ORDINANCE NO. 2026-07

AN ORDINANCE TO REPEAL AND REPLACE SECTIONS 177.01 THROUGH 177.04 OF CHAPTER 177 OF THE GRESHAM MUNICIPAL CODE, RELATING TO CONSTRUCTION CODES; TO ADOPT BY REFERENCE THE STATE BUILDING CODE CREATED BY NEB. REV. STAT. § 71-6403, AS AMENDED FROM TIME TO TIME, AS THE BUILDING CODE AND PLUMBING CODE OF THE VILLAGE; TO PROVIDE THAT ELECTRICAL INSTALLATIONS SHALL BE GOVERNED BY THE STATE ELECTRICAL ACT; TO PROVIDE FOR ADMINISTRATION, PERMITS, FEES, APPEALS, EXEMPTIONS, AND PENALTIES; TO PRESERVE THE ZONING AND VACANT PROPERTY REGISTRATION PROVISIONS OF CHAPTER 177; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE A SAVINGS CLAUSE AND FOR SEVERABILITY; AND TO PROVIDE FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, Neb. Rev. Stat. § 18-132(1) authorizes the Board of Trustees of the Village of Gresham, Nebraska (the "Village" and the "Board") to adopt by ordinance a plumbing code, an electrical code, a building or construction code, and other standard codes printed in book, pamphlet, or electronic form by reference, and § 18-132(3) requires that any building or construction code so adopted be adopted and enforced as provided in Neb. Rev. Stat. § 71-6406; and

WHEREAS, Neb. Rev. Stat. § 71-6403 creates the state building code, which, as of the date of this Ordinance, consists of the 2018 editions of the International Building Code, the International Residential Code, and the International Existing Building Code and the 2018 edition of the Uniform Plumbing Code, each with the exceptions stated in that section, together with the minimum standards for radon resistant new construction adopted under Neb. Rev. Stat. § 76-3504; and

WHEREAS, Neb. Rev. Stat. § 71-6406(1)(a) authorizes a village to enact, administer, and enforce a local building or construction code if or as long as the village adopts the state building code or a code that conforms generally with the state building code; § 71-6406(6) requires the village to regularly update its code by adopting the most recently enacted state building code, or a code that conforms generally with it, within two years after each update to the state building code; and § 71-6406(1)(b) and (7) provide that, if a village does not adopt a code as so authorized within two years after an update, the state building code shall apply in the village, except as to construction on a farm or for farm purposes, and shall be the legally applicable code regardless of whether the village has provided for its administration or enforcement; and

WHEREAS, Sections 177.01 through 177.04 of Chapter 177 of the Gresham Municipal Code adopt editions of model construction codes that have since been superseded by later editions and by amendments to the state building code; and

WHEREAS, Chapter 177 of the Gresham Municipal Code also contains § 177.20, which adopts the zoning regulations of the Village, and §§ 177.50 through 177.60, the Village's vacant property registration provisions, none of which is affected by this Ordinance, and the Board intends that those sections remain in full force and effect; and

WHEREAS, To the extent the provisions of Chapter 177 do not conform generally with the state building code, Neb. Rev. Stat. § 71-6406(1)(b) provides that the state building code applies within the Village, and the Board intends by this Ordinance to conform the Gresham Municipal Code to the code applicable under state law; and

WHEREAS, The Board finds that adopting the state building code as it exists under Neb. Rev. Stat. § 71-6403, as amended from time to time by the Legislature, will keep the Village's construction codes consistent with state law without the need for an ordinance amendment upon each statutory update, and that electrical installations within the Village are appropriately governed and inspected under the State Electrical Act; and

WHEREAS, Neb. Rev. Stat. § 71-6406(7) authorizes the Village to adopt amendments for the proper administration and enforcement of its local building or construction code, including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees, which amendments are to be published separately from the code; and

WHEREAS, Prior to the adoption of this Ordinance, not less than one copy of each code adopted by reference in this Ordinance was placed on file in the office of the Village Clerk for use and examination by the public, as required by Neb. Rev. Stat. §§ 18-132(2) and 71-6406(8); and

WHEREAS, The Board finds that this Ordinance is necessary for the protection of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CHAIRPERSON AND BOARD OF TRUSTEES OF THE VILLAGE OF GRESHAM, NEBRASKA:

Section 1. Sections 177.01 through 177.04 Repealed and Replaced. Sections 177.01 through 177.04 of Chapter 177 of the Gresham Municipal Code, relating to construction codes, are hereby repealed and replaced with the following Sections 177.01 through 177.09. No other section of Chapter 177 is repealed or replaced by this Section:

CONSTRUCTION CODES

§ 177.01 BUILDING CODE; STATE BUILDING CODE ADOPTED.

(A) Adoption. Pursuant to Neb. Rev. Stat. §§ 18-132 and 71-6406(1)(a)(i), the state building code created by Neb. Rev. Stat. § 71-6403, including the minimum standards for radon resistant new construction adopted under Neb. Rev. Stat. § 76-3504, is hereby adopted by reference as the Building Code of the Village. Each and all of the regulations, provisions, conditions, and terms of the Building Code are hereby referred to, adopted, and made a part of this chapter as if fully set out herein, subject to the provisions of this chapter.

(B) Components. As of the effective date of the ordinance enacting this section, the Building Code consists of the following, each with the exceptions and modifications stated in Neb. Rev. Stat. § 71-6403:

(1) The International Building Code, 2018 edition, published by the International Code Council, except section 101.4.3 and chapter 29, and with section 305.2.3 applying to a facility having twelve or fewer children and section 310.4.1 applying to a care facility for twelve or fewer persons;

(2) The International Residential Code, 2018 edition, published by the International Code Council, except section R313 and chapters 25 through 33;

(3) The International Existing Building Code, 2018 edition, published by the International Code Council, except section 809;

(4) The Uniform Plumbing Code, 2018 edition, designated by the American National Standards Institute as an American National Standard; and

(5) The minimum standards for radon resistant new construction adopted under Neb. Rev. Stat. § 76-3504.

This subsection is descriptive. If it differs from Neb. Rev. Stat. § 71-6403 as in effect on the effective date of the ordinance enacting this section, the statute controls.

(C) Subsequent Amendments. The Building Code of the Village shall be the state building code as it exists from time to time under Neb. Rev. Stat. § 71-6403. When the Legislature amends Neb. Rev. Stat. § 71-6403 to adopt a new edition, supplement, appendix, or component of the state building code, or to add, remove, or modify any exception, the amendment shall become part of the Building Code of the Village, without further action of the Board, on the later of (1) the operative date of the statutory amendment or (2) the date on which a copy of the new or amended code component is placed on file under subsection (E) of this section.

(D) State Law Controls. To the extent any amendment to the state building code does not become part of the Building Code of the Village under subsection (C) of this section for any reason, the state building code, as amended, shall apply within the Village as provided in Neb. Rev. Stat. § 71-6406(1)(b). Nothing in this chapter shall be construed to adopt or enforce a building or construction code other than as authorized by Neb. Rev. Stat. § 71-6406(5). In the event of any conflict between this chapter and the statutes of the State of Nebraska, the statutes control.

(E) Copies on File. As required by Neb. Rev. Stat. §§ 18-132(2) and 71-6406(8), not less than one copy of each code and code component adopted by this section, in printed or electronic form, shall be kept in the office of the Village Clerk for use and examination by the public during regular business hours, prior to its adoption and for so long as it remains in effect. Within 60 days after the operative date of any amendment to Neb. Rev. Stat. § 71-6403, the Village Clerk shall obtain and place on file a copy of each new or amended code component. The Village Clerk shall maintain a written log identifying each code and edition on file and the date it was placed on file.

(F) Interpretation. As used in the Building Code:

(1) "Name of jurisdiction" and similar terms mean the Village of Gresham, Nebraska;

(2) "Building official," "code official," and "authority having jurisdiction" mean the person designated under § 177.05;

(3) A reference to the International Plumbing Code means the Uniform Plumbing Code included in the Building Code; and

(4) Where the Building Code calls for design criteria or other values to be established by the jurisdiction, including the climatic and geographic design criteria of the International Residential Code, those values shall be as established by resolution of the Board or, in the absence of a resolution, as determined by the building official from the maps and data referenced in the Building Code.

(G) Territorial Application. The Building Code applies within the corporate limits of the Village and, to the extent permitted by law, within its zoning jurisdiction.

§ 177.02 PLUMBING CODE.

The Plumbing Code of the Village is the Uniform Plumbing Code included in the state building code and adopted as part of the Building Code under § 177.01, including any subsequent edition that becomes part of the Building Code under § 177.01(C). No other plumbing code is adopted. This chapter does not limit the ordinances, rules, and regulations governing the Village's water and sewer systems, including requirements for connection permits, backflow prevention, and interceptors.

§ 177.03 ELECTRICAL INSTALLATIONS.

(A) All electrical wiring and installations within the Village and its zoning jurisdiction shall comply with the State Electrical Act, the edition of the National Electrical Code governing the State Electrical Board under Neb. Rev. Stat. § 81-2104(5), and the rules and regulations of the State Electrical Board, each as amended from time to time.

(B) The Village does not adopt a separate local electrical code and does not provide for the inspection of electrical installations by a certified electrical inspector under Neb. Rev. Stat. § 81-2125. Licensing, inspection, and enforcement of electrical installations within the Village are as provided in the State Electrical Act.

(C) The building official may require evidence that any required state electrical inspection has been requested or completed before granting final approval of work performed under a Village permit, and may report suspected violations to the State Electrical Board.

§ 177.04 ENERGY CODE; OTHER STATE REQUIREMENTS.

(A) The energy conservation provisions included in the Building Code apply as adopted. The Village does not adopt a separate local energy code and does not delete any portion of chapter 13 of the International Building Code or chapter 11 of the International Residential Code.

(B) Nothing in this chapter relieves any person of the obligation to comply with the Nebraska Energy Code, Neb. Rev. Stat. §§ 81-1608 to 81-1626, the rules and regulations of the State Fire Marshal, applicable accessibility requirements, or any other applicable state or federal law.

§ 177.05 ADMINISTRATION; BUILDING OFFICIAL.

(A) Designation. The Board shall designate the building official by resolution. The building official may be a Village officer or employee, the Village Engineer, or a qualified individual or firm engaged by contract. The Board may designate more than one person by function and may authorize qualified persons to perform plan review or inspections on behalf of the building official. Until a designation is made, the Board shall exercise the authority of the building official, acting through the Village Clerk for the receipt of applications and through such qualified persons as the Board engages for plan review and inspections.

(B) Administrative Provisions. The administrative provisions of chapter 1 of each code included in the Building Code apply except as modified by this chapter. In the event of a conflict between this chapter and chapter 1 of any code included in the Building Code, this chapter controls. Sections 177.05 through 177.07 are amendments for the administration and enforcement of the Building Code adopted under Neb. Rev. Stat. § 71-6406(7) and are published separately from the Building Code.

(C) Third-Party Review and Inspection. When the building official determines that plan review, inspection, testing, or a written report by a licensed professional engineer, licensed architect, or other qualified person is reasonably necessary to determine compliance with this chapter, the building official may require it. The applicant or owner shall pay the actual cost of the review, inspection, testing, or report as an additional permit fee, and no permit, extension, approval, or certificate of occupancy shall issue until that fee is paid. A report obtained under this subsection shall identify each deficiency observed, the code provision on which it is based, and the general nature of the corrective work required, but need not include the design of repairs.

(D) Written Action Required. No permit, extension, modification, approval, or waiver under this chapter is effective unless it is in writing and issued by the building official or approved by the Board. The receipt or acknowledgment of any document by the Village Clerk or any other Village officer or employee does not constitute the approval, extension, or waiver of any requirement of this chapter.

(E) No Duty to Particular Persons. This chapter is adopted to protect the public health, safety, and welfare and does not create any duty to, or right of action by, any particular person or class of persons. The issuance of a permit, the approval of plans, or the conduct or omission of any inspection does not constitute a representation or warranty that any work or structure complies with this chapter and does not relieve any owner, contractor, or design professional of responsibility for compliance.

§ 177.06 PERMITS AND FEES.

(A) Permits. Permits are required as provided in the Building Code and the zoning regulations of the Village. Where both require a permit for the same work, a single application and permit may be used.

(B) Fees. Permit, plan review, inspection, reinspection, investigation, and appeal fees shall be established by resolution of the Board. Fees include the actual cost of any third-party review or inspection required under § 177.05(C). No permit shall issue until all required fees are paid.

(C) Expiration and Extensions. Permits expire as provided in the Building Code. An extension may be granted only upon written request submitted before the permit expires, only for justifiable cause demonstrated by the permit holder, only in writing, and for not more than 180 days per extension.

(D) Work Commenced Without Permit. If work for which a permit is required is commenced before a permit is issued, the building official may assess an investigation fee in the amount established by resolution of the Board, in addition to the permit fee.

§ 177.07 APPEALS.

(A) Board of Appeals. The Board shall serve as the board of appeals under each code included in the Building Code. The Board may obtain the advice of the Village Engineer or another qualified person in deciding an appeal.

(B) Grounds. An appeal may be taken from an order, decision, or determination of the building official on the ground that the true intent of the Building Code has been incorrectly interpreted, that the provisions of the Building Code do not fully apply, or that an equally good or better form of construction is proposed. The Board has no authority to waive the requirements of the Building Code.

(C) Procedure. An appeal shall be filed in writing with the Village Clerk within 20 days after the order, decision, or determination appealed from is served or issued, shall state the specific grounds for the appeal, and shall be accompanied by any fee established by resolution of the Board. The Board shall hear the appeal at a regular or special meeting held within 45 days after the appeal is filed, unless the appellant agrees to a later date, and shall give the appellant written notice of the hearing at least seven days in advance. The appellant may appear in person or by counsel and may present evidence. The Board shall decide the appeal by written decision or by motion recorded in the minutes stating the basis for the decision.

(D) Effect of Appeal. A timely appeal stays enforcement of the order appealed from pending the decision of the Board, except that an appeal does not stay a stop-work order or an order addressing a condition that the building official has determined presents an imminent hazard to life or property, unless the Board so orders.

(E) Judicial Review. The decision of the Board is final and may be reviewed as provided by law.

§ 177.08 VIOLATIONS; PENALTY; REMEDIES.

(A) It is unlawful for any person to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building or structure, or to install or alter any equipment or system regulated by this chapter, in violation of this chapter, or to fail to comply with a lawful order of the building official. The owner of the property, the contractor, and any other person who performs or causes the violation are each responsible.

(B) Any person who violates this chapter is subject to the general penalty provided in § 10.99. Each day a violation continues after the person has been served with notice of the violation constitutes a separate offense.

(C) In addition to any penalty, the Village may enforce this chapter by stop-work order, by action for injunction or other civil relief in a court of competent jurisdiction, and, where the condition also constitutes a nuisance or unsafe building under the Gresham Municipal Code, by abatement. These remedies are cumulative.

§ 177.09 REFERENCES; SCOPE.

(A) A reference in the Gresham Municipal Code or the zoning regulations of the Village to the "Building Code," "Residential Code," "International Building Code," "International Residential Code," "Plumbing Code," or "Electrical Code" means the corresponding code or requirement under §§ 177.01 through 177.09.

(B) As used in §§ 177.01 through 177.09, "this chapter" means §§ 177.01 through 177.09 only. It does not include § 177.20, §§ 177.50 through 177.60, or any other section of Chapter 177. Nothing in §§ 177.01 through 177.09, including the permit, appeal, and penalty provisions, applies to or modifies the procedures, appeals, fees, or penalties under those other sections.

Section 2. Repealer. Original §§ 177.01 through 177.04 of the Gresham Municipal Code, Ordinance No. 04-7 to the extent it enacted or amended those sections, and all other ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed. This Section does not repeal § 177.20 or §§ 177.50 through 177.60 of the Gresham Municipal Code, which do not conflict with this Ordinance.

Section 3. Zoning and Vacant Property Registration Provisions Preserved. Nothing in this Ordinance repeals, amends, renumbers, or otherwise affects § 177.20 of the Gresham Municipal Code, the zoning regulations of the Village adopted by it, as amended, or §§ 177.50 through 177.60 of the Gresham Municipal Code (vacant property registration), or any other section of Chapter 177 not expressly repealed by Section 2. Those provisions remain in full force and effect. No registration, determination, exemption, appeal, fee, lien, notice, or enforcement action under those provisions, whether taken before or after the effective date of this Ordinance, is affected by this Ordinance.

Section 4. Savings Clause. The repeal of original §§ 177.01 through 177.04 does not affect or impair any act done, permit issued, notice or order served, right accrued, penalty or liability incurred, or proceeding, prosecution, or enforcement action commenced before the effective date of this Ordinance. Each such matter may be continued and enforced and is governed by the law applicable at the time the permit was issued, the notice or order was served, or the proceeding was commenced, as the case may be. Work commenced under a valid, unexpired permit issued before the effective date of this Ordinance may be completed under the code applicable to that permit, but any extension or renewal of the permit after the effective date is subject to this Ordinance. Nothing in this Ordinance limits the application of the state building code within the Village under Neb. Rev. Stat. § 71-6406(1)(b) before the effective date of this Ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is held invalid or unconstitutional, the holding does not affect the validity of the remaining portions of this Ordinance. Without limiting the foregoing, if § 177.01(C) or any other provision of this Ordinance incorporating subsequent amendments to state law is held invalid, the Building Code of the Village shall consist of the state building code as in effect on the effective date of this Ordinance, and the state building code as subsequently amended shall apply as provided in Neb. Rev. Stat. § 71-6406(1)(b).

Section 6. Codification. The Village Clerk is directed to codify this Ordinance in the Gresham Municipal Code and may correct section numbering, cross-references, and formatting without changing its substance. The Village Clerk shall not renumber or alter § 177.20 or §§ 177.50 through 177.60 under this Section.

Section 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 10th day of November, 2026.

VILLAGE OF GRESHAM, NEBRASKA

By: _____
Justin Brahmsteadt, Chairperson

VILLAGE OF GRESHAM • SEAL • GRESHAM, NEBRASKA

ATTEST:

_____
Michelle Lowther, Village Clerk

(SEAL)