommendation motion, or hearings regarding demands:

(1) Any factual information obtained by the manager or a member of the city council outside the information provided by city staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. The manager or a member of the city council that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and the manager or member of the city council.

(2) Whenever the manager or a member of the city council, or any member of their immediate family or household, has a financial interest in the outcome of a particular demand or lives within the area entitled to notice of the demand, that manager or member of the city council shall not participate in the deliberation or decision on that application.

(3) All decisions on demands must be fair, impartial and based on the applicable review standards and the evidence in the record. Any manager or member of the city council who is

unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.080 Attorney Fees on Delayed Compensation.

If a demand under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and this article is denied or not fully paid within 180 days of the date of filing a completed demand, the owner's reasonable attorney fees and expenses necessary to collect compensation will be added as additional compensation provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, within 180 days of the date of filing a completed demand, and the owner commences suit or action to collect compensation, if the city is the prevailing party in such action, then city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees. In the event the city is the prevailing party and is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in Gresham, Oregon for the type of legal services performed.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.090 Availability of Funds to Pay Claims.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.100 Severability.

If any phrase, clause, or other part or parts of this article is found to be invalid by a court of competent jurisdiction, the remaining phrases,

clauses and other part or parts shall remain in full force and effect.

(Ord. No. 1595, Enacted, 12/02/2004)

2.98.110 Applicable State Law, No Independent Rights Created by this Article.

For all demands filed the applicable state law is those portions of Oregon Revised Statutes Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed on November 2, 2004 and/or as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any demand that has not been processed completely under this article shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this article shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. This article is adopted solely to address demands filed under the authority of those provisions of Oregon Revised Statutes Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed November 2, 2004. No rights independent of said provisions are created by adoption of this article.

(Ord. No. 1595, Enacted, 12/02/2004)

Article 2.99

REQUIREMENTS AND PROCEDURES FOR FILING AND REVIEWING CLAIMS FOR COMPENSATION PURSUANT TO ORS 195.300 to 195.336 (MEASURE 49) FOR PROPERTY LOCATED, IN WHOLE OR IN PART, INSIDE THE CITY OF GRESHAM

Sections:

- 2.99.010 [Purpose.](#)
- 2.99.020 [Definitions.](#)
- 2.99.030 [Claim for Compensation.](#)
- 2.99.040 [Claim Filing, Completeness and Processing Deadlines.](#)
- 2.99.050 [Criteria, Recommendation and Decision.](#)
- 2.99.060 [Notice of Hearings Officer and Council Hearings and Notice of Council Decision.](#)
- 2.99.070 [Processing Fee.](#)
- 2.99.080 [Burden of Proof.](#)
- 2.99.090 [Ex Parte Contacts, Conflict of Interest and Bias.](#)
- 2.99.100 [Procedural Error.](#)
- 2.99.110 [Availability of Funds to Pay Demands.](#)
- 2.99.120 [Severability.](#)
- 2.99.130 [Applicable State Law, No Independent Rights Created by this Article.](#)
- 2.99.140 [Judicial Review.](#)

2.99.010 Purpose.

The purpose of this article is to implement the provisions of ORS 195.300 to 195.336, (Ballot Measure 49) enacted by the voters on November 6, 2007. These provisions are intended to establish a prompt, open, thorough and consistent process that provides claimants an adequate and fair opportunity to present their claims for compensation to the city. (Ord. No. 1667, Effective, 12/06/2007)

2.99.020 Definitions.

In addition to the definitions set forth in GRC 1.05.010, the definitions set forth in ORS 195.300, are by this reference, incorporated herein. As used in this process, the following words and phrases mean:

- (1) Ballot Measure 49. Means the measure enacted by the voters at the November, 2007, general election and codified at ORS 195.300-195.336.
- (2) City Council. Means the city council of the city of Gresham.
- (3) Claimant. Means the person or persons who have filed a claim or demand for compensation pursuant to ORS 195.312 (7) and (8).
- (4) Department. Means the Urban Design & Planning Department of the city of Gresham or successor entity designated by the council.
- (5) Director. Means the Urban Design & Planning Director of the Urban Design & Planning Department, or designee, or a successor city official designated by the council.
- (6) Hearings Officer. Means the Land Use Hearings Officer appointed and serving under the provisions of GRC Article 2.22, or a successor designated by the council.
- (7) Land Use Regulation. Means as defined in ORS 195.300(14)(c) “a provision of a city comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use.”
- (8) Manager. Means the city manager appointed by the council or the manager's designee.
- (9) Person. Includes a public or private entity.

(10) Zoned for Residential Use. Means, as defined in ORS 195.300(25), “zoning that has as its primary purpose single-family residential use.” (Ord. No. 1700, Amended, 03/03/2011; Ord. No. 1667, Effective, 12/06/2007)

2.99.030 Claim for Compensation.

A person seeking to file a claim for compensation shall do so by delivery of said claim to the director in person or by U.S. Mail. The minimum requirements for making a claim are specified in ORS 195.310. The city council will make the final decision on all claims.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.040 Claim Filing, Completeness and Processing Deadlines.

(1) Filing. The filing date is the date the claim and required processing fee is received by the director.

(2) Claim form. Claimant shall file a completed claim form provided by the city and supply all information specified in ORS 195.312 and all supplemental information specified in ORS 195.310.

(3) Only one claim for each property may be filed for each land use regulation.

(4) Completeness and processing time limits. To be complete the claim must address all informational and review requirements of ORS 195.300 through 195.336. The city shall:

(a) determine whether a claim is complete within 60 days after receiving the claim;

(b) notify the claimant in writing of any missing information or if the required processing fee has not been paid within 60 days after receiving the claim;

(c) after providing notice of the missing information, deem the application complete if:

(i) the claimant provides the missing information and the required processing fee; or

(ii) the claimant provides a written notice that some or all of the missing information will not be provided and the required processing fee.

(d) deem the application complete when filed if the city fails to notify the claimant of missing information or that the fee is missing from the claim within 60 days after receiving the claim;

(e) deem the application withdrawn if the claimant fails to provide the missing information or fee or a written statement that some or all of the missing information will not be provided or fee within the time specified in the notice of missing information; and

(f) issue a final determination on a claim within 180 days from the date the claim is deemed complete.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.050 Criteria, Recommendation and Decision.

(1) Claims review process. Upon receipt of a filing, the city shall follow the claims review process as set forth in ORS 195.300 to 195.336 and this article.

(2) The criteria applicable to the claim shall be those set forth in ORS 195.300 – 195.336. These criteria, which the owner must prove, include, but are not limited to, the following:

(a) a city land use regulation or regulations enacted after January 1, 2007, and after the property was acquired by the claimant, restricts the residential use of the claimant’s private real property;

(b) the land use regulation or regulations have the effect of reducing the fair market value of the property;

(c) the highest and best use of the property at the time the property was acquired was residential and the person's desired use of the property is residential;

(d) the land use regulation is not an exempt land use regulation;

(e) the time limitation for filing a claim specified in ORS 195.312(4) requiring filing within five years from the date the land use regulation was enacted has not been exceeded;

(f) pursuant to ORS 195.324(1) if the owner submitted an application for a comprehensive plan or zoning amendment and the city approved the amendment the owner is not entitled to relief under ORS 195.300 to 195.336 with respect to a land use regulation enacted before the date the application was filed;

(g) pursuant to ORS 195.324(2) if the owner filed a petition to initiate annexation to the city and the city approves the petition, the owner is not entitled to relief under ORS 195.305 to 195.336 with respect to a land use regulation enacted before the date the petition was filed;

(h) all other requirements of law have been met.

(3) Steps in claims review process.

(a) Director recommendation. Upon receipt of a claim the director shall determine whether the necessary information to make the claim is present and whether the claim is complete. If the claim is complete the director shall produce a staff report which will summarize the information regarding the claim and include a recommendation to the hearings officer on whether to:

(i) determine that the claim is not eligible for compensation pursuant to ORS 195.300 – 195.336, and deny the Claim; or

(ii) determine that the claim is valid pursuant to ORS 195.300 – 195.336, and that the claimant be compensated for the reduction in the fair market value of the property; or

(iii) determine the claimant should be authorized to use the property without application of the subject land use regulation to the extent necessary to offset the reduction in the fair market value of the property. The recommendation should include as statement of the number of dwellings and lots that may be approved if the land use regulation(s) are waived. The decision to allow the claimant to use the property without application of the subject land use regulation or to compensate the claimant shall be based on a determination of whether the public interest would be better served by compensating claimant or by allowing the use without application of the subject land use regulation. A decision to waive a land use regulation shall in no way impact any obligation of claimant to demonstrate compliance with any regulations not expressly provided for in the decision or to obtain any required approvals or permits. The council may waive some regulations specified in the claim and deny waiver of others. The council is not limited to those regulations listed in the claim and may impose any conditions of approval that it deems reasonable and appropriate to protect the public interest. Failure to comply with any condition of approval is grounds for revocation of the approval of the compensation and waiver for the claim, grounds for recovering any compensation paid, and grounds for revocation of any other action taken under this article. A use authorized by a waiver has the legal status of a lawful nonconforming use in the same manner as provided under ORS 215.130.

The staff report will be available at least seven calendar days prior to the scheduled date of the hearings officer hearing.

(b) Hearings officer public hearing and recommendation. Upon receipt of the director’s recommendation the hearings officer shall conduct a hearing on the claim. After conducting the hearing the hearings officer and shall provide a written recommendation to the manager of one of the three options set forth in subsection (2)(a) of this section.

(c) Manager review and recommendation. The manager shall receive the written recommendation of the hearings officer and, based solely on the hearings officer’s written recommendation and the record of the hearing, shall make a written recommendation to the council of one of the three options set forth in subsection (2)(a) of this section. The manager’s written recommendation will be available at least seven calendar days prior to the scheduled date of the council hearing.

(d) Council hearing on the record and final decision. The final decision on the claim shall be made by the council after a hearing on the record of the hearings officer hearing and recommendation and manager’s recommendation. The council shall make a written decision in accordance with one of the three options set forth in subsection (2)(a) of this section.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.060 Notice of Hearings Officer and Council Hearings and Notice of Council Decision.

(1) Notice of Hearings. Written notice shall be provided at least 30 days prior to the hearings officer and council hearings. The notice shall include such information as set forth in this section. A notice of public hearing and an opportunity to submit written comments on the claim shall be sent to:

- (a) all owners identified in the claim;
- (b) all property owners of record of property on the most recent property tax

assessment roll within 100 feet of the subject property;

(c) the recognized city neighborhood association within whose boundaries the subject property is located;

(d) the Board of County Commissioners of Multnomah County;

(e) Metro; and

(f) the Department of Land Conservation and Development.

(g) the notice shall describe the claim and contain:

(i) for the hearings officer hearing, that the hearings officer will hold a public hearing on the claim and the date, time and location of the hearing and the final date for submission of written evidence and arguments relating to the claim; for the council hearing that the council will hold a public hearing on the record established by the hearings officer and the date, time and location of the hearing and the final date for submission of written arguments based on the record, relating to the claim;

(ii) the address, if any, and the assessor’s map and tax lot number of the property that is the subject of the claim;

(iii) a statement of the claimant’s desired use of the property for residential use;

(iv) the number of dwellings, lots or parcels sought by the claimant, as well as the specific regulations alleged to restrict the use of the property;

(v) a statement that the claim and any information submitted by the claimant is available at the department for inspection or copying at cost and the phone number of a city staff contact;

(vi) for the hearings officer hearing a statement that all persons may submit oral or written comments at or prior to the close of the hearings officer public hearing and/or record on the claim; for the council hearing a statement that all persons may submit oral or written arguments, but not new evidence, at or prior to the close of the council public hearing and/or record on the claim. If the hearings officer or the council chooses to hold the hearing record open, they may specify that only written comments may be made during that period;

(vii) a statement that judicial review of the final determination on the claim is limited to the oral and written evidence and arguments submitted to the city at or prior to the close of the hearings officer public hearing and/or record on the claim and to the arguments submitted to the city at or prior to the close of the council hearing and/or record on the claim;

(viii) a statement that prior to the close of testimony at the hearings officer hearing, the claimant may request an additional seven days to respond to oral testimony or written submittals by submitting written evidence or arguments in response. The claimant must make this request before the close of the hearing;

(ix) a statement that judicial review is available only for issues that are raised with sufficient specificity to afford the public entity an opportunity to respond; and

(x) any other information as deemed necessary by the director.

(2) Notice of Final Council Decision. The city shall mail a copy of the council’s decision to the claimant. Notice of the council’s final decision shall also be mailed to any person who submitted arguments to the council before the close of the argument record of the council hearing. The notice shall contain a brief description of the decision, and, if the claim is

granted any compensation to be awarded or a listing of all regulations that the council has decided to not apply and the specific number of dwellings, lots or parcels authorized by the waiver. The notice shall also state that a claim has been, or may need to be, filed with the State, if the council thinks that a state regulation is implicated. The city shall forward to the county, and the county shall record, a memorandum of the final determination in the deed records of the county in which the property is located.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.070 Processing Fee.

The fee for processing a claim for compensation shall be in an amount not to exceed the actual and reasonable cost of reviewing the claim. The claimant shall deposit a minimum amount to be set by council resolution. Upon receipt of the deposit, the city shall:

(1) The city shall keep a record of all time, materials and expenditures spent processing the claim. If the costs involved in processing the claim do not exceed the deposit, the city shall return the unused portion of the deposit to the claimant. If the costs of processing the claim exceed the amount of the deposit, claimant will receive an invoice for the excess costs, and shall be responsible to reimburse the city for all amounts in excess of the deposit prior to issuance of a final decision by the city on the claim.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.080 Burden of Proof.

Claimants shall have the burden of proof on all matters under this article and under ORS 195.300 to 195.336. The claimant bears sole responsibility for ensuring that the record before the city contains all information and evidence necessary to support the claim.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.090 Ex Parte Contacts, Conflict of Interest and Bias.

(1) The following rules govern any challenges to any member of the council’s participation in the review of claims:

(a) Any factual information obtained by a member of the council outside the information provided by city staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. Any member of the council that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and any member of the council.

(b) Whenever a member of the council, or any member of their immediate family or household, has a direct financial interest in the outcome of a particular claim or lives within the area entitled to notice of the claim, that member of the council shall not participate in the deliberation or decision on that application.

(c) All decisions on claims must be fair, impartial and based on the applicable review standards and the evidence in the record. Any member of the council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.100 Procedural Error.

No procedural defect in processing a claim shall invalidate any proceeding or decision unless the party alleging the error demonstrates prejudice to a substantial right. Inadvertent failure to provide notice or complete notice shall not be grounds for invalidating a decision.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.110 Availability of Funds to Pay Demands.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.120 Severability.

If any phrase, clause, or other part or parts of this article is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.130 Applicable State Law, No Independent Rights Created by this Article.

For all claims filed with the City of Gresham, the applicable state law is Measure 49 (ORS 195.300 to 195.336) as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any claim that has not been processed completely under this article shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this article shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. This article is adopted solely to address claims filed under the authority of the provisions of Measure 49 (ORS 195.300 to 195.336). No rights independent of said state law provisions are created by adoption of this article.

(Ord. No. 1667, Effective, 12/06/2007)

2.99.140 Judicial Review.

Judicial review of the city's decision shall be as provided in ORS 195.318.

(Ord. No. 1667, Effective, 12/06/2007)