

# TIGARD MUNICIPAL CODE

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

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#### 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.

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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 unsanitary 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. (Ord. 12-02 §1)

## **6.02.020 Noxious Vegetation**

A. No responsible party shall allow noxious vegetation as defined in Sections 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 subsection A of this section 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 Section 6.01.020.L.8.

D. The responsible party for a violation of subsection C of this section shall remove or otherwise destroy the subject invasive and noxious plants. (Ord. 12-02 §1)

## **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 13 feet above a street.

C. No responsible party shall allow to stand any hazard tree as defined in Chapter 8.02. (Ord. 12-11 §1; Ord. 12-02 §1)

## **6.02.040 Greenway Maintenance**

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

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

1. Land shall remain in its natural topographic condition. No private structures,

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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. 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. (Ord. 12-11 §1; Ord. 12-02 §1)

## **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 30 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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **6.02.070 Livestock/Poultry**

(Repealed by Ord. 18-04)

## **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. (Ord. 12-02 §1)

### **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

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declared to be a public nuisance in violation of this title. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **6.02.160 Signs**

Constructing, placing or maintaining a sign in violation of provisions of Chapter 18.780 is declared to be a public nuisance in violation of this title. (Ord. 12-02 §1)

## **6.02.170 Storage in Front Yards**

Storage of boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of 3/4 ton capacity

may be stored in a required front yard in a residential zone subject to the following:

A. No such unit shall be parked in a visual clearance area of a corner lot or in the visual clearance area of a driveway which would obstruct vision from an adjacent driveway or street.

B. No such unit shall be used for dwelling purposes except that one camper, house trailer or recreational vehicle may be used for sleeping purposes by friends, relatives or visitors on land entirely owned by or leased to the host person for a period not to exceed 14 days in one calendar year; provided that such unit shall not be connected to any utility, other than temporary electricity hookups, and provided that the host person shall receive no compensation for such occupancy or use.

C. Any such unit parked in the front yard shall have current state license plates or registration and must be kept in mobile condition. (Ord. 17-23 §1; Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

### **6.02.220 Open Storage of Junk**

No person or responsible party shall deposit, store, maintain or keep on any real property,

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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;

B. Inoperable or partially dismantled automobiles, trucks, buses, trailers or other vehicle equipment or parts thereof in a state of disrepair;

C. Used or dismantled household appliances, furniture, other discards or junk, for more than five days. (Ord. 18-12 §1; Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

### **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. (Ord. 12-02 §1)

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## **6.02.330 Sidewalks, Curbs and Planter Strips**

Maintenance of sidewalks, curbs and planter strips is the continuing obligation of the adjacent property owner. (Ord. 12-02 §1)

## **6.02.340 Encroachments into Public Rights-of-Way, Easements and Public Property**

Except as provided in Section 15.16.010.A.2, 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. (Ord. 12-02 §1)

### **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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1)

## **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, the noise level exceeds:

1. 60 dB at any time between 10 p.m. and 7 a.m. of the following day, or

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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. (Ord. 12-02 §1)

## **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 6.02.430;

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. (Ord. 12-02 §1)

## **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;

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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 1st of each year;

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

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

The city manager may approve a noise mitigation plan only if the city manager determines that the noise mitigation plan will prevent unreasonable noise impacts. (Ord. 12-02 §1)

## **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 subsection E, F, H, or I of Section 6.02.450, in excess of 85 dB measured on property on which a noise sensitive use is located,

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for more than five minutes in any calendar day, shall be a violation. (Ord. 12-02 §1)

## **6.02.470 Evidence of Noise Violation**

A. In any civil infraction action based on a violation of limits set forth in subsection B, C or E of Section 6.02.430, 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. (Ord. 12-02 §1)

## **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. (Ord. 12-02 §1) ■