

Chapter 6-1

Proscribing General Offenses And Providing Penalties

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6-1-010 Title.

This ordinance shall be referred to as the "Offenses Ordinance of the City of Tualatin" and may be referred to herein as "this ordinance." [Ord. 706-86 §1, Sept. 22, 1986.]

6-1-020 Application of the Oregon Criminal Code.

Except as otherwise provided, the provisions of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, relating to offenses, burden of proof, gen-

eral principles of criminal liability, definitions, attempts, conspiracy, defenses, parties, process, general principles of justification, classification of offenses and penalties apply to offenses defined and made punishable by the offenses ordinances of the City of Tualatin. Criminal conduct as defined in this ordinance which occurs in conjunction with or as part of an episode otherwise involving a civil infraction may be prosecuted in a single proceeding in Municipal Court.

The provisions of this ordinance shall apply to all acts or conditions existing or occurring on or after the effective date of this ordinance. It is intended that the adoption of this ordinance shall have no effect on the prosecution or enforcement of any offense, violation or crime committed or made punishable under the laws existing prior to the effective date of this ordinance. Conditions which arose or acts which occurred prior to the effective date of this ordinance, for which no complaint or other official action has been filed shall be enforced pursuant to the provisions of this ordinance.

ORS 164.115, relating to proof of value for certain offenses as enacted by the Oregon Legislature of 1987 under Chapter 907, Section 6, is adopted and incorporated by reference.

ORS 161.565 as enacted by the Oregon Legislature of 1987, Oregon Laws Chapter 783, is adopted and incorporated by reference, except where reference in ORS 161.565 is made to "district attorney," the provision shall instead mean the City Attorney or City Prosecutor.

The provisions of Chapter 2 of the Oregon Laws 1987, Sections 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 17, and 18 relating to the rights of crime victims are by this reference incorporated herein.

The provisions concerning the crime of telephone harassment, as enacted by the Oregon Legislature of 1987, Oregon Laws Chapter 806, are adopted and incorporated by reference.

[Ord. 706-86 §2, Sept. 22, 1986; Ord. 733-87 §§5, 7, 8, 9 Sept. 28, 1987.]

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6-1-030 Definitions.

Except where the context clearly indicates a different meaning, the definitions appearing in the definitional and other sections of particular chapters of the Oregon Criminal Code of 1971 as constituted on date this ordinance takes effect are applicable to this ordinance. Abbreviated reference to the Oregon Revised Statutes is "ORS." [Ord. 706-86 §3, Sept. 22, 1986.]

6-1-040 Obstructing Governmental Administration.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 162.075 False swearing
- (2) ORS 162.085 Unsworn falsification
- (3) ORS 162.145 Escape
- (4) ORS 162.195 Failure to appear
 - (a) the underlying offense, alleged against the person may be a misdemeanor, violation or civil infraction.
- (5) ORS 162.235 Obstructing governmental administration
- (6) ORS 162.295 Tampering with physical evidence
- (7) ORS 162.305 Tampering with public records
- (8) ORS 162.315 Resisting arrest
- (9) ORS 162.355 Simulating legal process
- (10) ORS 162.365 Criminal impersonation
- (11) ORS 162.375 Initiating a false report
- (12) ORS 162.385 Giving false information to police officer for a citation
- (13) ORS 133.075 Failure to appear on citation. (Ord. 830-91, §1; April 22, 1991.)

6-1-050 Offenses Against Persons.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 163.160 Assault in the fourth degree

(2) ORS 163.208 Assaulting a public safety officer

(3) ORS 163.190 Menacing

(4) ORS 163.195 Recklessly endangering another person

(5) ORS 163.200 Criminal mistreatment in the second degree

(6) ORS 163.465 Public indecency

(7) ORS 163.545 Child neglect

(8) ORS 163.575 Endangering the welfare of a minor [Ord. 706-86 §5, Sept. 22, 1986.]

6-1-060 Theft; Trespass.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 164.045 Theft in the second degree
- (2) ORS 164.065 Theft of lost, mislaid property
- (3) ORS 164.085 Theft by deception
- (4) ORS 164.095 Theft by receiving
- (5) ORS 164.125 Theft of services
- (6) ORS 164.235 Possession of burglar's tools
- (7) ORS 164.243 Criminal trespass in the second degree by a guest
- (8) ORS 164.245 Criminal trespass in the second degree
- (9) ORS 164.255 Criminal trespass in the first degree
- (10) ORS 164.265 Criminal trespass while in possession of firearms
- (11) ORS 164.043 Theft in the third degree
- (12) ORS 164.140 Criminal possession of rented or leased personal property. [Ord. 706-86 §6, Sept. 22, 1986; Ord. 733-87, §3, Sept. 28, 1987, adopted and incorporated by reference the provisions as enacted by the Oregon Legislature of 1987, Oregon Laws Chapter 907, §2, 3, 8, 9.]

6-1-070 Offenses Against Property.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted

and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 164.335 Reckless burning
- (2) ORS 164.345 Criminal mischief in the third degree
- (3) ORS 164.354 Criminal mischief in the second degree
- (4) ORS 164.755 (1), (2), (3) and (6) Deposit of trash within 100 yards of waters or in waters

(a) For the purposes of this subsection and subsection (5), waters shall include any of the following: the Tualatin River, the Oswego Canal, Hedges Creek, Nyberg Creek, Saum Creek, or the Wetlands Protection Area, as defined in the Tualatin Development Code.

- (5) ORS 164.785(1), (2), (3) and (4) Offensive substances in waters, on highways or other property prohibited
- (6) ORS 164.805 Offensive littering

[Ord. 706-86 §7, Sept. 22, 1986.]

6-1-080 Offenses Involving Fraud, Deception, or Communication.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 165.007 Forgery in the second degree
- (2) ORS 165.047 Unlawfully using slugs
- (3) ORS 165.055 Fraudulent use of a credit card
- (4) ORS 165.065 Negotiating a bad check
- (5) ORS 165.805 Misrepresentation of age by a minor

[Ord. 706-86 §8, Sept. 22, 1986; Ord. 733-87, §4, September 28, 1987, adopted and incorporated by reference the definitions, delineations, and elements as enacted by the Oregon Legislature of 1987, Oregon Laws Chapter 907, §11.]

6-1-090 Offenses Against Public Order, Firearms, Animals.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 166.025 Disorderly conduct
- (2) ORS 166.065 Harassment
- (3) ORS 166.075 Abuse of venerated objects
- (4) ORS 166.095 Misconduct with emergency telephone calls
- (5) ORS 166.240 Carrying of concealed weapons
- (6) ORS 166.250 Unlawful possession of weapons
- (7) ORS 166.370 Possession of destructive device or firearm in a public building; exceptions
- (8) ORS 167.315 Animal abuse in the second degree
- (9) ORS 167.320 Animal abuse in the first degree
- (10) ORS 167.325 Animal neglect in the second degree
- (11) ORS 167.330 Animal neglect in the first degree
- (12) ORS 167.355 Involvement in animal fighting
- (13) ORS 166.270(2) Felon in possession of a restricted weapon. (Ord. 830-91, §2; April 22, 1991.)

6-1-100 Controlled Substances and Alcohol.

The following sections of the Oregon Criminal Code of 1971, as constituted on the date this ordinance takes effect, are adopted and incorporated by reference in the offenses ordinance of the City of Tualatin.

- (1) ORS 475.005 Definitions
- (2) ORS 471.410 Furnishing of liquor to persons under 21 year of age or to intoxicated person; mandatory minimum penalties
- (3) ORS 471.430 Purchase or possession of liquor by person under 21 years of age
- (4) ORS 475.992 Prohibited Acts involving controlled substances (1)(d), (1)(e), (2)(b), (4)(c), (4)(d), (4)(e) and (4)(f)
- (5) ORS 475.995 Penalties for distribution of controlled substances to minors, sections (3) and (4)
- (6) ORS 167.222 Frequenting a place where controlled substances are used

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(7) ORS 475.999(1)(6) Delivery of less than five grams of marijuana in a public place within 1,000 feet of a school attended primarily by minors to a person 18 years or older

(8) ORS 475.999(2) Possession of less than one ounce of marijuana in a public place within 1,000 feet of a school attended primarily by minor. [[Ord. 706-86 §7, Sept. 22, 1986; Ord. 845-91, §1, October 14, 1991.]

6-1-110 Interfering with a Peace Officer.

(1) A person commits the crime of interfering with a peace officer if such person refuses to leave the area of an arrest, custody or stop, or, having left that area, to reenter it, after being directed to leave that area by an individual whom the person knows to be a peace officer.

(2) For the purpose of the crime of interfering with a peace officer, the following definitions shall apply:

(a) Arrest means to place a person under actual or constructive restraint for the purpose of charging such person with an offense.

(b) Custody means to place a person under actual or constructive restraint pursuant to a court order or for other lawful purposes.

(c) Peace officer means any member of the Oregon State Police, a sheriff or deputy sheriff and a city police officer.

(d) Stop means a lawful temporary restraint of a person's liberty, by a peace officer

(i) when such officer reasonably suspects that such person is committing, or has committed, an offense,

(ii) when such officer reasonably believes that such person is in need of attention pursuant to ORS 426.215 or ORS 426.460, or

(iii) when such officer reasonably believes that such person is the subject of service of a warrant or court order.

(e) To leave the area of an arrest, custody or stop means to physically move to a location not less than ten (10) feet extending in a radius from where a peace officer is engaged in effecting an arrest, taking a person into custody, or stopping a person; the radius may be extended beyond ten (10) feet when a peace officer rea-

sonably believes that such extension is necessary because there exists a substantial risk of physical injury to any person. [Ord. 706-86 §11, Sept. 22, 1986.]

6-1-120 Obeying Peace Officer at Assembly.

(1) At any assembly of five or more persons, when there is reasonable cause to believe that a disturbance of the peace or a danger to public safety is imminent if the assembly continues, a peace officer may order persons present at the assembly to abandon any weapons, to disperse, or both, if the officer finds that two or more persons present:

(a) Are threatening bodily harm to another or damage to property with immediate power to carry out that threat, or

(b) Have committed an unlawful act of violence during the course of assembly.

(2) It is unlawful for any person present at the scene of an assembly of five or more persons to disobey an order of a peace officer authorized by this section. [Ord. 706-86 §12, Sept. 22, 1986; Ord. 733-87, §6, Sept. 28, 1987.]

6-1-130 Violating the Privacy of Another.

No person other than a peace officer performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling not his own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person. [Ord. 706-86 §13, Sept. 22, 1986.]

6-1-140 Discharge of Weapons.

Except at firing ranges approved by the Council, no person other than a peace officer shall fire or discharge a gun, including spring or air-actuated pellet guns, air guns or BB guns, or other weapon which propels a projectile by use of gun-powder or other explosive, jet or rocket propulsion. The provisions of this section shall

not be construed to prohibit the firing or discharging of a weapon by a person in the defense or protection of his property, person or family. [Ord. 706-86 §14, Sept. 22, 1986.]

6-1-150 False Information; False Certification.

(1) No person shall knowingly make or file with the police department or with the City attorney or a police officer engaged in his official duties a false, misleading or unfounded statement or report concerning the violation or alleged violation of a City ordinance or the commission or alleged commission of a crime.

(2) No person shall, in connection with the issuance of civil infraction citation ("Uniform Citation and Complaint") or filing of a complaint, knowingly certify falsely to the matter set forth in the citation or complaint. [Ord. 706-86 §15, Sept. 22, 1986.]

6-1-160 Removing Public Notices.

No person shall knowingly deface, alter or tear down any official notice or bulletin. [Ord. 706-86 §16, Sept. 22, 1986.]

6-1-170 Tampering with Public Property.

No person shall knowingly tamper with, injure, deface, destroy or remove any marker, fire alarm box, fire hydrant, topographic survey monument, motor vehicle sign, signs regulating parking, motor vehicle directional control devices or any other personal property or fixture erected or maintained by or at the direction of the City, county, or the State of Oregon. [Ord. 706-86 §17, Sept. 22, 1986.]

6-1-180 Police and Fire Communications.

No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of any police or fire department radio communication system. [Ord. 706-86 §18, Sept. 22, 1986.]

6-1-190 Posted Notices.

No person shall affix a placard, bill or poster upon personal or real property, private or pub-

lic, without first obtaining permission from the owner thereof or from the proper public authority. [Ord. 706-86 §19, Sept. 22, 1986.]

6-1-200 Disorderly Conduct at Fires.

(1) No person at or near a fire shall obstruct or impede the fighting of the fire, interfere with fire department personnel or fire department apparatus, behave in a disorderly manner, or refuse to observe promptly an order of a member of the fire or police department.

(2) For purposes of this section, members of the fire department are endowed with the same power of arrest as are conferred upon peace officers for violations of City ordinances. [Ord. 706-86 §20, Sept. 22, 1986.]

6-1-210 Other Offenses as Civil Infractions.

The following offenses constitute civil infractions:

(1) Begging. No person shall accost or detain another in a public place for the purpose of soliciting alms.

(2) Lodging. No person shall lodge in a car, outbuilding or other place not intended for that purpose without permission of the owner or person entitled to the possession thereof.

(3) Horses on Sidewalks and Bike Paths.

(a) No person shall ride, walk, lead or allow a horse to be on a sidewalk or bike path.

(b) A penalty imposed for the violation of this section shall not exceed \$50.00.

(4) Unnecessary Noise. No person shall create, assist in creating or permit the continuance of unreasonable noise in the City of Tualatin. "Unreasonable noise" includes but is not limited to:

(a) Keeping an animal which by loud and frequent or continued noise disturbs the comfort and repose of persons in the vicinity.

(b) Construction, including excavation, demolition, alteration or repair, of a building other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the City.

(c) Playing, using or operating a radio, tape player, compact disc player, phonograph,

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television set, stereo system, loudspeaker or sound-amplifying device, including those installed in a vehicle, in such a manner as to be plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day, local time:

(i) from a noise-sensitive property as defined in the Tualatin Development Code; or

(ii) at a distance of 100 feet or more from the source of the sound. However, upon application to the Council, permits may be granted to persons or organizations to broadcast programs of music, news, speeches or general entertainment.

(d) Using compression brakes, commonly referred to as "jake brakes", on a motor vehicle, except to avoid imminent danger to persons or property.

(e) Playing outdoor sports in or near a noise-sensitive property between the hours of 10:00 p.m. and 7:00 a.m. the following day, except for school-sanctioned outdoor sports events at school facilities.

(f) Repairing motor vehicles in or near a noise-sensitive property between the hours of 10:00 p.m. and 7:00 a.m. the following day.

(6) Dumping Garbage. No person shall knowingly deposit or cause to be deposited any trash, refuse, garbage, grass clippings, yard debris, or any form of solid waste, as defined in Ordinance 698-86 onto the property of another without the approval of the owner of such property, or upon any public right-of-way.

(7) Public Nudity Display.

(a) No person shall knowingly and publicly display their person in such a manner that it becomes nudity display.

(b) "Nudity" means uncovered or less than opaquely covered adult, human genitals or pubic areas, the adult human female breast, or the covered human male genitals in a discernibly turgid state.

(c) "Publicly" means in a public place or in view of a public place.

(d) This subsection shall not be applied to conduct which taken as whole has serious

educational, artistic, dramatic, political or scientific value.

(8) Except as otherwise allowed by ORS 471.430, it is unlawful and a civil infraction for a person who owns or controls premises to knowingly or negligently allow a person on such premises to violate ORS 471.430. For purposes of this subsection in multiple family residential structures, premises means the individual living unit or apartment. For purposes of this subsection a person negligently allows violation if in the exercise of reasonable diligence the person should have known that a violation of ORS 471.430 would occur. [Ord. 706-86 §21, Sept. 22, 1986; Ord. 836-91, §§ 1 & 2, July 8, 1991; Ord. 925-94, §1, May 9, 1994; Ord. 1074-01 §1, May 29, 2001; Ord. 1074-01, Amended, 05/29/2001; Ord. 1074-01, Amended, 03/29/2001.]

6-1-220 Fireworks.

The following sections of Oregon Revised Statutes as constituted on the date this ordinance takes effect are adopted and incorporated by reference and the violation of which are declared civil infractions.

(1) The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this ordinance: ORS 480.110, 480.120, 480.130, 480.140(1), and 480.150 and 480.170. Violation of these provisions are declared civil infractions. [Ord. 706-86 §22, Sept. 22, 1986.]

6-1-230 Offenses Outside City Limits.

Where permitted by Oregon law, an act made unlawful by this ordinance shall constitute an offense when committed on any property owned or leased by the City, even though outside the corporate limits of the City. [Ord. 706-86 §23, Sept. 22, 1986.]

6-1-240 Penalties.

(1) Where particular offenses, defined in the Oregon Criminal Code of 1971 as incorporated herein, are referred to and specifically incorporated in this ordinance and such crimes are differentiated as to degree, that is Class A,

B, or C "misdemeanor" or "violation," then the maximum penalties corresponding thereto under state law are hereby incorporated herein as maximum penalties for violations of corresponding provisions of this ordinance.

(2) Unless an offense is defined and made punishable as a civil infraction or unless otherwise provided, a violation of this ordinance is punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or imprisonment not to exceed thirty (30) days, or by both fine and imprisonment. [Ord. 706-86 §24, Sept. 22, 1986.]

6-1-250 **Saving Clause.** [Ord. 706-86 §28, Sept. 22, 1986.]

6-1-260 **Severability Clause.** [Ord. 706-86 §29, Sept. 22, 1986.]

6-1-270 **Editorial Authority.** [Ord. 706-86 §30, Sept. 22, 1986.]