

TIGARD MUNICIPAL CODE

Chapter 6.03 PROPERTY IN THE RIGHT-OF-WAY

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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. (Ord. 12-02 §1)

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. (Ord. 12-02 §1)

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. (Ord. 12-02 §1)

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 of this section 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;

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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 of this section may contain multiple listings of confiscated signs. (Ord. 12-02 §1)

6.03.050 Exemption from Notice Requirements

A. The city manager may exempt certain signs from the notice requirements of Section 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. (Ord. 12-02 §1)

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 Section 1.16.640.A.2 and to additionally recover all costs associated with the confiscated item. (Ord. 12-02 §1)

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 Sections 6.03.040 through 6.03.060.

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

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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. 12-02 §1)

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 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

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

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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. (Ord. 12-02 §1)

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. (Ord. 12-02 §1) ■