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NUISANCE VIOLATIONS**

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Chapter 6.01

GENERAL PROVISIONS AND PENALTIES

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6.01.010 Short Title

The ordinance codified in this title shall be known as the "nuisance ordinance," and may also be referred to herein as "this title."

6.01.020 Definitions

As used in this title:

A. "Abate" means to restore a property to its condition prior to the infraction, or similar condition that is free of the subject infractions. In the case of graffiti, "abate" means to remove graffiti from the public view.

B. "Abandoned personal property" means any personal property, as the term is defined in this title, which has been discarded, deserted or relinquished.

The personal property shall be considered abandoned if any of the following conditions exist:

1. The personal property is left unattended in the right of way for more than five hours;

2. The personal property is placed in the right of way in a location or manner as to constitute a potential, imminent or immediate hazard or obstruction to pedestrian or vehicular traffic or to otherwise pose a threat to public health, safety or welfare.

C. "City manager" means the city manager or designee of the city manager.

D. "Civil infraction" or "infraction" means the failure to comply with a provision of this title.

E. "Costs" means all expenses incurred and charges associated with any action taken by the city under this title including, but not limited to, the cost to the public of the staff time invested and, regarding items confiscated in violation of Sections 6.03.010 and 6.03.020, all expenses incurred and charges associated with the removal, storage, detention, processing, disposition and maintenance thereof.

F. "Dangerous building" means:

1. a structure that, for the want of proper repairs or by reason of age and dilapidated condition, by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus or for any other cause or reason, is especially liable to fire, and that is so situated or occupied as to endanger any other building or property or human life;

2. a structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or flammable substance of any kind, especially liable to cause fire or danger to the safety of the building, premises, or to human life;

3. a structure that is kept or maintained or is in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases;

Comment [A1]: 6.01.010 From 7.40.010

Comment [A6]: 1.16.030.C. From existing 1.16.030.6 and modified.

Comment [A7]: 6.01.020.E from 7.61.010.4 and modified.

Comment [A2]: 6.01.020 From 7.40.020 and 7.71.010, expanded.

Comment [A3]: 6.01.020.From 7.40.125.A.1 and modified.

Comment [A8]: 6.01.020.F from 7.40.040.J.

Comment [A4]: 6.01.020.B From 7.61.010.1 and modified.

Comment [A5]: 6.01.020.C From 7.61.010.2 and modified

4. a structure in such weak or weakened condition, or dilapidated or deteriorated condition as to endanger any person or property by reason of probability of partial or entire collapse. (Ord. 86-39 S1(Exhibit A), 1986; Ord. 86-20 S4(Exhibit C(4)), 1986).

G. "Dispose of /Disposal" means to get rid of and includes sell, auction, donate, destroy, repurpose and recycle.

H. "Graffiti" means any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content.

I. "Graffiti nuisance property" means a property upon which graffiti has been placed and for which a Letter of Complaint or Notice of Violation has been sent to the owner consistent with Chapter 1.16 and on which the graffiti has been allowed to remain for more than the length of time specified in the letter or notice.

J. "Junk" means items which have no apparent utility or are in an unsanitary condition.

K. "Noise-sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, church, day care center, hospital, school or nursing care center. For the purpose of this definition, "residence" and "overnight accommodation" do not include living/sleeping quarters of a caretaker or watchperson on industrial or commercial property provided by the owner or operator of the industrial or commercial facility.

L. "Noxious vegetation" means:

1. weeds more than 10 inches high;
2. grass more than 10 inches high and not within the exception stated in paragraph 8 of this subsection;
3. poison oak, poison ivy

or similar vegetation;

4. dead trees, dead bushes, stumps and any other thing likely to cause fire;

5. blackberry bushes that extend into a right of way or across a property line;

6. vegetation that is a health hazard;

7. vegetation that is a health hazard because it impairs the view of the right of way or otherwise makes use of the right of way hazardous.

8. "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the meaning of this subsection.

M. "Occupant" means any person, tenant, sub-lessee, successor or assignee that has control over property.

N. "Owner" means any person, agent, firm, corporation, unincorporated association, partnership, limited liability company or other entity having a legal or equitable interest in or a claim to a property and includes, but is not limited to, a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property including abandoned personal property or a sign confiscated pursuant to this chapter.

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

P. "Person" means an individual human being and may also refer to a firm, corporation, unincorporated association, partnership, limited liability company, trust, estate or any other legal entity.

Q. "Personal property" means tangible items, other than signs, as defined in

Comment [A9]: 6.01.020.G from 7.61.010.5 and modified.

Comment [A10]: 6.01.020.H from 7.40.125.A.2.

Comment [A11]: 6.01.020.I from 7.40.125.A.3.

Comment [A15]: 6.01.020.M new definition.

Comment [A12]: 6.01.020.J from 7.61.010.A.6.

Comment [A16]: 6.01.020.N from 7.61.010.A.7 and modified.

Comment [A13]: 6.01.020.K from 7.40.150.A.

Comment [A17]: 6.01.020.O from 7.40.125.A.7.

Comment [A14]: 6.01.020.L from 7.40.050.A and B and modified.

Comment [A18]: 6.01.020.P new definition.

Comment [A19]: 6.01.020.Q from 7.61.010.A.8 and modified.

this title, and vehicles which are reasonably recognizable as belonging to individual persons and which have apparent utility.

R. "Plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.

S. "Premises open to the public" means all public spaces including, but not limited to, streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

T. "Property" means any real or personal property including, but not limited to, items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults and post office collection boxes.

U. "Responsible party" means any of the following:

1. an owner,
2. an entity or person acting as an agent for an owner by agreement that has authority over the property, is responsible for the property's maintenance or management, or is responsible for abating or remedying a nuisance,
3. any person occupying the property, including bailee, lessee, tenant or other person having possession, and
4. the person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property. (Ord. 86-20 S4(Exhibit C(2)), 1986).

There may be more than one party responsible for a particular property.

V. "Right of way" means a strip of land or structure occupied or intended to be occupied by a street, crosswalk, pedestrian or bike path, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use and all other public ways and areas managed by the city.

W. "Sign" means any materials placed or constructed primarily to convey a message or other display and which can be viewed from the right of way, another property or from the air including any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster or other thing designed, intended or used to advertise or inform.

X. "Unauthorized" means without consent of the owner, occupant or responsible party.

Y. "Unnecessarily loud" means any sound that interferes with normal spoken communication or that disturbs sleep.

Z. "Violation" means failure to comply with a requirement imposed directly or indirectly by this title and may also mean civil infraction or infraction.

6.01.030 Nuisances Designated - Class 1 Infraction

A. The acts, omissions, conditions or objects specifically enumerated in this title are hereby declared to be a public nuisance.

B. Violations of other titles of this code are likewise declared to be public nuisances unless otherwise characterized in their location in another title.

C. In addition to the nuisances specifically enumerated within this title, every other thing, substance or act which is determined by the council to be offensive, injurious or detrimental to the public health, safety or welfare of the city is declared to be a nuisance.

6.01.040 Penalty for Violation of this

Comment [A24]: 6.01.020.V from 7.61.010.A.9 and modified.

Comment [A20]: 6.01.020.R from 7.40.150.B.

Comment [A25]: 6.01.020.W from 18.780.015.A.48 and modified.

Comment [A21]: 6.01.020.S from 7.40.125.A.8.

Comment [A22]: 6.01.020.T from 7.40.125.A.9.

Comment [A26]: 6.01.020.X from 7.40.125.A.11.

Comment [A27]: 6.01.020.Y from 7.40.150.C.

Comment [A23]: 6.01.020.U from 7.40.020.A and 7.40.125.A.10 and modified. (Same text as the definition in Chapter 1.16.)

Comment [A28]: 6.01.020.Z from 1.16.030.5 and modified.

Comment [A29]: 6.01.030 From 7.40.030, expanded.

Comment [A30]: 6.01.040 From 7.40.210 and modified.

Title

A. A violation of this title shall constitute a Class 1 Civil Infraction, which shall be processed according to the procedures established in Chapter 1.16 of this code.

B. Each violation of a provision of this title shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

C. A finding of a violation of this title shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the city.

D. Each violation of a provision of this title is subject to the specific penalty or administrative fee established in Chapter 1.16 of this code.

6.01.050 Administrative Rules

A. The city manager is authorized to draft and adopt administrative rules that establish:

1. the types of signs exempted from the notice requirements of 6.03.040, based on the likelihood the sign will be reclaimed, which may take into consideration the value of the materials and condition of the sign;

2. standards and methods for recording information about signs and personal property confiscated in the right of way, including a description of the sign or personal property, the location from which it was confiscated and the date and time of the confiscation;

3. procedures by which owners of confiscated personal property or signs can reclaim the items:

4. a fee schedule for violations of Chapter 6.03 and the recovery of costs associated with the confiscation and reclamation of personal property or signs confiscated in the right of way.

B. Such administrative rules shall be adopted pursuant to the provisions of Chapter 2.04.

6.01.060 Enforcement – Minimum Requirements

A. The provisions of this title are declared to be minimum requirements.

1. In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety and general welfare.

2. When the requirements of this title vary from other provisions of this title or with any other title of the Tigard Municipal Code or Oregon Revised Statutes, the most restrictive or that imposing the highest standard shall govern.

B. A finding of a violation of this title which results in confiscation of personal property or signs does not prevent the city from additionally issuing citations for violations of this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes for the same property or incident.

C. This section shall not be read to prohibit in any way alternative remedies set out in this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes which are intended to abate or alleviate code violations, nor shall the city be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code provision.

Comment [A32]: 6.01.060 From 7.61.055 and modified.

Comment [A31]: 6.01.050 New Section to provide for administrative rules.

Chapter 6.02
NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE

Article I. General Nuisances

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- 6.02.020 Noxious Vegetation**
- 6.02.030 Trees & Bushes**
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Article II. Property Development and Maintenance Requirements

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Article III. Junk, Garbage and Putrescible Waste

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Article VI. Water Service and Meters

6.02.510 Service Connection Maintenance

Article I. General Nuisances

6.02.010 Common Nuisances

No person shall cause or permit a nuisance affecting the public health. The following are nuisances affecting the public health:

A. an open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations.

B. accumulations of debris, rubbish, manure and other refuse that affect the health of surrounding persons.

C. stagnant water that affords a breeding place for mosquitoes and other insect pests.

D. pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

E. any animal, substance or condition on the premises that is in such a state or condition as to cause an offensive odor detectable at a property line, or that is in an insanitary condition.

F. drainage of liquid wastes from private premises.

G. cesspools or septic tanks that are in an insanitary condition or which cause an offensive odor.

H. animals, including livestock or buildings for the purpose of maintaining livestock or animals, maintained in such places or in such a manner that they are offensive or annoying to the residents within the immediate vicinity, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies and other pests.

I. an animal carcass permitted to remain on public property or to be exposed on public property for a period of time longer than is necessary to remove or dispose of the carcass.

J. maintenance on private property of a dangerous building

6.02.020 Noxious Vegetation

A. No owner or responsible party shall allow noxious vegetation to be on the property or in the right of way abutting the property.

B. The owner or responsible party shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

6.02.030 Trees and Bushes

A. No responsible party shall permit ~~tree~~ branches or roots of trees or bushes on the property to extend into a right of way in a manner which interferes with its use.

B. It shall be the duty of a responsible party to keep ~~all tree~~ the branches of all trees or bushes on the premises that adjoin the right of way, including an adjoining parking

Comment [A33]: 6.02.010 From 7.40.040 and modified..

Comment [A34]: 6.02.020 From 7.40.050 and modified.

Comment [A35]: 6.02.030 From 7.40.060

strip, trimmed to a height of not less than eight feet above a sidewalk and not less than 10 feet above a street.

C. No responsible party shall allow to stand any dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to persons or property on or near the property.

6.02.040 Greenway Maintenance

A. A responsible party shall maintain the property, subject to an easement to the city or to the public for greenway purposes.

B. Except as otherwise provided by this section and Sections 6.02.020 through 6.02.050, 6.02.210 through 6.02.230, and 6.02.310, the standards for maintenance shall be as follows:

1. The land shall remain in its natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the easement area unless authorized by the city engineer based on a finding of need in order to protect the property or the public health, safety or welfare.

2. No tree over five feet in height shall be removed unless authorized by the community development director based on a finding that the tree constitutes a nuisance or a hazard.

3. Grass shall be kept cut to a height not exceeding 10 inches, except when some natural condition prevents cutting.

C. In situations where the approval authority establishes different standards or additional standards, the standards shall be in writing and shall be recorded.

D. No person shall be found in violation of this section of the code unless the person has been given actual or constructive notice of the standards prior to the time the violation occurred.

6.02.050 Attractive Nuisances

A. No responsible party shall permit on the property:

1. unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children;

2. lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children;

3. an open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children; or

4. an exposed foundation or portion of foundation, any residue, debris or other building or structural remains, for more than thirty days after the destruction, demolition or removal of any building or portion of the building.

B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to children.

6.02.060 Graffiti

A. Placing graffiti that is visible from premises open to the public, such as public rights of way or other publicly owned property, and that has been placed upon any real or personal property, such as buildings, fences and structures, without authorization from the owner or responsible party is a violation of this title and is subject to its remedies.

B. Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this title and is subject to its remedies.

C. Every responsible party who permits a property to become a graffiti nuisance property is in violation of this title and subject to its remedies.

Comment [A37]: 6.02.050 From 7.40.110 and modified.

Comment [A36]: 6.02.040 From 7.40.090

Comment [A38]: 6.02.060 From 7.40.125.

Comment [A39]: Existing text from 7.40.125 deleted to let graffiti be treated as a Class I Civil Infraction under Chapter 1.16 like any other nuisance violation.

6.02.070 Livestock/Poultry

No poultry or livestock, other than normal household pets, may be kept unless housed or retained within a fenced run at least 100 feet from any nearby residence except a dwelling on the same lot.

Article II. Property Development and Maintenance Requirements**6.02.100 Violation of Title Prohibited**

Erecting, constructing, altering, maintaining or using any building or structure or using, dividing or transferring land in violation of Title 18 are declared to be a public nuisance in violation of this title.

6.02.110 Conditions of Approval

Failure to maintain a property in compliance with a condition of approval issued pursuant to the Community Development Code is declared to be a public nuisance in violation of this title.

6.02.120 Visual Clearance Requirements

All property within the city shall be maintained in compliance with the Visual Clearance Requirements of Section 18.795.030.

6.02.130 Fences and Walls

Erection of a fence or wall except as in compliance with Section 18.745.050.C is declared to be a public nuisance in violation of this title.

6.02.140 Accessory Structures

Constructing, placing or maintaining an accessory structure in violation of the provisions of Section 18.510.060 is declared to be a public nuisance in violation of this title.

6.02.150 Insects and Rodents

Storage of any materials including wastes or maintaining any grounds in a manner that may attract or aid the propagation of insects or rodents or create a health hazard is declared to be a public nuisance in violation of this title.

6.02.160 Signs

Constructing, placing or maintaining a sign in violation of the provisions of Section 18.780 is declared to be a public nuisance in violation of this title.

6.02.170 Storage in Front Yards

Storage of any boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of ¾ ton capacity in a required front yard in a residential zone in violation of the provisions of Section 18.730.050.C is declared to be a public nuisance in violation of this title.

Article III. Junk, Garbage and Putrescible Waste**6.02.210 Vehicles Not to Drop Material on Streets**

The owner or operator of any vehicle engaged in the transportation of excavation or construction materials shall be responsible for keeping the public streets and sidewalks free from such materials, including, but not limited to, earth, rock and other debris that may obstruct or render the street or sidewalk unsafe for its intended use.

6.02.220 Open Storage of Junk

No person or responsible party shall deposit, store, maintain or keep on any real property, except in a fully enclosed storage facility, building or garbage receptacle, any of the following:

A. an icebox or refrigerator, or similar container, which seals essentially airtight, without first removing the door;

B. inoperable or partially

Comment [A40]: 6.02.070 From Table 18.510.1 Footnote 6.

Comment [A47]: 6.02.160 New text, refers to 18.780

Comment [A41]: 6.02.100 from 18.230.020

Comment [A48]: 6.02.170 New text, refers to 18.730.050.C

Comment [A42]: 6.02.110 New section, refers to 18.210.020, 18.210.70, 18.390.030.C, 18.390.040D, 18.390.050.E.3 & 18.390.060.H

Comment [A49]: 6.02.210 From 7.40.080

Comment [A43]: 6.02.120 New text, refers to 18.795.030

Comment [A44]: 6.02.130 New text, refers to 18.745.050.C

Comment [A50]: 6.02.220 From 7.40.100

Comment [A45]: 6.02.140 New text, refers to 18.510.060

Comment [A46]: 6.02.150 From 18.725.030.F and modified.

dismantled automobiles, trucks, buses, trailers or other vehicle equipment or parts thereof in a state of disrepair, for more than ten days as to any one automobile, truck, bus, trailer or piece of vehicular equipment;

C. used or dismantled household appliances, furniture, other discards or junk, for more than five days.

6.02.230 Scattering Rubbish

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person or animal or damage a vehicle traveling upon a right of way.

6.02.240 Garbage and Putrescible Waste

A. All solid waste receptacles, including, but not limited to, cans, containers and drop boxes, shall be maintained in a safe and sanitary condition by the customer.

B. All putrescible solid wastes shall be removed from any premises at least once every seven days, regardless of whether or not confined in any container, compactor, drop box or other receptacle.

6.02.250 Offensive Wastes Prohibited

No person shall have waste on property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness.

6.02.260 Unauthorized Deposits Prohibited

No person shall, without authorization and compliance with the disposal site requirements of Chapter 11.04, deposit waste on public property or the private property of another. Streets and other public places are not authorized as places to deposit waste except as

specific provisions for containers have been made.

Article IV. Streets and Sidewalks

6.02.310 Streets and Sidewalks

Comment [A55]: 6.02.310 From 7.40.070

The responsible party shall keep a public street and/or sidewalk abutting their property free from earth, rock and other debris and other objects that may obstruct or render the street or sidewalk unsafe for its intended use.

Comment [A51]: 6.02.230 From 7.40.120 and modified.

6.02.320 Maintenance and Repair of Public Sidewalks

Comment [A56]: 6.02.320 From 15.12.010

It is the duty of all persons owning lots or land which have public sidewalks abutting the same, to maintain and keep in repair the sidewalks and not permit them to become or remain in a dangerous or unsafe condition. "Maintenance" includes, but is not limited to, the removal of snow and ice. Any owner of a lot or land who neglects to promptly comply with the provisions of this section is fully liable to any person injured by such negligence. The city shall be exempt from all liability, including, but not limited to, common-law liability, that it might otherwise incur to an injured party as a result of the city's negligent failure to maintain and repair public sidewalks. (Ord. 91-12 §1, 1991; Ord. 85-44 §3, 1985).

Comment [A52]: 6.02.240 From 11.04.100.1.e & i

6.02.330 Sidewalks, Curbs and Planter Strips

Comment [A57]: 6.02.330 From 18.810.070.E

Comment [A53]: 6.02.250 From 11.04.110

Maintenance of sidewalks, curbs and planter strips is the continuing obligation of the adjacent property owner.

6.02.340 Encroachments into Public Rights of Way, Easements and Public Property

Comment [A58]: 6.02.340 From 15.16.010.1.a

Comment [A54]: 6.02.260 From 11.04.120

Except as provided in subsection 15.16.010.1.b, it shall be unlawful for any person to erect or cause to be erected any structure or to place or maintain any vegetation and/or landscaping materials in, over or upon any dedicated public right of way, easement or

public property without having first obtained a revocable permit from the city manager or designee authorizing such action. Encroachment into improved public right of way is only allowed if specifically authorized by the city pursuant to Chapter 15.04.

Article V. Noise Nuisances

6.02.410 Prohibition on Excessive Noise

A. No person shall make, assist in making, permit, continue or permit the continuance of any noise within the City of Tigard in violation of this article.

B. No person shall cause or permit any noise to emanate from property under that person's control in violation of this article. (Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).

6.02.420 Sound Measurement

A. While sound measurements are not required for the enforcement of this article, should measurements be made, they shall be made with a sound level meter. The sound level meter:

1. Shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter;

2. Shall contain at least an A-weighted scale, and both fast and slow meter response capability.

B. If measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training. (Repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).

6.02.430 Noise Limits

It is unlawful for any person to produce, or permit to be produced, sounds which:

A. When measured at the boundary of or within a property on which a noise sensitive unit, not the source of the sound, is located, exceeds:

1. 40 dB at any time between 9 p.m. and 7 a.m. the following day; or

2. 50 dB at any time between 7 a.m. and 9 p.m. the same day; or

Comment [A59]: 6.02.410 From 7.40.130

B. Is plainly audible at any time between 9 p.m. and 7 a.m. the following day within a noise-sensitive unit which is not the source of sound; or

C. Is unnecessarily loud within a noise-sensitive unit which is not the source of the sound.

D. When measured at or within the boundary of or within a property on which no noise-sensitive unit is located, and the noise originates from outside the property, if the noise level exceeds:

1. 60 dB at any time between 9 p.m. and 7 a.m. of the following day; or

2. 75 dB at any other time.

Comment [A60]: 6.02.420 From 7.40.140

E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet. (Repealed and replaced by Ord. 01-13A, Ord. 90-03 §1(part), 1990).

6.02.440 Prohibited Noises

Comment [A62]: 6.02.440 From 7.40.170

A. The use of exhaust brakes (jake brakes), except in an emergency or except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system, is prohibited at all times within the city, regardless of noise level.

B. Except as provided in Section 6.02.450, the following acts are violations of this chapter if they exceed the noise limits specified in Section 6.02.430:

Comment [A61]: 6.02.430 From 7.40.160

1. the sounding of any horn or signal device or any other device on any automobile, motorcycle, truck, bus or other vehicle while in motion, except as a danger signal;

2. the operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, radios, tape recorders and/or tape players, compact disc players, phonographs, television sets and stereo systems, including those installed in or on vehicles;

3. the operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades;

4. the use of any automobile, motorcycle or other vehicle so out of repair or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise;

5. the keeping of any animal or bird that creates noise in excess of the levels specified in Section 6.07.430;

6. the operation of air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles) and swimming pool or hot tub pumps;

7. the erection (including excavation), demolition, alteration or repair of any building, except as allowed under Sections 6.02.450.E and 6.02.450.F;

8. the use or creation of amplified sound in any outdoor facility;

9. any other action that creates or allows sound in excess of the level allowed by Section 6.02.430. (Ord. 06-03; Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).

6.02.450 Exceptions to Noise Limits

The following shall not be considered violations of this article, even if the sound limit specified in Section 6.02.430 is exceeded:

A. non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools and athletic fields, during normal hours for such events;

B. sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property;

C. sounds caused by bona fide use of emergency warning devices and alarm systems;

D. sounds regulated by federal law, including, but not limited to, sounds caused by railroads or aircraft;

E. sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 7 a.m. and 7 p.m. seven days a week;

F. sounds caused by industrial, agricultural or construction activities during the hours of 7 a.m. to 7 p.m. seven days a week;

G. sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in Section 6.02.430;

H. sounds caused by air-, electrical- or gas-driven domestic tools, including, but not limited to, lawn mowers, lawn edgers, radial arm, circular and table saws, drills and/or other similar lawn or construction tools, but not including tools used for vehicle repair, during the hours of 7 a.m. to 7 p.m. seven days a week;

Comment [A63]: 6.02.450 From 7.40.180

I. sounds caused by chainsaws, when used for pruning, trimming or cutting of live trees between the hours of 7 a.m. and 7 p.m., and not exceeding two hours in any 24 hour period seven days a week;

J. sounds created by community events, such as parades, public fireworks displays, street fairs and festivals that the city manager or designee has determined in writing to be community events for the purposes of this section. The city manager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the city manager determines to be appropriate under the circumstances.

K. sounds made by legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of 7 a.m. and 11 p.m.;

L. sounds made between midnight and 12:30 a.m. on January 1 of each year;

M. sounds originating from construction projects for public facilities within rights of way pursuant to a noise mitigation plan approved by the city manager. The city manager may approve a noise mitigation plan only if the city manager determines that the noise mitigation plan will prevent unreasonable noise impacts. The noise mitigation plan must:

1. map the project noise impacts and explain how the impacts will be mitigated;
2. provide special consideration and mitigation efforts for noise sensitive units;
3. outline public notification plans;
4. provide a 24-hour telephone contact number for information and complaints about a project.

The city manager may approve a noise mitigation plan only if the city manager determines that the noise mitigation plan will prevent unreasonable noise impacts. (Ord. 05-14; repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).

6.02.460 Maximum Noise Limit for Certain Activities

Comment [A64]: From 7.40.190

Notwithstanding Section 6.02.450, the creation of noise by any activity subject to the exceptions listed in subsections 6.02.450.E, 6.02.450.F, 6.02.450.H, or 6.02.450.I, in excess of 85 dB measured on property on which a noise sensitive use is located, for more than five minutes in any calendar day shall be a violation. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).

6.02.470 Evidence of Noise Violation

Comment [A65]: 6.02.470 From 7.40.200

A. In any civil infraction action based on a violation of the limits set forth in subsections 6.02.430.B, 6.02.430.C or 6.02.430.E, the evidence of at least two persons from different households shall be required to establish a violation. Any police or code enforcement officer or other city employee who witnessed the violation shall be counted as a witness for purposes of the two witness requirement.

B. The city may ask an alleged violator to enter into a voluntary compliance agreement consistent with Section 1.16.115 based on a single complaint or single witness. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).

Article VI. Water Service and Meters

6.02.510 Service Connection and Maintenance

Comment [A66]: 6.02.510 From 12.10.160

A. The city will maintain all standard service connections in good repair without expense to the customers.

B. Each customer is required to use reasonable care and diligence to protect the

water meter and meter box from loss or damage by freezing, hot water, traffic hazards and other causes, in default of which, such customer shall pay to the city the full amount of the resulting damage.

C. Each customer is required to maintain a vegetation- and other obstruction-free zone of a minimum of two feet around the box. Clear access to the meter shall be from the street side in a direct path to the water meter.

D. Failure to maintain the area will result in city personnel clearing the area to meet the city's meter reading and maintenance needs. The customer will be charged any related expenses of the city in clearing the area.

E. The city shall have no liability for trimming or maintaining vegetation in order to read meters.

Chapter 6.03 PROPERTY IN THE RIGHT OF WAY

6.03.010	Signs in the Right of Way
6.03.020	Abandoned Personal Property in the Right of Way
6.03.030	City Authority to Remove
6.03.040	Notice Requirements
6.03.050	Exemption from Notice Requirements
6.03.060	Reclamation of Confiscated Personal Property and Signs
6.03.070	Disposal of Personal Property, Signs and Junk
6.03.080	Appeal of Confiscation
6.03.090	Exemption for Criminal Investigation

6.03.010 Signs in the Right of Way

A. Placement of a sign in the right of way, unless the placement is authorized by a separate provision of any title of the Tigar Municipal Code or Oregon Revised Statutes, is declared to be a public nuisance in violation of this title.

B. The responsible party for a sign in violation of this chapter shall be responsible for any and all costs associated with disposition of the sign.

6.03.020 Abandoned Personal Property in the Right of Way

A. Abandoned personal property in the right of way is declared to be a public nuisance in violation of this title.

B. The responsible party for the abandoned personal property shall be responsible for any and all costs associated with the disposition of the abandoned personal

property.

6.03.030 City Authority to Remove

The city manager may confiscate any sign in violation of Section 6.03.010 and any abandoned personal property in violation of Section 6.03.020 without prior notice.

6.03.040 Notice Requirements

A. Subject to exemption by Section 6.03.050, the owner of personal property or signs confiscated under Section 6.03.030 shall be notified of the violation and confiscation by the city manager or designee.

1. If the identity and mailing address of the owner of personal property or signs confiscated under Section 6.03.030 is known, the city manager shall notify the owner of the item by certified mail or personal service no later than 30 days following the date of the confiscation.

Comment [A67]: 6.03.010 From 7.61.015

Comment [A69]: 6.03.030 From 7.61.025.A and modified.

Comment [A70]: From 7.61.025.B, C, D.

Comment [A68]: 6.03.020 From 7.61.020 and modified.

2. If the identity and mailing address of the owner of personal property or signs is not known, the city manager shall arrange for the public notice of the confiscation to be provided within 30 days following the confiscation, either by publication in a newspaper of general circulation in the city or by publication on the city website, with a clearly marked link from the city's homepage.

B. A notice under subsection A shall include:

1. a statement that the personal property or sign was in violation of Chapter 6.03 of the Tigard Municipal Code;

2. a description of the personal property or sign and the date, time and location from which the item was confiscated;

3. a copy of Section 6.03.030 notifying the owner of the process and fees required to retrieve the confiscated personal property or sign from the city;

4. the date after which disposal of the personal property or signs shall occur.

C. A notice by publication under subsection A may contain multiple listings of confiscated signs.

6.03.050 Exemption from Notice Requirements

A. The City Manager may exempt certain signs from the notice requirements of 6.03.040.

B. Signs that are exempt from notice requirements:

1. shall be stored for a minimum of 14 days after the date of confiscation;

2. shall be available during the storage period for reclamation by the owner

after payment in full of all costs associated with the disposition of the sign;

3. may be disposed of after the storage period without further notification.

6.03.060 Reclamation of Confiscated Personal Property and Signs

A. The city manager shall establish a location for the storage of confiscated personal property and signs. The location should be reasonably secure and accessible to city staff so that personal property and signs can be reclaimed.

B. Confiscated personal property and signs shall be stored for no less than 30 days following the provision of notice under Sections 6.03.040 and 6.03.050.

C. The city manager is authorized to impose and collect an appropriate administrative fee for a violation of this chapter consistent with subsection 1.16.640.A.2 and to additionally recover all costs associated with the confiscated item.

6.03.070 Disposal of Personal Property, Signs and Junk

A. The city manager may immediately dispose of any junk found in the right of way. Disposing of junk under this subsection is not subject to the notice and reclamation provisions of 6.03.040 through 6.03.060.

B. The city manager may order the destruction or other disposal of any personal property coming into the city's possession which is determined by the city to be dangerous or perishable. Weapons shall be destroyed in accordance with ORS 166.280. Such disposal under this subsection is not subject to the notice and reclamation provisions of 6.03.040 through 6.03.060.

C. At the sole discretion of the city manager and without provision of notice, the

Comment [A72]: 6.03.060 From 7.61.035

Comment [A73]: 6.03.060.C reclamation text replaced with administrative rule 06.03.060.C-01-01. New text authorizes collection of fees.

Comment [A74]: 6.03.070 From 7.61.040

Comment [A71]: 6.03.050 From 7.61.030

city may donate, dispose of, sell, recycle or repurpose any personal property or sign not reclaimed before expiration of the storage period.

D. In lieu of the disposal of confiscated personal property under this section, at any time the city is authorized to sell or auction the confiscated personal property or sign, the city may convert the personal property or sign to public use by entering it on the city's fixed asset inventory.

1. Notice of the transfer of the personal property or sign to the city shall be given once by publication in a newspaper of general circulation in the city or by publication on the city website at least 30 days before the personal property or sign is converted to city use. The notice shall describe the property and state that the described personal property or sign shall be converted to city use if the personal property or sign is not reclaimed within 30 days.

2. If the personal property or sign is not reclaimed within 30 days after publication of the notice described in subsection D.1 of this section, the personal property or sign shall be entered on the city's fixed asset inventory and shall not be subject to the right of redemption.

6.03.080 Appeal of Confiscation

A. The owner of the confiscated personal property or sign may request a hearing to contest the validity of the confiscation by submitting a written request for hearing with the city not more than five days from the mailing date of the notice or publishing of public notice.

B. The request shall state the reason(s) why the owner believes that the confiscation was invalid and include payment in full for the cost of the hearing.

C. The city shall not consider requests for hearings which do not meet the requirements of subsections A and B.

D. The city manager or designee

may establish a fee for the cost of conducting a hearing.

E. A hearing shall comply with all of the following:

1. Upon receipt of a proper request for a hearing, the city shall set a time for a hearing within 30 days of the receipt of the request and shall provide notice of the hearing to the owners of the confiscated personal property or sign.

2. Hearings held under this section may be informal in nature, but shall afford a reasonable opportunity for the person requesting the hearing to demonstrate by the statements of witnesses and other evidence, that the confiscation of the personal property or sign was invalid, or for any other reason not justified.

3. The hearings officer may be an officer, official or employee of the city, but may not have participated in any determination or investigation related to the confiscation of the personal property or sign. The city manager may promulgate rules for conducting hearings.

4. The owner requesting a hearing may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice of representation by legal counsel shall be provided to the city with the written request for a hearing.

5. The city is only required to provide one hearing each time it confiscates personal property or a sign.

6. Appeal of simultaneous confiscation of multiple items of personal property or signs of the same owner may be consolidated into a single appeal hearing.

7. If the city finds after a hearing that the confiscation of the personal property or sign was invalid:

a. The city shall order the immediate release of the personal

Comment [A75]: 6.03.080 From 7.61.045

property or sign to the owner of the item(s), if still in possession of the city, and/or;

b. Refund to the owner any payment of costs associated with the removal, storage, detention and maintenance of the personal property or sign that has been reclaimed.

c. The owner shall not receive a refund for the cost of the hearing, and shall be liable for storage charges incurred more than 24 hours after the time the personal property or sign is officially ordered released to the person.

8. If the city finds after a hearing that the confiscation of the personal property or sign was valid, the city shall order the personal property or sign be held until the costs of the hearing and all monies incurred or charges associated with the cost of the removal, storage, detention, maintenance and disposition

of the confiscated personal property or sign are paid.

9. A person failing to appear at a hearing is not entitled to another hearing or any refund of costs unless the person provides the city satisfactory proof for the person's failure to appear.

10. The city shall provide a written statement of the results of the hearing to the person requesting the hearing.

11. The determination of the hearings officer at a hearing is final and not subject to appeal.

6.03.090 Exemption for Criminal Investigation

Comment [A76]: 6.03.090 From 7.61.050

A vehicle that is being held as part of any criminal investigation is not subject to any requirements of Chapter 6.03.

**Title 6:
NUISANCE VIOLATIONS**

Sections:

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GENERAL PROVISIONS AND PENALTIES**

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6.01.030	Nuisances Designated - Class I Civil Infraction
6.01.040	Penalty for Violation of This Title
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**Chapter 6.02
NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE**

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Chapter 6.03

PROPERTY IN THE RIGHT OF WAY

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Chapter 6.01

GENERAL PROVISIONS AND PENALTIES

6.01.010	Short Title
6.01.020	Definitions
6.01.030	Nuisances Designated - Class I Civil Infraction
6.01.040	Penalty for Violation of This Title
6.01.050	Administrative Rules
6.01.060	Enforcement - Minimum Requirements

6.01.010 Short Title

The ordinance codified in this ~~chapter~~ title shall be known as the "nuisance ordinance," and may also be referred to herein as "this ~~chapter~~ title."

6.01.020 Definitions

As used in this title:

A. **"Abate"** means to restore a property to its condition prior to the infraction, or similar condition that is free of the subject infractions. In the case of graffiti, "abate" means to remove graffiti from the public view.

B. **"Abandoned personal property"** means any personal property, as the term is defined in this ~~chapter~~ title, which has been discarded, deserted or relinquished.

The ~~P~~ personal property shall be considered abandoned if any of the following conditions exist:

~~1.~~ a1.
~~The~~ personal property is left unattended in the ~~Right of Way~~ right of way for more than five hours;

~~2.~~ b2.
~~The~~ personal property is placed in the ~~Right of Way~~ right of way in a location or manner as to constitute a potential, imminent or immediate hazard or obstruction to pedestrian or vehicular traffic or to otherwise pose a threat to public health, safety or welfare.

C. **"City manager"** means the city manager or ~~any~~ designee of the city manager.

D. ~~_____~~ **"Civil infraction"** or "infraction" shall mean the failure to comply with a code provision of this title, other than certain provisions of Title 7 and Title 10 and shall also mean the process of imposing a civil penalty under this chapter. References to "uniform infraction" throughout the code other than in certain provisions of Title 7 and Title 10 shall be deemed to be references to "civil infraction." (Ord. 07-03, Ord. 05-08, Ord. 02-27, Ord. 86-20 §1(Exhibit A(4)), 1986).

E. **"Costs"** means ~~all monies~~ expenses incurred and charges associated with ~~any action taken by the city under this title including, but not limited to, the, the cost to the public of the staff time invested and, regarding items confiscated in violation of Sections 6.03.010 and 6.03.020, all expenses incurred and charges associated with~~ the removal, storage, detention, processing, disposition and maintenance ~~thereof of confiscated items in violation of Sections 7.61.015 and 7.61.020.~~

F. **"Dangerous building"** means:

~~_____~~ 1. _____
~~a~~ structure that, for the want of proper repairs or by reason of age and dilapidated condition, by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus or for any other cause or reason, is especially liable to fire, and that is so situated or occupied as to endanger any other building or property or human life;

2. a structure containing

Comment [A1]: 6.01.010 From 7.40.010

Comment [A5]: 6.01.020.C From 7.61.010.2 and modified

Comment [A6]: 1.16.030.C. From existing 1.16.030.6 and modified.

Comment [A2]: 6.01.020 From 7.40.020 and 7.71.010, expanded.

Comment [A3]: 6.01.020 from 7.40.125.A.1 and modified.

Comment [A7]: 6.01.020.E from 7.61.010.4 and modified.

Comment [A4]: 6.01.020.B From 7.61.010.1 and modified.

Comment [A8]: 6.01.020.F from 7.40.040.J.

combustible or explosive material, rubbish, rags, waste, oils, gasoline or flammable substance of any kind, especially liable to cause fire or danger to the safety of the building, premises, or to human life;

_____3. a structure that is kept or maintained or is in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases;

_____4. a structure in such weak or weakened condition, or dilapidated or deteriorated condition as to endanger any person or property by reason of probability of partial or entire collapse. (Ord. 86-39 S1(Exhibit A), 1986; Ord. 86-20 S4(Exhibit C(4)), 1986).

G. "Dispose of /Disposal" means to get rid of and includes sell, auction, donate, destroy, repurpose and recycle.

H. "Graffiti" means any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content, ~~which is visible from premises open to the public, such as public rights of way or other publicly owned property, and that has been placed upon any real or personal property, such as buildings, fences and structures, without authorization from the owner or responsible party.~~

I. "Graffiti nuisance property" means a property upon which graffiti has been placed and for which a Letter of Complaint or Notice of Violation has been sent to the owner consistent with Chapter 1.16 and such on which the graffiti has been allowed/permitted to remain for more than 14 days after the property owner of record or occupant has been issued written notification the length of time specified in the letter or notice.

J. "Junk" means items ~~which that~~ have no apparent utility or are in an unsanitary condition.

K. "Noise-sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, church, day care center, hospital, school or nursing care center. For the purpose of this definition, "residence" and "overnight accommodation" do not include living/sleeping quarters of a caretaker or watchperson on industrial or commercial property provided by the owner or operator of the industrial or commercial facility.

L. "Noxious vegetation" ~~includes~~ means:

1. ~~W~~weeds more than ~~ten~~ 10 inches high;

2. ~~G~~grass more than ~~ten~~ 10 inches high and not within the exception stated in ~~Subsection A paragraph 8~~ of this ~~S~~subsection;

3. ~~P~~poison oak, poison ivy, or similar vegetation;

4. ~~D~~dead trees, dead bushes, stumps and any other thing likely to cause fire;

5. ~~B~~blackberry bushes that extend into a ~~public thoroughfare~~ right of way or across a property line;

6. ~~V~~vegetation that is a health hazard;

7. ~~V~~vegetation that is a health hazard because it impairs the view of ~~a public thoroughfare the right of way~~ or otherwise makes use of the ~~thoroughfare right of way~~ hazardous.

8. ~~The term~~ "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the

Comment [A12]: 6.01.020.J from 7.61.010.A.6.

Comment [A13]: 6.01.020.K from 7.40.150.A.

Comment [A14]: 6.01.020.L from 7.40.050.A and B and modified.

Comment [A9]: 6.01.020.G from 7.61.010.5 and modified.

Comment [A10]: 6.01.020.H from 7.40.125.A.2.

Comment [A11]: 6.01.020.I from 7.40.125.A.3.

meaning of ~~Subsection B~~ of this subsection.

M. "Occupant" means any person, tenant, sub-lessee, successor or assignee that has control over property.

N. "Owner" means any ~~individual person, agent,~~ firm, corporation, unincorporated association, partnership, limited liability company or other entity ~~with a claim, or agent thereof, either individually or jointly, or ownership or any interest of record, legal or equitable, in~~ having a legal or equitable interest in or a claim to a property and includes, but is not limited to, a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property including abandoned personal property or a sign confiscated pursuant to this chapter.

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

P. "Person" means an individual human being and may also refer to a firm, corporation, unincorporated association, partnership, limited liability company, trust, estate or any other legal entity.

Q. "Personal property" means tangible items, other than signs, as defined in this ~~chapter~~ title, and vehicles which are reasonably recognizable as belonging to individual persons and which have apparent utility.

R. "Plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.

S. "Premises open to the public" means all public spaces including ~~-,~~ but not limited to, streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

T. "Property" means any real or personal property including, but not limited to, items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults; and post office collection boxes.

U. "Responsible party" means any of the following ~~the person responsible for curing or remedying a nuisance, which includes:~~

1. ~~The~~ an owner,

2. ~~or the owner's manager or agent or other person in control of the property on behalf of the owner an entity or person acting as an agent for an owner by agreement that has authority over the property, is responsible for the property's maintenance or management, or is responsible for abating or remedying a nuisance,~~

3. ~~The~~ any person occupying the property, including bailee, lessee, tenant or other person having possession, and

4. ~~The~~ the person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property. (Ord. 86-20 S4(Exhibit C(2)), 1986).

There may be more than one party responsible for a particular property.

V. "~~Right of way~~ Right of way" means a strip of land or structure occupied or intended to be occupied by a street, crosswalk, pedestrian or bike path, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use and all other public ways and areas managed by the Ccity.

W. "Sign" means any materials placed or constructed primarily to convey a message or other display and which can be viewed from the right of way, another property or from the air including any outdoor sign,

Comment [A22]: 6.01.020.T from 7.40.125.A.9.

Comment [A15]: 6.01.020.M new definition.

Comment [A16]: 6.01.020.N from 7.61.010.A.7 and modified.

Comment [A23]: 6.01.020.U from 7.40.020.A and 7.40.125.A.10 and modified. (Same text as the definition in Chapter 1.16.)

Comment [A17]: 6.01.020.O from 7.40.125.A.7.

Comment [A18]: 6.01.020.P new definition.

Comment [A19]: 6.01.020.Q from 7.61.010.A.8 and modified.

Comment [A20]: 6.01.020.R from 7.40.150.B.

Comment [A24]: 6.01.020.V from 7.61.010.A.9 and modified.

Comment [A21]: 6.01.020.S from 7.40.125.A.8.

Comment [A25]: 6.01.020.W from 18.780.015.A.48 and modified.

display, light, device, figure, painting, drawing, message, plaque, poster or other thing designed, intended or used to advertise or inform.

X. "Unauthorized" means without consent of the owner, occupant or responsible party.

Y. "Unnecessarily loud" means any sound that interferes with normal spoken communication or that disturbs sleep.

Z. "Violation" means failure to comply with a requirement imposed directly or indirectly by this ~~code title~~ Violation and may also mean civil infraction or infraction ~~except as used in those portions of Chapter 7 and Chapter 10 that do not use the civil infraction procedure.~~

6.01.030 Nuisances Designated - Class 1 Infraction

A. The acts, omissions, conditions or objects specifically enumerated in this title are hereby declared to be a public nuisance.

B. Violations of other titles of this code are likewise declared to be public nuisances unless otherwise characterized in their location in another title.

~~BC.~~ In addition to the nuisances specifically enumerated within this title, every other thing, substance or act which is determined by the council to be offensive, injurious or detrimental to the public health, safety or welfare of the city is declared to be a nuisance.

~~C. All nuisances shall constitute a Class 1 civil infraction and shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions, (Ord. 86-20\$4(Exhibit C(3)), 1986).~~

6.01.040 Penalty for Violation of this Title

~~A.~~ A violation of this title shall constitute a Class 1 Civil Infraction, which shall be processed according to the procedures established in ~~the civil infractions ordinance, set~~

~~out as~~ Chapter 1.16 of this code.

B. Each violation of a ~~separate~~ provision of this title shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

~~C.~~ A finding of a violation of this title shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and ~~not in lieu of any remedies available to the city.~~

D. Each violation of a provision of this title is subject to the specific penalty or administrative fee established in ~~the civil infractions ordinance, set out at~~ Chapter 1.16 of this code.

6.01.050 Administrative Rules

A. The city manager is authorized to draft and adopt administrative rules that establish:

1. the types of signs exempted from the notice requirements of 6.03.040, based on the likelihood the sign will be reclaimed, which may take into consideration the value of the materials and condition of the sign;

2. standards and methods for recording information about signs and personal property confiscated in the right of way, including a description of the sign or personal property, the location from which it was confiscated and the date and time of the confiscation;

3. procedures by which owners of confiscated personal property or signs can reclaim the items;

4. a fee schedule for violations of Chapter 6.03 and the recovery of costs associated with the confiscation and reclamation of personal property or signs confiscated in the right of way.

Comment [A26]: 6.01.020.X from 7.40.125.A.11.

Comment [A27]: 6.01.020.Y from 7.40.150.C.

Comment [A28]: 6.01.020.Z from 1.16.030.5 and modified.

Comment [A29]: 6.01.030 From 7.40.030, expanded.

Comment [A31]: 6.01.050 New Section to provide for administrative rules.

Comment [A30]: 6.01.040 From 7.40.210 and modified.

B. Such administrative rules shall be adopted pursuant to the provisions of Chapter 2.04.

6.01.060 Enforcement - Minimum Requirements

~~E.A.~~ The provisions of this title are declared to be minimum requirements.

1. ~~Minimum Requirements~~
~~Intended~~—In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety and general welfare.

2. ~~Most restrictive requirements apply~~—When the requirements of this title vary from other provisions of this title or with any other title of the Tigard Municipal Code or Oregon Revised Statutes, the most

restrictive or that imposing the highest standard shall govern.

~~A.B.~~ A finding of a violation of this title which results in confiscation of personal property or signs does not prevent the ~~C~~city from additionally issuing citations for violations of this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes for the same property or incident.

~~B.C.~~ This section shall not be read to prohibit in any way alternative remedies set out in this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes which are intended to abate or alleviate code violations, nor shall the ~~C~~city be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code provision.

Comment [A32]: 6.01.060 From 7.61.055 and modified.

**Chapter 6.02
NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE**

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Article I. General Nuisances

6.02.010 ~~Nuisances Affecting the Public Health~~ Common Nuisances

No person shall cause or permit a nuisance affecting the public health. The following are nuisances affecting the public health:

A. ~~Privies.~~ An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations.

B. ~~Debris.~~ Accumulations of debris, rubbish, manure and other refuse that affect the health of surrounding persons.

C. ~~Stagnant Water.~~ Stagnant water which ~~water that~~ affords a breeding place for mosquitoes and other insect pests.

D. ~~Water Pollution.~~ Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes, or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

E. ~~Odor.~~ Any animal, substance or condition on the premises that is in such a state or condition as to cause an offensive odor detectable at a property line, or that is in an insanitary condition.

F. ~~Surface Drainage.~~ Drainage of liquid wastes from private premises.

Comment [A33]: 6.02.010 From 7.40.040 and modified.

G. ~~Cesspools.~~ ~~C~~esspools or septic tanks that are in an unsanitary condition or which cause an offensive odor.

H. ~~Animals.~~ ~~A~~nimals, including livestock or buildings for the purpose of maintaining livestock or animals, maintained in such places or in such a manner that they are offensive or annoying to the residents within the immediate vicinity, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies and other pests.

I. ~~Removal of Carcasses.~~ ~~A~~n animal carcass permitted to remain on public property or to be exposed on public property for a period of time longer than is necessary to remove or dispose of the carcass.

J. ~~M~~aintenance on private property of a dangerous building.

6.02.020 Noxious Vegetation

A. No owner or responsible party shall allow noxious vegetation to be on the property or in the right of way ~~of a public thoroughfare~~ abutting ~~on~~ the property.

~~A.B.~~ B. The owner or responsible party shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

6.02.030 Trees ~~&~~ Bushes

A. No responsible party shall permit ~~tree~~ branches ~~or roots of trees~~ or bushes on the property to extend into a ~~public street or public sidewalk right of way~~ in a manner ~~which that~~ interferes with ~~street or sidewalk traffic its use~~.

B. It shall be the duty of ~~an owner or~~ responsible party to keep ~~all tree~~ the branches ~~of all trees~~ or bushes on the premises ~~which that~~

adjoin the ~~public street or public sidewalk right of way~~, including ~~the an~~ adjoining parking strip, trimmed to a height of not less than eight feet above ~~the a~~ sidewalk and not less than ten feet above ~~the a~~ street.

~~BC.~~ BC. No ~~owner or~~ responsible party shall allow to stand any dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to persons or property on or near the property.

6.02.040 Greenway Maintenance

~~A.~~ A. ~~The owner or~~ A responsible party shall maintain the property, subject to an easement to the city or to the public for greenway purposes.

B.: Except as otherwise provided by this section and Sections ~~7.40.050 through 7.40.120~~ 6.02.020 through 6.02.050, 6.02.210 through 6.02.230, and 6.02.310, the standards for maintenance shall be as follows:

1. The land shall remain in its natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the easement area unless authorized by the city engineer based on a finding of need in order to protect the property or the public health, safety or welfare.

2. No tree over five feet in height shall be removed unless authorized by the community development director based on a finding that the tree constitutes a nuisance or a hazard.

3. Grass shall be kept cut to a height not exceeding ~~ten~~ 10 inches, except when some natural condition prevents cutting.

BC. In situations where the approval authority establishes different standards or additional standards, the standards shall be in writing and shall be recorded.

D. No person shall be found in violation of this section of the code unless the person has been given actual or constructive

Comment [A36]: 6.02.040 From 7.40.090

Comment [A34]: 6.02.020 From 7.40.050 and modified.

Comment [A35]: 6.02.030 From 7.40.060

notice of the standards prior to the time the violation occurred.

6.02.050 Attractive Nuisances

A. No ~~owner or~~ responsible party shall permit on the property:

1. unguarded machinery, equipment or other ~~devices which~~ devices that are attractive, dangerous and accessible to children;

2. lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children;

3. an open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children; or

4. an exposed foundation or portion of foundation, any residue, debris or other building or structural remains, for more than thirty days after the destruction, demolition or removal of any building or portion of the building.

B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to children ~~at play~~.

6.02.060 Graffiti

~~B. Graffiti Nuisance Property:~~

A. Placing graffiti that is visible from premises open to the public, such as public rights of way or other publicly owned property, and that has been placed upon any real or personal property, such as buildings, fences and structures, without authorization from the owner or responsible party is a violation of this title and is subject to its remedies.

B. Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this title and is subject to its remedies.

2C. Every responsible party who permits a property to become a graffiti nuisance property is in violation of this title and subject to its remedies.

Comment [A37]: 6.02.050 From 7.40.110 and modified.

~~C. Graffiti Removal; Notice and Procedures~~

~~1. This subsection sets out procedures to be used in processing an infraction of Section 7.40.125, notwithstanding Subsections 7.40.030.C and 1.16.060.2 of this Code. Except as provided herein, other applicable provisions of Chapter 1.16 shall remain in effect.~~

Comment [A39]: Existing text from 7.40.125 deleted to let graffiti be treated as a Class I Civil Infraction under Chapter 1.16 like any other nuisance violation.

~~2. The owner or occupant of any property within the City of Tigard shall remove any graffiti from that property within 14 days of the graffiti's appearance.~~

~~3. Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have 14 days after the date of service of the notice to remove the graffiti.~~

~~4. The notice shall be served by addressing the notice to the owner or occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.~~

~~5. If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the 14 day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.~~

Comment [A38]: 6.02.060 From 7.40.125.

~~6. If the graffiti is not removed within 14 days after serving notice on the owner or occupant, the Manager may cause a citation to be issued to the owner or occupant or both~~

~~requiring the person to appear in Tigard Municipal Court.~~

~~7. Failure to remove the graffiti as required by this section is a violation punishable by a fine of up to one hundred dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.~~

~~8. The City Manager may adopt rules and procedures to implement this section. (Ord. 07-03)~~

6.02.070 Livestock/Poultry

~~When an agricultural use is adjacent to a residential use, a~~ No poultry or livestock, other than normal household pets, may be kept unless housed or provided use of retained within a fenced run within at least 100 feet off from any nearby residence except a dwelling on the same lot.

Article II. Property Development and Maintenance Requirements

6.02.100 Violation of Title Prohibited

~~No person shall erect~~ Erecting, constructing, altering, maintaining or use using any building or structure or ~~shall use using, divide dividing or transferring any~~ land in violation of ~~this title Title 18 or any amendment thereto~~ are declared to be a public nuisance in violation of this title.

6.02.110 Conditions of Approval

Failure to maintain a property in compliance with a condition of approval issued pursuant to the Community Development Code is declared to be a public nuisance in violation of this title.

6.02.120 Visual Clearance Requirements

All property within the city shall be maintained in compliance with the Visual Clearance Requirements of Section 18.795.030.

6.02.130 Fences and Walls

No Erection of a fence or wall shall be erected except as in compliance with Section 18.745.050.C is declared to be a public nuisance in violation of this title.

Comment [A44]: 6.02.130 New text, refers to 18.745.050.C

6.02.140 Accessory Structures

Constructing, placing, or maintaining an accessory structure in violation of the provisions of Section 18.510.060 is declared to be a public nuisance in violation of this title.

Comment [A45]: 6.02.140 New text, refers to 18.510.060

Comment [A40]: 6.02.070 From Table 18.510.1 Footnote 6.

6.02.150 Insects and Rodents

Storage of any All materials including wastes ~~shall be stored or maintaining any and all grounds maintained~~ in a ~~manner which~~ manner that will not may attract or aid the propagation of insects or rodents or create a health hazard is declared to be a public nuisance in violation of this title.

Comment [A46]: 6.02.150 From 18.725.030.F and modified.

6.02.160 Signs

Constructing, placing, or maintaining a sign in violation of the provisions of Section 18.780 is declared to be a public nuisance in violation of this title.

Comment [A47]: 6.02.160 New text, refers to 18.780

Comment [A41]: 6.02.100 from 18.230.020.

6.02.170 Storage in Front Yards

Storage of any boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of ~~3/4~~ 3/4-ton capacity in a required front yard in a residential zone in violation of the provisions of Section 18.730.050.C is declared to be a public nuisance in violation of this title.

Comment [A48]: 6.02.170 New text, refers to 18.730.050.C

Comment [A42]: 6.02.110 New section, refers to 18.210.020, 18.210.70, 18.390.030.C, 18.390.040D, 18.390.050.E.3 & 18.390.060.H

Article III. Junk, Garbage and Putrescible Waste

6.02.210 Vehicles Not to Drop Material on Streets

The owner or operator of any vehicle engaged in the transportation of excavation or construction materials shall be responsible for

Comment [A49]: 6.02.210 From 7.40.080

Comment [A43]: 6.02.120 New text, refers to 18.795.030

keeping the public streets and sidewalks free from such materials, including ~~-,~~ but not limited to, earth, rock and other debris that may obstruct or render the street or sidewalk unsafe for its intended use.

6.02.220 Open Storage of Junk

No person or responsible party shall deposit, store, maintain or keep on any real property, except in a fully enclosed storage facility, building or garbage receptacle, any of the following:

A. ~~A~~n icebox or refrigerator, or similar container, which seals essentially airtight, without first removing the door;

B. ~~I~~noperable or partially dismantled automobiles, trucks, buses, trailers or other vehicle equipment or parts thereof in a state of disrepair, for more than ten days as to any one automobile, truck, bus, trailer or piece of vehicular equipment;

C. ~~U~~sed or dismantled household appliances, furniture, other discards or junk, for more than five days.

6.02.230 Scattering Rubbish

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, ~~or~~ animal or damage a vehicle traveling upon a ~~public way~~right of way.

6.02.240 Garbage and Putrescible Waste

A. All solid waste receptacles, including, but not limited to, ~~eans, cans,~~ cans, containers and drop boxes, shall be maintained in a safe and sanitary condition by the customer.

B. All putrescible solid wastes shall be removed from any premises at least once every seven days, regardless of whether or

not confined in any container, compactor, drop box or other receptacle.

6.02.250 Offensive Wastes Prohibited

No person shall have waste on property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness.

6.02.260 Unauthorized Deposits Prohibited

No person shall, without authorization and compliance with the disposal site requirements of ~~this chapter~~ Chapter 11.04, deposit waste on public property or the private property of another. Streets and other public places are not authorized as places to deposit waste except as specific provisions for containers have been made.

Article IV. Streets and Sidewalks

6.02.310 Streets and Sidewalks

The ~~owner or~~ responsible party shall keep a public street and/or sidewalk abutting their property free from earth, rock and other debris and other objects that may obstruct or render the street or sidewalk unsafe for its intended use.

6.02.320 Maintenance and Repair of Public Sidewalks

It is the duty of all persons owning lots or land ~~which~~ that have public sidewalks abutting the same, to maintain and keep in repair the sidewalks and not permit them to become or remain in a dangerous or unsafe condition. "Maintenance" includes, but is not limited to, the removal of snow and ice. Any owner of a lot or land who neglects to promptly comply with the provisions of this section is fully liable to any person injured by such negligence. The city shall be exempt from all liability, including, but not limited to, ~~common,~~ common-law liability, that it might otherwise incur to an injured party as a result of the city's negligent failure to

Comment [A53]: 6.02.250 From 11.04.110

Comment [A50]: 6.02.220 From 7.40.100

Comment [A54]: 6.02.260 From 11.04.120

Comment [A55]: 6.02.310 From 7.40.070

Comment [A51]: 6.02.230 From 7.40.120 and modified.

Comment [A56]: 6.02.320 From 15.12.010

Comment [A52]: 6.02.240 From 11.04.100.1.e & i

maintain and repair public sidewalks. (Ord. 91-12 §1, 1991; Ord. 85-44 §3, 1985).

6.02.330 Maintenance Sidewalks, Curbs and Planter Strips

Maintenance of sidewalks, curbs and planter strips is the continuing obligation of the adjacent property owner.

6.02.340 Encroachments Into Public Rights Of Way, Easements And Public Property

Except as provided in subsection ~~(b)~~ of ~~this section 15.16.010.1.b~~, it shall be unlawful for any person to erect or cause to be erected any structure or to place or maintain any vegetation and/or landscaping materials in, over or upon any dedicated ~~unimproved~~ public right of way, easement or public property without having first obtained a revocable permit from the city manager or designee authorizing such action. Encroachment into improved public right of way is only allowed if specifically authorized by the ~~C~~city pursuant to Chapter 15.04.

Article V. Noise Nuisances

6.02.410 Prohibition on Excessive Noises

A. ~~_____~~ No person shall make, assist in making, permit, continue or permit the continuance of any noise within the City of Tigard in violation of this article.

B. No person shall cause or permit any noise to emanate from property under that person's control in violation of this article. (Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).

6.02.420 Sound Measurement

A. While sound measurements are not required for the enforcement of this article, should measurements be made, they shall be made with a sound level meter. The sound level

meter:

1. ~~S~~shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter;

2. ~~S~~shall contain at least an A-weighted scale, and both fast and slow meter response capability.

B. If measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training. (Repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).

6.02.430 Noise Limits

It is unlawful for any person to produce, or permit to be produced, sounds which:

A. When measured at the boundary of or within a property on which a noise sensitive unit, not the source of the sound, is located, exceeds:

1. ~~Forty-40~~ dB at any time between ~~nine-9~~ p.m. and ~~seven-7~~ a.m. the following day; or

2. ~~Fifty-50~~ dB at any time between ~~seven-7~~ a.m. and ~~nine-9~~ p.m. the same day; or

B. Is plainly audible at any time between ~~nine-9~~ p.m. and ~~seven-7~~ a.m. the following day within a noise-sensitive unit which is not the source of sound; or

C. Is unnecessarily loud within a noise-sensitive unit ~~which-that~~ is not the source of the sound.

D. When measured at or within the boundary of or within a property on which no noise-sensitive unit is located, and the noise originates from outside the property, if the noise level exceeds:

Comment [A57]: 6.02.330 From 18.810.070.E

Comment [A58]: 6.02.340 From 15.16.010.1.a

Comment [A61]: 6.02.430 From 7.40.160

Comment [A59]: 6.02.410 From 7.40.130

Comment [A60]: 6.02.420 From 7.40.140

1. ~~Sixty-60~~ dB at any time between ~~nine-9~~ p.m. and ~~seven-7~~ a.m. of the following day; or

2. ~~Seventy-five75~~ dB at any other time.

E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet. (Repealed and replaced by Ord. 01-13A, Ord. 90-03 §1(part), 1990).

6.02.440 Prohibited Noises

A. The use of exhaust brakes (jake brakes), except in an emergency or except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system, is prohibited at all times within the ~~C~~city, regardless of noise level.

B. Except as provided in Section ~~7.40.180-6.02.450~~, the following acts are violations of this chapter if they exceed the noise limits specified in Section ~~7.40.1606.02.430~~:

1. the sounding of any horn or signal device or any other device on any automobile, motorcycle, truck, bus or other vehicle while in motion, except as a danger signal;

2. the operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, radios, tape recorders and/or tape players, compact disc players, phonographs, television sets and stereo systems, including those installed in or on vehicles;

3. the operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades;

4. the use of any automobile, motorcycle or other vehicle so out of repair or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise;

5. the keeping of any animal or bird that creates noise in excess of the levels specified in Section ~~7.40.1606.07.430~~;

6. the operation of air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles) and swimming pool or hot tub pumps;

7. the erection (including excavation), demolition, alteration or repair of any building, except as allowed under Sections ~~7.40.180.E and 7.40.180.F~~ 6.02.450.E and 6.02.450.F;

8. the use or creation of amplified sound in any outdoor facility;

9. any other action that creates or allows sound in excess of the level allowed by Section ~~7.40.1606~~ 6.02.430. (Ord. 06-03; Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).

6.02.450 ~~-----~~ Exceptions to Noise Limits

The following shall not be considered violations of this article, even if the sound limit specified in Section ~~7.40.1606.02.430~~ is exceeded:

A. non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools and athletic fields, during normal hours for such events;

B. sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property;

C. sounds caused by bona fide use of emergency warning devices and alarm systems;

Comment [A62]: 6.02.440 From 7.40.170

Comment [A63]: 6.02.450 From 7.40.180

D. sounds regulated by federal law, including, but not limited to, sounds caused by railroads or aircraft;

E. sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities and only between the hours of ~~seven~~7 a.m. and ~~seven~~7 p.m. seven days a week;

F. sounds caused by industrial, agricultural or construction activities during the hours of ~~seven~~7 a.m. to ~~seven~~7 p.m. seven days a week;

G. sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in Section ~~7.40.160~~6.02.430;

H. sounds caused by air-, electrical- or gas-driven domestic tools, including, but not limited to, lawn mowers, lawn edgers, radial arm, circular and table saws, drills and/or other similar lawn or construction tools, but not including tools used for vehicle repair, during the hours of ~~seven~~7 a.m. to ~~seven~~7 p.m. seven days a week;

I. sounds caused by chainsaws, when used for pruning, trimming or cutting of live trees between the hours of ~~seven~~7 a.m. and ~~seven~~7 p.m., and not exceeding two hours in any ~~twenty-four~~24 hour period seven days a week;

J. sounds created by community events, such as parades, public fireworks displays, street fairs, and festivals that the city manager or designee has determined in writing to be community events for the purposes of this section. The ~~C~~city ~~M~~anager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the ~~C~~city ~~M~~anager determines to be appropriate under the circumstances.

K. sounds made by legal fireworks on the third of July, Fourth of July, and the

Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of ~~seven~~7 a.m. and ~~eleven~~11 p.m.;

L. sounds made between midnight and 12:30 a.m. on January 1 of each year;

M. Sounds originating from construction projects for public facilities within rights of way pursuant to a noise mitigation plan approved by the city manager. The city manager may approve a noise mitigation plan only if the ~~C~~city ~~M~~anager determines that the noise mitigation plan will prevent unreasonable noise impacts. The noise mitigation plan must:

1. map the project noise impacts and explain how the impacts will be mitigated;

2. provide special consideration and mitigation efforts for noise sensitive units;

3. outline public notification plans;

4. provide a 24-hour telephone contact number for information and complaints about a project.

——The ~~C~~city ~~M~~anager may approve a noise mitigation plan only if the ~~C~~city ~~M~~anager determines that the noise mitigation plan will prevent unreasonable noise impacts. (Ord. 05-14; repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).

~~6.02.460~~ Maximum Noise Limit for Certain Activities

Comment [A64]: From 7.40.190

Notwithstanding Section ~~7.40.180~~6.02.450, the creation of noise by any activity subject to the exceptions listed in ~~Sections—subsections 7.40.180.E, 7.40.180.F, 7.40.180.H, or 7.40.180.I~~6.02.450.E, 6.02.450.F, 6.02.450.H, or 6.02.450.I, in excess of 85 dB measured on property on which a noise sensitive use is located, for more than ~~5~~five minutes in any calendar day shall be a violation. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord.

96-06; Ord. 90-03 §1(part), 1990).

6.02.470 Evidence of Noise Violation

~~A.~~ In any civil infraction action based on a violation of the limits set forth in ~~S~~subsections ~~7.40.160.B, 7.40.160.C or 7.40.160.E~~ 6.02.430.B, 6.02.430.C or 6.02.430.E, the evidence of at least two persons from different households, shall be required to establish a violation. Any ~~P~~police or ~~C~~code ~~E~~enforcement officer or other city employee who witnessed the violation shall be counted as a witness for purposes of the two witness requirement.

~~A.B.~~ The ~~C~~city may ask an alleged violator to enter into a voluntary compliance agreement consistent with Section 1.16.115 based on a single complaint or single witness. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).

Article VI. Water Service and Meters

6.02.510 Service Connection and Maintenance

~~A.~~ The ~~C~~city will maintain all standard service connections in good repair without expense to the customers.

Comment [A65]: 6.02.470 From 7.40.200

~~A.B.~~ Each customer is required to use reasonable care and diligence to protect the water meter and meter box from loss or damage by freezing, hot water, traffic hazards and other causes, in default of which, such customer shall pay to the city the full amount of the resulting damage.

~~C.~~ Each customer is required to maintain a vegetation and other obstruction-free zone of a minimum of two feet around the box. Clear access to the meter shall be from the street side in a direct path to the water meter.

~~D.~~ Failure to maintain the area will result in ~~C~~city personnel clearing the area to meet the city's meter reading and maintenance needs. The customer will be charged any related expenses of the city in clearing the area.

~~B.E.~~ The ~~C~~city shall have no liability for ~~trimming or maintaining vegetation in order to read meters.~~

Comment [A66]: 6.02.510 From 12.10.160

**Chapter 6.03
PROPERTY IN THE RIGHT OF WAY**

- 6.03.010 Signs in the Right of Way
- 6.03.020 Abandoned Personal Property in the Right of Way
- 6.03.030 City Authority to Remove
- 6.03.040 Notice Requirements
- 6.03.050 Exemption from Notice Requirements
- 6.03.060 Reclamation of Confiscated Personal Property and Signs
- 6.03.070 Disposal of Personal Property, Signs and Junk
- 6.03.080 Appeal of Confiscation
- 6.03.090 Exemption for Criminal Investigation

6.03.010 Signs in the Right of Way

A. ~~It shall be unlawful for any person to place a~~ Placement of a sign in the right of way, unless the placement is authorized by a

separate provision of any title of the Tigard Municipal Code or Oregon Revised Statutes, is declared to be a public nuisance in violation of this title.

Comment [A67]: 6.03.010 From 7.61.015

B. The ~~owner(s) of responsible party for~~ a sign in violation of this chapter shall be responsible for any and all costs associated with disposition of the sign.

6.03.020 Abandoned Personal Property in the Right of Way

A. ~~It shall be unlawful for any person to abandon any personal property in the right of way. Abandoned personal property in the right of way is declared to be a public nuisance in violation of this title. Personal property shall be considered abandoned if any of the following conditions exist:~~

B. The ~~owner(s) of the responsible party for the~~ abandoned personal property ~~in violation of this chapter~~ shall be responsible for any and all costs associated with the disposition of the abandoned personal property.

6.03.030 City Authority to Remove - Notice Requirements

The ~~City M~~anager may confiscate any sign in violation of Section ~~7.61.015~~ 6.03.010 and any abandoned personal property in violation of Section ~~7.61.020~~ 6.03.020 without prior notice. ~~The City Manager shall create a policy ensuring that the time and location of a confiscation and a description of the physical characteristics of the confiscated personal property or sign are recorded.~~

6.03.040 Notice Requirements

~~BA.~~ Subject to exemption by Section ~~7.61.030~~ 6.03.050, the owner of personal property or signs confiscated under Section 6.03.030 shall be notified of the violation and confiscation by the city manager or designee.

1. If the identity and mailing address of the owner of personal property or signs confiscated under ~~subsection A~~ Section 6.03.030 is known, the ~~City M~~anager shall notify the owner of the item by certified mail or personal service no later than 30 days following the date of the confiscation.

2. If the identity and mailing address of the owner of personal property or signs is not known, the ~~City M~~anager shall arrange for the public notice of the confiscation to be provided within 30 days following the confiscation, either by publication in a newspaper of general circulation in the ~~City~~ or by publication on the ~~City~~ website, with a clearly marked link from the ~~City's~~ homepage.

~~CB.~~ A notice under subsection A shall include:

1. a statement that the personal property or sign was in violation of Chapter ~~7.61~~ 6.03 of the Tigard Municipal Code;

2. a description of the personal property or sign and the date, time and location from which the item was confiscated;

3. a copy of Section ~~7.61.025~~ 6.03.030 notifying the owner of the process and fees required to retrieve the confiscated personal property or sign from the ~~City~~;

4. the date after which disposal of the personal property or signs shall occur.

~~DC.~~ A notice by publication under subsection ~~BA~~ may contain multiple listings of confiscated signs.

6.03.050 Exemption From Notice Requirements

A. The City Manager may exempt certain signs from the notice requirements of 6.03.040. ~~shall establish an administrative rule which does the following:~~

1. ~~determines types of signs that are unlikely to be reclaimed if confiscated; and~~

Comment [A68]: 6.03.020 From 7.61.020 and modified.

Comment [A69]: 6.03.030 From 7.61.025.A and modified.

Comment [A70]: From 7.61.025.B, C, D.

Comment [A71]: 6.03.050 From 7.61.030

~~2. exempts from the notice requirements of Section 7.61.0256.03.040 those types of signs unlikely to be reclaimed if confiscated.~~

~~B. In determining the types of signs that are unlikely to be reclaimed, the City Manager may consider the value of the materials the sign is constructed of and the condition of the sign.~~

B. Signs that are exempt ~~under the written policy established pursuant to subsection A~~ from notice requirements:

1. ~~S~~ shall be stored for a minimum of 14 days after the date of confiscation;

2. ~~S~~ shall be available during the storage period for reclamation by the owner after payment in full of all costs associated with the disposition of the sign;

3. ~~M~~ may be disposed of after the storage period without further notification.

6.03.060 Reclamation of Confiscated Personal Property and Signs

A. The ~~C~~city ~~M~~anager shall establish a location for the storage of confiscated personal property and signs. The location should be reasonably secure and accessible to ~~C~~city staff so that personal property and signs can be reclaimed.

B. Confiscated personal property and signs shall be stored for no less than 30 days following the provision of notice under Sections ~~7.61.025 or 7.61.0306.03.040 and 6.03.050.~~

~~C. The city manager is authorized to impose and collect an appropriate administrative fee for a violation of this chapter consistent with subsection 1.16.640.A.2 and to additionally recover all costs associated with the confiscated item.~~

~~The City Manager shall establish a procedure by which owners of confiscated personal property and signs can reclaim confiscated items. The procedure shall include the following:~~

~~1. The place for an owner to reclaim confiscated property;~~

~~2. A fee schedule for reclamation of personal property and signs that may include either or both of the following:~~

~~a. Provisions allowing the City to recover all costs associated with the confiscated item, and~~

~~b. Assignment of an appropriate monetary penalty for violations of this section.~~

6.03.070 Disposal of Personal Property, Signs and Junk

A. The ~~C~~city ~~M~~anager may immediately dispose of any junk found in the right of way. Disposing of junk under this subsection is not subject to the notice and reclamation provisions of ~~7.61.0256.03.040~~ through ~~7.61.0356.03.060~~.

B. The ~~C~~city ~~M~~anager may order the destruction or other disposal of any personal property coming into the ~~C~~city's possession ~~which that~~ is determined by the city to be dangerous or perishable. Weapons shall be destroyed in accordance with ORS 166.280. Such disposal under this subsection is not subject to the notice and reclamation provisions of ~~7.61.0256.03.040~~ through ~~7.61.0356.03.060~~.

C. At the sole discretion of the ~~C~~city ~~M~~anager and without provision of notice, the ~~C~~city may donate, dispose of, sell, recycle; or repurpose any personal property or sign not reclaimed before expiration of the storage period.

D. In lieu of the disposal of confiscated personal property under this section,

Comment [A74]: 6.03.070 From 7.61.040

Comment [A72]: 6.03.060 From 7.61.035

Comment [A73]: 6.03.060.C reclamation text replaced with administrative rule 06.03.060.C-01-01. New text authorizes collection of fees.

at any time the Ecity is authorized to sell or auction the confiscated personal property or sign, the Ecity may convert the personal property or sign to public use by entering it on the Ecity's fixed asset inventory.

1. Notice of the transfer of the personal property or sign to the Ecity shall be given once by publication in a newspaper of general circulation in the Ecity or by publication on the Ecity website at least 30 days before the personal property or sign is converted to Ecity use. The notice shall describe the property and state that the described personal property or sign shall be converted to Ecity use if the personal property or sign is not reclaimed within 30 days.

2. If the personal property or sign is not reclaimed within 30 days after publication of the notice described in subsection ~~(D)(1)~~ D.1 of this section, the personal property or sign shall be entered on the Ecity's fixed asset inventory and shall not be subject to the right of redemption.

6.03.080 Appeal of Confiscation

A. The owner of the confiscated personal property or sign may request a hearing to contest the validity of the confiscation by submitting a written request for hearing with the Ecity not more than five ~~(5)~~ days from the mailing date of the notice or publishing of public notice.

B. The request shall state the reason(s) why the owner believes that the confiscation was invalid and include payment in full for the cost of the hearing.

C. The Ecity shall not consider requests for hearings ~~which~~ that do not meet the requirements of subsections A and B.

D. The Ecity Manager or designee may establish a fee for the cost of conducting a hearing.

E. A hearing shall comply with all of the following:

1. Upon receipt of a proper request for a hearing, the Ecity shall set a time for a hearing within 30 days of the receipt of the request and shall provide notice of the hearing to the owners of the confiscated personal property or sign.

2. Hearings held under this section may be informal in nature, but shall afford a reasonable opportunity for the person requesting the hearing to demonstrate by the statements of witnesses and other evidence, that the confiscation of the personal property or sign was invalid, or for any other reason not justified.

3. The Hearings Officer may be an officer, official or employee of the Ecity, but may not have participated in any determination or investigation related to the confiscation of the personal property or sign. The Ecity Manager may promulgate rules for conducting hearings.

4. The owner requesting a hearing may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice of representation by legal counsel shall be provided to the Ecity with the written request for a hearing.

5. The Ecity is only required to provide one ~~(1)~~ hearing each time it confiscates personal property or a sign.

6. Appeal of simultaneous confiscation of multiple items of personal property or signs of the same owner may be consolidated into a single appeal hearing.

7. If the Ecity finds after a hearing that the confiscation of the personal property or sign was invalid:

a. The Ecity shall order the immediate release of the personal property or sign to the owner of the item(s), if still in possession of the Ecity, and/or;

b. Refund to the owner any payment of costs associated with the removal, storage, detention and maintenance of

Comment [A75]: 6.03.080 From 7.61.045

the personal property or sign that has been reclaimed.

c. The owner shall not receive a refund for the cost of the hearing, and shall be liable for storage charges incurred more than twenty-four hours after the time the personal property or sign is officially ordered released to the person.

8. If the City finds after a hearing that the confiscation of the personal property or sign was valid, the City shall order the personal property or sign be held until the costs of the hearing and all monies incurred or charges associated with the cost of the removal, storage, detention, maintenance and disposition of the confiscated personal property or sign are paid.

9. A person failing to appear at a hearing is not entitled to another hearing or any refund of costs unless the person provides the City satisfactory proof for the person's failure to appear.

10. The City shall provide a written statement of the results of the hearing to the person requesting the hearing.

11. The determination of the Hearings Officer at a hearing is final and not subject to appeal.

6.03.090 Exemption for Criminal Investigation

Comment [A76]: 6.03.090 From 7.61.050

A vehicle that is being held as part of any criminal investigation is not subject to any requirements of ~~this chapter~~ [Chapter 6.03](#).

Proposed Title 6 - Revision Reference Table

New Title 6 Number	New Title in Proposed Title 6	Current TMC Number	Current TMC Title	Explanation of Revision	New pg #
6.01 - GENERAL PROVISIONS					
6.01.010	Short Title	7.40.010	Same Title	Moved existing text	p. 3
6.01.020	Definitions	<ul style="list-style-type: none"> • 1.16.030.6 • 7.40.020 • 7.40.040 • 7.40.050 • 7.40.125 • 7.40.130 • 7.40.150 • 7.61.010 • 18.780.015.A.48 	Same Title	Consolidation of multiple definitions from various locations. Centralizes definitions for ease of use	p. 3
6.01.030	Nuisances Designated - Class 1 Infraction	7.40.030	Same Title	Moved existing text	p. 6
6.01.040	Penalty for Violation of This Chapter	7.40.210	Penalty for Chapter Violations	Moved existing text	p. 5
6.01.050	Administrative Rules	-	-	New Section	p. 6
6.01.060	Enforcement – Minimum Requirements	7.61.055	Same Title	Moved existing text	p. 6
6.02 - NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE					
Article I. General Nuisances					
6.02.010	Common Nuisances	7.40.040	Nuisances Affecting The Public Health	Moved and modified existing text	p. 8
6.02.020	Noxious Vegetation	7.40.050	Same Title	Moved and modified existing text	p. 8
6.02.030	Trees & Bushes	7.40.060	Trees	Moved and modified existing text	p. 8
6.02.040	Greenway Maintenance	7.40.090	Same Title	Moved and modified existing text	p. 9
6.02.050	Attractive Nuisances	7.40.110	Same Title	Moved and modified existing text	p. 9
6.02.060	Graffiti	7.40.125.B	Same Title	Moved and modified existing text	p. 9
6.02.070	Livestock/Poultry	18.510.030, Subnote 6	Residential Zoning Districts - Uses	Copied and modified existing text	p. 10
Article II. Property Development and Maintenance Requirements					

New Title 6 Number	New Title in Proposed Title 6	Current TMC Number	Current TMC Title	Explanation of Revision	New pg #
6.02.100	Violation of Title Prohibited	7.40.210	Same Title	Copied and modified existing text	p. 10
6.02.110	Conditions of Approval	-	-	New Section	p. 10
6.02.120	Visual Clearance Requirements	18.795.030	Same Title	Cross reference existing text	p. 10
6.02.130	Fences and Walls	18.745.050.C	Same Title	Cross reference existing text	p. 10
6.02.140	Accessory Structures	18.510.060	Same Title	Cross reference existing text	p. 10
6.02.150	Insects and Rodents	18.725.030.F	Same Title	Copied and modified existing text	p. 10
6.02.160	Signs	18.780	Same Title	Cross reference existing text	p. 10
6.02.170	Storage in Front Yards	18.730.050.C	Same Title	Cross reference existing text	p. 10
Article III. Junk, Garbage and Putrescible Waste					
6.02.210	Vehicles Not to Drop Material on Streets	7.40.080	Same Title	Moved existing text	p. 10
6.02.220	Open Storage of Junk	7.40.100	Same Title	Moved existing text	p. 10
6.02.230	Scattering Rubbish	7.40.120	Same Title	Moved and modified existing text	p. 11
6.02.240	Garbage and Putrescible Waste	11.04.100.1.e and f	Container Requirements and Collection Limitations	Copied and modified existing text	p. 11
6.02.250	Offensive Wastes Prohibited	11.04.110	Same Title	Copied existing text	p. 11
6.02.260	Unauthorized Deposits Prohibited	11.04.120	Same Title	Copied existing text	p. 11
Article IV. Streets and Sidewalks					
6.02.310	Streets and Sidewalks	7.40.070	Same Title	Moved existing text	p. 11
6.02.320	Maintenance/Repair of Public Sidewalks	15.12.010	Same Title	Copied existing text	p. 11
6.02.330	Sidewalks, Curbs and Planter Strips	18.810.070.E	Maintenance - Sidewalks	Copied existing text	p. 11
6.02.340	Encroachment Into Public Rights Of Way, Easements And Public Property	15.16.010.1.a	Encroachments Within Unimproved Public Rights Of Way, Easements And Public Property	Copied existing text	p. 11
Article V. Noise Nuisances					
6.02.410	Prohibition on Excessive Noise	7.40.130	Same Title	Moved existing text	p. 12
6.02.420	Sound Measurement	7.40.140	Same Title	Moved existing text	p. 12
6.02.430	Noise Limits	7.40.160	Same Title	Moved existing text	p. 12
6.02.440	Prohibited Noises	7.40.170	Same Title	Moved existing text	p. 12
6.02.450	Exceptions to Noise Limits	7.40.180	Exceptions	Moved existing text	p. 13

New Title 6 Number	New Title in Proposed Title 6	Current TMC Number	Current TMC Title	Explanation of Revision	New pg #
6.02.460	Maximum Noise Limits for Certain Activities	7.40.190	Same Title	Moved existing text	p. 14
6.02.470	Evidence of Noise Violation	7.40.200	Evidence	Moved existing text	p. 14
Article VI. Water Service and Meters					
6.02.510	Service Connection and Maintenance	12.10.160	Same Title	Copied existing text	p. 14
Chapter 6.03 - PROPERTY IN THE RIGHT OF WAY					
6.03.010	Signs in the Right of Way	7.61.015	Same Title	Moved existing text	p. 15
6.03.020	Abandoned Personal Property in the Right of Way	7.61.020	Same Title	Moved and modified existing text	p. 15
6.03.030	City Authority to Remove	7.61.025.A	City Authority to Remove - Notice Requirements	Moved and modified existing text	p. 15
6.03.040	Notice Requirements	7.61.025.B, C, D	City Authority to Remove - Notice Requirements	Moved existing text	p. 15
6.03.050	Exemption from Notice Requirements	7.61.030	Same Title	Moved existing text	p. 16
6.03.060	Reclamation of Confiscated Personal Property and Signs	7.61.035	Same Title	Moved existing text	p. 16
6.03.070	Disposal of Personal Property, Signs and Junk	7.61.040	Same Title	Moved and modified existing text	p. 16
6.03.080	Appeal of Confiscation	7.61.045	Same Title	Moved and modified existing text	p. 17
6.03.090	Exemption for Criminal Investigation	7.61.050	Same Title	Moved existing text	p. 18



Title: Confiscation of Personal Property or Signs in the Right of Way

Administrative Rule No. 06.01.050.A.2 - 01 - 01
TMC # Rule # Version #

Effective Date: TBD – Example Administrative Rule

1. Description

Section 6.01.050.A.2 authorizes the city manager to create an administrative rule to describe and establish that the time and location of a confiscation and a description of the physical characteristics of confiscated personal property or signs are recorded. The following administrative rules will be followed by staff in effecting such confiscation.

2. Sections

A. When personal property or signs are found to be in the right of way in violation of Sections 6.03.010 or 6.03.020 and a decision is made to confiscate the personal property or sign, staff will:

- (1) document the physical characteristics of the personal property or sign by written description or photograph, or both, and
- (2) document the address of the parcel abutting the right of way at the location of the personal property or sign and its specific location within the right of way by written description, photograph, or GIS notation, and
- (3) associate those documentations with the physical item by code number or other means to facilitate notification and possible reclamation.

B. The documentation will be maintained in a file accessible to staff at the Planning Counter in the Permit Center and used as a basis for:

- (1) notification of the owner of the personal property or signs, per Section 6.03.040 of the violation and the confiscation, and
- (2) identification and location of the subject personal property or signs should the owner seek to reclaim them pursuant to administrative rule No. 06.03.060.C.

Approved by:

Martha Wine, City Manager

Date

Administrative Rule No. 06.01.050.A.2-01-01

Effective Date: _____

Name:
Title:

Date

DRAFT



Title: Reclamation of Confiscated Personal Property or Signs

Administrative Rule No. 06.01.050.A.3 - 01 - 01
TMC # Rule # Version #

Effective Date: TBD – Example Administrative Rule

1. Description

Section 6.01.050.A.3 authorizes the city manager to establish a procedure by which owners of confiscated personal property and signs can reclaim confiscated items. The following administrative rules shall be followed by staff in facilitating such reclamation.

2. Sections

- A. An owner of confiscated personal property or signs seeking to reclaim same shall make application for reclamation at the Planning Counter in the Permit Center during normal hours of operation. The owner shall fill out and sign a Reclamation Request Form that includes an acknowledgement that the subject personal property or sign had been in violation of Tigard Municipal Code (TMC) Section 6.03.010 or 6.03.020 and a declaration that it will not again be placed in violation.
- B. Upon submitting the completed Reclamation Request Form the owner shall pay a fee for the reclamation composed of two parts:
 - (1) an amount representing the city’s cost in abating the violation and confiscating and storing the personal property or sign. This amount will be a minimum of \$50.00 for personal property or signs easily picked up by one person without tools or a higher amount specifically calculated when more than one person or specialized tools are equipment are required.
 - (2) an administrative fee calculated in accordance with TMC Section 1.16.640.A.2 and administrative rule No. 1.16.640.A.2-01-01.
- C. Upon submission of the completed Reclamation Request Form and payment of the appropriate fees staff will escort the owner to the location where the personal property or signs have been kept and will allow the owner to remove them.

Approved by:

Martha Wine, City Manager

Date

Name:
Title:

Date

DRAFT

TIGARD MUNICIPAL CODE

Chapter 2.52 ABANDONED, FOUND, SEIZED AND STOLEN PROPERTY.

Sections:

- 2.52.010 Custody Of Property.**
- 2.52.020 Surrender To True Owner.**
- 2.52.030 Sale Of Property.**
- 2.52.040 Use Of Property By City.**
- 2.52.050 Dangerous Or Perishable
Property.**
- 2.52.060 Scope.**

2.52.010 Custody Of Property.

Whenever any personal property other than a motor vehicle, personal property, or signs removed from the right-of-way pursuant to Chapter ~~6.03 7.61~~, is taken into the custody of any department of the City by reason of its having been abandoned, found, seized, or for any other reason, the personal property shall be turned over to and held by the police department at the expense and risk of the owner or person lawfully entitled to possession of it. (Ord. 10-06 § 2, 2010; Ord. 81-37 §1, 1981).

(2.52.020 through 2.52.050 no change)

2.52.060 Scope.

This chapter shall apply to all personal property, except motor vehicles, personal property, or signs removed from the right-of-way pursuant to Chapter ~~6.03 7.61~~, now or hereafter in the custody of the City of Tigard. (Ord. 10-06 § 2, 2010; Ord. 81-37 §6, 1981).■

TIGARD MUNICIPAL CODE

Chapter 7.58 RULES OF CONDUCT ON CITY PROPERTY

Sections:

- 7.58.010 General Purposes of Chapter**
- 7.58.020 Definitions**
- 7.58.030 Penalty for Violation**
- 7.58.040 Prohibited Acts Generally**
- 7.58.050 Consistency with State Criminal Law**
- 7.58.060 Authority of the City Manager**
- 7.58.070 Public Works Director to make Rules and Regulations**
- 7.58.080 Rules of Conduct on City Property**
- 7.58.090 Enforcement and Exclusion from City Property**
- 7.58.100 Right to Appeal**
- 7.58.110 Variances**

(7.58.010 through 7.58.080 - no change)

7.58.090 Enforcement and Exclusion from City Property

Persons who violate any of the Rules of Conduct on any City property may be immediately ejected from the premises and excluded from City property for a period of thirty (30) to one hundred eighty (180) days.

(1) In addition to other measures provided for violation of this Chapter, or any of the laws of the State of Oregon, police officers and authorized employees may

exclude from City property, any person who, while on that City property violates any law regarding controlled substances, or engages in conduct that:

- a. Is classified as a felony, misdemeanor, or violation under the following Chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such felony or misdemeanor defined in ORS:
 - i. Chapter 162 – Offenses Against the State and Public Justice;
 - ii. Chapter 163 – Offenses Against Person(s);
 - iii. Chapter 164 – Offenses Against Property to include Offensive Littering;
 - iv. Chapter 165 – Offenses Involving Fraud or Deception;
 - v. Chapter 166 – Offenses Against Public Order; Firearms and Other Weapons; Racketeering;
 - vi. Chapter 167 – Offenses Against Public Health, Decency and Animals;
 - vii. Chapter 475 – Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors; or
- b. Otherwise involves a controlled substance; or
- c. Has resulted in injury to any person or damage to any property; or

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d. Constitutes a violation of any of the following provisions of the Tigard Municipal Code:

i. TMC Chapter 7.20 – Offenses Against Persons;

ii. TMC Chapter 7.24 – Offenses Against Property;

iii. TMC Chapter 7.28 – Obstructing Law Enforcement;

iv. TMC Chapter 7.32 – Offenses Against Public Order;

v. TMC Chapter 7.36 - Minors;

vi. TMC Chapter 7.38 - Truancy;

vii. TMC Chapter [Title 6 7.40 – Nuisance Violations](#);

viii. TMC Chapter 7.52 – Public Property Use;

ix. TMC Chapter 7.56 – Indecent Conduct;

x. TMC Chapter 7.70 – Second Hand Dealers and Transient Merchants;

xi. TMC Chapter 7.80 – Camping Prohibited in Certain Places;

e. Nothing in the City of Tigard Municipal Code shall be construed to authorize the exclusion of any person lawfully

exercising free speech rights or any other rights protected by the state or federal constitutions. However, a person engaged in such protected activity who commits acts that are not protected, but which violate applicable provisions or law, may be subject to exclusion.

(2) An exclusion issued under this Chapter shall be for thirty (30) days. If the person to be excluded has been excluded from City property at any time within one year before the date of the present exclusion, the exclusion shall be for ninety (90) days. If the person to be excluded has previously been excluded from City property on two or more occasions within one year before the date on the present exclusion, the exclusion shall be for one hundred eighty (180) days.

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

(4) No person shall enter or remain in any City property at any time during which there is in effect a notice of exclusion issued under this Chapter excluding that person from all City properties. A person who knowingly violates an order of exclusion from City

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property commits the crime of Criminal Trespass in the second degree (ORS 164.245).

(5) Before issuing an exclusion under this Chapter, a police officer or authorized employee shall first give the person a warning and reasonable opportunity to desist from the violation. An exclusion shall not be issued if the person promptly complies with the warning and desists from the violation. Notwithstanding the provisions of this subsection, no warning shall be required if the person is to be excluded for committing any act:

a. punishable as a misdemeanor or felony,

b. involving controlled substances,

c. which resulted in an injury to any person,

d. which resulted in damage to any property, or

e. City of Tigard Chapter violation

(6) Written notice shall be given to any person excluded from any City property under this Chapter. The notice shall specify the date, length and place of the exclusion; shall identify the provision of law the person has violated and contain a brief description of the offending conduct. It shall be signed by the issuing police officer or authorized employee. Warnings of consequences for failure to comply shall be prominently displayed on the notice. All relevant

information on the hearings and appeal process shall be included with the notice.

(7.58.100 through 7.58.110 - no change)

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Chapter 7.80 CAMPING PROHIBITED IN CERTAIN PLACES.

Sections:

- 7.80.010 Definitions.**
- 7.80.020 Camping Prohibited In Certain Places.**
- 7.80.030 Scheduling And Notice Of Campsite Cleanup.**
- 7.80.040 Removal, Storage And Retrieval Of Personal Property.**
- 7.80.050 Camping In Railroad Right Of Way.**
- 7.80.060 Violation.**
- 7.80.070 Nonexclusive Remedy.**

(7.80.010 through 7.80.050 – no change)

7.80.060 Violation.

Violation of this chapter is a nuisance affecting public health as described in section **6.01.050.C** ~~7.40.030(b)~~ of this code. Such violation is a Class 1 civil infraction and may be processed under chapter 1.16, Civil Infractions. (Ord. 94-20)

(7.80.070 - no change)

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Chapter 15.16 ENCROACHMENT PERMITS.

Sections:

- 15.16.010 Encroachments Within Unimproved Public Rights Of Way, Easements And Public Property.
- 15.16.020 Exemptions.
- 15.16.030 Permit Issuance.
- 15.16.040 Appeals.
- 15.16.060 Recording Of Permits.
- 15.16.070 Revocation Of Permits.
- 15.16.080 Removal Of Encroachment.
- 15.16.090 Liability.
- 15.16.100 Enforcement.

(15.16.010 through 15.16.090 - no change)

15.16.100 Enforcement.

1. Installation or maintenance of an encroachment in violation of TMC 15.16.010, or failure to obtain an encroachment permit as required by TMC 15.16.010, or to comply with the terms and conditions of an encroachment permit issued thereunder is hereby declared a civil infraction subject to enforcement pursuant to TMC Chapter 1.16.

2. Installation or maintenance of an encroachment in violation of TMC 15.16.010, or an encroachment permit issued pursuant to TMC 15.16.010 is hereby declared to be a public nuisance as defined by TMC [Section 6.01.050](#) ~~Chapter 7.40~~, which may be abated pursuant to TMC Chapter 1.16. (Ord. 99-31) ■

Chapter 18.725
ENVIRONMENTAL PERFORMANCE STANDARDS

Sections:

- 18.725.010 Purpose**
- 18.725.020 General Provisions**
- 18.725.030 Performance Standards**

18.725.030 Performance Standards

- A. Noise. For the purposes of noise regulation, the provisions of Sections ~~7.40.130 through 7.40.210~~ 6.02.410 through 6.02.470 of the Tigard Municipal Code shall apply.
- B. Visible emissions. Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point- source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.
- C. Vibration. No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.
- D. Odors. The emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.
- E. Glare and heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and;
 - 1. There shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and
 - 2. These regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.
- F. Insects and rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.■

Impact in Title 7*

*All of 7.40 and 7.61 removed from TMC and incorporated into proposed Title 6

Current TMC Number	Current TMC Title in 7.40	New Title 6 Number	New Title in Proposed Title 6	Explanation of Revision	New pg #
ARTICLE I.					
7.40.010	Short Title	6.01.010	Short Title	Moved existing text	3
7.40.020	Definitions	6.01.020	Definitions	Moved & modified existing text	3
7.40.030	Nuisances Designated - Class 1 Infractions	6.01.050	Nuisances Designated - Class 1 Infractions	Moved existing text	6
ARTICLE II.					
7.40.040	Nuisances Affecting The Public Health	6.02.010	Common Nuisances	Moved & modified existing text	8
ARTICLE III.					
7.40.050	Noxious Vegetation	6.02.020	Noxious Vegetation	Moved & modified existing text	8
7.40.060	Trees	6.02.030	Trees & Bushes	Moved & modified existing text	8
7.40.070	Streets and Sidewalks	6.02.310	Streets and Sidewalks	Moved existing text	11
7.40.080	Vehicles Not to Drop Material on Streets	6.02.210	Vehicles Not to Drop Material on Streets	Moved existing text	10
7.40.090	Greenway Maintenance	6.02.040	Greenway Maintenance	Moved and modified existing text	9
7.40.100	Open Storage of Junk	6.02.220	Open Storage of Junk	Moved existing text	10
7.40.110	Attractive Nuisances	6.02.050	Attractive Nuisances	Moved & modified existing text	9
7.40.120	Scattering Rubbish	6.02.230	Scattering Rubbish	Moved & modified existing text	11
7.40.125.B	Graffiti	6.02.060	Graffiti	Moved & modified existing text	9
ARTICLE IV.					
7.40.130	Prohibition on Excessive Noise	6.02.410	Prohibition on Excessive Noise	Moved existing text	12
7.40.140	Sound Measurement	6.02.420	Sound Measurement	Moved existing text	12
7.40.150	Definitions	6.01.020	Definitions	Moved and modified existing text	3
7.40.160	Noise Limits	6.02.430	Noise Limits	Moved existing text	12
7.40.170	Prohibited Noises	6.02.440	Prohibited Noises	Moved existing text	12
7.40.180	Exceptions	6.02.450	Exceptions to Noise Limits	Moved existing text	13
7.40.190	Maximum Noise Limits for Certain Activities	6.02.460	Maximum Noise Limits for Certain Activities	Moved existing text	14
7.40.200	Evidence	6.02.470	Evidence of Noise Violation	Moved existing text	14
ARTICLE V.					
7.40.210	Penalty for Chapter Violations	6.01.040	Penalty for Violation of This Title	Moved existing text	10

Current TMC Number	Current TMC Title in 7.61	New Title 6 Number	New Title in Proposed Title 6	Explanation of Impact	New pg #
7.61.010.2	Definitions	6.01.020	Definitions	Moved & modified existing text	3
7.61.015	Signs in the Right of Way	6.03.010	Signs in the Right of Way	Moved existing text	15
7.61.020	Abandoned Personal Property in the Right of Way	6.03.020	Abandoned Personal Property in the Right of Way	Moved & modified existing text	15
7.61.025.A	City Authority to Remove - Notice Requirements	6.03.030	City Authority to Remove	Moved & modified existing text	15
7.61.025.B, C, D	City Authority to Remove - Notice Requirements	6.03.040	Notice Requirements	Moved & modified existing text	15
7.61.030	Exemption from Notice Requirements	6.03.050	Exemption from Notice Requirements	Moved existing text	16

7.61.035	Reclamation of Confiscated Personal Property and	6.03.060	Reclamation of Confiscated Personal Property and	Moved existing text	16
7.61.040	Disposal of Personal Property, Signs and Junk	6.03.070	Disposal of Personal Property, Signs and Junk	Moved existing text	16
7.61.045	Appeal of Confiscation	6.03.080	Appeal of Confiscation	Moved existing text	17
7.61.050	Exemption for Criminal Investigation	6.03.090	Exemption for Criminal Investigation	Moved existing text	18
7.61.055	Enforcement – Minimum Requirements	6.01.060	Enforcement – Minimum Requirements	Moved existing text	6

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Title 7

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

- 7.04 GENERAL PROVISIONS
- 7.08 ADOPTION OF STATE STATUTES
- 7.12 CLASSIFICATION OF OFFENSES
- 7.16 DISPOSITION OF OFFENDERS
- 7.20 OFFENSES AGAINST PERSONS
- 7.24 OFFENSES AGAINST PROPERTY
- 7.28 OBSTRUCTING LAW ENFORCEMENT
- 7.32 OFFENSES AGAINST PUBLIC ORDER
- 7.34 CONTROLLED SUBSTANCES
- 7.36 MINORS
- 7.38 TRUANCY
- ~~7.40 NUISANCES~~
- *7.42 CHRONIC NUISANCE PROPERTY
- 7.44 CURFEW HOURS FOR MINORS
- 7.48 PUBLIC ASSEMBLIES
- 7.50 AUTHORITY TO RESTRICT ACCESS TO CERTAIN AREAS
- 7.52 PUBLIC PROPERTY USE
- 7.56 INDECENT CONDUCT
- 7.58 RULES OF CONDUCT ON CITY PROPERTY
- 7.60 ABANDONED VEHICLES
- ~~7.61 PROPERTY IN THE RIGHT-OF-WAY~~
- 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS

- *7.74 EMERGENCY OPERATIONS
- 7.78 PROPERTY-FORFEITURE FOR CRIMINAL ACTIVITY
- 7.80 CAMPING PROHIBITED IN CERTAIN PLACES
- ~~7.100 EXCLUSION FROM TIGARD PUBLIC LIBRARY~~ Repealed by Ordinance No. 08-18

* Cross reference only update

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Staff Note: Impact of revision is elimination of 7.40 and incorporation of 7.40 provisions into Title 6

~~Chapter 7.40 — NUISANCES.~~

~~ARTICLE I. GENERAL PROVISIONS~~

~~7.40.010 — Short Title.~~

~~7.40.020 — Definitions.~~

~~7.40.030 — Nuisances Designated—Class 1 Infraction.~~

~~ARTICLE II. PUBLIC HEALTH NUISANCES~~

~~7.40.040 — Nuisances Affecting The Public Health.~~

~~ARTICLE III. NUISANCES AFFECTING PUBLIC SAFETY.~~

~~7.40.050 — Noxious Vegetation.~~

~~7.40.060 — Trees.~~

~~7.40.070 — Streets And Sidewalks.~~

~~7.40.080 — Vehicles Not To Drop Material On Streets.~~

~~7.40.090 — Greenway Maintenance.~~

~~7.40.100 — Open Storage Of Junk.~~

~~7.40.110 — Attractive Nuisances.~~

~~7.40.120 — Scattering Rubbish.~~

~~7.40.125 — Graffiti.~~

~~ARTICLE IV. NUISANCES AFFECTING THE PUBLIC PEACE~~

~~7.40.130 — Prohibition On Excessive Noises.~~

~~7.40.140 — Sound Measurement.~~

~~7.40.150 — Definitions.~~

~~7.40.160 — Noise Limits.~~

~~7.40.170 — Prohibited Noises.~~

~~7.40.180 — Exceptions.~~

~~7.40.190 — Maximum Limit For Certain Activities.~~

~~7.40.200 — Evidence.~~

~~ARTICLE VI. VIOLATION—PENALTY~~

~~7.40.210 — Penalty — For — Chapter Violations.~~

~~ARTICLE I. GENERAL PROVISIONS~~

~~7.40.010 — Short Title.~~

~~— The ordinance codified in this chapter shall be known as the "nuisance ordinance," and may also be referred to herein as "this chapter." (Ord. 86-20 §4(Exhibit C(1)), 1986).~~

~~7.40.020 — Definitions.~~

~~— As used in this chapter:~~

~~— A. "Responsible party" means the person responsible for curing or remedying a nuisance, which includes:~~

~~— 1. The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner;~~

~~— 2. The person occupying the property, including bailee, lessee, tenant or other person having possession;~~

~~— 3. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property. (Ord. 86-20 §4(Exhibit C(2)), 1986).~~

~~7.40.030 — Nuisances Designated—Class 1 Infraction.~~

~~— A. The acts, omissions, conditions or objects specifically enumerated in this chapter are hereby declared to be a public nuisance.~~

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~~— B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the Council to be offensive, injurious or detrimental to the public health, safety or welfare of the City is declared to be a nuisance.~~

~~— C. All nuisances shall constitute a Class 1 civil infraction and shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions. (Ord. 86-20 §4(Exhibit C(3)), 1986).~~

ARTICLE II. PUBLIC HEALTH NUISANCES.

7.40.040 Nuisances Affecting The Public Health.

~~— No person shall cause or permit a nuisance affecting the public health. The following are nuisances affecting the public health:~~

~~— A. Privies. An open vault or privy constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations;~~

~~— B. Debris. Accumulations of debris, rubbish, manure and other refuse that affect the health of surrounding persons;~~

~~— C. Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests;~~

~~— D. Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes, or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;~~

~~— E. Odor. Any animal, substance or~~

~~condition on the premises that is in such a state or condition as to cause an offensive odor detectable at a property line, or that is in an insanitary condition;~~

~~— F. Surface Drainage. Drainage of liquid wastes from private premises;~~

~~— G. Cesspools. Cesspools or septic tanks that are in an unsanitary condition or which cause an offensive odor;~~

~~— H. Animals. Animals, including livestock or buildings for the purpose of maintaining livestock or animals, maintained in such places or in such a manner that they are offensive or annoying to the residents within the immediate vicinity, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies and other pests;~~

~~— I. Removal of Carcasses. An animal carcass permitted to remain on public property or to be exposed on public property for a period of time longer than is necessary to remove or dispose of the carcass.~~

~~— J. Maintenance on Private Property of a Dangerous Building. A "dangerous building" is one or more of the following:~~

~~1. A structure that, for the want of proper repairs or by reason of age and dilapidated condition, by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus, or for any other cause or reason, is especially liable to fire, and that is so situated or occupied as to endanger any other building or property or human life;~~

~~2. A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or flammable substance of any kind, especially liable to cause fire or danger to the safety of the building, premises, or to human life;~~

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~~3. A structure that is kept or maintained or is in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases;~~

~~4. A structure in such weak or weakened condition, or dilapidated or deteriorated condition as to endanger any person or property by reason of probability of partial or entire collapse. (Ord. 86-39 §1(Exhibit A), 1986; Ord. 86-20 §4(Exhibit C(4)), 1986).~~

ARTICLE III. NUISANCES AFFECTING PUBLIC SAFETY.

7.40.050 Noxious Vegetation.

~~A. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the meaning of Subsection B of this section.~~

~~B. The term "noxious vegetation" includes:~~

~~1. Weeds more than ten inches high;~~

~~2. Grass more than ten inches high and not within the exception stated in Subsection A of this section;~~

~~3. Poison oak, poison ivy, or similar vegetation;~~

~~4. Dead trees, dead bushes, stumps and any other thing likely to cause fire;~~

~~5. Blackberry bushes that extend into a public thoroughfare or across a property line;~~

~~6. Vegetation that is a health hazard;~~

~~7. Vegetation that is a health hazard~~

~~because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.~~

~~C. No owner or responsible party shall allow noxious vegetation to be on the property or in the right of way of a public thoroughfare abutting on the property. The owner or responsible party shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed. (Ord. 86-20 §4(Exhibit C(5)(1)), 1986).~~

7.40.060 Trees.

~~A. No owner or responsible party shall permit tree branches or bushes on the property to extend into a public street or public sidewalk in a manner which interferes with street or sidewalk traffic. It shall be the duty of an owner or responsible party to keep all tree branches or bushes on the premises which adjoin the public street or public sidewalk, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten feet above the street.~~

~~B. No owner or responsible party shall allow to stand any dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to persons or property on or near the property. (Ord. 86-20 §4(Exhibit C(5)(2)(a) and (b)), 1986).~~

7.40.070 Streets And Sidewalks.

~~The owner or responsible party shall keep a public street and/or sidewalk abutting their property free from earth, rock and other debris and other objects that may obstruct or render the street or sidewalk unsafe for its intended use. (Ord. 86-20 §4(Exhibit C(5)(2)(e)), 1986).~~

7.40.080 Vehicles Not To Drop

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~~Material On Streets.~~

~~The owner or operator of any vehicle engaged in the transportation of excavation or construction materials shall be responsible for keeping the public streets and sidewalks free from such materials, including but not limited to, earth, rock and other debris that may obstruct or render the street or sidewalk unsafe for its intended use. (Ord. 86-20 §4(Exhibit C(5)(2)(d)), 1986).~~

~~7.40.090 Greenway Maintenance.~~

~~A. The owner or responsible party shall be responsible for the maintenance of the property, subject to an easement to the City or to the public for greenway purposes. Except as otherwise provided by this section and Sections 7.40.050 through 7.40.120, the standards for maintenance shall be as follows:~~

~~1. The land shall remain in its natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the easement area unless authorized by the City Engineer based on a finding of need in order to protect the property or the public health, safety or welfare.~~

~~2. No tree over five feet in height shall be removed unless authorized by the Planning Director based on a finding that the tree constitutes a nuisance or a hazard.~~

~~3. Grass shall be kept cut to a height not exceeding ten inches, except when some natural condition prevents cutting.~~

~~B. In situations where the approval authority establishes different standards or additional standards, the standards shall be in writing and shall be recorded. No person shall be found in violation of this section of the code unless the person has been given actual or constructive notice of the standards prior to the time the violation occurred. (Ord. 86-20~~

~~§4(Exhibit C(5)(3)), 1986).~~

~~7.40.100 Open Storage Of Junk.~~

~~No person or responsible party shall deposit, store, maintain or keep on any real property, except in a fully enclosed storage facility, building or garbage receptacle, any of the following:~~

~~A. An icebox or refrigerator, or similar container, which seals essentially airtight, without first removing the door;~~

~~B. Inoperable, partially dismantled automobiles, trucks, bus, trailer or other vehicle equipment or parts thereof in a state of disrepair, for more than ten days as to any one automobile, truck, bus, trailer or piece of vehicular equipment;~~

~~C. Used or dismantled household appliances, furniture, other discards or junk, for more than five days. (Ord. 86-20 §4(Exhibit C(5)(4)), 1986).~~

~~7.40.110 Attractive Nuisances.~~

~~A. No owner or responsible party shall permit on the property:~~

~~1. Unguarded machinery, equipment or other devices which are attractive, dangerous, and accessible to children;~~

~~2. Lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children;~~

~~3. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children; or~~

~~4. An exposed foundation or portion of foundation, any residue, debris or other building or structural remains, for more than thirty days after the destruction, demolition or~~

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~~removal of any building or portion of the building.~~

~~—B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 86-20 §4(Exhibit C(5)(5)), 1986).~~

~~7.40.120 Scattering Rubbish.~~

~~—No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal, or vehicle traveling upon a public way. (Ord. 86-20 §4(Exhibit C(5)(6)), 1986).~~

~~7.40.125 Graffiti~~

~~A. Definitions.~~

~~As used in this section, unless the context requires otherwise:~~

~~1. "Abate" means to remove graffiti from the public view.~~

~~2. "Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content, which is visible from premises open to the public, such as public right-of-ways or other publicly owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner or responsible party.~~

~~3. "Graffiti nuisance property" means a property upon which graffiti has been placed and such graffiti has been permitted to remain for more than 14 days after the property owner of record or occupant has been issued written~~

~~notification.~~

~~4. "Manager" means the Tigard City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.~~

~~5. "Occupant" means any person, tenant, sublessee, successor or assignee that has control over property.~~

~~6. "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but not limited to a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property such as utility poles, drop boxes, postal collection boxes, and other types of containers.~~

~~7. "Permit" means to knowingly allow, suffer, or acquiesce by any failure, refusal, or neglect to abate.~~

~~8. "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.~~

~~9. "Property" means any real or personal property, including but not limited to items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.~~

~~10. "Responsible party" means an owner, an entity or person acting as an agent for an owner by agreement that has authority over the property or is responsible for the property's maintenance or management. There may be more than one party responsible for a particular property.~~

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~~11. "Unauthorized" means without consent of the owner, occupant or responsible party.~~

~~B. Graffiti Nuisance Property~~

~~1. Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this section and is subject to its remedies.~~

~~2. Every responsible party who permits a property to become a graffiti nuisance property is in violation of this section and subject to its remedies.~~

~~C. Graffiti Removal; Notice and Procedures~~

~~1. This subsection sets out procedures to be used in processing an infraction of Section 7.40.125, notwithstanding Subsections 7.40.030.C and 1.16.060.2 of this Code. Except as provided herein, other applicable provisions of Chapter 1.16 shall remain in effect.~~

~~2. The owner or occupant of any property within the City of Tigard shall remove any graffiti from that property within 14 days of the graffiti's appearance.~~

~~3. Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have 14 days after the date of service of the notice to remove the graffiti.~~

~~4. The notice shall be served by addressing the notice to the owner or occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.~~

~~5. If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the 14 day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.~~

~~6. If the graffiti is not removed within 14 days after serving notice on the owner or occupant, the Manager may cause a citation to be issued to the owner or occupant or both requiring the person to appear in Tigard Municipal Court.~~

~~7. Failure to remove the graffiti as required by this section is a violation punishable by a fine of up to one hundred dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.~~

~~8. The City Manager may adopt rules and procedures to implement this section. (Ord. 07-03)~~

ARTICLE IV. NUISANCES AFFECTING THE PUBLIC PEACE

~~7.40.130 Prohibition On Excessive Noises.~~

~~No person shall make, assist in making, permit, continue, or permit the continuance of, any noise within the City of Tigard in violation of this article. No person shall cause or permit any noise to emanate from property under that person's control in violation of this article. (Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).~~

~~7.40.140 Sound Measurement.~~

~~A. While sound measurements are not required for the enforcement of this article,~~

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~~should measurements be made, they shall be made with a sound level meter. The sound level meter:~~

~~1. Shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter;~~

~~2. Shall contain at least an A-weighted scale, and both fast and slow meter response capability.~~

~~B. If measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training. (Repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).~~

~~7.40.150 Definitions.~~

~~As used in this Article:~~

~~A. "Noise sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, church, day care center, hospital, school, or nursing care center. For the purpose of this definition, "residence" and "overnight accommodation" does not include living/sleeping quarters of a caretaker or watchperson on industrial or commercial property provided by the owner or operator of the industrial or commercial facility.~~

~~B. "Plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.~~

~~C. "Unnecessarily loud" means any sound that interferes with normal spoken communication or that disturbs sleep.~~

~~D. "City Manager" means the City~~

~~Manager or designee. (Repealed and replaced by Ord. 01-13A, Ord. 90-03 §51(part), 1990).~~

~~7.40.160 Noise Limits.~~

~~It is unlawful for any person to produce, or permit to be produced, sounds which:~~

~~A. When measured at the boundary of or within a property on which a noise sensitive unit, not the source of the sound, is located, exceeds:~~

~~1. Forty dB at any time between nine p.m. and seven a.m. the following day; or~~

~~2. Fifty dB at any time between seven a.m. and nine p.m. the same day; or~~

~~B. Is plainly audible at any time between nine p.m. and seven a.m. the following day within a noise sensitive unit which is not the source of sound; or~~

~~C. Is unnecessarily loud within a noise sensitive unit which is not the source of the sound.~~

~~D. When measured at or within the boundary of or within a property on which no noise sensitive unit is located, and the noise originates from outside the property, if the noise level exceeds:~~

~~1. Sixty dB at any time between nine p.m. and seven a.m. of the following day; or~~

~~2. Seventy five dB at any other time.~~

~~E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet. (Repealed and replaced by Ord. 01-13A, Ord. 90-03 §1(part), 1990).~~

~~7.40.170 Prohibited Noises.~~

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~~— A. The use of exhaust brakes (jake brakes), except in an emergency or except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system, is prohibited at all times within the City, regardless of noise level.~~

~~— B. Except as provided in Section 7.40.180, the following acts are violations of this chapter if they exceed the noise limits specified in Section 7.40.160:~~

~~1. The sounding of any horn or signal device or any other device on any automobile, motorcycle, truck, bus or other vehicle while in motion, except as a danger signal.~~

~~2. The operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, radios, tape recorders and/or tape players, compact disc players, phonographs, television sets and stereo systems, including those installed in or on vehicles.~~

~~3. The operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades.~~

~~4. The use of any automobile, motorcycle or other vehicle so out of repair or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise.~~

~~5. The keeping of any animal or bird that creates noise in excess of the levels specified in Section 7.40.160.~~

~~6. The operation of air conditioning or heating units, heat pumps, refrigeration units, (including those mounted on vehicles) and swimming pool or hot tub pumps.~~

~~7. The erection (including~~

~~excavation), demolition, alteration or repair of any building, except as allowed under Sections 7.40.180.E and 7.40.180.F.~~

~~8. The use or creation of amplified sound in any outdoor facility.~~

~~9. Any other action that creates or allows sound in excess of the level allowed by Section 7.40.160. (Ord. 06-03; Repealed and replaced by Ord. 01-13A, Ord. 96-06; Ord. 90-03 §1(part), 1990).~~

~~7.40.180~~ ~~Exceptions.~~

~~— The following shall not be considered violations of this article, even if the sound limit specified in Section 7.40.160 is exceeded:~~

~~— A. Non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools, and athletic fields, during normal hours for such events.~~

~~— B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property.~~

~~— C. Sounds caused by bona fide use of emergency warning devices and alarm systems.~~

~~— D. Sounds regulated by federal law, including, but not limited to, sounds caused by railroads or aircraft.~~

~~— E. Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities and only between the hours of seven a.m. and seven p.m. seven days a week.~~

~~— F. Sounds caused by industrial,~~

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~~agricultural or construction activities during the hours of seven a.m. to seven p.m. seven days a week.~~

~~— G. Sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in Section 7.40.160.~~

~~— H. Sounds caused by air, electrical or gas driven domestic tools, including, but not limited to, lawn mowers, lawn edgers, radial arm, circular and table saws, drills, and/or other similar lawn or construction tools, but not including tools used for vehicle repair, during the hours of seven a.m. to seven p.m. seven days a week.~~

~~— I. Sounds caused by chainsaws, when used for pruning, trimming or cutting of live trees between the hours of seven a.m. and seven p.m., and not exceeding two hours in any twenty four hour period seven days a week.~~

~~— J. Sounds created by community events, such as parades, public fireworks displays, street fairs, and festivals that the City Manager or designee has determined in writing to be community events for the purposes of this section. The City Manager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the City Manager determines to be appropriate under the circumstances.~~

~~— K. Sounds made by legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of seven a.m. and eleven p.m.~~

~~— L. Sounds made between midnight and 12:30 a.m. on January 1 of each year.~~

~~— M. Sounds originating from construction projects for public facilities within rights of way~~

~~pursuant to a noise mitigation plan approved by the City Manager. The noise mitigation plan must:~~

~~1. Map the project noise impacts and explain how the impacts will be mitigated;~~

~~2. Provide special consideration and mitigation efforts for noise sensitive units;~~

~~3. Outline public notification plans;~~

~~4. Provide a 24 hour telephone contact number for information and complaints about a project.~~

~~The City Manager may approve a noise mitigation plan only if the City Manager determines that the noise mitigation plan will prevent unreasonable noise impacts. (Ord. 05-14; repealed and replaced by Ord. 01-13A, Ord 90-03 §1(part), 1990).~~

~~7.40.190~~ ~~Maximum Limit For Certain Activities.~~

~~Notwithstanding Section 7.40.180, the creation of noise by any activity subject to the exceptions listed in Sections 7.40.180.E, 7.40.180.F, 7.40.180.H, or 7.40.180.I, in excess of 85 dB measured on property on which a noise sensitive use is located, for more than 5 minutes in any calendar day shall be a violation. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).~~

~~7.40.200~~ ~~Evidence.~~

~~In any civil infraction action based on a violation of the limits set forth in Sections 7.40.160.B, 7.40.160.C or 7.40.160.E, the evidence of at least two persons from different households, shall be required to establish a violation. Any Police or Code Enforcement Officer or other City employee who witnessed the violation shall be counted as a witness for purposes of the two witness requirement. The~~

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~~City may ask an alleged violator to enter into a voluntary compliance agreement based on a single complaint or single witness. (Repealed and replaced by Ord. 01-13A, Ord. 99-29; Ord. 96-06; Ord. 90-03 §1(part), 1990).~~

~~ARTICLE VI. VIOLATION-PENALTY~~

~~7.40.210 — Penalty For Chapter Violations.~~

~~— A. A violation of this chapter shall constitute a Class 1 civil infraction, which shall be processed according to the procedures established in the civil infractions ordinance, set out at Chapter 1.16 of this code.~~

~~— B. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.~~

~~— C. A finding of a violation of this chapter shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.~~

~~— D. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 99-01; Ord. 90-03 §1(part), 1990).■~~

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[Staff Note: Impact of revision is elimination of 7.61 and incorporation of 7.61 provisions into Title 6](#)

~~Chapter 7.61 — PROPERTY IN THE RIGHT-OF-WAY.~~

~~Sections:~~

- ~~7.61.010 — Definitions.~~
- ~~7.61.015 — Signs in the Right-of-Way.~~
- ~~7.61.020 — Abandoned Personal Property in the Right-of-Way.~~
- ~~7.61.025 — City Authority to Remove — Notice Requirements.~~
- ~~7.61.030 — Exemption from Notice Requirements.~~
- ~~7.61.035 — Reclamation of Confiscated Personal Property and Signs.~~
- ~~7.61.040 — Disposal of Personal Property, Signs and Junk.~~
- ~~7.61.045 — Appeal of Confiscation.~~
- ~~7.61.050 — Exemption for Criminal Investigation.~~
- ~~7.61.055 — Enforcement — Minimum Requirements.~~

~~7.61.010 — Definitions.~~

~~— A. As used in this chapter, unless the context requires otherwise:~~

~~— 1. “Abandoned personal property” means any personal property, as the term is defined in this chapter, which has been discarded, deserted or relinquished. Personal property shall be considered abandoned if any of the following conditions exist:~~

~~— a. The personal property is left unattended in the right of way for more than five hours;~~

~~— b. The personal property is placed in the right of way in a location or manner as to constitute a potential, imminent or immediate hazard or obstruction to pedestrian or~~

~~vehicular traffic or to otherwise pose a threat to public health, safety or welfare.~~

~~— 2. “City” means the City of Tigard and any other location under jurisdiction by the City of Tigard.~~

~~— 3. “City Manager” means the City Manager or any designee of the City Manager.~~

~~— 4. “Costs” means all monies incurred and charges associated with the removal, storage, detention, processing, disposition, and maintenance of confiscated items in violation of Sections 7.61.015 and 7.61.020.~~

~~— 5. “Dispose of / Disposal” also includes sell, auction, donate, destroy, repurpose, and recycle.~~

~~— 6. “Junk” means items which have no apparent utility or are in an unsanitary condition.~~

~~— 7. “Owner” means any individual, firm, corporation or unincorporated association, partnership, limited liability company or other entity with a claim, or agent thereof, either individually or jointly, of ownership or any interest of record, legal or equitable, in abandoned personal property or a sign confiscated pursuant to this section.~~

~~— 8. “Personal property” means tangible items, other than signs and vehicles as defined in this chapter, which are reasonably recognizable as belonging to individual persons and which have apparent utility.~~

~~— 9. “Right of way” means a strip of land or structure occupied or intended to be occupied by a street, crosswalk, pedestrian or bike path, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use and all other public ways and areas managed by the City.~~

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~~10. "Sign" means any materials placed or constructed primarily to convey a message or other display and which can be viewed from the right of way, another property, or from the air including any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform. (Ord. 10-06 § 1, 2010).~~

~~7.61.015 Signs in the Right of Way.~~

~~A. It shall be unlawful for any person to place a sign in the right of way unless the placement is authorized by a separate provision of any title of the Tigard Municipal Code or Oregon Revised Statutes.~~

~~B. The owner(s) of a sign in violation of this chapter shall be responsible for any and all costs associated with disposition of the sign. (Ord. 10-06 § 1, 2010).~~

~~7.61.020 Abandoned Personal Property in the Right of Way.~~

~~A. It shall be unlawful for any person to abandon any personal property in the right of way.~~

~~B. The owner(s) of the abandoned personal property in violation of this chapter shall be responsible for any and all costs associated with the disposition of the abandoned personal property. (Ord. 10-06 § 1, 2010).~~

~~7.61.025 City Authority to Remove Notice Requirements.~~

~~A. The City Manager may confiscate any sign in violation of Section 7.61.015 and any abandoned personal property in violation of Section 7.61.020 without prior notice. The City Manager shall create a policy ensuring that the time and location of a confiscation and a description of the physical characteristics of the~~

~~confiscated personal property or sign are recorded.~~

~~B. Subject to exemption by Section 7.61.030:~~

~~1. If the identity and mailing address of the owner of personal property or signs confiscated under subsection A is known, the City Manager shall notify the owner of the item by certified mail or personal service no later than 30 days following the date of the confiscation.~~

~~2. If the identity and mailing address of the owner of personal property or signs is not known, the City Manager shall arrange for the public notice of the confiscation to be provided within 30 days following the confiscation, either by publication in a newspaper of general circulation in the City or by publication on the City website, with a clearly marked link from the City's homepage.~~

~~C. A notice under subsection B shall include:~~

~~1. A statement that the personal property or sign was in violation of Chapter 7.61 of the Tigard Municipal Code.~~

~~2. A description of the personal property or sign and the date, time and location from which the item was confiscated.~~

~~3. A copy of Section 7.61.025 notifying the owner of the process and fees required to retrieve the confiscated personal property or sign from the City.~~

~~4. The date after which disposal of the personal property or signs shall occur.~~

~~D. A notice by publication under subsection B may contain multiple listings of confiscated signs. (Ord. 10-06 § 1, 2010).~~

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~~7.61.030 Exemption from Notice Requirements.~~

~~A. The City Manager shall establish a written policy which does the following:~~

~~1. Determines types of signs that are unlikely to be reclaimed if confiscated; and~~

~~2. Exempts from the notice requirements of Section 7.61.025 those types of signs unlikely to be reclaimed if confiscated.~~

~~B. In determining the types of signs that are unlikely to be reclaimed, the City Manager may consider the value of the materials the sign is constructed of and the condition of the sign.~~

~~C. Signs that are exempt under the written policy established pursuant to subsection A:-~~

~~1. Shall be stored for a minimum of 14 days after the date of confiscation.~~

~~2. Shall be available during the storage period for reclamation by the owner after payment in full of all costs associated with the disposition of the sign.~~

~~3. May be disposed of after the storage period without further notification. (Ord. 10-06 § 1, 2010).~~

~~7.61.035 Reclamation of Confiscated Personal Property and Signs.~~

~~A. The City Manager shall establish a location for the storage of confiscated personal property and signs. The location should be reasonably secure and accessible to City staff so that personal property and signs can be reclaimed.~~

~~B. Confiscated personal property and signs shall be stored for no less than 30 days following the provision of notice under Section~~

~~7.61.025 or 7.61.030.~~

~~C. The City Manager shall establish a procedure by which owners of confiscated personal property and signs can reclaim confiscated items. The procedure shall include the following:~~

~~1. The place for an owner to reclaim confiscated property.~~

~~2. A fee schedule for reclamation of personal property and signs that may include either or both of the following:-~~

~~a. Provisions allowing the City to recover all costs associated with the confiscated item, and~~

~~b. Assignment of an appropriate monetary penalty for violations of this section. (Ord. 10-06 § 1, 2010).~~

~~7.61.040 Disposal of Personal Property, Signs and Junk.~~

~~A. The City Manager may immediately dispose of any junk found in the right of way. Disposing of junk under this subsection is not subject to the notice and reclamation provisions of Sections 7.61.025 through 7.61.035.~~

~~B. The City Manager may order the destruction or other disposal of any personal property coming into the City's possession which is determined by the City to be dangerous or perishable. Weapons shall be destroyed in accordance with ORS 166.280. Such disposal under this subsection is not subject to the notice and reclamation provisions of Sections 7.61.025 through 7.61.035.~~

~~C. At the sole discretion of the City Manager and without provision of notice, the City may donate, dispose of, sell, recycle, or repurpose any personal property or sign not reclaimed before expiration of the storage~~

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period.

~~— D. In lieu of the disposal of confiscated personal property under this section, at any time the City is authorized to sell or auction the confiscated personal property or sign, the City may convert the personal property or sign to public use by entering it on the City's fixed asset inventory.~~

~~1. Notice of the transfer of the personal property or sign to the City shall be given once by publication in a newspaper of general circulation in the City or by publication on the City website at least 30 days before the personal property or sign is converted to City use. The notice shall describe the property and state that the described personal property or sign shall be converted to City use if the personal property or sign is not reclaimed within 30 days.~~

~~2. If the personal property or sign is not reclaimed within 30 days after publication of the notice described in subsection (D)(1) of this section, the personal property or sign shall be entered on the City's fixed asset inventory and shall not be subject to the right of redemption. (Ord. 10-06 § 1, 2010).~~

7.61.045 Appeal of Confiscation.

~~A. The owner of the confiscated personal property or sign may request a hearing to contest the validity of the confiscation by submitting a written request for hearing with the City not more than five days from the mailing date of the notice or publishing of public notice.~~

~~B. The request shall state the reason(s) why the owner believes that the confiscation was invalid and include payment in full for the cost of the hearing.~~

~~C. The City shall not consider requests for hearings which do not meet the requirements of Subsections A and B of this section.~~

~~— D. The City Manager or designee may establish a fee for the cost of conducting a hearing.~~

~~— E. A hearing shall comply with all of the following:~~

~~1. Upon receipt of a proper request for a hearing, the City shall set a time for a hearing within 30 days of the receipt of the request and shall provide notice of the hearing to the owners of the confiscated personal property or sign.~~

~~2. Hearings held under this section may be informal in nature, but shall afford a reasonable opportunity for the person requesting the hearing to demonstrate by the statements of witnesses and other evidence, that the confiscation of the personal property or sign was invalid, or for any other reason not justified.~~

~~3. The Hearings Officer may be an officer, official or employee of the City, but may not have participated in any determination or investigation related to the confiscation of the personal property or sign. The City Manager may promulgate rules for conducting hearings.~~

~~4. The owner requesting a hearing may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice of representation by legal counsel shall be provided to the City with the written request for a hearing.~~

~~5. The City is only required to provide one hearing each time it confiscates personal property or a sign.~~

~~6. Appeal of simultaneous confiscation of multiple items of personal property or signs of the same owner may be consolidated into a single appeal hearing.~~

~~7. If the City finds after a hearing~~

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~~that the confiscation of the personal property or sign was invalid:~~

~~———— a. The City shall order the immediate release of the personal property or sign to the owner of the item(s), if still in possession of the City, and/or~~

~~———— b. Refund to the owner any payment of costs associated with the removal, storage, detention and maintenance of the personal property or sign that has been reclaimed.~~

~~———— c. The owner shall not receive a refund for the cost of the hearing, and shall be liable for storage charges incurred more than 24 hours after the time the personal property or sign is officially ordered released to the person.~~

~~———— 8. If the City finds after a hearing that the confiscation of the personal property or sign was valid, the City shall order the personal property or sign be held until the costs of the hearing and all monies incurred or charges associated with the cost of the removal, storage, detention, maintenance and disposition of the confiscated personal property or sign are paid.~~

~~———— 9. A person failing to appear at a hearing is not entitled to another hearing or any refund of costs unless the person provides the City satisfactory proof for the person's failure to appear.~~

~~———— 10. The City shall provide a written statement of the results of the hearing to the person requesting the hearing.~~

~~———— 11. The determination of the Hearings Officer at a hearing is final and not subject to appeal. (Ord. 10-06 § 1, 2010).~~

~~7.61.050 Exemption For Criminal Investigation.~~

~~———— A vehicle that is being held as part of any~~

~~criminal investigation is not subject to any requirements of this chapter. (Ord. 10-06 § 1, 2010).~~

~~7.61.055 Enforcement Minimum Requirements.~~

~~———— A. A finding of a violation of this title which results in confiscation of personal property or signs does not prevent the City from additionally issuing citations for violations of this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes for the same property or incident.~~

~~———— B. This section shall not be read to prohibit in any way alternative remedies set out in this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes which are intended to abate or alleviate code violations, nor shall the City be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code provision.~~

~~———— C. Class 1 Penalty. A violation of this title shall constitute a Class 1 civil violation which shall be processed according to the procedures established in Chapter 1.16 of this code.~~

~~———— D. Each violation of a separate provision of any Tigard Municipal and Development Code and/or Oregon Revised Statute shall constitute a separate infraction, and each day that a violation is committed or permitted to continue shall constitute a separate infraction.~~

~~———— E. The provisions of this title are declared to be minimum requirements.~~

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~~1. Minimum Requirements Intended. In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.~~

~~2. Most Restrictive Requirements Apply. When the requirements of this title vary from other provisions of this title or with any other title of the Tigard Municipal Code or Oregon Revised Statutes, the most restrictive or that imposing the highest standard shall govern. (Ord. 10-06 § 1, 2010). ■~~

Source Reference Table

This table identifies provisions copied or cross referenced in proposed Title 6

Current TMC Title 18 Number	Current TMC Title in 11.04	Title 6 Provision Location	New Provision Title in Proposed Title 6	Explanation of Revision	Page # in Title 6
18.230.020	Violation of Title Prohibited	6.02.100	Violation of Title Prohibited	Copied and modified existing text	10
TABLE 18.510-1, Footnote 6	Residential Zoning Districts - Uses	6.02.070	Livestock/Poultry	Copied and modified existing text	10
18.510.060	Accessory Structures	6.02.140	Accessory Structures	Cross reference existing text	10
18.725.030.F	Insects and Rodents	6.02.150	Insects and Rodents	Copied and modified existing text	10
18.730.050.C	Storage in Front Yards	6.02.170	Storage in Front Yards	Cross reference existing text	10
18.745.050.C	Fences and Walls	6.02.130	Fences and Walls	Cross reference existing text	10
18.780	Signs	6.02.160	Signs	General cross references to 18.780	10
18.780.015.A.48	Signs - Definitions	6.01.020.W	Sign (within Definitions)	Copied and modified existing text	5
18.795.030	Visual Clearance Requirements	6.02.120	Visual Clearance Requirements	Cross reference existing text	10
18.810.070.E	Maintenance - Sidewalks	6.02.330	Sidewalks, Curbs and Planter Strips	Copied and modified existing text	11

**Chapter 18.230
ENFORCEMENT**

Sections:

- 18.230.010 Provisions of this Title Declared to be Minimum Requirements**
- 18.230.020 Violation of Title Prohibited**
- 18.230.030 Penalty**
- 18.230.040 Complaints Regarding Violations**
- 18.230.050 Inspection and Right of Entry**
- 18.230.060 Abatement of Violations**
- 18.230.070 Stop-Order Hearing**

18.230.010 – No change

18.230.020 Violation of Title Prohibited

A. Violation of title prohibited. No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this title or any amendment thereto.

18.230.030 through 18.230.070 - No change

Chapter 18.510
RESIDENTIAL ZONING DISTRICTS

Sections:

18.510.010	Purpose
18.510.020	List of Zoning Districts
18.510.030	Uses
18.510.040	Minimum and Maximum Densities
18.510.050	Development Standards
18.510.060	Accessory Structures

18.510.030 **Uses**

A. Types of uses. For the purposes of this chapter, there are four kinds of use:

1. A permitted (P) use is a use which is permitted outright, but subject to all of the applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Chapter 18.230;
2. A restricted (R) use is permitted outright providing it is in compliance with special requirements, exceptions or restrictions;
3. A conditional use (C) is a use the approval of which is discretionary with the Hearings Officer. The approval process and criteria are set forth in Chapters 18.310 and 18.320. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 18.230;
4. A prohibited (N) use is one which is not permitted in a zoning district under any circumstances.

B. Use table. A list of permitted, restricted, conditional and prohibited uses in residential zones is presented in Table 18.510.1.

TABLE 18.510.1 (CON'T)

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
Motor Vehicle Sales/Rental	N	N	N	N	N	N	N	N
Motor Vehicle Servicing/Repair	N	N	N	N	N	N	N	N
Vehicle Fuel Sales	N	N	N	N	N	N	N	N
Office	N	N	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N	N	N
Non-Accessory Parking	N	N	N	N	N	C ¹⁰	C ¹⁰	C ¹⁰
INDUSTRIAL								
Industrial Services	N	N	N	N	N	N	N	N
Light Industrial	N	N	N	N	N	N	N	N
General Industrial	N	N	N	N	N	N	N	N
Heavy Industrial	N	N	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N	N	N
Research and Development	N	N	N	N	N	N	N	N
Warehouse/Freight Movement	N	N	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N	N
OTHER								
Agriculture/Horticulture	P ⁶	N	N	N				
Cemeteries	N	N	C	C	C	N	N	N
Detention Facilities	N	N	N	N	N	N	N	N
Heliports	N	N	N	N	N	N	N	N
Mining	N	N	N	N	N	N	N	N
Wireless Communication Facilities	P/R ⁷							
Rail Lines/Utility Corridors	C	C	C	C	C	C	C	C

P=Permitted

R=Restricted

C=Conditional Use

N=Not Permitted

¹Group living with five or fewer residents permitted by right; group living with six or more residents permitted as conditional use.

²Permitted subject to requirements Chapter 18.742.

³Permitted subject to compliance with requirements in 18.710.

⁴Except water and storm and sanitary sewers, which are allowed by right.

⁵In-home day care which meets all state requirements permitted by right; freestanding day care centers which meet all state requirements permitted conditionally.

⁶When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.

⁷See Chapter 18.798, Wireless Communication Facilities, for requirements for permitted and restricted facilities.

⁸Attached single-family units permitted only as part of an approved planned development.

⁹Permitted by right if no more than five units in a grouping; permitted conditionally if six or more units per grouping.

¹⁰Only park-and-ride and other transit-related facilities permitted conditionally.

¹¹Limited to ground-floor level of multi-family projects, not to exceed 10% of total gross square feet of the building.

¹²School bus parking is permitted on public high school sites as an accessory use if located a minimum of 200 feet from the nearest property line of any tax lot used for residential purposes. Maximum time limitation is three years. An extension to the time limit is possible through a major modification to the conditional use. (Ord. 07-05)

¹³Permitted as a conditional use on public school sites. (Ord. 10-15 § 1; Ord. 07-12)

18.510.060 Accessory Structures

A. Permitted uses. Accessory structures are permitted by right in all residential zones subject to the following:

1. Dimensional requirements:

- a. On sites containing less than 2.5 acres, an accessory structure may not exceed 528 square feet. On sites 2.5 acres or larger, an accessory structure may not exceed 1,000 square feet;
- b. An accessory structure may not exceed 15 feet in height;
- c. In no case shall the primary structure and accessory structure(s) exceed the maximum lot coverage allowed in the base zone;
- d. An accessory structure may not be located within the front yard setback;
- e. An accessory structure must maintain a minimum side and rear yard setback of five feet.

2. Non-dimensional requirements:

- a. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys and public and private easements;
- b. An accessory structure shall comply with all of the requirements of the State Building Code;
- c. An accessory structure which is nonconforming is subject to the provisions of Chapter 18.760, Nonconforming Situations, when an alternation, expansion or reconstruction is requested;
- d. The erection of television receiving dishes on the roof of a structure is not permitted in any residential zone.

3. All freestanding and detached towers, antennas, wind-generating devices and TV receiving dishes, except as otherwise regulated by Wireless Communication Facilities (Chapter 18.798), shall have setbacks equal to or greater than the height of the proposed structure. Suitable protective anti-climb fencing and a landscaped planting screen, in accordance with Chapter 18.745, Landscaping

and Screening, shall be provided and maintained around these structures and accessory attachments. (Ord. 09-13) ■

Chapter 18.725
ENVIRONMENTAL PERFORMANCE STANDARDS

Sections:

- 18.725.010 Purpose**
- 18.725.020 General Provisions**
- 18.725.030 Performance Standards**

18.725.030 Performance Standards

- A. Noise. For the purposes of noise regulation, the provisions of Sections ~~7.40.130 through 7.40.210~~ **6.02.410 through 6.02.470** of the Tigard Municipal Code shall apply.
- B. Visible emissions. Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point- source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.
- C. Vibration. No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.
- D. Odors. The emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.
- E. Glare and heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and;
 - 1. There shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and
 - 2. These regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.
- F. Insects and rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.■

Chapter 18.730
EXCEPTIONS TO DEVELOPMENT STANDARDS

Sections:

- 18.730.010 Purpose**
- 18.730.020 Exceptions to Building Height Limitations**
- 18.730.030 Zero Lot Line Setback Standards**
- 18.730.040 Additional Setback Requirements**
- 18.730.050 Miscellaneous Requirements and Exceptions**

18.730.050 Miscellaneous Requirements and Exceptions

C. Storage in front yard. Boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of 3/4 ton capacity may be stored in a required front yard in a residential zone subject to the following:

1. No such unit shall be parked in a visual clearance area of a corner lot or in the visual clearance area of a driveway which would obstruct vision from an adjacent driveway or street;
2. No such unit shall be used for dwelling purposes except that one camper, house trailer or recreational vehicle may be used for sleeping purposes only by friends, relatives or visitors on land entirely owned by or leased to the host person for a period not to exceed 14 days in one calendar year, provided that such unit shall not be connected to any utility, other than temporary electricity hookups and provided that the host person shall receive no compensation for such occupancy or use;
3. Any such unit parked in the front yard shall have current state license plates or registration and must be kept in mobile condition.

Chapter 18.780
SIGNS

Sections:

18.780.010	Purpose
18.780.012	Effective Date of this Chapter
18.780.015	Definitions
18.780.020	Permits Required
18.780.030	Permit Approval Process
18.780.040	Expiration of Approval: Standards for Extension of Time
18.780.050	Inspections
18.780.060	Permit Exemptions
18.780.070	Certain Signs Prohibited
18.780.080	Sign Illumination
18.780.085	Sign Measurement
18.780.090	Special Condition Signs
18.780.100	Temporary Signs
18.780.110	Nonconforming Signs
18.780.120	Sign Removal Provisions: Nonconforming and Abandoned Signs
18.780.130	Zoning District Regulations
18.780.140	Sign Code Adjustments

18.780.010 through 18.780.012 – No change

18.780.015.A.1 through 18.780.A.47 – No change

48. “Sign” means materials placed or constructed primarily to convey a message or other display and which can be viewed from a right-of-way, another property or from the air.

18.780.015.A.49 through 18.780.140 – No change

Chapter 18.780
SIGNS

Sections:

18.780.010	Purpose
18.780.012	Effective Date of this Chapter
18.780.015	Definitions
18.780.020	Permits Required
18.780.030	Permit Approval Process
18.780.040	Expiration of Approval: Standards for Extension of Time
18.780.050	Inspections
18.780.060	Permit Exemptions
18.780.070	Certain Signs Prohibited
18.780.080	Sign Illumination
18.780.085	Sign Measurement
18.780.090	Special Condition Signs
18.780.100	Temporary Signs
18.780.110	Nonconforming Signs
18.780.120	Sign Removal Provisions: Nonconforming and Abandoned Signs
18.780.130	Zoning District Regulations
18.780.140	Sign Code Adjustments

Section 18.780 is referenced in full by Section 6.02.160

Note: Section 18.780 is a large section of the code consisting of 24 pages, all of which are included in the reference in 6.02.160. Because of its size we have not reproduced all of 18.780 here.

Chapter 18.795
VISUAL CLEARANCE AREAS

Sections:

- 18.795.010 Purpose**
- 18.795.020 Applicability of Provisions**
- 18.795.030 Visual Clearance Requirements**
- 18.795.040 Computations**

18.795.030 Visual Clearance Requirements

- A. At corners. Except within the CBD zoning district a visual clearance area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad, or a driveway providing access to a public or private street.
- B. Obstructions prohibited. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure or temporary or permanent obstruction (except for an occasional utility pole or tree), exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street center line grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed.
- C. Additional topographical constraints. Where the crest of a hill or vertical curve conditions contribute to the obstruction of clear vision areas at a street or driveway intersection, hedges, plantings, fences, walls, wall structures and temporary or permanent obstructions shall be further reduced in height or eliminated to comply with the intent of the required clear vision area.

Chapter 18.810
STREET AND UTILITY IMPROVEMENT STANDARDS

Sections:

18.810.010	Purpose
18.810.020	General Provisions
18.810.030	Streets
18.810.040	Blocks
18.810.050	Easements
18.810.060	Lots
18.810.070	Sidewalks
18.810.080	Public Use Areas
18.810.090	Sanitary Sewers
18.810.100	Storm Drainage
18.810.110	Bikeways and Pedestrian Pathways
18.810.120	Utilities
18.810.130	Cash or Bond Required
18.810.140	Monuments
18.810.150	Installation Prerequisite
18.810.160	Installation Conformation
18.810.170	Plan Check
18.810.180	Notice to City
18.810.190	City Inspection
18.810.200	Engineer's Certification
18.810.210	Completion Requirements

18.810.070 Sidewalks

- A. Sidewalks. All industrial streets and private streets shall have sidewalks meeting City standards along at least one side of the street. All other streets shall have sidewalks meeting City standards along both sides of the street. A development may be approved if an adjoining street has sidewalks on the side adjoining the development, even if no sidewalk exists on the other side of the street
- B. Requirement of developers.
1. As part of any development proposal, or change in use resulting in an additional 1,000 vehicle trips or more per day, an applicant shall be required to identify direct, safe (1.25 x the straight line distance) pedestrian routes within 1/2 mile of their site to all transit facilities and Neighborhood Activity Centers (schools, parks, libraries, etc.). In addition, the developer may be required to participate in the removal of any gaps in the pedestrian system off-site if justified by the development.
 2. If there is an existing sidewalk, on the same side of the street as the development, within 300 feet of a development site in either direction, the sidewalk shall be extended from the site to meet the existing sidewalk, subject to rough proportionality (even if the sidewalk does not serve a neighborhood activity center).
- C. Planter strip requirements. A planter strip separation of at least five feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities, there are significant natural features (large trees, water features,

significant habitat areas, etc) that would be destroyed if the sidewalk were located as required, or where there are existing structures in close proximity to the street (15 feet or less). Additional consideration for exempting the planter strip requirement may be given on a case-by-case basis if a property abuts more than one street frontage.

D. Sidewalks in central business district. In the central business district, sidewalks shall be 10 feet in width, and:

1. All sidewalks shall provide a continuous unobstructed path; and
2. The width of curbside sidewalks shall be measured from the back of the curb.

E. Maintenance. Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.

F. Application for permit and inspection. If the construction of a sidewalk is not included in a performance bond of an approved subdivision or the performance bond has lapsed, then every person, firm or corporation desiring to construct sidewalks as provided by this chapter, shall, before entering upon the work or improvement, apply for a street opening permit to the Engineering Department to so build or construct:

1. An occupancy permit shall not be issued for a development until the provisions of this section are satisfied.
2. The City Engineer may issue a permit and certificate allowing temporary noncompliance with the provisions of this section to the owner, builder or contractor when, in his opinion, the construction of the sidewalk is impractical for one or more of the following reasons:
 - a. Sidewalk grades have not and cannot be established for the property in question within a reasonable length of time;
 - b. Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;
 - c. Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street; or
 - d. Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible; and
3. The City Engineer shall inspect the construction of sidewalks for compliance with the provision set forth in the standard specifications manual.

G. Council initiation of construction. In the event one or more of the following situations are found by the Council to exist, the Council may adopt a resolution to initiate construction of a sidewalk in accordance with City ordinances:

1. A safety hazard exists for children walking to or from school and sidewalks are necessary to eliminate the hazard;

2. A safety hazard exists for pedestrians walking to or from a public building, commercial area, place of assembly or other general pedestrian traffic, and sidewalks are necessary to eliminate the hazard;
3. 50% or more of the area in a given block has been improved by the construction of dwellings, multiple dwellings, commercial buildings or public buildings and/or parks; and
4. A criteria which allowed noncompliance under Subsection E.1.b above no longer exists and a sidewalk could be constructed in conformance with City standards. (Ord. 06-20; Ord. 02-33; Ord. 99-22)

