



Home of the Tualatin River National Wildlife Refuge

ORDINANCE 2007-005

AN ORDINANCE ADDING A NEW CHAPTER 9.60 "INVENTORY PROCEDURES" TO THE SHERWOOD CITY CODE AUTHORIZING THE INVENTORY OF PERSONAL PROPERTY OF ARRESTED PERSONS AND IMPOUNDED VEHICLES; DECLARING AN EMERGENCY.

WHEREAS, state and federal appellate courts have upheld the use of administrative searches of where properly authorized by a politically accountable body;

WHEREAS, disputes can arise about the disposition of the contents of impounded vehicles and the personal effects of an arrested person;

WHEREAS, impounded vehicles can contain hazardous materials requiring immediate disposal;

WHEREAS, the carrying of weapons by arrested persons presents a danger to law enforcement personnel;

WHEREAS, a written inventory of the contents of every vehicle impounded pursuant to an order of City staff will protect the interests of both the City as well as the owners of such vehicles;

WHEREAS, such authority must limit, to the greatest extent possible, any discretion as to which vehicles and what contents are subject to this inventory;

WHEREAS, the City Council finds that this inventory process shall be limited in its scope to those items of personal property which are accessible without forced entry;

WHEREAS, the City Council does not wish to limit authority to search for evidence of a crime; and

WHEREAS, the City Council finds that the authority granted herein is immediately necessary, so that the public peace, health, safety and welfare can be protected.

NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1: A new Chapter 9.60 "Inventory Procedures" is added to the Sherwood Municipal Code and is to read as follows:

INVENTORY PROCEDURES

9.60.010 Purpose

9.60.020 Definitions

9.60.030 Inventories of Impounded Vehicles

9.60.040 Inventories of Persons in Police Custody

9.60.010 Purpose.

This Chapter sets out the process for conducting an inventory of personal property found in an lawfully impounded vehicle as well as to the personal property in the possession of a person in police custody. It is 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 any other purpose.

9.60.020 Definitions.

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

- (1) "Valuable" means:
 - (a) Cash money of an aggregate amount of \$50.00 or more; or
 - (b) Individual items of personal property with a value of over \$500.00.
- (2) "Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.
- (3) "Closed container" means a container whose contents are not exposed to view.
- (4) "Police custody" means:
 - (a) The imposition of restraint as a result of an arrest as that term is defined at ORS 133.005(1); or
 - (b) The imposition of actual or constructive restraint by a police officer pursuant to a court order; or
 - (c) The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 426; or
 - (d) 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.
- (5) "Police officer" means any officer of the Sherwood Police Department.

9.60.030 Inventories of Impounded Vehicles.

- (1) 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:
 - (a) If there is a 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
 - (b) 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.
- (2) The inventory of an impounded vehicle is conducted to:
 - (a) Promptly identify personal property to establish accountability and avoid

- spurious claims as to that property;
 - (b) Assist in the prevention of theft of property;
 - (c) Locate toxic, flammable or explosive substances; and
 - (d) Reduce the danger to persons and property.
- (3) Inventories of impounded vehicles will be conducted according to the following procedure:
- (a) 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.
 - (b) 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:
 - (i) 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
 - (ii) 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.
 - (c) Unless otherwise provided in this Chapter 10.30, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.
 - (d) Upon completion of the inventory, the police officer will complete a report as directed by the Chief of Police.
 - (e) 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 a manner as directed by the Chief of Police.

9.60.040 Inventories of Persons in Police Custody.

- (1) A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:
- (a) Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or
 - (b) 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 of persons pursuant to Oregon Revised Statutes.
- (2) The purpose of the inventory of a person in police custody will be to:
- (a) Promptly identify property to establish accountability and avoid spurious claims to property; or
 - (b) 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
 - (c) Assist in the prevention of theft of property; or

- (d) Locate toxic, flammable or explosive substances; or
 - (e) Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
 - (f) Reduce the danger to persons and property.
- (3) Inventories of the personal property in the possession of such persons will be conducted according to the following procedure:
- (a) 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 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.
 - (b) 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 such personal property from all open containers in the possession of such person.
 - (c) A closed container in the possession of such person will have its contents inventoried only when:
 - (i) 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
 - (ii) 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
 - (iii) 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.
- (4) Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of Police.
- (5) 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:
- (a) 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 person; or
 - (b) The property will be dealt with in such manner as directed by the Chief of Police.
- (6) All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in subsection (5) above, will be released to the facility or agency accepting custody of the person so that they may:
- (a) Hold the property for safekeeping on behalf of the person in custody; and
 - (b) 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. The City Council declares that an emergency exists because decisions of the Oregon Court of Appeals and Oregon Supreme Court mandate that either the procedures

of situations under which inventory searches be done be described by an appropriate legislative body. Furthermore, without such legislative mandate, the results of any searches of an arrested person or impounded vehicle by City police officers may be excluded from evidence at a criminal trial. Therefore, this ordinance shall be in full force and effect upon its passage by the City Council.

PASSED AND APPROVED this 20 day of March, 2007.


Keith S. Mays, Mayor

Attest:


Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Weislogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Luman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
King	<i>Absent</i>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heironimus	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>