

Title 8

HEALTH AND SAFETY

Chapters:

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- 8.12 Illegal Dumping and Littering**
- 8.16 Public Nuisances**
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Chapter 8.04

ADULT CARE HOMES

Sections:

8.04.010 County authorized to enforce County Ordinance No. 503 in the city.

8.04.020 City departments authorized to furnish information to county.

8.04.030 Amendment to intergovernmental agreement with County authorized.

8.04.010 County authorized to enforce County Ordinance No. 503 in the city

In accordance with the provisions of ORS 190.010 and ORS 203.040, the City of Wood Village does authorize Multnomah County, its agents and representatives, to enforce within the city limits of Wood Village, Multnomah County Ordinance No. 503, dated February 27, 1986, amending Ordinance No. 392 (MCC 8.90.005—8.90.260) entitled “The Multnomah County Adult Care Home Licensure Ordinance,” which is an ordinance providing for the licensure and inspection of adult care homes, the establishment of fees for licenses, requiring the posting of the resident's bill of rights, and establishing penalties and authorizing appropriate civil action, which adult care home licensure ordinance is attached to the ordinance codified in this chapter, marked Exhibit “A,” on file in the City Recorder's office and by this reference

made a part hereof at this point. (Ord. 4-1986 § 1)

8.04.020 City departments authorized to furnish information to county

The appropriate departments of the City are authorized to furnish Multnomah County such information as may be pertinent to the application and enforcement of the Multnomah County Adult Care Home Licensure Ordinance within the City of Wood Village to assure that optimum application thereof is obtained so as to promote the maintenance of the peace, health, safety and welfare of the residents and inhabitants of the city, and in particular the protection of those individuals to which such adult home care program may be applicable. (Ord. 4-1986 § 2)

8.04.030 Amendment to intergovernmental agreement with county authorized

The Mayor and City Recorder of Wood Village are authorized to execute an amendment to the intergovernmental agreement with Multnomah County authorized by City Ordinance No. 6-1983, this amendment to be substantially similar to the amendment, attached to the ordinance codified in this chapter as Exhibit “B,” on file in the City Recorder's office, for Multnomah County administration and enforcement within the City of Wood Village of all of the provisions of the Multnomah County Adult Care Home Licensure Ordinance No. 503. (Ord. 4-1986 § 3)

Chapter 8.08

ALARM SYSTEMS

Sections:

- 8.08.010 Title.**
- 8.08.020 Purpose and scope.**
- 8.08.030 Definitions.**
- 8.08.040 Alarm permits required; Payments of Permit Fees and Other Fees**
- 8.08.050 Excessive false alarms; Fees**
- 8.08.060 No response; Reinstatement Fee**
- 8.08.070 Special permits.**
- 8.08.080 Alarm Business Responsibilities**
- 8.08.090 Automatic dialing device—Certain interconnections prohibited.**
- 8.08.100 Hearing.**
- 8.08.110 Statistics**
- 8.08.120 Enforcement and penalties.**

8.08.010 Title

This chapter shall be known as the burglary and robbery alarm ordinance. (Ord. 5-1989 § 1; Ord. 8-2010)

8.08.020 Purpose and scope

A. The purpose of this chapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency responses to false alarms and thereby to protect the emergency response capability of the county from misuse.

B. This chapter governs burglary and robbery alarm systems, requires permits, provides for fines for excessive false alarms, no response to alarms, provides for punishment of violations and establishes a system of administration.

8.08.030 Definitions

As used in this chapter:

“Alarm business” means the business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, monitoring, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, monitored, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

“Alarm system” means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which law enforcement officers are alerted.

“Alarm user” means the person, firm, partnership, association, corporation, company or organization of any kind which owns, controls or occupies any building, structure or facility wherein an alarm system is maintained.

“Automatic dialing device” means a device which is interconnected to a telephone line and is programmed to elect a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response. Such a device is an alarm system.

“Bureau of Emergency Communications” means the City/County facility used to receive

emergency and general information from the public to be dispatched to the appropriate police departments utilizing the bureau.

“Burglary or Robbery alarm system” An automated or manual alarm signaling a robbery, an entry or attempted entry into the area protected by the system.

“Commercial Alarm System” An alarm system maintained in a building, structure or facility that is not primarily used as the alarm system user’s residence.

“Economically disadvantaged person” means a person receiving public assistance and/or food stamps.

“False alarm” means an alarm signal, eliciting a response by police when a situation requiring a response by the police does not in fact exist. An alarm is not considered false if the alarm signal is caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user, including but not limited to, evidence of a crime or an attempted crime: notice from the alarm business that the system is faulty before the officers arrives on the scene or notice from alarm business operator that the system or the user erred before an officer arrives on the scene.

“Interconnect” means to connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

“No response” means law enforcement officers will not be dispatched to investigate a report of an alarm signal.

“Residential Alarm System” An alarm system maintained in a building, structure or facility that is primarily used as the alarm system user’s residence.

“Sheriff” means the Sheriff of Multnomah County or designee.

“System becomes operative” means when the alarm system is capable of eliciting a response by police. (Ord. 5-1989 § 3; Ord. 8-2010)

8.08.040 Alarm permits required; Payments of Permit Fees and Other Fees

A. Every alarm user, including but not limited to users of any non-monitored alarm systems, must obtain an alarm user's permit for each system from the Sheriff within thirty (30) days of the time when the system becomes operative. Users of commercial alarm systems having both manual and automated alarm capabilities must obtain separate permits for each function.

B. Permits issued under this subchapter expire annually on March 31. Application for an alarm user’s permit fees as set by City Council resolution must be filed with the Sheriff each year. The permit fees must be postmarked to the Sheriff on or before midnight March 31 of the preceding permit year.

C. If a residential alarm user is over the age of sixty-five (65) and/or is an economically disadvantaged person and is a resident of the residence and if no business is conducted in the residence, a user's permit may be obtained from the Sheriff according to subsections (A) and (B) of this section for a reduced fee as set by City Council resolution.

D. Each permit will bear the signature of the Sheriff and must be

physically upon the premises where the alarm system is used and available for inspection by the Sheriff. If a law enforcement officer is dispatched to investigate a report of an alarm signal and a valid permit is not available for inspection, the alarm user must pay a fee set by City Council resolution and obtain a permit within thirty (30) days of the date of dispatch.

E. A late fee in an amount set by City Council resolution will be charged in addition to the fees provided in this subsection to an alarm user who fails to obtain a permit within thirty (30) days after the system becomes operative, or who is more than 30 days delinquent in renewing a permit.

F. If an alarm user fails to renew a permit within thirty (30) days after the permit expires, the Sheriff will notify that alarm user that, unless the permit is renewed and all the fees are paid within thirty (30) days of receipt of the notice, the Sheriff will initiate the no response process. If the permit is not renewed and all fees paid, the Sheriff will initiate the no response process and make notifications as provided in section 060 of this chapter. (Ord. 8-2004; Ord. 5-1991 § 1(A); Ord. 8-2010)

8.08.050 Excessive False Alarms; Fees

A. After the fourth alarm within the permit year there may be no law enforcement response to subsequent alarms without approval of the Sheriff.

B. After a false alarm, the Sheriff will also notify the alarm user that:

1. After the fourth false alarm within the permit year, there may be no response to subsequent alarms without the approval of the Sheriff; and

2. Approval of the Sheriff may only be obtained by applying in writing for reinstatement. The Sheriff may reinstate the alarm user upon finding that reasonable effort has been made to correct the false alarms.

C. Fees for excessive false alarms will be assessed by the Sheriff as set by City Council resolution.

D. The Sheriff will notify the alarm user of a false alarm, the fees for excessive false alarms, if any, and the consequences of the failure to pay the fees. The Sheriff will also inform the alarm user of his or her right to appeal the validity of the false alarm to the Sheriff, as provided in section 100 of this chapter.

E. A late fee in an amount set by City Council resolution will be charged in addition to the fee provided in subsection (C) to an alarm user who fails to pay the excessive false alarm fees within 30 days after receipt of the notice.

F. If a residential alarm system user fails to pay the excessive false alarm fee within thirty (30) days after the date of the initial notice and no appeal hearing is pending, the Sheriff will notify the alarm user that unless all fees are paid within seven (7) days of the date of notice, the Sheriff will initiate the no response process. If payment is not received within seven (7) days of the date of the notice, the Sheriff will initiate the no response process, make notifications as provided in section 060 of this chapter and may initiate the enforcement of penalties.

G. If a commercial alarm system user fails to pay the excessive false alarm fee within thirty (30) days after the date of the initial notice and no appeal hearing is pending, the Sheriff will

notify the alarm user that unless all fees are paid within seven (7) days of the date of notice, the Sheriff may initial the no response process. If payment is not received within seven (7) days of the date of notice, the Sheriff may initial the no response process, make notifications as provided in section 060 of this chapter and may initial the enforcement of penalties. (Ord. 8-2010)

8.08.060 No response; Reinstatement Fee

A. When the no response process is initiated, the Sheriff shall notify:

1. The Bureau of Emergency Communications
2. The alarm system user; and
3. Any alarm business employed by the alarm user if known.

B. No response to an alarm will begin seven (7) days after the date of the notices provided above unless a written request for a false alarm validity hearing has been made in the time period required under section 100 of this chapter.

C. If a no response order is issued by the Sheriff, a reinstatement fee as set by City Council resolution will be charged in addition to any outstanding fees, fines and penalties. (Ord. 8-2010)

8.08.070 Special permits

A. The following alarm users will be issued a special permit:

1. An alarm user required by federal, state, county or municipal law to install, maintain and operate an alarm system; or
2. A federal, state or local government unit.

B. Special permit holders must pay the regular permit fee, but are not subject

to the no response procedure under this subchapter.

C. Any alarm user that is a federal government agency is not liable for false alarm fees. (Ord. 8-2010)

8.08.080 Alarm Business Responsibilities

Every alarm business must:

A. Furnish the user with instructions that provide information to enable the user to operate the alarm properly and to obtain service for the alarm at any time.

B. Notify the user of the requirement to get a permit and give the user a copy of the application necessary to obtain a permit.

C. Give the user a copy of the county notice that outlines the consequences of generating false alarms, including possible fees, penalties and fines, and such other forms and notices as required by the county.

D. Maintain a list of all active alarm customers and provide this list to the Multnomah County Sheriff's Office upon request. (Ord. 8-2010)

8.08.090 Automatic Dialing Device; Certain Interconnections Prohibited

It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to a government agency related to emergency response, and it is unlawful for an alarm user to fail to disconnect or reprogram such device within twelve (12) hours of receipt of written notice from the Sheriff that an automatic dialing device is so programmed. (Ord. 5-1989 § 10; Ord. 8-2010)

8.08.100 Hearing

A. An alarm user who wants to appeal validity of a false alarm determination may appeal to the Sheriff for a hearing. The appeal must be in writing and must be received by the Sheriff within fourteen (14) days from the date of notice. Failure to contest the determination in the required time period results in a conclusive presumption for all purposes that the alarm was false.

B. If a hearing is requested, the Sheriff will notify the alarm user of the time and place of the hearing no later than ten (10) days prior to the hearing date, which date will not be more than twenty-one (21) nor less than ten (10) days after the request for hearing is received unless agreed upon by both parties.

C. The hearing shall be before a hearings officer. The alarm user has the right to present written and oral evidence, subject to the right of cross-examination. If the Sheriff determines that the alleged false alarms occurred in a permit year, the Sheriff will issue written findings waiving, expunging or entering a false alarm designation on an alarm user's record at the Sheriff's discretion. The decision of the Sheriff's or hearings officer is final. If false alarm designations are entered on the alarm user's record, the Sheriff may find that the alarm user is liable for hearing costs including costs of the hearings officer and witnesses and will pursue fee collection as set out in this chapter. (Ord. 8-2010)

8.08.110 Statistics

Subject to the requirements of confidentiality, the Sheriff will develop and maintain statistics within reason for the purpose of

evaluating member service for the municipalities and alarm companies. (Ord. 5-1989 § 13; Ord. 8-2010))

8.08.120 Enforcement and penalties

Violation of this Chapter is a civil infraction pursuant to Chapter 1.06 of the Code (Ord. 4-2006 § 6; Ord. 5-1989 § 16; Ord. 8-2010))

Chapter 8.12

**ILLEGAL DUMPING AND
LITTERING**

Sections:

- 8.12.010 Title and area of application.**
- 8.12.020 Refuse hauling regulations—Penalty.**
- 8.12.030 Dumping and littering prohibited—Penalty.**
- 8.12.040 Departmental enforcement.**
- 8.12.050 Hearings officer.**
- 8.12.060 Complaint.**
- 8.12.070 Notice of hearing.**
- 8.12.080 Answer—Default.**
- 8.12.090 Hearing.**
- 8.12.100 Review.**
- 8.12.110 Enforcement of fines and costs.**

8.12.010 Title and area of application

This chapter shall be known as the Wood Village illegal dumping ordinance, and may be so pleaded and referred to as such and shall apply to all areas within the city. (Ord. 8-1993 § 1(A))

8.12.020 Refuse hauling regulations—Penalty

A. No person, firm, association or corporation shall transport, carry, direct or hire another party to transport or carry, any rubbish, trash, garbage, debris or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road in the city, unless contained in such a way as not to cause any part thereof to be deposited upon a public

roadway or private property in the city other than that of the concerned party.

B. Any person, firm, association or corporation violating subsection A of this section commits a civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code. (Ord. 4-2006 § 7; (Ord. 8-1993 § 1(B), (C))

8.12.030 Dumping and littering prohibited—Penalty

A. No person, firm, association or corporation shall throw, place, or direct another person, firm, association or corporation to throw or place upon the private land or waters of another person, firm or corporation, or upon public lands or waters, or upon any public place, any rubbish, trash, garbage, debris or other refuse or material for recycling, other than in receptacles provided therefor, without such party's permission.

B. Any person, firm, association or corporation violating subsection A of this section shall be subject to:

1. A civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code.; and

2. An award of costs to reimburse the City for the actual expenses including: the administrative costs of investigation, adjudication and collection; and cleanup and disposal. (Ord. 4-2006 § 8; Ord. 8-1993 § 1(D), (E))

8.12.040 Departmental enforcement

A. Enforcement of the regulatory enactments and policies set forth in this chapter shall be the responsibility of the department of public works.

B. The department shall:

1. Investigate refuse hauling, dumping and littering violations;
2. Issue complaints;
3. Reach settlements;
4. Represent the city before the hearings officer or court except where legal counsel is necessary; and
5. Collect fines and costs. (Ord. 8-1993 § 1(F))

8.12.050 Hearings officer

A. The Wood Village City Council may appoint a hearings officer who shall serve at the will of the City Council. The city may enter into an intergovernmental agreement to share an officer with other jurisdictions.

B. The hearings officer may promulgate reasonable rules and regulations, not inconsistent with this chapter, concerning the conduct of complaint hearings, which shall be subject to Council review for good cause upon written request. (Ord. 8-1993 § 1(G))

8.12.060 Complaint

A. A proceeding before the hearings officer or District Court may be initiated only as specifically authorized in this chapter.

B. A proceeding shall be initiated only by the Department filing a complaint with the hearings officer or District Court in substantially the following form:

COMPLAINT REGARDING
CITY OF WOOD VILLAGE
ORDINANCE (8-1993) VIOLATION

City of Wood Village, Petitioner,

v.

Respondent(s)

1. Address of respondent(s):

2. Address or location of the alleged violation:

3. Nature of violation including Ordinance section violated:

4. Relief sought:

Dated

Signed

Title & Department

(Ord. 8-1993 § 1(H))

8.12.070 Notice of hearing

The hearings officer or District Court shall cause notice of the hearing to be given to the respondent(s) either personally or by certified or registered United States mail. The notice shall contain a statement of the time, date and place of the hearing. A copy of the complaint shall be attached to the notice. (Ord. 8-1993 § 1(I))

8.12.080 Answer—Default

A. A respondent who is served with a complaint and notice of hearing for a violation specified herein shall answer

such complaint and notice of hearing by either:

1. Personally appearing to answer at the time and place specified therein; or

2. Mailing or otherwise delivering to the place specified on or before the assigned appearance date, a signed copy of the complaint and notice of hearing, together with a check or money order in the amount of the scheduled fine listed therein. If the violation is denied, a hearing will be held on the date assigned in the notice of hearing.

B. If the respondent alleged to have committed the violation fails to answer the complaint and notice of hearing by the appearance date indicated thereon, which shall be no sooner than seven days from the date of the notice of hearing, or appear at a hearing as provided herein, the hearings officer or court shall consider the city's case as presented and shall issue its final order either declaring a default and levying an appropriate fine and costs or declaring the complaint insufficient and dismissing the case. (Ord. 8-1993 § 1(J))

8.12.090 Hearing

A. Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.

B. The City shall not be represented before the hearings officer by the city attorney or other counsel except as provided below. A respondent charged with a violation may be represented by legal counsel provided that five working days' written notice of such representation is received by the City. The City may have legal counsel represent it when respondent is

represented by counsel. The hearings officer or court may for good cause waive this notice requirement in individual cases or reset the hearing for a later date.

C. The City must prove the violation occurred by a preponderance of the admissible evidence.

D. A name of a person, firm or corporation found on rubbish, trash, garbage, debris or other refuse, or recyclable material, in such a way that it denotes ownership of the items, constitutes rebuttable evidence that the person, firm or corporation has violated the refuse hauling, dumping and/or littering regulations.

E. The hearings officer or District Court shall place on the record a statement of the substance of any written or oral ex parte communications made to the hearings officer or court on a fact in issue during the pendency of the proceedings. The hearings officer or court shall notify the parties of the communication and of their right to rebut such communications.

F. The hearings officer or court shall have the authority to administer oaths and take testimony of witnesses. Upon the request of the respondent, or upon his or her own motion, the hearings officer or court may issue subpoenas in accordance with the Oregon Rules of Civil Procedure, which shall apply to procedural questions not otherwise addressed by this chapter.

1. If the respondent desires that witnesses be ordered to appear by subpoena, respondent shall so request in writing at any time five days prior to the scheduled hearing. A fifteen-dollar (\$15.00) deposit for each subpoena issued shall accompany each request.

2. Subject to the same five-day limitation, the City may also request that certain witnesses be ordered to appear by subpoena.

3. The hearings officer or court may waive the five-day limitation for good cause.

4. Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases and payment of such allowance shall be the responsibility of respondent and the city in accordance with the party who requested the witnesses' appearance.

5. If a fine is declared in the final order, the order may provide that the respondent shall reimburse the City for any witness fees incurred attributable to the hearing.

G. Each party shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on his, her or its own behalf.

H. After due consideration of the evidence and arguments, the hearings officer or court shall determine whether the violation alleged in the complaint has been established.

1. When the determination is that the violation has not been established, an order dismissing the complaint shall be entered.

2. When the determination is that the violation has been established, or if an answer admitting the infraction has been received, an appropriate order shall be entered.

3. The final order issued by the hearings officer or court shall set forth both findings of fact and conclusions of law and shall contain the amount of the fine and costs imposed and instructions regarding payment.

4. A true copy of the order shall be delivered to each party or to their

attorneys of record, personally or by mail.

I. A tape recording shall be made of the hearing. The tape shall be retained for at least ninety (90) days following the hearing or final judgment on appeal. (Ord. 8-1993 § 1(K))

8.12.100 Review

A. Any motion to reconsider the order of the hearings officer or court must be filed within ten days of the original order or it may not be heard.

B. Any aggrieved party, including the City, may appeal a final adverse ruling to the Circuit Court as provided by ORS 34.010 through 34.100. (Ord. 8-1993 § 1(L))

8.12.110 Enforcement of fines and costs

A. Fines and costs are payable upon receipt of the written settlement or final order declaring the fines and costs. Fines and costs under this chapter are a debt owing to the city and may be collected in the same manner as any other debt allowed by the law.

B. The City may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any written settlement of the department or final order of the hearings officer or District Court including, but not limited to, its suit or action to obtain judgment for any civil penalty imposed by an order of the hearings officer or court pursuant to Section 8.12.020B and/or Section 8.12.030(B)(1) and/or any assessment for costs imposed pursuant to Section 8.12.030(B)(2).

C. Fines and costs collected pursuant to the provisions of this chapter shall be credited to the general fund.
(Ord. 8-1993 § 1(M))

Chapter 8.16

PUBLIC NUISANCES

Sections:

- 8.16.140 Title.**
- 8.16.150 Definitions.**
- 8.16.160 Purpose.**
- 8.16.170 Administration - Enforcement.**
- 8.16.180 Administration – Rules and regulations.**
- 8.16.190 Notice Procedure.**
- 8.16.200 Specific nuisances prohibited.**
- 8.16.210 Chronic Nuisance Declared**
- 8.16.220 Abatement**
- 8.16.230 Type A Abatement – Summary Abatement Procedure**
- 8.16.240 Type B Abatement – General Nuisance Abatement Procedure**
- 8.16.250 Type C Abatement – Chronic Nuisance Abatement Procedure**
- 8.16.260 Costs and Fees**
- 8.16.270 Collection of Costs and Fees**
- 8.16.280 Classification of Offenses**
- 8.16.290 Violations and other Remedies**

8.16.140 Title

This chapter shall be known as “The City of Wood Village Nuisance Control Ordinance,” and may be so pleaded.

8.16.150 Definitions

As used in this chapter, unless the context requires otherwise:

A. “Abandoned vehicle” means any vehicle which reasonably appeared to be inoperative, wrecked, discarded, abandoned, or totally or partially dismantled.

B. “Administrator” means the City Administrator of the City of Wood Village or the Administrator's designee.

C. “Costs of abatement” means the total expenses incurred by the City to abate the violation(s) to include but are not limited to the following: the costs for any and all contractors, materials, disposal costs, and staff time to abate a violation; title search charges; court or hearing costs; lien recording and release fees; and administrative overhead charges related to the abatement.

D. “Council” means the City Council of the City of Wood Village.

E. “Garbage” means all animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of food.

F. “Liquid waste” means waste oil, septic tank pumping, liquid industrial wastes, or other similar material.

G. “Nuisance” means any annoying, unpleasant, or obnoxious condition or practice causing or capable of causing an unreasonable threat to the public health, safety, and welfare in the circumstances, but does not include noise. Anything defined as a nuisance in Section 8.16.200 shall be a nuisance.

H. “Owner” the current owner of real property as shown in the property records of Multnomah County, Oregon.

I. “Person” means any natural person, or any partnership, corporation, company, trust or other legal entity.

J. "Property Management Company" means any person that manages real property on behalf of the owner.

K. "Rodent" means a mouse or rat.

L. "Rubbish" means glass, metal, paper, wood, plastics, or other non-putrescible solid waste.

M. "Sewage sludge" means residual waste of sewage treatment plants, consisting of digested organic waste and indigestible solids.

N. "Sheriff" means the Multnomah County Sheriff's office or such other law enforcement agency that provides police services to the City via an intergovernmental agreement or otherwise pursuant to the authority of the City Council.

O. "Sidewalk" means that portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

P. "Solid waste" means all putrescible and nonputrescible wastes, whether in solid or liquid form, except wastes produced by the human body, liquid-carried industrial waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service, and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semisolid waste, dead animals, and other discarded solid materials.

Q. "Tenant" means any person who controls or possesses real property under a lease, a month-to-month tenancy, by permission by the owner, or otherwise.

R. "Vector" means any insect organism, including but not limited to flies, fleas, lice, ticks, fly maggots, and mosquito larvae, capable of bearing or carrying a disease transmittable to human beings.

S. "Vehicle" means any device which is designed or used for transporting people, goods, or property upon a public street or roadway, including but not limited to a body, engine, transmission, frame, or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks. (Ord. 9-2009)

8.16.160 Purpose

The Council has determined it necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety, and welfare of the people of the City and this chapter shall be liberally construed to effectuate that purpose.

8.16.170 Administration- Enforcement

The Administrator or Sheriff shall be responsible for the administration and enforcement of this chapter.

8.16.180 Administration - Rules and regulations

The Administrator may adopt rules necessary for the administration and enforcement of this chapter.

8.16.190 Notice procedure

Except as provided elsewhere in this Chapter, all notices shall be in writing, and may be served in person or by mail. If mailed, notice shall be sent postpaid, by certified or registered mail, return receipt requested, to the addressee's last known address. A mailed notice shall be presumed to have been received on the second mail delivery day after mailing.

8.16.200 Specific nuisances prohibited

A. It is unlawful for any person, owner, occupant, and/or property management company to allow, to exist, or to permit any tenant to maintain, the following things, practices, or conditions on any property or within public rights-of-way adjacent to that property, which shall be nuisances:

1. A pond or pool of stagnant water which emits an obnoxious odor or is a source of vector breeding or otherwise presents a threat to the public health, safety, and welfare.

2. An animal carcass not buried or destroyed within twenty-four hours after death.

3. Accumulation, collection, or storage of solid waste without prior approval of the Administrator, unless the owner is licensed by lawful authority to operate a business specifically for those purposes.

4. Any accumulation of dirt, sand, gravel, pieces or chunks of concrete, or other similar inorganic material, which is unsightly and reduces the aesthetic appearance of the neighborhood, unless the owner is operating a lawfully approved business specifically for those purposes.

5. Dead or decaying trees and tree limbs that present a safety hazard to the public or to abutting property owners.

6. A commercial vehicle which exceeds eight thousand pounds gross weight, twenty-one feet in length, or eight feet in height parked in the driveway or parking area in a residential zone unless it is a vehicle that is routinely on standby and necessary to use under emergency circumstances.

7. Any abandoned vehicle upon private or public property, unless the owner of the property is lawfully authorized to operate a business specifically for that purpose.

8. Any vehicle or other personal property such as a trailer, boat, recreation vehicle, or pleasure craft, parked or stored in such a way as to obstruct the public sidewalk.

9. Signs, hedges, shrubbery, natural growth, or other obstructions at or near intersections which hinder the view necessary for the safe operation of vehicles.

10. Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil, or solid waste.

11. Uncontrolled or uncultivated growth of weeds, brush, poison oak, poison ivy, tansy ragwort, or grasses over fourteen inches in height which offer vector or rodent harborage, contribute noxious pollens to the atmosphere, constitute a fire hazard, or unreasonably interfere with the use and enjoyment of abutting public or private property.

12. Vehicle storage and repair in residential neighborhoods unless lawfully permitted pursuant to the Wood Village Zoning Code.

13. Connection of any electric, water, sewer, gas, or telephone line from

any source to a motor home, travel trailer, camper, or utility trailer if any portion of such line between the connection at the termination and the point of connection at the source extends over, across, or under any public street, sidewalk, alley, or other public right-of-way or portion thereof.

14. Maintenance of poultry, livestock, or nondomesticated animals.

15. An abandoned, discarded or unattended icebox, refrigerator or other container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside.

16. Any property, whether vacant or improved buildings, residential structure, or accumulation of any materials, which is infested by vectors or rodents.

17. Any explosive or radioactive substance unless the possession is authorized by law.

18. Any vacant building left unsecured and unattended and accessible to the public.

19. An open pit, well, quarry, cistern, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more without reasonable safeguards or barriers to prevent them from being accessible to children.

20. A fence, barrier, partition or obstruction located in a residential zone and which is partially or totally constructed with barbed wire or is electrically charged in such a manner as to transmit an electrical shock or charge upon contact.

21. Any excavation which endangers the lateral support or causes cracking, settling, or other damage to streets, sidewalks, or other public property.

22. Any building or structure as defined in the Wood Village Building Code (Section 15.04.020) which is structurally unsafe, not provided with adequate egress, which constitutes a fire hazard, is unsanitary, or is otherwise dangerous or constitutes a health hazard to humans. This includes any use of buildings or structures constituting a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is hereby declared an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary, and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby declared unsafe building appendages.

23. Any premises maintaining an attractive nuisance which may prove harmful to inquisitive minors, including unsecured machinery, unsecured building materials, solid waste, insufficiently secured buildings, excavations, abandoned motor vehicles, unsecured and structurally unsound structures, or similar conditions on property.

24. Storage of a discarded vehicle upon any private property within the City unless the vehicle is completely enclosed within a building or unless it is in connection with a lawfully conducted business dealing in junked or stored vehicles. For the purposes of this chapter, "discarded vehicle" includes any vehicle that does not have an affixed and unexpired license plate and is inoperative, wrecked, fully or partially dismantled, abandoned, or junked.

"Discarded vehicle" also includes major parts of such vehicles, including but not limited to bodies, engines, transmissions, and rear-ends.

25. Any activity or behavior that requires a law enforcement response including but not limited to the following: harassment; intimidation; disorderly conduct; public indecency; prostitution; alcohol violations; offensive littering; possession, manufacture, or delivery of controlled substances; illegal gambling; criminal mischief; curfew violations; unlawful use of a weapon; and criminal trespass.

B. The enumeration of nuisances in subsection 8.16.200(A) of this section shall not limit the power of the Administrator or Sheriff to investigate or declare any other condition a nuisance which is within the scope of Sections 8.16.150(G) of this chapter.
(Ord. 9-2009, 6-2010)

8.16.210 Chronic Nuisance Declared

When the Administrator, Sheriff, or their designee receives a report or reports documenting the occurrence of three or more nuisance activities, defined in Section 8.16.200, on or within three hundred (300) feet of the property during any one hundred eighty (180) consecutive day period, the property may be declared a chronic nuisance and abated pursuant to Section 8.16.250.
(Ord. 9-2009)

8.16.220 Abatement

In addition to any fines, imprisonment, costs, permit revocation or other penalty that might be imposed by a court, the City may initiate

abatement of the offense. Abatements are classified as follows:

Type A abatement – Summary Abatement Procedure;

Type B abatement – General Abatement Procedure; and

Type C abatement – Chronic Nuisance Abatement Procedure.

(Ord. 9-2009)

8.16.230 Type A Abatement – Summary Abatement Procedure

A condition, substance, act or nuisance that is detrimental to the public health, safety or welfare, may be summarily abated as provided in this section if it creates an imminent danger to life, health, or safety to people, property, wildlife, or the environment.

A. A notice to the property owner, occupant, and/or property management company is not required.

B. Costs of the abatement may be assessed as provided in Section 8.16.260.

C. A stop work order from the City to address a Type A public nuisance is a means of summary abatement. The stop work order, which is effective as of the date and time issued, shall state the nature of the violation including the citation to the applicable provisions being violated, and may contain the steps that can be taken to correct the violation. If there is a protest of a stop work order issued under this section, the stop work order shall continue in effect during the pendency of any protest.

(Ord. 9-2009)

**8.16.240 Type B Abatement –
General Nuisance
Abatement Procedure**

A. A public nuisance as defined in Chapter 8.16 shall be abated as provided in this section unless it qualifies for Type A abatement as described in section 8.16.230 or Type C Abatement as described in section 8.16.250.

B. Written notice of violation and direction to abate shall be posted on the premises where the violation exists directing the owner, occupant, and/or property management company to abate the violation(s) within a period designated in the notice, but in no event more than thirty (30) calendar days from the date of the notice of violation and direction to abate.

C. At or about the time of posting the premises upon which the violation exists, the Administrator shall send a copy of the notice to the property owner, occupant, and/or property management company by regular mail at the last known address as listed in the County Tax Assessor's Office. Notice may also be sent to a security interest or lien holder having an interest in the property.

D. The notice of violation and direction to correct or abate the violation to the owner, occupant, and/or property management company shall include:

1. The location of the property that is the subject of the complaint by commonly used street address or otherwise;

2. Citation of the specific code sections giving rise to the alleged violation(s) and a description of the violation(s) which must be corrected;

3. A direction to take all steps necessary to correct the violation(s) or show that the violation does not exist by

the date(s) specified in the notice of violation;

4. A statement of the time allowed to correct the violations (not more than thirty calendar days);

5. A statement that in addition to any other enforcement action, if a violation is not corrected by the correction date specified in the notice, penalties, fines, costs, and administrative enforcement fees may be imposed on the owner, occupant, and/or property management company;

6. A statement that if the costs of abatement and administrative enforcement fees are not paid, they may become a lien on the property;

7. A statement that unless the violation(s) are corrected by the date specified in the notice, in addition to any other enforcement action, the City may abate the violation(s) and the costs of abatement will be charged to the owner, occupant, and/or property management company;

8. A statement of the way to contact the Administrator with any questions regarding the notice;

9. The disposition of any personal property that is abated under the notice, which shall be determined at the discretion of the City;

10. A statement that any person who has a reasonable basis upon which to contest the violation(s) identified in the notice or the abatement action may protest the City's notice of violation and the possible imposition of costs of abatement and administrative enforcement fees and request a hearing, by delivering written notice to the City within fourteen (14) calendar days from the date the notice was mailed; and

11. The notice of complaint and violation may also be sent by the

Administrator to the person, occupant, and/or property management company, if it appears to be someone other than the owner, and to the holder of any recorded or other known interest in the property, including mortgage or lien holders and insurance companies.

E. If the notice by mail is returned as undeliverable or delivery is refused, notice of violation shall be published in a newspaper of general circulation at least ten (10) calendar days before administrative enforcement fees are imposed and/or abatement action is taken.

F. An error in the name or address of the owner, occupant, and/or property management company or the use of a name other than that of the owner, occupant, and/or property management company shall not make the notice void, and in such case the posted notice shall be sufficient. Inadvertent failure to mail a copy of the written notice of violation and direction to abate to a security interest or lien holder having interest in the property to be abated shall not make the notice void, and in such case, the posted notice shall be sufficient.

G. Within thirty (30) calendar days after the posting and mailing of the notice, the owner, occupant, and/or property management company shall take all steps necessary to abate the violation(s), eliminate the condition(s) or defect(s), or show that the nuisance does not exist.

H. Any person who has a reasonable basis upon which to contest the violation(s) identified in the notice or the abatement action, or wishes to object to any enforcement provision under this Chapter, may file with the City a written statement of protest within fourteen (14) calendar days after the posting and

mailing of the notice. The statement of protest shall specify each and every reason for the protest and provide accurate contact information.

I. The statement of protest shall be referred to a neutral and independent hearings officer designated by the City Attorney. The hearings officer shall conduct the hearing and make all decisions concerning the protest. The hearings officer shall set a date and time for the hearing at the earliest possible opportunity and the person requesting the hearing shall be promptly notified of the time and place for hearing. Notice may be by any means of giving actual notice. Notice may also be given to any person the hearings officer determines to be an interested party in the matter. An untimely protest shall be summarily dismissed. The hearings officer or City shall have the right to reschedule a hearing at any time. The person filing the statement of protest may make a single request to reschedule the hearing. The request shall be granted if it is in writing, states the reason for the request, and is received by the City at least three (3) business days prior to the scheduled hearing date. Upon receipt of a valid hearing reschedule request, the hearings officer shall set a new hearing date and the City shall notify the person requesting the hearing.

J. The person requesting the hearing and a representative of the City may make argument, submit testimony, cross-examine witnesses and submit rebuttal evidence on the pertinent issues, or may choose to be represented by an attorney at their own expense.

K. If requested by either party, the hearing shall be recorded in a manner that allows for written transcription to be made; in such cases the City shall retain

all materials submitted at the hearing as required by state law.

L. Failure of the person(s) requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

M. Within seven (7) days after the hearing, the hearings officer shall mail a copy of the order stating the hearings officer's decision to the person requesting the hearing and to the Administrator. If the hearings officer determines that the basis for protest was unreasonable or designed only to delay enforcement action, the person requesting the hearing may be made to pay the costs of the hearing, including the cost of the hearings officer. Any such costs imposed by the hearings officer shall constitute a cost of abatement and collectable under Section 8.16.260. The decision of the hearings officer is final.

N. If the hearings officer determines that a violation does exist, the property owner, occupant, and/or property management company shall be ordered to abate the violation(s) within fourteen (14) calendar days after the hearings officer issues the order, unless otherwise specified in the order. The hearings officer may also order that a residential rental unit(s) may not be occupied unless and until the conditions and/or defects forming the basis of the violation(s) have been corrected as determined by reinspection.

O. If the violation has not been fully abated within the time allowed, the Administrator may cause it to be abated, and all costs of abatement may be assessed to and become a lien on the property. The Administrator's decision to proceed with abatement is entirely discretionary.

P. Failure of the property owner, occupant, and/or property management company to abate the violation within thirty (30) calendar days as provided by Subsection 8.16.240(G), or within the time set by the hearings officer under Subsection 8.16.240(N), shall be a violation of this chapter.

Q. If a violation is not abated as provided by 8.16.240(G) and unless a protest and request for hearing is made under Subsections 8.16.240(H) and (I), or if a violation is not abated within the time set by the hearing officer under Subsection 8.16.240(N), the Administrator shall impose administrative enforcement fees upon the property owner, occupant, and/or property management company in accordance with the fees adopted by council resolution for such fees. The City shall provide notice of the imposition of any administrative enforcement fee to the owner, occupant, and/or property management company at the time such fees are assessed and entered into the City's lien records. (Ord. 9-2009)

8.16.250 Type C Abatement – Chronic Nuisance Abatement Procedure

A chronic nuisance as defined in Section 8.16.210 shall be abated as provided in this section. Prior to the filing of an action to abate a chronic nuisance property, the Administrator or Sheriff shall provide an opportunity to the property owner, occupant, and/or property management company as defined in Section 8.16.150 to abate the chronic nuisance property voluntarily by the following procedures:

A. The Administrator, Sheriff, or their designee may notify the property owner, occupant, and/or property management company in writing that the property is in danger of becoming chronic nuisance property. The notice shall contain:

1. The street address or a legal description sufficient for identification of the property;

2. A statement that the property may be a chronic nuisance property, with a concise description of the nuisance activities that exist or have occurred;

3. A demand that the property owner, occupant, and/or property management company respond to the Administrator, Sheriff, or their designee within ten (10) calendar days to discuss the nuisance activities. The Administrator, Sheriff, or their designee shall offer the property owner, occupant, and/or property management company an opportunity to propose a course of action that will abate the chronic nuisance activities giving rise to the violation.

B. After the notification procedure in Subsection 8.16.250(A) has been completed, if the Administrator, Sheriff, or their designee receives a report documenting an additional nuisance activity on or within 300 feet of a property and determines that the property has become a chronic nuisance property, the Administrator, Sheriff, or their designee shall notify the property owner, occupant, or property management company in writing that the property has been determined to be a chronic nuisance property.

1. The notice of chronic nuisance shall contain:

a. The street address or a legal description sufficient for

identification of the property; for a property consisting of more than one unit, such as a duplex or apartment complex, one or more units may be specifically designated as chronic nuisance properties;

b. A statement that the Administrator, Sheriff, or their designee has determined the property to be chronic nuisance property, with a concise description of the nuisance activities leading to the finding;

c. A demand that the property owner, occupant, and/or property management company respond to the Administrator, Sheriff, or their designee within ten (10) calendar days and propose a course of action that the Administrator, Sheriff, or their designee agrees will abate the chronic nuisance activities giving rise to the violation; and

d. The disposition of any personal property that is abated under the notice, which shall be determined at the discretion of the City.

2. Service of the notice shall be made either personally or by first class mail, addressed to the property owner, occupant, and/or property management company at such place where the notice is likely to be received. A copy of the notice shall be served on the owner of the property at the address shown on the tax rolls of Multnomah County, and/or on the occupant at the address of the property, if these persons are different than the property owner, occupant, and/or property management company.

3. If the property owner, occupant, and/or property management company does not contact the Administrator, Sheriff, or their designee within ten (10) calendar days of service or mailing of the notice, a copy of the notice shall be posted at the property.

C. If the property owner, occupant, and/or property management company responds as required by Subsection 8.16.250(B)(3) and stipulates with the Administrator, Sheriff, or their designee that the property owner, occupant, and/or property management company will pursue a course of action that the parties agree will abate the nuisance activities giving rise to the violation, the Administrator, Sheriff, or their designee may postpone referring the matter to the City Attorney. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement is reached within sixty (60) calendar days, the Administrator, Sheriff, or their designee, after independently reviewing the evidence, may refer the matter to the City Attorney for consideration and presentation to the City Council.

D. When a property owner, occupant, and/or property management company responds to the Administrator, Sheriff, or their designee as required by Subsections 8.16.250(A) or (B)(3), statements made in connection with that response shall not constitute an admission of any nuisance activities, but exclusion of any evidence is not required that is otherwise admissible or offered for any other purpose. (Ord. 9-2009).

8.16.260 Costs and Fees

A. The City shall keep an accurate record of the expense incurred by the City for Type A, Type B, and Type C abatements.

B. After violations to be corrected have been determined by the City, the City shall mail a Costs and Fees Notice to the owner, occupant, and/or property

management company. The Costs and Fees Notice shall include:

1. The total cost of abatement and any accrued enforcement fees;

2. Notification that the costs of abatement will be delinquent and become a lien against the property unless paid within thirty (30) calendar days from the date of the notice; and

3. Notification that if the owner objects to the Costs and Fees Notice, a written protest and request for hearing may be submitted to the Administrator if it is received by the City within fourteen (14) calendar days from the date the Costs and Fees Notice was mailed.

C. A person may object to the Costs and Fees Notice by submitting a written protest and request for hearing pursuant to Section 8.16.240. (Ord. 9-2009).

8.16.270 Collection of Costs and Fees

A. The costs and fees as listed in the Costs and Fees Notice shall be delinquent if not paid within thirty (30) days from:

1. The date of the Costs and Fees Notice; or

2. If a protest was timely filed, from the date on which the hearings officer makes a determination of the costs.

B. If costs and fees listed in the Costs and Fees Notice are delinquent, a late payment charge shall begin to accrue from the date of delinquency, and the costs and fees listed in the Costs and Fees Notice and late payment charges may be entered in the docket of City liens recorded with Multnomah County. When entered in the City lien docket, the

assessment shall constitute a lien upon the property in violation of the code.

C. An assessment of the costs and late payment charge shall be made by resolution and shall be entered in the docket of City liens as provided in Chapter 1.06, Code Enforcement.

D. An error in the name of the owner shall not void the lien, nor shall a failure to receive the Costs and Fees Notice render the lien void, but it shall remain a valid lien against the property. (Ord. 9-2009)

also file in Circuit Court a citation alleging a nuisance violation under this Code, or a civil action for injunctive or other relief, as the Administrator may deem to be appropriate. (Ord. 9-2009)

8.16.280 Classification of Offenses

Unless otherwise provided, violations of the provisions of the Wood Village Municipal Code are classified as civil infractions pursuant to Chapter 1.06, Code Enforcement. (Ord. 9-2009)

8.16.290 Violations and other Remedies

A. Violation of any section of Chapter 8.16, Public Nuisances, is a civil infraction and a penalty may be imposed pursuant to Chapter 1.06, Code Enforcement. A violation applies to the owner, occupant, and/or property management company of each property in violation. Each day a violation continues to exist shall constitute a separate violation for which a separate fine or penalty may be assessed.

B. In addition to any other penalty provided by law, a person determined to be responsible for violation of any section of the Chapter 8.16 may be ordered by the court to correct the violation.

C. In addition to the procedures described in this Chapter, the City may

CHAPTER 8.18

PROPERTY MAINTENANCE

Sections:

- 8.18.010 Title.**
- 8.18.020 Definitions.**
- 8.18.030 Purpose.**
- 8.18.040 Administration – Enforcement.**
- 8.18.050 Administration – Rules and regulations.**
- 8.18.060 Notice procedure.**
- 8.18.070 Residential Structure Maintenance Requirements.**
- 8.18.080 Outdoor Maintenance Requirements for All Properties**
- 8.18.090 Right-of-Way Obstructions**
- 8.18.100 Public Right-of-Way Parking**
- 8.18.110 Declared Nuisance**
- 8.18.120 Abatement – General Procedures**
- 8.18.130 Enforcement**
- 8.18.140 Abatement by City – Assessments**
- 8.18.150 Liens Against Property.**
- 8.18.160 Summary Abatement.**
- 8.18.010 Title.**

This chapter shall be known as "The City of Wood Village Property Maintenance Ordinance," and may be so pleaded.

8.18.020 Definitions.

As used in this chapter, unless the context requires otherwise:

A. "Accessory structure" means any structure not intended for human occupancy which is located on residential property. Accessory structures may be attached to or detached from the residential structure. Examples of accessory structures include: garages, carports, sheds, and other non-dwelling buildings; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs and walkways, and other exterior structures on the property.

B. "Adjacent right-of-way" means the sidewalks and planting strips that border a specific property, as well as the near half of the streets, alleys or other public rights-of-way that border a specific property.

C. "Administrator" means the City Administrator of the City of Wood Village or the Administrator's designee.

D. "Council" means the City Council of the City of Wood Village.

E. "Garbage" means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

F. "Nuisance" means any annoying, unpleasant or obnoxious condition or practice capable of causing a threat to the public health, safety, and welfare in the circumstances.

G. "Owner" means any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

H. "Person" means any natural person, association, trust, partnership, firm or corporation.

I. "Public right-of-way" means any sidewalk, planting strip, alley, street or pathway, improved or unimproved, that is dedicated to public use.

J. "Public vehicle parking business" means the business of offering off-street vehicle parking or storage for a fee.

K. "Residential structure" means real property and all improvements or structures on real property used or intended to be used for residential purposes.

L. "Rubbish" means glass, metal, paper, wood, plastics or other nonputrescible solid waste.

M. "Sheriff" means the Multnomah County Sheriff's office or such other law enforcement agency that provides police services to the city via an intergovernmental agreement or otherwise pursuant to the authority of the City Council.

N. "Sidewalk" means that portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

O. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

P. "Vehicle" means any device which is designed or used for transporting people, goods or property upon a public street or roadway, including but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle or a device operated exclusively upon fixed rails or tracks.

Q. "Vehicle sales, repair or servicing business" means the business of offering new or used vehicles for sale, lease or rent, or of offering vehicle repairs or servicing.

8.18.030 Purpose.

In order to protect the health, safety, and welfare of the people of the City, the Council has determined it necessary to establish and maintain a program to prevent deterioration of existing housing, and to contribute to a clean and safe outdoor environment. This chapter shall be liberally construed to effectuate that purpose.

8.18.040 Administration – Enforcement.

The Administrator or Sheriff shall be responsible for the administration and enforcement of this chapter.

8.18.050 Administration – Rules and regulations.

The Administrator may adopt rules necessary for the administration and enforcement of this chapter.

8.18.060 Notice procedure.

All notices shall be in writing, and may be served in person or by mail. If mailed, notice shall be sent postpaid, by certified or registered mail, return receipt requested, to the addressee's last known address. A mailed notice shall be presumed to have been received on the second mail delivery day after mailing.

8.18.070 Residential Structure Maintenance Requirements.

A. No owner shall maintain or permit to be maintained any residential structure that does not comply with the requirements of this chapter. All residential structures shall be maintained to the building code requirements in effect at the time of construction, alteration or repair, and shall additionally meet the minimum requirements set forth below:

1. Maintenance of Required Facilities. All required facilities in every dwelling shall be constructed and maintained to properly and safely perform their intended function.

2. Maintenance of Non-Required Facilities and Equipment. All non-required facilities or equipment present in a dwelling shall be maintained to prevent structural damage to the building or hazards of health, sanitation or fire.

3. Stairs and Porches. Every stair, porch, and attachment to stairs or porches shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear

and are broken, warped, or loose.

4. Roofs. The roof shall be structurally sound, tight, and have no defects which might admit rain. Roof drainage shall be adequate to channel rain water into approved receivers.

5. Accessory Structures. All accessory structures on residential property shall be maintained in a structurally safe and sound manner and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

8.18.080 Outdoor Maintenance Requirements for All Properties

A. In addition to any other requirements in this code, it is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights-of-way in a manner that complies with the following requirements:

1. Emergency access routes. Remove and keep removed all brush, vines, overgrowth and other vegetation located within 10 feet of a structure or within 10 feet of a property line which is likely to obstruct or impede the necessary passage of fire or other emergency personnel.

2. Thickets that conceal hazards. Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:

- a. Concealing trash and debris; or
- b. Creating rat harborage; or
- c. Creating harborage for people involved in criminal activity or for products used for criminal activity.

3. Overgrown lawn areas. Cut and remove and keep cut and removed all weeds and grass that are located in lawn

areas and have a prevailing height of more than 10 inches.

4. Storage of non-trash items. Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:
- a. Accumulations of wood pallets.
 - b. All firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths of less than 36 inches.
 - c. Accumulations of vehicle parts or tires.
 - d. Any motor vehicle parked upon any grassy or exposed soil surface.
 - e. All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.
 - f. All appliances or appliance parts except for temporary outdoor storage of appliances pending installation or pending reinstallation during remodeling when adequately protected from the elements by secure and waterproof coverings
 - g.–All indoor furniture except for temporary outdoor storage of such furniture pending installation or pending reinstallation during remodeling when adequately protected from the elements by secure and waterproof coverings
 - h. All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.
 - i. All other non-trash items which are of a type or quantity inconsistent with normal and usual use, or are likely to obstruct or

impede the necessary passage of fire or other emergency personnel.
(Ord 9-2007)

8.18.090 Right-of-Way Obstructions

A. In addition to any other requirements in this code, it is the responsibility of the owner of any property, improved or unimproved, to keep the adjacent rights-of-way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, unless specifically authorized by ordinance to do otherwise. This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights-of-way referenced in this section to meet the following requirements:

1. Sidewalks – Minimum clearance. All sidewalks must be clear of obstructions by earth, rock, or vegetation from edge to edge and to an elevation of 7-1/2 feet above sidewalk level. For example, bushes that encroach on or over any part of a sidewalk area must be cut back or removed and limbs of trees that project over the sidewalk area at an elevation of less than 7-1/2 feet above the sidewalk level must be removed.
2. Improved streets – Minimum clearance. All improved streets must be clear of obstructions to vehicle movement and parking from edge to edge and to an elevation of 11 feet above street level. For example, bushes that encroach on or over any part of a street

must be cut back or removed; limbs of trees that project over a street at an elevation of less than 11 feet above street level must be removed; and no wires or other things shall be maintained over the street level at any elevation less than 11 feet.

3. Alleys and unimproved rights-of-way – Minimum clearance. All alleys, unimproved streets, and other public rights-of-way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.

4. Waste material. No person may deposit upon a street, sidewalk or public place any leaves, dirt or waste material, or deposit on any street, sidewalk or public place glass, nails or any other object that may cause injury to persons or property damage.

5. Earth from abutting property. If any earth, debris, or other material caves into or falls upon any street or sidewalk from abutting real property, it is unlawful for the owner or occupant of that property not to remove it immediately. Such earth, debris, or other material is a public nuisance and, if it obstructs vehicular or pedestrian travel, it may be summarily removed from the street or sidewalk by the City. The cost of such removal shall be assessed to the property from which the earth, debris, or other material caved in or fell, under the procedure in sections 8.18.140 and 8.18.150.

6. Pedestrian access on sidewalks. No person shall block or attempt to block or interfere with any person(s) along the public sidewalks by any means, including but not limited to standing on that part of the sidewalk used for pedestrian travel or by placing any object or vehicle in such area.

7. Access to property abutting sidewalks. No person shall block or attempt to interfere with or block pedestrian or vehicular entrances to public or private property not owned by such person abutting the public sidewalk.

8.18.100 Public Right-of-Way Parking

A. No person shall use as a storage area any public right-of-way, as follows.

1. Property storage on street. No person may store, or permit to be stored, personal property on public right-of-way or other public property in excess of 24 hours without permission of the City Administrator. This section does not apply to licensed motor vehicles when parked on the street in compliance with applicable state or City regulations.

2. Use of streets in lieu of off-street parking. No person engaged in the public vehicle parking business or in the vehicle sales, repair or servicing business may cause or permit a vehicle to be parked on a street, alley, lane or other public right-of-way while such vehicle is in the custody of the business for the purpose of being parked, offered for sale, repaired or serviced.

8.18.110 Declared Nuisance

All violations of the standards of this chapter are declared to be public nuisances and shall be abated by the property owner or by the City as provided in Sections 8.18.120 to 8.18.160.

8.18.120 Abatement – General Procedures

A. The Administrator or Sheriff may enter any property or building at any reasonable time for the purpose of inspection or enforcing this chapter. Except when an emergency exists, the Administrator or Sheriff shall obtain the consent of the owner or a warrant from a court of competent jurisdiction before entering private property or a private building.

B. As used in this chapter, an emergency exists when the Administrator or Sheriff has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health or safety.

C. An investigation may be conducted whenever the Administrator or Sheriff receives a complaint that a nuisance exists.

D. Whenever it appears there is reasonable cause to believe that nuisance exists, or upon receipt of declaration from the Administrator, the Sheriff or Administrator shall provide written notice to the owner of the existence of the nuisance and shall demand abatement within 30 days from the date of the written notice, or such lesser time as may be set by the Sheriff or Administrator to protect the public health, safety, and welfare. The notice shall describe with reasonable certainty the property, the nature of the nuisance, and the action necessary to abate the nuisance, and the procedure by which the owner may contact the Sheriff or Administrator for more information. Exception: If the owner has received a notice under this subsection or has been subject to an enforcement proceeding under Section 8.18.130 within the past

six months and has caused or allowed the same or a substantially similar condition to reoccur on the property, the Sheriff or Administrator may proceed immediately with enforcement pursuant to Section 8.18.130, or upon such notice shorter than 30 days as the Sheriff or Administrator deems appropriate.

E. In an emergency, the Administrator or Sheriff may order immediate abatement of a nuisance. The Sheriff shall give notice of the requirement for immediate abatement to the owner.

8.18.130 Enforcement

A. Failure of the owner to abate the nuisance within the time provided by subsection D of Section 8.18.120 of this chapter is a civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code. (Ord. 4-2006 § 10)

B. In addition to or in lieu of the penalty provided in A. above, the Council may authorize the City Attorney to bring an action in the name of the City under ORS 30.315 to enjoin maintenance of a nuisance as defined in this ordinance and/or to require abatement of the nuisance. The City may alternatively seek authority from the court to enter onto the property and abate the nuisance itself and charge the costs for doing so as a lien on the property as provided in section 8.18.150 of this chapter. In the event the City elects to enforce the terms of Chapter 8.18 pursuant to this section, a court (including an appellate court) may, in its discretion, award attorney's fees to the prevailing party. (Ord. 4-2006 § 10)

8.18.140 Abatement by City – Assessments

If the City abates the nuisance as provided in this chapter, an accurate record of the abatement costs shall be kept, including the costs of staff time spent in investigating, monitoring, and abating the nuisance. A billing for the amount of the costs shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be due to the Administrator within fifteen days from the date of the billing.

8.18.150 Liens Against Property

A. The Council shall file a lien against the property if payment is not made as provided in Section 8.18.140.

B. The lien provided for in subsection A of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at a rate of 9% per annum accruing from the date billing is sent to the owner of the property.

C. The lien provided for in subsection A of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

8.18.160 Summary Abatement.

The Multnomah County Sheriff's Office may proceed summarily to abate a nuisance which poses imminent danger to human life or property. (Ord. 7-2002 § 1; Ord. 4-2002 § 1)

Chapter 8.20

Graffiti Nuisance Abatement

Sections:

- 8.20.010 Purpose**
- 8.20.020 Graffiti Nuisance Property**
- 8.20.030 Definitions**
- 8.20.040 Graffiti Removal Required; Notice to Abate**
- 8.20.050 Appeal of Notice to Abate; Hearing; Decision**
- 8.20.060 Abatement**

8.20.010 Purpose

A. It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social deterioration within the City and to promote public safety and health.

B. The City Administrator may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

8.20.020 Graffiti Nuisance Property

A. Any property, building or structure within the City of Wood Village which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.

B. Any person who permits property under their control to become a graffiti nuisance property shall be in

violation of this Chapter and subject to its remedies.

8.20.030 Definitions

For the purposes of this Chapter, the following definitions shall apply:

A. "Graffiti" means any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.

B. "City Administrator" means the City Administrator for the City of Wood Village, or his/her designated representative, who is responsible for the administration of the Graffiti Nuisance Abatement program under this Chapter. In accordance with adopted procedures, the City Administrator may appoint such officers, employees and agents as shall be authorized and necessary to enforce the provisions of this Chapter.

C. "Graffiti Nuisance Property" means property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification to abate pursuant to Section 8.20.040(B).

D. "Occupant" means any person or sub lessee, successor or assignee who has control over property.

E. "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:

1. A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or

2. An occupant who has control over the property/premises.

F. "Permit" means to knowingly suffer, allow, or acquiesce by any failure, refusal or neglect to abate.

G. "Property" means any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.

H. "Unauthorized" means without the consent of the owner or the occupant.

**8.20.040 Graffiti Removal
Required; Notice to
Abate**

A. Required Graffiti Removal.

The owner or occupant of any property in the City shall remove any graffiti from such property within ten (10) days of the graffiti's appearance.

B. Notice to Abate.

1. Whenever the City Administrator determines that graffiti exists on any structure in the City of Wood Village, the City Administrator may issue a notice to abate.

2. The City Administrator shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have ten (10) days after the date of service of the notice in which to remove the graffiti. The City Administrator shall have the sole discretion to grant the property owner the option of giving the City

written permission to enter on the property and remove the graffiti.

3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.

4. If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the City Administrator shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement.

**8.20.050 Appeal of Notice to
Abate; Hearing;
Decision**

A. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the City Administrator to the City Council or designated hearings officer of the City of Wood Village, by filing a written notice of appeal with the City Administrator.

B. Upon receipt of the appeal request, the City Administrator shall schedule the hearing at the next regular City Council Meeting. In lieu of hearing appeals under this Chapter, the City Council may designate a hearings officer to hear the appeals. If a hearings officer has been designated, the City Administrator shall schedule a hearing within ten business days from the date of

receipt of the notice of appeal. The appellant, the City Administrator and any interested persons may appear and be heard orally or in writing. If, based on the evidence and testimony at the hearing, the City Council or Hearings Officer finds the property to be a Graffiti Nuisance Property within the meaning of this Chapter, and the owner or responsible party has been given notice in accordance with 8.20.040(B) above, the City Council or Hearings Officer shall specify when and under what conditions the graffiti shall be abated.

8.20.060 Abatement

A. Public Property. The City Administrator may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to traffic signs and lights.

B. Private Property. Whenever the City Administrator has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the City Administrator may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the City Administrator under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the compliance date designated in the notice to abate issue pursuant to Section 8.20.040(B) or any order on appeal pursuant to Section 8.20.050(B), the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:

1. If the graffiti nuisance property is occupied, the City Administrator shall first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the City Administrator may attempt to secure entry by any legal means.

2. If the graffiti nuisance property is unoccupied, the City Administrator shall first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Section 8.20.040(B) above. If entry is refused, the City Administrator may attempt to secure entry by any legal means.

C. Graffiti Abatement Warrants. If the graffiti is not removed and abated as provided in 8.20.060(B), the City Administrator may cause the graffiti to be removed and abated upon issuance of a Graffiti Abatement Warrant.

1. Issuance. The City Administrator may request the assistance of any Multnomah County Sheriff deputy to contact a Circuit Court judge to seek the issuance of a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.

2. Grounds for Issuance of Graffiti Abatement Warrants; Affidavit

a. Affidavit. A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a

statement of the graffiti to be removed or abated.

b. Cause. Cause shall be deemed to exist if there is reasonable belief that a graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.

3. Procedure for Issuance of a Graffiti Abatement Warrant.

a. Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

b. Issuance. If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

c. Police Assistance. In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the

representative of the City in any way necessary to enter the property and, remove and abate the graffiti.

4. Execution of Graffiti Abatement Warrants.

a. Occupied Property. In executing a graffiti abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession.

b. Unoccupied Property. In executing a graffiti abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the graffiti abatement warrant shall be conspicuously posted on the property.

c. Return. A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

d. Failure to Comply with Warrant a Civil Infraction. It is a civil infraction enforceable pursuant to Chapter 1.06 of the Code for an owner or occupant to refuse to permit entry by the

City Administrator to abate graffiti as provided in this Chapter pursuant to a duly issued graffiti abatement warrant.

D. Graffiti Abatement Consent Forms.

1. The City Administrator shall develop consent forms allowing the City Administrator to enter onto property to abate the graffiti without prior notice from the City Administrator. The City Administrator shall make these consent forms available to the public.

2. Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement City Administrator shall renew the consent forms at least biannually.

(New Ordinance 5-2006)

Chapter 8.24

SOLID WASTE MANAGEMENT

Sections:

- 8.24.010 Short title.
 - 8.24.020 Purpose, policy and scope.
 - 8.24.030 Definitions.
 - 8.24.040 Rules and regulations.
 - 8.24.050 Collection of solid waste—License requirement.
 - 8.24.060 Exemptions and exceptions to license requirement.
 - 8.24.070 Licensing and service areas.
 - 8.24.080 Licenses.
 - 8.24.090 Duration of license.
 - 8.24.100 General provisions relating to license grant.
 - 8.24.110 Contract for service and transfer of licenses.
 - 8.24.120 License fees.
 - 8.24.130 Responsibilities of licensee.
 - 8.24.140 Service standards.
 - 8.24.150 Recycling.
 - 8.24.160 Customer responsibility.
 - 8.24.170 Ownership of solid waste.
 - 8.24.180 General offenses.
 - 8.24.190 Suspension, modification or revocation of license.
 - 8.24.200 Rates and service charges.
 - 8.24.210 Restraining orders.
 - 8.24.220 Miscellaneous provisions.
 - 8.24.230 Penalties and remedies.
- 8.24.010 Short title

This chapter shall be known and may be cited as the solid waste management ordinance of the City. (Ord. 4-1993 § 1)

8.24.020 Purpose, policy and scope

Following due investigation and thorough review of the needs of this City with respect to a program of solid waste management for the City, which review and investigation included a review of present practices within the City and those of adjoining communities and the local metropolitan area, this Council does determine and declare it to be in the public interest of the City that a solid waste management program be established and maintained for the City to insure safe, economical and comprehensive solid waste collection and disposal services for the City; to insure that rates and charges for such services are just, fair, and adequate to provide this necessary public service on a uniform, and nondiscriminatory basis; to promote technologically and economically feasible resource recovery and recycling; and to provide administrative rules and regulations pertinent thereto to insure the development and maintenance of such programs to the optimum degree possible. (Ord. 2-2003 § 1; Ord. 4-1993 § 2)

8.24.030 Definitions

As used in this chapter:

"Allowable expenses" means all reasonable costs incurred by licensees associated with the provision of solid waste, recyclable materials and yard debris collection services required herein and the cost of complying with all

applicable laws, regulations or orders as now or hereafter amended. Allowable expenses as defined shall be presumed to be reasonable if, in the context of overall cost for a licensee, such expenses are: (1) comparable with the expenses incurred by a preponderance of similarly situated solid waste, recyclable materials and yard debris collection companies in the Portland metropolitan area; and (2) are based on the percentage of expenses incurred for services provided to Gresham, and Wood Village customers. Allowable expenses shall include, but not be limited to, the following:

1. Costs associated with the disposal and/or processing of all materials collected as required by this Chapter, including the costs of marketing materials to secondary markets, and all applicable fees;

2. All labor costs, directly or indirectly associated with and necessary to the provision of services required by this Chapter, including all costs associated with all contracts and collective bargaining agreements, supervisory labor, workers' compensation and all benefits including, but not limited to health care, pension, and payroll taxes;

3. All vehicle, equipment, container, and asset costs, including timely replacement, depreciation and interest expenses, lease costs no greater than those that would be charged by an independent third party to provide substantially equivalent equipment, vehicle registration fees, motor fuel, oil, tires and repairs and maintenance for such vehicles and equipment that are reasonably necessary to provide the services defined in this Chapter;

4. Performance bonds and liability insurance premiums in the amounts of coverage required by the City;

5. All administrative and management costs and expenses reasonably allocated to the services required under this Chapter, including, but not limited to, reasonable compensation, management fees, and benefits for officers and employees, payroll taxes, administrative staff, data processing, billing, rent and supplies; provided that there shall be included in allowable expenses only that portion of management fees, compensation and benefits paid by a licensee that is at a level comparable with prevailing industry standards for similar services and positions provided to or at solid waste, recyclable materials and yard debris collection companies in the metro region that are similar in size and operations to those of the licensees', and there shall be excluded from allowable expenses only that portion of management fees, compensation and benefits paid by the licensees that are in excess of such levels;

6. Utilities;

7. Training and worker safety;

8. Marketing, promotion and public education costs approved by the City;

9. Interest costs such as interest charges on the purchase of equipment or facilities, or on loans for working capital but not interest costs which are otherwise an unallowable expense as defined in this section;

10. Property, equipment or facility rental or lease costs, provided that with respect to any lease entered by a licensee with a related party, the lease costs under such lease shall only be included in allowable expenses to the extent that such lease costs do not exceed those that

would be charged by an independent third party to provide the substantially equivalent property, equipment or facilities;

11. Costs for collecting and maintaining information directly and specifically required by this Chapter, costs of preparing, producing and printing all reports and information required under this Chapter (including without limitation, the fees and expenses of accountants and other outside advisors and consultants), and all costs and expenses of participating in, complying with or otherwise being subject to the accounting and regulatory processes associated with or required by this Chapter, or under other law;

12. License fees, business fees, surcharges, or any other fees collected from licensees by the City.

13. Any expense incurred in the collection, handling, processing, storing, transporting, marketing, or sale or other disposition of recyclable materials and any expense incurred in connection with education, promotion and notice of the opportunity to recycle; and

14. Any other expense determined in advance by the City and the licensees to be reasonable and necessary to the provision of the services required under this Chapter, and agreed to in writing.

Allowable expenses as defined above may be provided by affiliates of, or related parties to, a licensee provided that they do not exceed the market rate charged by third parties for similar services. If an expense of a licensee is questioned by the City, that licensee must submit proof that the expense is reasonable.

“Business or Commercial” means stores; offices, including manufacturing and industrial offices; restaurants;

warehouses; schools; colleges and universities; hospitals; and other industrial, manufacturing, and non-manufacturing entities, including public bodies; but does not include a business located in a residential dwelling unless the business subscribes to commercial collection services from a franchised hauler.

“Business Recycling Service Customer” means any person or business that enters into a service agreement with a waste hauler or recycler for commercial recycling purposes.

“City” means the City of Wood Village, a municipal corporation of the state of Oregon, which shall include all territory within its existing and future corporate limits.

“City Council” means the governing body of the City of Wood Village.

“Collection service” means a service that provides for the collecting of solid waste or recyclable materials or both.

“Compensation” means any type of consideration paid for waste collection and/or management services, whether payment be made directly or indirectly, including the exchange of services between persons.

“Hazardous solid waste” means solid waste that may, by itself or in combination with other solid waste, be infectious, explosive, poisonous, caustic, toxic, or otherwise dangerous or injurious to human, plant, animal life or property; also waste as defined by applicable statute, particularly ORS 466.005.

“Person” means any individual, partnership, association, corporation, joint venture, or other public or private legal entity.

“Putrescible material” means organic materials that can decompose and may

give rise to foul smelling, offensive odors or products which may create a vector or rodent problem.

“Recyclable material” means any material or group of materials that can be collected and sold or utilized for recycling.

“Recycling” means any process by which solid waste materials are transformed or changed into a reusable, new or different product so that the original waste item can no longer be so identified.

“Resource recovery” means the process of obtaining useful material or energy resources from solid waste, including energy recovery, materials recovery, recycling and reuse of or from solid waste.

“Return on gross revenues” means the quotient of the operating margin divided by the gross revenues. Expressed as a percentage, the return on gross revenues shall be approximately ten percent (10%) of gross revenues, which is consistent with industry averages for solid waste recyclable materials and yard debris companies.

“Solid waste” means all putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper, cardboard, grass clippings, compost, tires, equipment and furniture; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home or industrial appliances; manure, vegetable or animal solids and semi-solid wastes, dead animals, and including infectious wastes as defined in ORS 459.386; but not including hazardous wastes as defined in ORS 466.005 or materials used for

fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

“Solid waste management” means the prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

“Unallowable expenses” means the following:

1. All charitable and political contributions;
2. Fines and penalties incurred by a licensee;
3. Payments for services provided by related parties to a licensee to the extent that such payments exceed the reasonable cost that would be charged by an independent third party to provide the substantially equivalent service.
4. Accruals for future unknown regulatory changes;
5. Costs associated with purchase of other companies including, but not limited to, employee stock ownership plan payments, goodwill, amortization of goodwill and premiums on key-person life insurance policies;
6. Principal or interest payments on the acquisition of solid waste, recyclable materials and yard debris collection routes; the purchase of equipment and facilities at a price that would be construed to include goodwill or a premium in excess of fair market value at the time of acquisition;
7. State and federal income taxes;
8. Attorney's fees and related expenses resulting from:

(a) Any judicial proceeding in which the City and a licensee are adverse parties, unless the licensee is the prevailing party;

(b) Any judicial proceeding in which a licensee is ruled to be liable due to willful misconduct or gross negligence or in violation of law or regulation;

(9) Any other expenses defined as "unallowable" and approved by the Council.

“Waste” means useless or discarded materials. (Ord. 2-2003 § 1; Ord. 4-1993 § 3; Ord. 4-2009)

8.24.040 Rules and regulations

The City Council shall make and adopt such rules and regulations pertaining to the administration of this chapter and to the collection of solid waste as may be reasonable and required for the management and enforcement hereof, including intergovernmental agreements with other jurisdictions. Such rules and regulations shall be adopted at public session by Council resolution and may be amended from time to time as required. Copies of rules and regulations issued hereunder shall be files of record with the City Recorder and be available for public inspection at all reasonable times. (Ord. 4-1993 § 4)

8.24.050 Collection of solid waste—License requirement

Except as otherwise provided by this chapter, it is unlawful for any person to collect solid waste in the City without first obtaining a license therefore, issued by the City; or after issuance of a license, to collect solid waste in a service area not covered thereby. (Ord. 2-2003 § 1; Ord. 4-1993 § 5)

8.24.060 Exemptions and exceptions to license requirements

Nothing in this chapter shall:

A. Prohibit any person from transporting or disposing of solid waste products produced by himself so long as he or she complies with this chapter, other City ordinances, ORS Chapter 459 and appropriate rules and regulations adopted under any of the foregoing;

B. Prohibit any person from transporting or disposing of or resource recovering sewage sludge, septic tank pumpings and cesspool pumpings or like effluents;

C. Prohibit federal and state agencies to collect, store, transport or dispose of solid waste or those who contract with such agencies to perform such collection service, but only insofar as the service is performed by or for such agencies;

D. Prohibit any person from transporting solid waste through the City that is neither collected nor disposed of within the City;

E. Prohibit any City property owner or resident from personally or by use of a solid waste hauler of their choice from transporting and/or disposing of demolition, construction or land clearing solid wastes; (Ord. 6-1997 § 1)

F. Prohibit any person from transporting or disposing of waste produced as an integral or incidental part of the regular operation of their business, including but not limited to, gardening or landscaping service, rendering, janitorial service, and motor vehicle wrecking;

G. Prohibit the collection, transportation and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in such business or activity, including, but without limitation, Salvation Army, Goodwill, St. Vincent DePaul and similar groups;

H. Prohibit nonprofit charitable, benevolent or civic organizations from recycling recyclable materials, provided that such collection is not a regular or periodic business of such organization, provided that a permit be first obtained for such activity from the City Recorder, and that such permit or permits be valid

for a period of not more than four weeks and provided that said organization shall notify the licensee in the area in which such activity is to take place in advance of commencing such “recycling collection.”

I. If a person other than described above and other than a licensee hereunder, desires to collect recyclable materials, a permit may be issued for such collection, if the City Council by resolution determines that the material being collected is not one of the materials normally or customarily collected as part of the City’s recycling collection program or solid waste collection program and the same will not be detrimental to the recycling program. A fee may be charged for such permit as established by the Council resolution. All applicable provisions of this chapter shall apply to permits granted under this subsection.

J. Nothing contained in this chapter shall require a licensee to store, collect or dispose of or otherwise deal with any hazardous waste as defined by ORS Chapter 466. Nothing shall prohibit the City from withdrawing by amendment to this chapter certain solid waste collection services upon finding that such services are not necessary for the implementation of or the purposes of this chapter. (Ord. 2-2003 § 1; Ord. 4-1993 § 6)

8.24.070 Licensing and service areas

A license to provide solid waste collection service in all or any portion of the City shall be granted only after a determination of need for the service. If one party has been licensed to provide such service, another party normally shall not be licensed to provide the same

service in the same area; however, a determination of need is the responsibility of the City Council. In its consideration of license applications, the City Council shall place primary emphasis upon the following objectives:

A. To provide the most efficient solid waste management collection service for the least cost;

B. To avoid duplication of service areas that will cause inefficiency in operation, excessive costs or unnecessary use of energy resources;

C. To provide proper service to all properties, including those properties in areas of the City where full development has not yet occurred;

D. To give due consideration to the license holder and the charges necessary for its service operation to promote an orderly and efficient operation which provides the optimum degree of quality service with modern equipment;

E. Cooperation with other governmental units to encourage development of the highest quality and degree of solid waste management possible for the local and regional service areas; and

F. To give proper consideration at all times to the public interest and consideration to the future, as well as the present needs of the community.

(Ord. 2-2003 § 1; Ord. 4-1993 § 7)

8.24.080 Licenses

A. A license for each solid waste collection service shall be granted by the Council on the basis of:

1. The service record of applicant in the areas presently and previously served thereby, with particular consideration given to the service record of the

applicant currently within the Wood Village service area if applicable;

2. Financial reputation, integrity and fiscal solvency;

3. Equipment and personnel of applicant and otherwise the ability to meet current and future needs in the service area for which application is made;

4. Moral character, general record and experience factors pertinent to the solid waste collection services anticipated.

B. An applicant for a collection license hereunder presently holding a license under City ordinance for such or related service shall in making application for license or renewal thereof, present information on the criteria stated above, in writing, to the City Council, together with such additional information as the City may require or applicant may consider appropriate.

The Council shall consider such information as furnished by applicant, together with information presented by City staff and the public. Upon determination by the Council that all criteria as stated above and other applicable provisions of this chapter are adequately met, the Council shall, by appropriate resolution, grant to such applicant a license to provide solid waste collection service within the City or that portion of the City previously served by such applicant.

In granting a license hereunder, the Council may impose conditions consistent with this chapter and deemed by the Council to be necessary or advisable for the proper operation of the City's solid waste management and collection program.

C. Should the Council determine that the applicant for a license hereunder who presently serves the City in said capacity does not meet the criteria hereinabove set forth, such license shall not be granted or renewed, as the case may be. Should a license be terminated or not renewed hereunder, the Council shall consider applications for a solid waste collector's license to serve the concerned area(s) from any interested applicant and award the collector's license for that area, based upon the determination of which applicant best meets the criteria as stated above. Such applicants shall furnish the City with the information set forth above to the extent applicable.

D. An applicant for a collector's license hereunder for an area hereinafter annexed to the City, shall likewise be required to submit the information set forth in subsections A and B of this section, and the criteria for granting of such license shall apply; provided, however, an applicant who immediately prior to such annexation provided general solid waste collection services to said area, shall be considered for such purposes, an applicant for collector's license presently holding license under City ordinance.

E. Any applicant hereunder, whether they be a present provider of solid waste collection services or not, shall be required to provide the City at time of application for a renewal or a new license, a map or street legal description of the area proposed to be serviced by said licensee. In the event an applicant presently provides collection services, either within or without the City, such map or description should clearly indicate those areas to which solid waste collection services are

presently furnished or, within the last twelve (12) month period, have been furnished. In the event any portion of the area described shall have been an area franchised, licensed or otherwise regulated by another government agency, applicant shall provide the City with pertinent information relative thereto. (Ord. 2-2003 § 1; Ord. 4-1993 § 8)

8.24.090 Duration of license

A. Prior to the issuance, renewal or review of a license, the Council shall provide notice and opportunity for public comment.

B. Collector's licenses granted under the provisions of this chapter shall be for a term of five years. Upon written application by the licensee at any time during the last twenty-four (24) months of a license term the Council shall determine whether to extend said license term for an additional five year term from the date of expiration thereof. The City may impose or modify conditions subject to notice and a hearing. The Council shall make such determination within one hundred twenty (120) days from the date of said written application by said licensee for renewal. (Ord. 2-2003 § 1; Ord. 4-1993 § 9)

8.24.100 General provisions relating to license grant

A. Police Power. Licensees are subject to the exercise of the police power of the City and to such reasonable regulations as the City may from time to time hereafter provide by resolution, ordinance or regulation. The issuance of a license shall not be construed as a waiver of any local, state or federal law as now or hereinafter enacted, including

modifications to this Chapter, and such licensee shall be subject thereto, if applicable.

B. Surety Bond. A licensee shall concurrently, with its acceptance of the license, file with the City Recorder and maintain in full force and effect for the term of said license or any renewal thereof, at licensee's sole expense, a surety bond with a responsible company licensed to do business in Oregon in an amount established by the Council guaranteeing full and faithful performance by said licensee of the duties and obligations thereof as required by this chapter. Licensee's bond shall be subject to review and approval by the city attorney; licensee shall furnish proof annually to the City Recorder, or more often upon request, that said bond remains in effect.

C. Indemnity and Hold Harmless. The licensee by acceptance of City license granted as herein provided shall agree by its endorsement of acceptance hereon to the terms and conditions of the license herein granted and in addition covenants and agrees to save the City harmless from any claim, demand, liability or expense to which the City may be subject as a consequence of any claimed act or omission of the licensee, its agents, or employees, in any manner arising from the rights and privileges herein granted. And agrees further, in the event legal action or suit shall be filed against the City for any loss or damage or claim arising from any act or failure thereof by licensee hereunder that upon notice of City, licensee shall accept the defense thereof and defend the City against the same and in the event of judgment against the City thereupon pay the same and all costs incurred including any legal costs the City may incur

hereunder as it shall feel necessary to protect its interests or enforce this provision, and to hold the City harmless therefrom.

D. Insurance. A licensee hereunder shall maintain at all times, insurance in such form and with such companies as shall be approved by the city attorney, which will cover the licensee's business operation, including each vehicle operated by it. Such insurance coverage shall provide for protection of not less than three hundred thousand dollars (\$300,000.00) for each person, or less than one million dollars (\$1,000,000.00) for bodily injury due to each occurrence, and not less than five hundred thousand dollars (\$500,000.00) for property damage due to each occurrence. All insurance coverage shall provide a thirty (30) day written notice to the City Recorder in the event of material alteration or cancellation of any coverage afforded in said policies prior to the effective date of said material alteration or cancellation. The City shall be named as an additional insured on each policy required hereunder. Copies of all policies required hereunder shall be filed with the City Recorder prior to the commencement of licensee's operations or the expiration of prior policies, as the case may be. Licensee shall furnish proof annually or more often if required by the City, that such insurance remains in effect.

E. Non-waiver. None of the provisions of this chapter, including the provisions of this section providing for the posting of surety bond by licensee or for the attainment and maintenance of public liability and property damage insurance coverage by licensee, shall be construed to excuse the omission of, failure or unfaithful performance by

licensee or limit the liability of licensee under this chapter or otherwise for damages resulting from licensee's operations within the City or with respect to license granted hereunder. (Ord. 2-2003 § 1; Ord. 4-1993 § 10)

8.24.110 Contract for service and transfer of licenses

A. The licensee may subcontract with another person to provide service within its service area upon the written approval of the City given by Council resolution; provided that the contract does not amount in effect to a transfer of the license, and, the subcontractor:

1. Is licensed to collect and dispose of solid waste by the City; or
2. Holds a permit from the City pursuant hereto;
3. Unless said subcontractor is licensed by the City for such collection services, said subcontractor shall agree in writing in form satisfactory to the City before such contract shall become effective, to abide by provisions of this chapter. In any such instance said licensee shall obtain from its insurance carrier and surety, written approval thereof and assurance that licensee's insurance and bond shall continue in full force and effect, cover such service as subcontracted, and shall file such consent with the City Recorder.

B. Licensee shall not sell or exchange service accounts or alter service area boundaries except upon approval of the City Council. The Council shall consent to the transfer or sale if it reasonably determines that the same is in the best interests of the City and that the transferee is qualified for and obtains a license pursuant to the appropriate provisions of this chapter.

Transferee shall obtain its license prior to the effective date of such sale, transfer or exchange. Such sale or transfer if granted shall bind the transferee to all the provisions of this chapter which refer to licensees. (Ord. 2-2003 § 1; Ord. 4-1993 § 11)

8.24.120 License fees

For the privilege of being granted a license and in the exercise thereof, using City streets and other facilities, and to defray the City's regulatory and administrative expenses, each licensee shall pay to the City a fee equal to five (5) percent of the gross receipts received by the licensee from solid waste collection services conducted within the City.

A. The fee shall be computed and collected on a quarterly basis; the quarterly periods to consist of the period ending September 30th, December 31st, March 31st and June 30th, in each fiscal year the license shall be in effect. Fees due hereunder shall be paid within thirty (30) days following the end of each quarter-year period.

B. At the time of payment of said quarterly fees, the licensee must file with the City Recorder a sworn and verified statement of quarterly gross receipts for the period covered by the tendered fee. Licensees shall maintain adequate books and records, disclosing the gross receipts resulting from the solid waste collection services conducted within the City and under City license, which books and records shall be open at reasonable time and place for audit and inspection by authorized City personnel or their representatives. The City may require a uniform system of bookkeeping and record keeping to be used by licensees.

C. Misrepresentation by licensee of gross receipts or failure to keep proper or appropriate books and records shall constitute cause for revocation of the license granted under this chapter.

D. The license fee hereinabove set forth shall be in addition to any other fees charged or taxes now or hereafter imposed by the City or any other governmental unit. Such additional fees may include fees imposed by another jurisdiction when authorized or required by an intergovernmental agreement between the City and such other jurisdiction for services relating to solid waste management. Payment of such additional fees may be enforced by the City pursuant to Sections 8.24.180 to 8.24.230 (Ord. 2-2003 § 1; Ord. 7-2001 § 1)

8.24.130 Responsibilities of licensee

A. A licensee shall provide sufficient equipment and personnel to adequately service the persons and property and to collect their solid waste in its assigned service area, and to otherwise meet the standards of equipment and service established by this chapter, the rules and regulations adopted hereunder, and applicable state law.

B. A licensee shall collect all solid waste from persons availing themselves of such service, provided such persons make such waste available in a manner consistent with the rules and regulations adopted hereunder.

C. A licensee shall not discontinue service to the service area or any portion thereof without giving at least ninety (90) days' written notice of the proposed discontinuance of service to the City and

to the customers affected, and receiving advance approval of the City Council prior to such discontinuance.

D. A licensee may refuse solid waste collection service to any customer if that customer refuses to pay for the service in accordance with the rate approved by the City Council; provided, however, in no event shall a licensee terminate said service without first notifying the customer in writing of such intention not less than seven days prior to the date of the proposed service termination. (Ord. 2-2003 § 1; Ord. 4-1993 § 13)

E. The licensee shall participate in at least one annual city-wide special solid waste collection event as may be determined by the City. (Ord. 7-2004)

8.24.140 Service standards

A. Licensees shall provide solid waste collection service to residences at least once every seven days. Six-day-per-week service shall be made available on a regular basis to commercial, industrial, institutional or similar establishments, with such establishments having the option of receiving daily service. The City may, at its discretion, require such additional servicing schedules or may reduce service requests, as it may from time to time deem necessary and in the public interest.

B. Licensees shall on a regular basis within its service areas provide collection and disposal of solid waste from all City facilities, City parks, City sidewalk containers and City activity areas at no cost to the City.

C. Licensees' collection activity shall not be conducted in predominantly residential areas before six a.m. or after

seven p.m., or in commercial areas before five a.m. or after five p.m.

D. Licensees shall provide convenient bill-paying service for its customers and provide telephone service so that it may be reached by the public during the period from eight a.m. to five p.m. weekdays, excluding Christmas and New Year's Day.

E. Licensees shall respond to questions or complaints within three working days (weekends and holidays excepted).

F. Solid waste collection vehicles shall be constructed, loaded and operated so as to prevent to the greatest extent practicable any dropping, leaking, blowing, sifting or escaping of waste from the vehicle onto private property or public streets. Open body collection vehicles shall have a cover to assist in such control practice.

G. Licensees shall respond to all calls for special hauling requests requiring equipment regularly supplied by licensee within one week of receiving such request. Such request may include bulky items, such as appliances. A special rate schedule may be established for this service. (Ord. 2-2003 § 1; Ord. 4-1993 § 14)

8.24.150 Recycling

A. In the interest of promoting the optimum use of the earth's finite resources, the City shall provide opportunity and encourage residents, inhabitants and properties of the City to recycle and accordingly will require licensees hereunder to provide recycling collection programs which will promote and encourage the same in accordance with state goals as set forth in ORS, and particularly ORS Chapter 459A, and

appropriate rules and regulations promulgated thereunder or by the City.

B. Accordingly, each licensee hereunder shall provide the recycling opportunity as hereinabove set forth, by the development of specific programs consistent with state statutes and City requirements which the Council shall establish and periodically review. Licensees shall maintain appropriate records to assist in determining the cost and feasibility of providing said programs and rates for solid waste collection services by each licensee shall include consideration of the cost of providing such recycling collection programs within the City, giving due consideration to the revenue generated by the sale or disposal of the various recycled items.

C. The City shall adopt appropriate rules and regulations for the conduct of the various recycling programs mandated by state law or determined necessary by Council resolution following public hearing thereupon. The City may require recycling collection programs to be coordinated through intergovernmental agreements or otherwise at the specific direction of the City Council. (Ord. 2-2003 § 1; Ord. 4-1993 § 15)

8.24.160 Customer responsibilities

A. Customers who shall avail themselves of the solid waste collection services of a licensee shall be required to pay in regular fashion, the charges imposed by the said licensee for such services, based upon rates approved by the City Council from time to time.

B. Persons who become customers of licensee shall be required to abide by the rules and regulations established by the City for the collection and disposal

of solid wastes and for the collection of recyclable materials.

C. It shall be the responsibility of a residential customer to provide appropriate garbage cans or receptacles for the placement of solid waste materials to be collected by licensees unless other containers having the advance approval of the licensee and City are used. Garbage cans or receptacles for manual collection shall be sturdy, located on a solid level base, hold no more than thirty-two (32) gallons of material and shall weigh not more than sixty (60) pounds (gross loaded weight). They shall be provided with a close fitting lid with handle and be watertight in construction.

D. The customer shall provide safe access to the pickup point so as to be readily available to and not jeopardize licensees and employees supplying the collection service.

E. No person shall place hazardous or infectious waste in a garbage can or any solid waste container or box for solid waste collection or disposal by a licensee or the City without first obtaining written approval from the licensee or the City, as the case may be.

F. Business Recycling Requirement

1. All Businesses and Business Recycling Service Customers shall recycle as follows:

a. Businesses and business recycling service customers shall separate for recycling all paper, cardboard, glass and plastic bottles and jars, and aluminum and tin (metal) cans;

b. Businesses and business recycling service customers shall provide recycling containers for internal maintenance or work areas to allow for recyclable materials to be collected, sorted, stored, or both; and

c. Businesses and business recycling service customers shall post accurate signs or adhere labels where recyclable materials are collected, stored, or both that identify the materials that the business must source separate and that provide recycling instructions.

2. A business may seek an exemption from the requirement in Section 8.24.160(F)(1) if:

a. The business provides access to the City of Wood Village for a site visit; and

b. The City of Wood Village determines during the site visit that the business cannot comply with the Business and Recycling Requirement because of space constraints or economic restrictions.

3. To assist businesses in compliance with this section, the City of Wood Village shall:

a. Notify businesses of the Business Recycling Requirement;

b. Provide businesses with education and technical assistance to assist with meeting the Business Recycling Requirement; and

c. Monitor and verify business compliance with the Business Recycling Requirement.

(Ord. 2-2003 § 1; Ord. 4-1993 § 16; Ord. 4-2009)

8.24.170 Ownership of solid waste

All solid waste located, placed or deposited in a can, container, roller cart, drop box or receptacle provided by the licensee to a customer, or provided by the customer for collection by licensee shall belong upon collection to the licensee. It is unlawful for any person other than the appropriate licensee to remove any solid waste from such

receptacle. Any person removing solid waste materials from containers in violation of this section, shall be subject to the penalties hereinafter set forth. (Ord. 4-1993 § 17)

8.24.180 General offenses

A. No person shall without permission of the owner or generator of recyclable material, take recyclable materials set out to be collected by a person authorized by the City to provide collection service for that recyclable material, except in accordance with this chapter.

B. No person shall remove any recyclable material from a container, box, collection vehicle, depot or other receptacle provided for the accumulation or storage of recyclable material without permission of the owner of the receptacle or the recyclable material. (Ord. 2-2003 § 1; Ord. 4-1993 § 18)

8.24.190 Suspension, modification or revocation of license

A. The City Council may suspend, modify or revoke a license or permit granted in accordance with this chapter after written notice and hearing, upon finding that the licensee or permittee has:

1. Willfully violated this chapter or state statutes applicable to the collection of solid waste materials or the rules and regulations promulgated thereunder or by this Council; or

2. Willfully refused to provide adequate service in its service area after written notice and reasonable opportunity to do so.

B. In the event the City or its chosen representative shall determine, in its

opinion that a serious health hazard or danger exists to the public as a result of the act or failure to act on the part of a licensee hereunder in the performance of its licensed responsibilities as provided herein, the City may suspend the license or permit granted by this chapter without a hearing, but shall immediately notify licensee and provide opportunity for hearing before the City Council within five days from date of such suspension, setting forth in such notice the reasons for its action.

1. Upon such hearing, licensee shall have full opportunity to be heard and the Council may affirm, modify or set aside the suspension ordered and may by resolution take whatever action it may deem appropriate to assure compliance with the terms and provisions of this chapter.

2. If a license granted hereunder is temporarily or permanently suspended, limited or terminated, for any reason whatsoever, by the City, the City may take whatever steps it may deem appropriate to assure that solid waste collection service is provided to the residents and inhabitants and properties of the area served by the licensee so affected, including the right to provide, on a temporary basis, such service by the City itself. (Ord. 2-2003 § 1; Ord. 4-1993 § 19)

8.24.200 Rates and service charges

A. The rates to be charged all persons by licensees shall be reasonable, uniform and based upon the level of service rendered.

B. The City shall establish a rate schedule for all service levels for solid waste, recyclable materials and yard

debris collection service to be provided by licensees under this ordinance.

C. Rates shall be adopted by the Council by resolution.

D. Rates shall be established to the greatest extent practicable on a cost of service basis.

E. Rates shall be adequate to cover Allowable Expenses and to provide the return on revenue as defined in this ordinance, to allow investment in equipment and to ensure quality collection service. Unallowable expenses shall not be considered when establishing rates.

F. The rates that may be charged by a licensee for collection service shall conform to the latest schedule on file with the City Administrator. Any rate not set by current resolution and charged in the City of Gresham must be approved by the City Council prior to implementation.

G. Rates shall be reviewed by the City on an annual basis. Licensees shall furnish financial and other information the council considers necessary to determine the schedule of charges. Licensees may identify information submitted to the City as confidential. Prior to submitting such information to the City, licensees shall prominently mark any such information with the word "confidential." The City shall treat any information so marked as confidential and shall not subject confidential information to public disclosure except as required by the State of Oregon Public Records Law. If the City receives a request to inspect the records under the Public Records Law, licensees will be notified.

H. All books, records, accounts and data relating to collection service operations conducted within the City by

licensees are subject to inspection and audit by the City.

I. Upon audit by the City, if it is found deliberate or malicious material misrepresentation of books, records, accounts or data relating to collection service operations has occurred, the licensee shall pay audit costs incurred by the City.

J. To assist the Council in its determination of appropriate rates to be charged by licensee for services rendered pursuant to this chapter, the City may require licensees to furnish a schedule of proposed charges and rates with accompanying justification therefore, and may require that said licensees furnish such financial or other information as the City may deem necessary to determine such schedule of charges. The City shall also conduct such review and investigation as it may deem advisable and pertinent hereto, including contract with another party or government jurisdiction for technical review and assistance.

K. Prior to establishing a new rate schedule or making modifications thereto, the Council shall provide for public hearing to permit said interested persons and concerned licensees the opportunity to be heard thereupon. Notice of said hearing shall be given by publication in a newspaper of general circulation within the City not less than seven nor more than fifteen (15) days prior to the date of said hearing, and by public notice posted in at least three conspicuous places within the City at least ten days prior to the public hearing.

L. The City may by, appropriate resolution establish special rates for collection of brush and garden or other waste categories not otherwise covered

by this chapter. (Ord. 2-2003 § 1; Ord. 4-1993 § 20)

8.24.210 Restraining orders

The City may, in addition to other specific enforcement authority granted hereunder or otherwise available to it, by resolution, based upon sworn affidavit or specific Council complaint, issue a temporary restraining order enjoining the alleged violation of any of the provisions of this chapter, license or permit issued hereunder, or the rules and regulations issued pursuant hereto. Such order shall direct the alleged violator to immediately cease and desist from the act or acts described therein until the Council determines with certainty whether or not a violation has occurred. Such temporary restraining order shall be issued by resolution of the Council and only after the Council shall determine that reasonable ground exists or believes such violation has occurred as stated. If the complainant be other than the Council itself, such order must be based upon sworn affidavit of complainant, setting forth allegations of the alleged violation which shall specify in language sufficient to apprise the alleged violator of the act or acts proposed to be enjoined. The order shall direct the alleged violator to appear at a certain time and place before the Council as stated therein to show cause, if there be any, why the alleged violator should not be immediately enjoined from doing the act or acts specified in the order. Should the Council determine at said show cause hearing that the alleged violator has committed the violation of this chapter as alleged the Council may make and enter order permanently enjoining further violation and may, if it deem

appropriate, invoke appropriate penalties or direct appropriate remedial action to be taken concerning such violation. (Ord. 4-1993 § 21)

8.24.220 Miscellaneous provisions

A. Licensees or permittees under this chapter shall have the burden and responsibility of disposing of the solid waste which they shall collect; disposal shall not be made within the City limits unless specifically permitted by state statute or City ordinance and said licensee or permittee will obey all applicable laws and regulations regarding disposal of the same and will not make or cause a nuisance in so doing. Both shall file all reports required by the City or state law.

B. Licensees or permittees shall have the privilege of using the streets and alleyways of the City for the collection of solid wastes; all collections will be made with the least possible delay and inconvenience to the public or individuals.

C. Licensees hereunder shall collect all solid wastes from parties availing themselves of the use of the collection system within their specified areas when such materials are placed in proper receptacles and located in proper places in accordance with this chapter or the rules and regulations adopted hereunder. The City shall not be responsible in any way for the collection of charges by a licensee hereunder, but the licensee shall collect for its services in a reasonable business manner.

D. The licensees hereunder shall do all things reasonably necessary to give the City a good and efficient solid waste collection and disposal service system and shall operate for the common good,

benefit, and the health, welfare and needs of the citizens and inhabitants of the City. (Ord. 2-2003 § 1; Ord. 4-1993 § 22)

citation and shall notify the Business or Business Recycling Service Customer that it may be subject to a fine.

(Ord. 2-2003 § 1; Ord. 4-1993 § 23; Ord. 4-2009)

8.24.230 Penalties and remedies

A. Failure of any person to comply with the requirements of this chapter is a civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code. (Ord. 4-2006 § 11)

B. In addition to the penalties described above, any condition caused or permitted to exist in violation of this chapter shall be deemed a public nuisance and the City may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such nuisance.

C. The penalties and remedies provided in this chapter are not exclusive and are in addition to any other penalties and remedies available to the City under any other ordinance or law.

D. A Business or Business Recycling Service Customer that does not comply with Section 8.24.160(F), Business Recycling Requirement, may receive a notice of noncompliance, which shall describe the violation, give the Business or Business Recycling Service Customer an opportunity to cure the violation within a time specified in the notice, and provide an offer of assistance with compliance. A Business or Business Recycling Service Customer that does not cure a violation within the time specified in the notice of noncompliance may receive a written citation, which shall provide an additional opportunity to cure the violation within a time specified in the

Chapter 8.28

FIRE AND LIFE SAFETY CODE

Sections:

- 8.28.010 Adoption of Fire Code and Fire and Life Safety Regulations**
- 8.28.020 Definitions**
- 8.28.030 Establishment and Duties of the Fire and Life Safety Division**
- 8.28.040 Amendments to the Oregon Fire Code**
- 8.28.050 Appeals**
- 8.28.060 Fire Safety Inspection Program**
- 8.28.100 Unlawful Burning**
- 8.28.010 Adoption of Fire Code and Fire and Life Safety Regulations**

A. For the purpose of prescribing minimum regulations governing conditions hazardous to life and property from fire, panic or explosion, the City adopts the Fire Code known as the Oregon Fire Code, 2010 Edition, and the whole thereof, including Oregon adopted appendices, except as otherwise amended in Section 8.25.070 and incorporated herein, (Ord 3-2007; Ord. 11-2004)

B. This Code section, including the codes hereby adopted, shall be filed and maintained in the records of the City and in the State Fire Marshal's Office. The whole of this chapter shall be known as the Fire and Life Safety Code of the City of Wood Village, hereafter known as "Fire Code". (Ord 3-2007; Ord 11-2004)

C. In addition to any fines, penalties, remedies or other enforcement powers authorized by the Oregon Fire Code, any

violation of the Oregon Code shall also constitute a public nuisance, subject to enforcement under Wood Village Municipal Code Chapter 8.16, and a Class B violation, under Article 750. (Ord 3-2007; Ord. 11-2004)

D. Whenever a reference is made to any portion of this Code or any other applicable law or ordinance, the reference applies to all amendments and additions now or hereafter adopted by the State of Oregon and the City of Wood Village. (Ord. 9-2010; Ord. 11-2004; Ord. 13-2003 § 1)

8.28.020 Definitions

The definitions provided by the Uniform Fire Code adopted by this chapter shall be amended or added to as follows:

Administrator. Wherever the Oregon Uniform Fire Code uses the term administrator or director, it shall mean the Wood Village City Administrator.

Business. Any activity, trade, occupation, profession, or pursuit conducted for the purpose of generating revenue, whether for profit or non-profit regardless of occupancy type assigned by code language.

Jurisdiction. Wherever the Oregon Fire Code uses the term jurisdiction, it shall mean the City of Wood Village.

Fire Code Official. Wherever the Oregon Fire Code uses the term Fire Code Official, it shall mean the City of Gresham Fire Chief or Fire Marshal.

Occupancy. The lawfully permitted purpose for which a building or part

thereof is used or intended to be used.

Illegal Occupancy. Any business occupying a building or on a premises without a City business license application or the changing occupancy without proper building and planning department permits or Certificate of Occupancy.(Ord. 3-2007; Ord. 11-2004;)

8.28.030 Establishment and Duties of the Fire and Life Safety Division

The 2010 Oregon Fire Code shall be enforced by the Fire and Life Safety Division of the Gresham Fire and Emergency Services which shall be operated under the direction of the Fire Chief. (Ord. 9-2010; Ord. 3-2007; Ord 11-2004)

8.28.040 Amendments to the Oregon Fire Code

1. The 2007 Oregon Fire Code is amended and changed as follows:

2. The jurisdiction shall set by resolution fees for special use permits.

The jurisdiction shall set by resolution fees for the following:

- a. Initial business fire inspections.
- b. Reinspections.
- c. Failure to abate hazards.
- d. False alarms.

3. Section 308.3.1 is amended to read:

Exceptions:

- 1. One and two family dwellings.

4.. Section 308.3.1.2 amended to read:

Liquefied-petroleum-gas-fueled cooking devices.

LP-gas burners having an LP-gas container with a water capacity greater than 2.5 pounds {nominal 1 pound LP-gas capacity} shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exception:

- 1. One and two family dwellings

5. Section 505.1 is amended to read:

Address Numbers. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inch and larger when required by Gresham Fire and Emergency Services Standard Operating Guideline 3.1.5. (Ord. 3-2007; Ord 11-2004)

6. Section 804.1.1 is amended to read:

Restricted occupancies

Natural cut trees shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2, R-4 and SR occupancies.

Exceptions:

1. Trees located in areas protected by an approved automatic sprinkler system installed in accordance with Section 903.1.1 or 903.1.2 shall not be prohibited.
2. Within dwelling units of R-2 occupancies.

7. Section 3401.4 is amended to read:

Permits

Permits for the installation of all flammable or combustible liquids within or outside of building are required within all areas of the City.

8. Section 3401.4.1 is amended to read:

Plans

Construction documents shall be submitted with each permit application for flammable or combustible liquid tanks and/or the storage of the same.

9. Permits

Permits for the installation of all liquefied petroleum gas (LPG) tanks and/or storage of all LPG are required within all areas of the City. Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the fire code official.

10. Section 3801.3 is amended to read:

Plans

Plans shall be submitted with each permit application for liquefied petroleum gas (LPG) tanks and/or storage of the same.

(Ord. 9-2010; Ord. 3-2007; Ord 11-2004)

8.28.050 Appeals

The Appeals Board specified in Section 108.1 of the Fire Code shall consist of the Building Code Board of Appeals for the City, with the addition of a fire protection professional designated by the Code Official. (Ord. 3-2007; Ord 11-2004)

8.28.060 Fire Safety Inspection Program.

(1) Purpose and Scope. The purpose of this section is to set forth the requirements of a Fire Safety Inspection Program within the City of Wood Village for violations of the Oregon Fire Code (OFC). The provisions of this section shall apply to each business location of every business within the City of Wood Village.

(2) Hazard Level Designations. A hazard level designation for each individual business will be determined by the Fire Marshal based on occupancy, classification and existing hazards. The Fire Marshal will utilize the hazard ratings issued for occupancy designations by the National Fire Protection Association (NFPA), "Installation of Sprinkler Systems," and as designated by OFC Chapter 2, In cases of multiple occupancy classifications, hazard level placement will normally correspond to the occupancy classification with the highest rated hazard level.

(3) Fire Safety Inspections. Each business location of every business located within the City of Wood Village is subject to a fire safety inspection by Gresham FES each calendar year. An inspection fee will be assessed when the inspection is conducted. Inspection fees shall be established by Council resolution and correspond to the hazard level designation for each business location as determined by the Fire Marshal.

(4) Fire Safety Reinspections. When violations of the OFC are found in the course of an annual inspection, Gresham FES shall conduct a reinspection, after allowing the appropriate time for voluntary abatement of the violation. Fees for reinspection shall be established by Council resolution.

(5) Failure to Abate OFC Violations. Failure to abate OFC violations shall constitute a public nuisance, subject to enforcement under Wood Village Municipal Code Chapter 8.16, and subject the violator to the nuisance abatement remedies established in GRC Article 7.50, including the imposition of an administrative enforcement fee for each month the violation continues. The administrative enforcement fee for inspection violations shall be established by Council resolution. In addition to the imposition of an administrative enforcement fee, the City Administrator may enforce abatement proceedings or civil action as provided in GRC Article 7.50, or as otherwise authorized by law, including any enforcement remedies, orders, or powers under the OFC.

(6) Business License Inspections. Any person or business entity that

applies for a license to conduct business in a physical location within the City of Wood Village must obtain a Business License Inspection by Gresham FES, and pay a fee for that inspection, as established by Council resolution. Any person or business entity that applies for a renewal of any license to conduct business in a physical location within the City of Wood Village may be subject to a Business License Inspection by Gresham FES, and pay a fee for that inspection, as established by Council resolution, if a history of OFC code violations have been found within said business location and a general fire safety inspection has not been completed there within the previous 12 months.

(7) Liens. Any fees, including administrative enforcement fees, fire safety inspection and reinspection fees, and business license inspection fees, shall, if not paid within 30 days of imposition, constitute a valid lien against the property in favor of the City of Wood Village, and shall remain a lien against the property until fully paid. The City shall file notices of such liens with the Multnomah County Clerk Recorder's Office. The City shall collect an administrative fee as set by Council resolution for the release of any lien issued by the City. (Ord. 3-2007; Ord. 11-2004)

8.28.100 Unlawful Burning

A. No person may:

1. Burn yard debris or any other type of material on any single or multi-family property within the City of Wood Village except when specifically authorized by a valid open burn permit issued by the City of Gresham Fire

Marshal or during a designated RESIDENTIAL BACKYARD burn season WHICH CONSISTS OF 10 SPECIFIC DAYS IN THE SPRING AND 10 SPECIFIC DAYS IN THE FALL OF EACH YEAR.

2. Burn at any time any man-made material; rubber; plastic; garbage; construction materials; petroleum based materials; or any other product for which burning is prohibited by the Department of Environmental Quality.

3. Conduct any type of burning during a declared fire season.

4. Set on fire, or cause to be set on fire, any grass, grain, stubble, or other material being or growing on land within the city.

5. Intentionally or negligently allow fire to escape from the person's own land, or land of which the person is in possession or control.

6. Accidentally set any fire on the person's own land or the land of another and allow it to escape from control without extinguishing it, or using every reasonable effort to do so.

7. Know of a fire burning on the person's own land, or land of which the person is in possession or control, and fail or neglect to make every reasonable effort to extinguish it, regardless of whether or not the person is responsible for the starting or the existence of the fire.

B. Unlawful burning is a Class A violation. (Ord 13-2007)