

# TIGARD MUNICIPAL CODE

## Chapter 6.01 GENERAL PROVISIONS AND PENALTIES

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### 6.01.010 Short Title

The ordinance codified in this title shall be known as the “nuisance ordinance,” and may also be referred to herein as “this title.” (Ord. 12-02 §1)

### 6.01.020 Definitions

As used in this title:

A. “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.

B. “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.

C. “City manager” means the city manager or 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;

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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. “Inoperable vehicle” means any vehicle which does not display a current state vehicle license or tags, which cannot be moved without being either repaired or dismantled, or which is no longer safely usable for the purposes for which it was manufactured.

K. “Junk” means items that have no apparent utility or are in an unsanitary condition.

L. “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.

M. “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. Vegetation that is 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.

N. “Occupant” means any person, tenant, sub-lessee, successor or assignee that has control over property.

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O. "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.

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

Q. "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.

R. "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.

S. "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.

T. "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.

U. "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.

V. "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.

W. "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.

X. "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

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or other thing designed, intended or used to advertise or inform.

Y. “Unauthorized” means without consent of the owner, occupant or responsible party.

Z. “Unnecessarily loud” means any sound that interferes with normal spoken communication or that disturbs sleep.

AA. “Violation” means failure to comply with a requirement imposed directly or indirectly by this title and may also mean civil infraction or infraction. (Ord. 18-11 §1; Ord. 12-11 §1; Ord. 12-02 §1)

## **6.01.030 Nuisances Designated—Class 1 Civil 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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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 Section 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. (Ord. 12-02 §1)

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## **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. (Ord. 12-02 §1) ■