

ORDINANCE NO. 941

AN ORDINANCE ESTABLISHING THE PURPOSE, PROCESS, LIMITS AND TIMING OF INVENTORIES OF PERSONAL PROPERTY TO BE CONDUCTED BY MEMBERS OF THE CANBY POLICE DEPARTMENT; AND DECLARING AN EMERGENCY

WHEREAS, when a City of Canby Police Officer takes a person into custody or impounds a vehicle, the officer must make an inventory of the property found in the possession or custody of the person or inventory the property in the vehicle; and

WHEREAS, these inventories are necessary to:

- A. locate weapons and instruments that facilitate escape;
- B. locate toxic substances, flammable and explosives;
- C. identify property to establish accountability and avoid spurious claims of ownership of that property;
- D. assist in the prevention of theft of property and in locating an identifying stolen property; and
- E. reduce the danger to persons and property; and

WHEREAS, in accordance with ORS 133.455, when an officer takes or receives for safekeeping or other purposes any money or other valuables from any person in custody, the officer must tender that person a receipt for the property, now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. That City Code Chapter 9, Public Peace, Morals and Welfare be amended by adding the following Chapter 9.50, Police Duties to Inventory Property:

9.50.010 Purpose. This Chapter is meant to exclusively apply to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search or seize possessions for other purposes.

9.50.020 Definitions. For the purpose of this Chapter, the following definitions shall apply:

(A) "Valuable" means:

1. cash money of an aggregate amount of \$50 or more; or
2. individual items of personal property with a value of over \$500.

(B) "Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

(C) "Closed container" means a container whose contents are not exposed to view.

(D) "Police custody" means either:

1. the imposition of restraint as a result of an 'arrest' as that term is defined at ORS 133.005 (1);
2. the imposition of actual or constructive restraint by a police officer pursuant to a court order;
3. the imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 426;
4. the imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement of persons pursuant to Oregon law.

(E) "Police officer" means any officer of the Canby Police Department.

9.50.030 Inventories of Impounded Vehicles

(A) The contents of all vehicles impounded by a police officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

1. if there is reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or
2. if the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done

after such investigation is completed.

(B) The purpose for the inventory of an impounded vehicle will be to:

1. promptly identify property to establish accountability and avoid spurious claims to property;
2. assist in the prevention of theft of property;
3. locate toxic, flammable or explosive substances; or
4. reduce the danger to persons and property.

(C) Inventories of impounded vehicles will be conducted according to the following procedures:

1. an inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;
2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
 - a. any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and
 - b. any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
3. Unless otherwise provided in this Chapter, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.
4. Upon completion of the inventory, the police officer will complete a report as directed by the Chief of such officer's department.

5. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Chief of the police officer's department.

9.50.040 Inventories of Persons in Police Custody.

(A) A police officer will inventory the personal property in the possession of a person taken into custody and such inventory will be conducted whenever:

1. such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or
2. custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement or persons pursuant to Oregon Revised Statute.

(B) The purpose of the inventory of a person in police custody will be to:

1. promptly identify property to establish accountability and avoid spurious claims to property; or
2. fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or
3. assist in the prevention of theft of property; or
4. locate toxic, flammable or explosive substances; or
5. locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
6. reduce the danger to persons and property.

(C) Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:

1. An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to

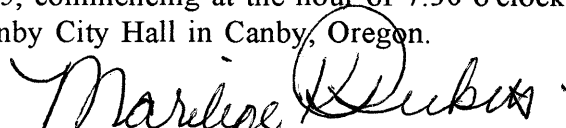
another law enforcement agency or facility.

2. To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
 3. A closed container in the possession of such person will have its contents inventoried only when:
 - (a) the closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room; or
 - (b) such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or
 - (c) the closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.
- (D) Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of such officer's department.
- (E) All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:
 1. a property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such persons; and
 2. the property will be dealt with in such manner as directed by the Chief of such officer's department.
- (F) All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in subsection 9.50.040 (E) above, will be released to the facility or agency accepting custody of the person so that they may:


1. hold the property for safekeeping on behalf of the person in custody;
and
2. prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

Section 2. Emergency Declared. The Council declares that an emergency exists because recent decisions of the Oregon Court of Appeals and Supreme Court demand that procedures for inventory searches be mandated by an appropriate legislative body; therefore, this Ordinance shall be in full force and effect from and after the final reading and passage by the Canby City Council

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, November 15, 1995; ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof on Wednesday, December 6, 1995, commencing at the hour of 7:30 o'clock p.m., at the Council Meeting Chambers at the Canby City Hall in Canby, Oregon.


Marilyn K. Perkett, City Recorder

ENACTED by the Canby City Council at a regular meeting thereof on December 6, 1995, by the following vote: YEAS 6 NAYS 0


Scott Taylor, Mayor

ATTEST:


Marilyn K. Perkett, City Recorder