

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 12-02

AN ORDINANCE ADDING TITLE 6, NUISANCE VIOLATIONS, TO THE TIGARD MUNICIPAL CODE, AMENDING TITLES 2, 7, 15 AND 18, AND DELETING CHAPTERS 7.40 AND 7.61.

WHEREAS, nuisance violations of the Tigard Municipal Code (TMC) currently appear in five titles of the TMC; and

WHEREAS, for convenient reference by the public and by city staff, the city desires to consolidate nuisance citations into one title in the TMC; and

WHEREAS, the City Council wishes to clarify and modernize the text of various citations and provisions; and

WHEREAS, the City Council desires existing sections of the TMC that refer to sections of Title 6 to be consistent with the new text.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

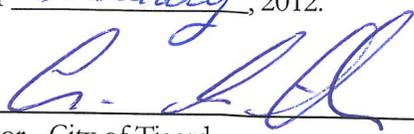
- SECTION 1: Title 6, Nuisance Violations, as shown in Exhibit A, is added to the Tigard Municipal Code.
- SECTION 2: The Tigard Municipal Code is amended as follows: Title 7 Table of Contents as shown in Exhibit B-1, Chapter 7.40 as shown in Exhibit B-2 and Chapter 7.61 as shown in Exhibit B-3; text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.
- SECTION 3: Cross-references in the Tigard Municipal Code are amended as follows: Chapter 2.52 as shown in Exhibit C-1, Chapter 7.58 as shown in Exhibit C-2, Chapter 7.80 as shown in Exhibit C-3, Chapter 15.16 as shown in Exhibit C-4 and Chapter 18.725 as shown in Exhibit C-5; text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.
- SECTION 4: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By unanimous vote of all council members present after being read by number and title only, this 28th day of February, 2012.



City Recorder

APPROVED: By Tigard City Council this 28th day of February, 2012.



Mayor - City of Tigard

**Title 6:
NUISANCE VIOLATIONS**

Sections:

**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**

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

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- 6.02.010 Common Nuisances**
- 6.02.020 Noxious Vegetation**
- 6.02.030 Trees and Bushes**
- 6.02.040 Greenway Maintenance**
- 6.02.050 Attractive Nuisances**
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- 6.02.070 Livestock/Poultry**

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PROPERTY IN THE RIGHT OF WAY

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- 6.03.020 Abandoned Personal Property in the Right of Way
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- 6.03.040 Notice Requirements
- 6.03.050 Exemption from Notice Requirements
- 6.03.060 Reclamation of Confiscated Personal Property and Signs
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Chapter 6.01

GENERAL PROVISIONS AND PENALTIES

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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 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.

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

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

2. 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 his designee.

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 want of proper repairs, 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;

4. A structure in such

weak, weakened, dilapidated or deteriorated condition as to endanger any person or property due to a probability of partial or entire collapse.

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, without authorization from the responsible party for the property.

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 responsible party for the property 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 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” means:

1. Weeds more than 10 inches high;
2. Grass more than 10 inches high and not within the exception stated in paragraph 9 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. Any of the following invasive and noxious plants: *Hedera helix* L. (english ivy), *Heracleum mantegazzianum* (giant hogweed), *Lythrum salicaria* L. (purple loosestrife), *Polygonum cuspidatum* (Japanese knotweed), *Rubus discolor* (Himalayan blackberry.)

9. "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 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, including 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,
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, or

5. A foreclosure or bankruptcy trustee.

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. 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 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 Title

A. A violation of this title shall constitute a Class 1 Civil Infraction, which shall be processed according to 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 title 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. Penalties imposed by this title 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 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 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 any 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.

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

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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 or 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 responsible party shall allow noxious vegetation as defined in 6.01.020.L.1 through 6.01.020.L.7 to be on the property or in the right of way abutting the property.

B. The responsible party for a violation of 6.02.020.A 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.

C. No responsible party shall plant or allow to be planted on their property noxious vegetation as defined in 6.01.020.L.8.

D. The responsible party for a violation of 6.02.020.C shall remove or otherwise destroy the subject invasive and noxious plants.

6.02.030 Trees and Bushes

A. No responsible party shall permit 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. A responsible party shall keep the branches of all trees or bushes on the premises that adjoin the right of way, including an adjoining parking 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 - 6.02.050, 6.02.210 - 6.02.230, and 6.02.310, the standards for maintenance shall be as follows:

1. 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, upon any real or personal property, such as buildings, fences and structures, 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.

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 the Community Development Code (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 (Title 18) 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 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 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 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

A 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 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.

6.02.330 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 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.

6.02.420 Sound Measurement

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

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

2. 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 a sound level meter, and shall use measurement procedures consistent with that training.

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 10 p.m. and 7 a.m. the following day; or

2. 50 dB at any time between 7 a.m. and 10 p.m. the same day; or

B. Is plainly audible at any time between 10 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 10 p.m. and 7 a.m. of the following day; or

2. 75 dB at any other time.

E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet.

6.02.440 Prohibited Noises

A. 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 article if they exceed the noise limits specified in Section 6.02.430:

1. 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. 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. Operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades;

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

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

7. 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. 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.

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 8 p.m. seven days a week;

F. Sounds caused by industrial, agricultural or construction activities during the hours of 7 a.m. to 8 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, leaf blowers, 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 8 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 7 a.m. and 8

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.

6.02.460 Maximum Noise Limit for Certain Activities

Notwithstanding Section 6.02.450, 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.

6.02.470 Evidence of Noise Violation

A. In any civil infraction action based on a violation of 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.

Article VI. Water Service and Meters

6.02.510 Service Connection and Maintenance

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 any 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. Any costs incurred by the city in clearing the area will be charged to the customer.

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

B. A 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 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 responsible party for 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 responsible party for 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.

2. If the identity and mailing address of the responsible party for 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 responsible party 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 - 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 - 6.03.060.

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 period.

D. In lieu of disposal of confiscated personal property under this section, at any time the city is authorized to sell or auction any 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 responsible party for confiscated personal property or a sign may request a hearing to contest the validity of 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 responsible party 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 responsible party for 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 a city officer, official or employee, but may not have participated in any determination or investigation related to confiscation of the personal property or sign. The city manager may promulgate rules for conducting hearings.

4. A responsible party 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 responsible party 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 property or sign to the responsible party for the item(s), if still in possession of the city, and/or;

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

c. The responsible party 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.

8. If the city finds after a hearing that 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 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. Determination of the hearings officer at a hearing is final and not subject to appeal.

6.03.090 Exemption for Criminal Investigation

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

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

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~~Chapter 7.40 NUISANCES.~~

~~ARTICLE I. GENERAL PROVISIONS~~

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~~7.40.030 Nuisances Designated Class
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~~ARTICLE II. PUBLIC HEALTH
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~~ARTICLE IV. NUISANCES AFFECTING
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~~7.40.130 Prohibition On Excessive
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~~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.~~

~~— 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 insanitary 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;~~

~~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
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 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.~~

~~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, 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.

~~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, 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 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).■~~

~~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.~~

~~— 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).~~

~~**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 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 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.~~

~~_____ 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). ■~~

**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).■

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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

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

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) ■

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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.■

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