

ORDINANCE NO. 1410-18

AN ORDINANCE RELATING TO LIBRARY RULES; AMENDING TUALATIN MUNICIPAL CODE CHAPTER 5-1 AND TUALATIN MUNICIPAL CODE SECTION 5-10-010; AND ADDING NEW PROVISIONS.

WHEREAS, the City of Tualatin currently has library rules adopted by ordinance and codified in Tualatin Municipal Code (TMC) Chapter 5-1;

WHEREAS, the Council finds it is more efficient and effective to have Library Rules adopted by administrative rule by the City Manager, or City Manager's designee; and

WHEREAS, the City finds it is in the public interest to enact the changes to the Tualatin Municipal Code as set forth in this Ordinance.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TMC 5-1-020 is deleted in its entirety.

Section 2. TMC 5-1-010 (Policy) is amended as follows:

5-1-010 Policy.

The City of Tualatin may improve, operate and maintain the Library and other related premises in a manner that will best afford the public with necessary and convenient use. In order to protect such areas, protect the health, safety, and well-being of the public, and insure the greatest use and enjoyment for all Library users of the benefits from such facilities, it is necessary to adopt rules, regulations, and enforcement provisions as the City Council deems necessary provided in this Chapter.

Section 3. TMC 5-1-030 (Definitions) is amended to read as follows:

5-1-030 Definitions.

~~Unless the context clearly indicates a different meaning, the following terms shall be defined as follows~~ The words and phrases have the following meanings:

- ~~(1) "City Manager" means the City Manager or the City Manager's designee. "Adult" means a person who is 18 years or older.~~
- ~~(2) "Assault" has the meaning provided in ORS 163.160 through 163.185.~~
- ~~(3) "Attended" means a parent, guardian, or designated and responsible adult is at all times, while in the Library, within 12 feet of his or her child who is five years or younger.~~
- ~~(4) "Controlled substance" has the meaning provided in ORS 167.203.~~
- ~~(5) "Council" means the Tualatin City Council.~~

~~(6) "Criminal negligence" means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. Where the definition of an offense prescribes criminal negligence as the culpable mental state, it is also established if a person acts intentionally or knowingly.~~

~~(7) "Disabled person" means a person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment, and not otherwise disqualified under the Americans with Disabilities Act.~~

~~(8) "Disorderly conduct" has the meaning provided in ORS 166.025.~~

~~(9) "Fee" means a monetary charge imposed by the Library for specific items, such as the replacement of lost materials.~~

~~(10) "Fine" means a monetary charge imposed by the Library upon a patron for overdue materials.~~

~~(11) "Harassment" has the meaning provided in ORS 166.065.~~

~~(12) (2) "Library" includes means the City's public library, related offices, lobby, restrooms, and entryways, and plaza.~~

~~(13) "Library Manager" or "Manager" means the individual designated by the City Manager to be in charge of the City of Tualatin Library or the person designated by the Manager to perform some or all of the functions of that position.~~

~~(14) (3) "Library employee" means a regular employee or temporary employee of the City who has been assigned to the Library Department.~~

~~(4) "Library Rules" means the administrative rules adopted by the City to govern the use of the library and library materials, as provided by this Chapter.~~

~~(15) "Library materials" or "materials" means books and other items which may be borrowed from the Library, whether owned by the Tualatin Library or another library, so long as they are borrowed from or disbursed by the Tualatin Library.~~

~~(16) "Lost item" means an item which has been overdue for 45 days or longer, or which upon return to the Library is in an unusable condition.~~

~~(17) "Mischief" has the meaning provided in ORS 164.345, 166.354 and 166.365.~~

~~(18) "Renew" means, with respect to a library card, the biannual reinstatement of library privileges.~~

~~(19) "Supervised" means a parent, guardian or designated and responsible adult is on the Library premises and accompanying his or her child who is over five and less than eight years old, and monitoring such child's behavior, but are not necessarily located within 12 feet of the child.~~

~~(20) "Theft" has the meaning provided in ORS 164.015.~~

~~(21) "Washington County Cooperative Library Services" or "WCCLS" means the administrative agency for Washington County and county-wide library services. For purposes of this ordinance, any act taken by the in its official capacity shall be considered as having been taken by the WCCLS. [Ord. 883-92 §3, 12/14/92; Ord. 1275-09§2, 1/26/09]~~

Section 4. TMC 5-1-040 (General Rules and Regulations) is deleted and replaced with the following:

5-1-040 Administrative Rulemaking Authority. The City Manager is authorized to issue administrative rules, known as Library Rules, to govern the use of the library and library materials, consistent with the procedures of this Chapter.

Section 5. TMC 5-1-050 (Specific Library Rules) is deleted and replaced with the following:

5-1-050 Notice of Administrative Rulemaking.

(1) Prior to the adoption, amendment, or repeal of an administrative rule, the City Manager must:

(a) give public notice of the proposed rule, including:

(i) Posting copies of the proposed rule on the City's website; and

(ii) Posting copies of the proposed rule in a conspicuous location in the Library;

(b) provide copies of the proposed rule to interested persons; and

(c) submit copies of the proposed rule to the Library Advisory Committee.

(2) In addition to the draft language of the rule considered to be adopted, amended, or repealed, the notice must also:

(a) generally state the subject matter and purpose of the rule;

(b) state the time, place, and manner for persons to submit data or written comments about the proposed rule; and

(c) the date upon which the rule will be adopted and effective.

Section 6. TMC 5-1-060 (Fines and Charges) is deleted and replaced with the following:

5-1-060 Opportunity for Comment; Consideration of Comments.

(1) The City must provide persons with not less than 15 calendar days to submit data or written comments on the proposed administrative rule.

(2) The City Manager must consider data or comments received from persons prior to adopting the administrative rule.

Section 7. TMC 5-1-070 (Final Adoption; Filing with City Recorder; Available to Public) is created to read as follows:

5-1-070 Final Adoption; Filing with City Recorder; Available to Public.

(1) Unless the City Manager specifies another date in the adoption order, all rules adopted are effective upon adoption.

(2) Unless otherwise required by law, the adoption, amendment, or repeal of a rule need not be based upon, or supported by, an evidentiary record.

(3) The adopted administrative rule must be filed with the City Recorder. The City Recorder must compile all adopted rules, including any temporary or emergency rules. Copies of current administrative rules must be made available to the public on the City's website and upon request.

Section 8. TMC 5-1-080 Temporary and Emergency rules; Effective Period is created to read as follows:

5-1-080 Temporary and Emergency rules; Effective Period.

(1) Temporary Rules. Temporary rules may be adopted without notice or opportunity to comment, if needed to implement the provisions of any new or amended ordinance upon the ordinance's effective date.

(2) Emergency Rules. Emergency rules may be adopted, amended, or suspended without prior notice or opportunity to comment, or upon abbreviated notice and opportunity to comment, if the City Manager adopts written findings that an emergency exists, and the failure to act promptly will result in prejudice to the public interest.

(3) Effective Period. Any temporary or emergency rule adopted, amended, or suspended is effective for a period of not more than 180 calendar days.

(4) No Preclusion of Permanent Rule. The adoption of a temporary or emergency rule does not preclude the subsequent adoption of an identical permanent rule.

Section 9. TMC 5-1-090 (Council Review of Administrative Rules) is created to read as follows:

5-1-090 Council Review of Administrative Rules.

(1) The Council, upon its own motion, may review a proposed or adopted administrative rule at any time.

(2) After review of a proposed or adopted administrative rule, the Council may take no action, amend, or repeal an administrative rule. If the Council chooses to amend or repeal an administrative rule, the amendment or repeal must be by resolution of the Council.

Section 10. TMC 5-1-070 (Rules of Conduct) is renumbered and amended as follows:

5-1-070 5-1-100 Rules of Conduct Authority.

~~(1) The Library Manager shall adopt administrative rules for the enforcement of the Rules of Conduct set forth in this ordinance, for the administration of special events, and for participation in City programs in library areas. The Rules of Conduct shall be administered by the Library Manager, Library employees, or persons employed by the City of Tualatin. Except in cases where the Municipal Court in exercising its jurisdiction is presented with an interpretation issue under this ordinance, where the provisions of this ordinance are determined by the Library Manager to be unclear or ambiguous, the Library Manager may interpret the provisions in a manner consistent with Library policy. Such interpretation by the Library Director may be appealed to the City Manager, whose decision is final.~~

~~(2) (1) The City Manager or designee may close all or portions of the Library to the public at any time and without notice for any reasonable and necessary circumstance, including but not limited to construction, maintenance, or any condition which poses a risk of bodily injury or damage to the public.~~

~~(3) (2) The Library City Manager, library employees designated by the Library City Manager, and City police officers may obtain compliance by the public with these rules the Library Rules and to issue reasonable directions in furtherance of these rules the Library Rules. If an individual fails to obey or disregards this ordinance a Library Rule or an order or directive given to obtain compliance with this ordinance a Library Rule, that individual is subject to immediate ejection and temporary suspension of library use privileges. An individual who fails to leave or and remain off library premises, or designated portions of the library, after being so lawfully directed shall be to do so is subject to criminal trespass charges.~~

~~(4) (3) Notwithstanding the foregoing regulations, upon prior request the Library City Manager may allow temporary, minor deviations from the strict requirements of this ordinance the Library Rules where the harm to library facilities and the risk to library users are negligible or non-existent.~~

Section 11. TMC 5-1-100 (Remedies) is renumbered and amended as follows:

5-1-100 5-1-110 Remedies Enforcement of Violations.

(1) Except as otherwise provided in the Library Rules, a violation of ~~this Chapter a~~ Library Rule is a civil infraction and shall be punishable by a fine not to exceed \$500. Each violation of this Chapter constitutes a separate offense, and each day that a violation of this Chapter is committed or permitted to continue constitutes a separate offense.

(2) Except as otherwise provided in the Library Rules, the civil infraction procedures in Tualatin Municipal Code Chapter 7-01 apply to the prosecution of any violation of a Library Rule.

(3) In addition to any other remedies provided by law, a person who violates a Library Rule may be subject to Civil Exclusion, as provided by TMC Chapter 5-10.

~~(2)-(4) The remedies provided by this Chapter for violations are cumulative and the pursuit of one remedy shall does not preclude the use of another. In addition, where an offense defined under this Chapter is also punishable under State law or TMC Chapter 6-4, the use of a remedy or remedies provided by this Chapter shall not be construed as an election of remedies or otherwise preclude the use of additional or alternative remedies or penalties provided by law.~~

~~(3) Where a person has been refused Library privileges by order of the Library Manager, and such refusal is not in connection with a Civil Exclusion under TMC Chapter 5-10, an aggrieved person may petition in writing to the City Manager or designee for reconsideration of such refusal.~~

Section 12. TMC 5-10-010 (Definitions) is amended to read as follows:

5-10-010 Definitions.

As used in this Chapter, the following terms have the following meanings, unless the context otherwise requires:

(1) "Arrest" means to place a person under actual or constructive restraint, or to take a person into custody, for the purpose of charging that person with the commission of any enumerated offense that is a misdemeanor or felony.

(2) "Cite" means to issue a citation to appear in court to a person for commission of an enumerated offense.

(3) "City Property" means any property or physical structure owned or managed by the City, including but not limited to buildings, greenways, libraries, parks, and parking lots.

(4) "Enumerated offense" means any of the following:

(a) Felony: any crime under Oregon law classified as a Class A, Class B, or Class C felony;

(b) Misdemeanor:

(i) any crime under Oregon law classified as a Class A, Class B, or Class C misdemeanor; or

(ii) any violation of the Tualatin Municipal Code that classifies the offense as a misdemeanor.

(c) Violation or Infraction:

(i) any violation of Oregon law that classifies the offense as a violation;

(ii) any violation of the Tualatin Municipal Code that classifies the offense as a violation or infraction; or

(iii) any violation of the Library Rules of Conduct, Park Rules, Commons Regulations, or any other administrative rule adopted by the City.

(5) "Enforcement officer" means a peace officer as defined by ORS 133.005, or any other person with authority to enforce the Tualatin Municipal Code.

(6) "Essential needs" means food, physical care, and medical attention.

(7) "Travel" means the movement on foot or within or upon a vehicle from one point to another without delay other than to obey traffic control devices.

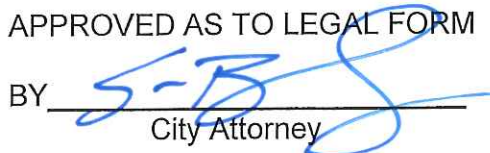
Section 13. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance remains in full force and effect.

ADOPTED this 25th day of June, 2018.

-CITY OF TUALATIN OREGON

BY 
Mayor

APPROVED AS TO LEGAL FORM

BY 
City Attorney

ATTEST

BY 
City Recorder