

**AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER 2.08 RELATING TO THE INVENTORY OF PERSONAL PROPERTY OF PERSONS IN CUSTODY
ORDINANCE**

Whereas, the City of Beaverton would like to ensure the safety of its police officers;

Whereas, the Beaverton Police Department would like to protect the City against false claims of lost, stolen or damaged property; and

Whereas, according to *State v. Coleman*, 196 Or App 125 (2004), any inventory policy must be authorized by City Council.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS

Section 1. Beaverton Code Chapter 2.08 is amended to read as follows:

**Chapter 2.08
INVENTORY OF PERSONAL PROPERTY OF PERSONS IN CUSTODY**

2.08.010 Legislative Findings.

The City Council observes, among other reasons, that the findings and policies listed below support an inventory of personal property of persons taken into custody:

- A. Officers are often the first persons in contact with these persons, and typically place them into a police vehicle and transport them to the police station, another law enforcement agency, or to a facility.
- B. A person in custody could introduce valuable personal property, or alternatively, dangerous personal property, into a police vehicle or the police station.
- C. Officers currently face the risk that persons in custody may bear or carry dangerous items such as syringes, weapons, objects which could be used as a weapon, or toxic or flammable substances, on their persons or otherwise accessible. An inventory separates these persons from those dangerous items.
- D. An inventory of valuable personal property and dangerous personal property provides mutual protection, accountability and safeguards when such items are brought into a police vehicle or the police station.

2.08.015 Definitions.

For the purpose of this ordinance, the following mean:

Attached property – Personal property such as decorative personal objects in the manner of body art or body piercing jewelry, but not including containers, and the property appears reasonably securely fastened to or through the person's skin.

Closed container – A container the contents of which are not exposed to view.

Container – An item designed to hold other things, or an item which is used or may be used to actually hold other things. The term includes both open and closed containers. Some types of containers may be located within other containers.

Dangerous personal property – Any item of personal property that under the circumstances in which it is possessed is readily capable of causing physical injury, property damage, or providing a means of escape, including but not limited to weapons and toxic, flammable or explosive substances.

Facility – A correctional facility, a "facility" as defined in ORS 426.005, or such other lawfully-approved facility for the involuntary confinement of persons under state law.

Officer – A police officer employed by the City of Beaverton or acting on behalf of the City of Beaverton.

Open container – A container that is unsecured or incompletely secured such that the container's contents are exposed to view, generally including, but not limited to, a sack, bag or folder.

Person in custody – A person under lawful custodial arrest or detention, including, but not limited to, a person taken into custody for violation of law; a mental health hold pursuant to ORS Chapter 426, including ORS 426.228; a person taken into custody for treatment of intoxication pursuant to ORS Chapter 430, including ORS 430.399; and a person taken into protective custody pursuant to ORS Chapter 419B, including ORS 419B.150. The term does not include a person issued a criminal citation and released under authority of ORS 133.055 to ORS 133.076 unless the citation and release occurs upon premises of the police station.

Personal property – Every kind of property except land, tenements and fixtures.

Pocket – An external or internal enclosure located on or within an item of clothing or other piece of property, in which items may be located or stored.

Police station – A building set aside for police use which contains the police department's temporary holding facility.

Police vehicle – The secure portion of a Beaverton police vehicle.

Torso – The trunk of the body; the body exclusive of the head, arms and legs.

Valuable personal property – Any cash, check, money order or other negotiable instrument, in any amount; any earring, necklace, ring, watch, bracelet or other similar item of jewelry from the person's body, or from a container, or other piece of the person's property, regardless of the item's apparent value; and any other item of personal property that the person examining the item reasonably believes has a fair market value of \$500 or more.

2.08.020 Purpose.

The inventory of personal property pursuant to this ordinance is intended to:

- A. Protect the personal property of persons in custody while they are in custody;
- B. Protect the City, its employees and agents against claims or disputes over lost, stolen or damaged property; and
- C. Protect City employees, persons in custody, and others nearby from potential danger due to items found on or in the possession of persons in custody.
- D. This ordinance is not intended to diminish any law enforcement activities presently authorized under law.

2.08.025 Duty to Inventory Personal Property of Persons in Custody.

- A. An officer shall inventory the personal property of every person in custody as provided in this ordinance.
- B. This ordinance shall also apply when a person in custody is transported directly to another law enforcement agency, or to a facility.

2.08.026 Preliminary Safety Inspection.

The purpose of this section is to identify readily-apparent and highly dangerous substances which would normally be brought into the police station and discovered in an inventory upon those premises, but which should not be brought into the police station due to the extreme and obvious danger they present to persons and property. This section applies to containers listed in subsection (A) of this section which are inevitably destined for arrival at the police station. This section shall only be triggered when a person is taken into custody by an officer, the officer knows he or she will be transporting the person to the police station (or if to another facility, the officer retains custody of containers that the other facility has rejected), and the officer knows he or she will be conducting the manner of inspection set forth in BC 2.08.035.

A. The officer shall visually note any purse, sack, backpack, fanny pack, suitcase, or other container designed for, or actually used for, the purpose of carrying personal items, when it is inevitable that the container will be arriving at the police station.

B. Before entering the police station the officer shall conduct a preliminary safety inspection, which is defined as a cursory visual, smell, listen or feel of the personal property, to identify items such as:

1. Explosive devices such as bombs, hand grenades or other similar military ordinance, plastic explosive, or incendiary explosive devices.
2. Toxic or unstable chemicals such as gasoline, nerve gas or similar chemical weapons, or substances used in the manufacture of methamphetamine.
3. Biologic weapon substances, including material such as strains of anthrax, ebola, bubonic plague, or other biologic warfare agent.

C. Property described in subsection (B) of this section which is discovered in a preliminary safety inspection shall be noted on the inventory form in the course of the identification of property required by BC 2.08.040. The property shall be processed by a second officer according to existing orders or procedures of the Beaverton Police Department.

D. The officer shall not remove any items of personal property from containers during the preliminary safety inspection other than the dangerous items listed in subsection (B) of this section.

E. Closed containers which are opened pursuant to this section shall be immediately closed again after the preliminary safety inspection.

2.08.030 Timing of Inventory.

A. Except for the preliminary safety inspection or the inventory described in subsections (B) and (C), an officer shall inventory personal property of a person in custody after the person is within the police station and before the person is released or transported to another law enforcement agency, or to a facility.

B. If an officer is transporting the person in custody directly to a facility for treatment of intoxication pursuant to ORS Chapter 430, then the officer shall conduct the inventory prior to the person entering the police vehicle.

C. If a person in custody is transported directly to a facility because of a mental health hold pursuant to ORS Chapter 426, and the officer retains the personal property of that person, then the officer shall conduct the inventory before that person is transported to the facility.

D. If exigent circumstances or safety concerns reasonably require that the inventories from (A) through (C) be delayed, the officer shall conduct the inventory as soon as practicable after the exigency or safety concern has passed.

2.08.035 Manner of Inventory.

An officer shall conduct the inventory in the following manner:

A. Unless otherwise authorized by law, the officer shall not remove the person in custody's blouse, skirt, dress, shirt, pants and/or underwear (including, but not limited to, underpants, T-shirt, bra, slip, nylons and/or pantyhose); provided, however, that if the person is wearing more than one blouse, skirt, dress, shirt or pair of pants, the officer shall remove the outer blouse, skirt, dress, shirt or pair of pants, but shall not remove the blouse, skirt, dress, shirt or pair of pants worn closest to the skin of the that person's torso. Unless otherwise authorized by law, if a person in custody is wearing an article of clothing not described in this subsection, the officer shall not remove the article of clothing if it is worn next to the skin of that person's torso.

B. The officer shall remove from the person in custody:

1. footwear, including socks;

2. headgear, including hats, caps, or helmets; and

3. coats, jackets, vests or other clothing not described in subsection (A) of this section that is found on or in possession of the person in custody.

C. The officer shall separate the person in custody from closed containers found on or in the possession of that person. The officer shall not remove attached property unless the attached property is reasonably considered dangerous personal property.

D. The officer shall inspect the waistband and empty the pockets of the clothing worn by the person in custody. The officer shall perform an external patting of the clothing remaining upon the person in custody. An officer of the same sex, if reasonably available, shall visually inspect under the clothing covering the side and front abdominal area and back lumbar area above the waist of the person in custody.

E. The officer shall empty the pockets of clothing removed from the body of the person in custody.

F. Except for attached property, the officer shall remove all items of personal property from the removed and remaining clothing of the person in custody.

G. The officer shall remove from and inspect all items of personal property within any open container found on or in possession of the person in custody.

H. A closed container found on or in the possession of a person in custody shall not be opened by the officer unless the closed container is designed to or objectively likely to contain valuable personal property. A closed container designed to or objectively likely to contain valuable personal property includes wallets, purses, coin purses, fanny packs, backpacks, suitcases, or briefcases.

I. Footwear, including socks, may be returned to the person in custody after inspection, provided such return does not create an unreasonable risk of harm to the health or safety of the person in custody, the officer, or any other person, or the property of any of them, or the property of the City.

2.08.040 Identification and Safekeeping of Property.

As soon as is reasonably possible after the officer completes an inventory of personal property, an officer shall:

A. Segregate the valuable personal property and dangerous personal property, but not attached property, identified during the inventory, from the other personal property of the person in custody.

B. Make a written list of all valuable personal property and dangerous personal property found on or in the possession of the person in custody. The list shall not include attached property.

C. Note the disposition of each piece of valuable personal property or dangerous personal property, but not attached property, discovered during the inventory by recording who takes or keeps physical custody of each item so discovered.

D. Take reasonable steps to safeguard personal property removed from the person in custody.

2.08.045 Return of Property upon Release or Transfer.

Personal property kept safe under this ordinance, and not retained upon other grounds, shall be returned in accordance with the following provisions:

A. When the person in custody is released from law enforcement custody, kept property shall be released to the person forthwith, or as soon as practicable after the inventory document is drafted.

B. If a person in custody is transferred to another facility, the kept property and a copy of the inventory may be transferred to a responsible individual at the receiving facility, or retained by the City, whichever course seems safest and most expedient under the circumstances. In addition to the above, the officer shall observe any applicable department policies, procedures or practices then in effect.

C. This ordinance shall not apply when persons are arrested, cited, and released at the scene of a crime. However, any property removed from a person during a stop, arrest or other detention, and which is not seized, should be timely returned to the person in conjunction with release.

D. Property which, for whatever reason, is not returned by operation of the subsections above shall remain with the Police Department for a minimum of 90 days, during which time any policies, procedures or practices currently in effect for property shall be followed.

2.08.050 Distribution of Property Receipts.

The City shall maintain the original record of property and its disposition. A copy of such record shall be distributed as follows:

A. To the person in custody or included with the property of the person in custody.

B. To any person in custody to whom the officer must tender a copy pursuant to ORS 133.455. [BC 2.08.050, added by Ordinance No. 4377, 12/5/05; amended by Ordinance No. 4385, 3/20/06]

2.08.055 Adoption of Administrative Policies or Procedures.

The Beaverton Police Department may adopt administrative procedures, rules or regulations, or establish forms to carry out this ordinance.

Section 2. The Council intends that the sections and subsections of this ordinance be severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

- A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or
- B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

First reading this 1st day of December, 2015.

Second reading and passage by this Council this 8th day of December, 2015.

Approved by the Mayor this 9th day of December, 2015.

ATTEST:


CATHERINE L. JANSEN, City Recorder

APPROVED:


DENNIS DOYLE, Mayor