

ORDINANCE BILL NO. 22 FOR 1986

ORDINANCE NO. 960

AN ORDINANCE PROVIDING FOR THE DISPOSITION OF ABANDONED, SEIZED, CONFISCATED, STOLEN, CITY SURPLUS, LOST, EVIDENTIAL, AND UNCLAIMED PROPERTY; REPEALING ORDINANCE NO. 739; AND DECLARING AN EMERGENCY.

The City of Sweet Home does ordain as follows:

Section 1. Possession of property. Whenever a City employee takes possession of any personal property, whether abandoned, seized, confiscated, stolen, lost, unclaimed, or evidential, other than motor vehicles and dogs, the City employee so taking said personal property shall cause notice thereof to be given to the Police Department and the property shall be disposed of as this ordinance and city procedures concurrent therewith direct, at the expense and risk of the owner or person lawfully entitled to possession thereof, until their rights are waived or terminated hereunder.

Section 2. Treatment of lost property. If the City takes possession of any found money or goods, the same shall be processed and disposed of as follows:

(a) If the money or goods have a value of less than \$25.00, they shall be processed and disposed of in accordance with Ordinance No. 900, and any amendments thereto.

(b) If the money or goods have a value of \$25.00 or more, they shall be disposed of as set forth in ORS 98.005, et seq. For money or goods taken into the possession of the City only, the decision of whether or not the value of the money and goods is \$25.00 or more is to be made by the Chief of Police or an officer acting in his stead.

This section shall not be interpreted to mean that the City of Sweet Home must take possession of any money or goods, and possession shall not attach to the City because a police officer or other City employee looks at or inspects the money or goods. If a police officer or other City employee finds lost property of a value of \$25.00 or more, on or in the course of his employment, the City shall not be considered the finder thereof unless the said employee's supervisor (unless a supervisor himself) authorizes the taking of possession by the City. If no authorization is given, the employee shall be treated as any other finder of lost property. But if the City does take possession of any lost money or goods, with a value of \$25.00 or more, the City shall then be considered the finder thereof, unless the City, in writing, states that it is not to be considered the finder. The City as finder shall have all the right, title and interest of the original finder and the original finder or any person who represents him or is acting for him shall be deemed hereby to have waived any claim to the property.

Section 3. City surplus property. City surplus property means any personal property belonging to or owned by the City, which has been determined by the City Manager or his designate to be of no further use to the City. Any surplus property is to be disposed of as set out in paragraph 10 of this ordinance unless contrary to the state law, city ordinance, Council resolution or rule, or the best interest of the City of Sweet Home (Consult ORS 279.055 and Ord. No. 659).

Section 4. Treatment of seized, confiscated, evidential and stolen property. Seized, confiscated, evidential and stolen property shall be disposed of as follows:

(a) Firearms that fall under the purview of ORS 166.280 shall be disposed of in accordance thereof, and, if sold, any proceeds from the sale thereof shall be placed in the general fund of the City of Sweet Home.

(b) Seized or confiscated personal property from illegal drug trafficking and narcotics activity shall be disposed of in accordance with Ordinance No. 958, including motor vehicles for this subsection.

(c) Seized or confiscated gambling devices shall be disposed of as set forth in ORS 167.162.

(d) Seized, confiscated, or evidential property under the jurisdiction of the Court shall be returned to the owner thereof, destroyed, sold, placed in use by the City, or otherwise disposed of at the direction of the Court that has jurisdiction of the incident or case in which the property is being held.

(e) Stolen property that falls under the purview of ORS 142.010, to and including 142.060, shall be disposed of as set forth therein. Said ORS 142.010, to and including ORS 142.060, are hereby incorporated by reference into this ordinance as now enacted or hereafter amended, but where the statutes refer to County, said reference shall be changed to City.

(f) Notwithstanding subparagraphs (a), (b), (c), (d) and (e) above, any seized, confiscated, evidential or stolen property that is under the purview of said subparagraphs but not disposed of thereby, and all other seized, confiscated, evidential and stolen property shall be made available for return to the owner thereof, if known, after all procedural and legal processes are finished; if unknown, or the owner does not avail himself of the property, the property shall be treated as unclaimed property under this ordinance.

Section 5. Treatment of abandoned property. Abandoned property shall be disposed of as unclaimed property under the provisions of this ordinance. But abandoned property with a value of less than \$25.00 does not have to be held the thirty (30) day period before it is disposed of, nor do the police have to try and find or give notice to the owner thereof before disposition is made of the property. (However, consult ORS 488.650 for abandoned boats.)

Section 6. Treatment of unclaimed property. Unclaimed property is all property that is under the purview of this ordinance that is not otherwise disposed of by this ordinance or provisions thereof. Unclaimed property shall be disposed of in accordance with Section 10 or 12 of this ordinance, except money or negotiable instruments need not be sold as provided in Section 10, but all other provisions in this ordinance that are applicable to said money or negotiable instruments shall apply to them, and after the procedural and legal processes are finished under this ordinance said money or negotiable instruments shall be deposited in the general fund of the City and shall be treated as if sold under Section 10. All unclaimed property shall be held by the City for not less than thirty (30) days before disposition thereof.

However, before said disposition, if an owner is known, he/she shall be given notice at least thirty (30) days before disposition of his or her property, either personally or by certified mail, return receipt requested, to his/her last known address. Said notification shall be complete upon said personal service of the notice or the mailing of the certified letter. If the owner is unknown, the police shall make inquiry to ascertain the ownership of any unclaimed property, and if the owner is found, then abide by the above provisions for unclaimed property. If the property has a value of less than \$100.00, the police can fulfill the inquiry provisions of this section by posting on the bulletin board on the main floor of City Hall a list of unclaimed property to be sold at least thirty (30) days before disposition thereof. Unclaimed property that has a value of less than \$25.00 not redeemed by the owner may be disposed of by the City (without selling it under Section 10) in a manner most advantageous to the City, including throwing it away.

Section 7. Treatment of dangerous or perishable property or animals. Notwithstanding any other provision of this ordinance, any property coming into the possession of the City which is determined to be imminently dangerous or perishable property, or an animal other than a dog, may be disposed of immediately, without notice, in such manner as is determined to be in the public interest.

Section 8. Scope. This ordinance shall apply to all personal property coming into the possession of the City, except motor vehicles, and dogs, that is now or hereafter in possession of the City.

Section 9. Surrender to true owner. After property under this ordinance is taken into possession and after all procedural and legal processes are finished, but before waiver of rights, sale or other disposition of the property under or pursuant to the provisions of this ordinance, the owner or person lawfully entitled to possession may reclaim the same upon application to the police department, submission of satisfactory proof of ownership or right to possession, and payment of charges and expenses, if any, incurred in the storage, preservation and custody of the property.

Section 10. Sale procedure.

(a) The City shall sell at public auction the property that is currently ready for sale under the provisions of this ordinance. Property can be sold by the item or in lots, and if to be sold in lots, said property can be held and sold when a lot is accumulated. Notice of such sale shall be given once by publication in a newspaper of general circulation in the city at least ten (10) days before the date of sale, and by posting said notice in three (3) public places in the city at least ten (10) days before the sale, giving the time and place of sale and generally describing the property to be sold. The description need not be by item, but can be by category.

(b) All sales of such property shall be for cash to the highest bidder; provided, however, that any person appearing at or prior to such sale and proving ownership or right of possession thereto shall be entitled to reclaim the property upon the payment of the charges and expenses incurred by the City in the storage, preservation and custody of the property and a proportionate share of the costs of advertising the same for sale.

(c) If no bids are entered for the property, or if the highest bid entered is less than the costs incurred by the City, the city may enter a bid on behalf of the City in an amount equal to such costs and, if so bid by the City, the property shall become the property of the City as compensation for the costs incurred or, if of no use or value to the City, shall be disposed of in such manner as the City Manager directs.

(d) The proceeds of a sale shall be first applied to payment of the cost of the sale and the expense incurred in the preservation, storage and custody of the property; and the balance, if any, shall be credited to the general fund in the City.

(e) Said sales shall be without the right of redemption.

Section 11. Certificate of title. At the time of the payment of the purchase price, the City shall execute a certificate of sale in duplicate, the original to be delivered to the purchaser, and a copy to be kept on file in the office of the Finance Director, or City Manager, which certificate shall contain the date of sale, the consideration paid, a brief description of the property and a stipulation that the City does not warrant the condition or title of the property, and if defective or invalid, the liability of the City is limited to the return of the purchase price. The certificate of sale shall be substantially the following form:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. _____ and pursuant to due notice of time and place of sale, I did on the _____ day of _____, 19____, sell at public auction to _____ for the sum of \$ _____ cash, he being the highest bidder, and that being the highest sum bid therefor, the

following described personal property, to-wit:

[Brief description of property]

and in consideration of the payment of the said purchase price, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

The City of Sweet Home assumes no responsibility as to the condition or the title of the above-described property. In case this sale shall for any reason be invalid, the liability of the City is limited to return of the purchase price.

Dated this ___ day of _____, 19__.

Name

Title

FOR THE CITY OF SWEET HOME

Section 12. Transfer to City, or destruction by the City. In lieu of a sale of unclaimed property or property being treated as unclaimed property, under the foregoing provisions of this ordinance, the City Manager may transfer any portion of the unclaimed property or property being treated as unclaimed property to the City for use by the City or any governmental agency, after the notice provisions applying to said property have been complied with, or authorize destruction of the property if for the public welfare, without notice.

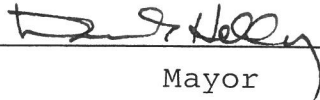
Section 13. Good faith sale or disposition. If any personal property is disposed of in accordance with a certain provision of this ordinance, and it is later discovered that the property should have been sold or disposed of under another provision of this ordinance, the sale or other disposition shall nevertheless be valid if said sale or disposition was done in good faith and without malice.

Section 14. Context. As used in this ordinance, the singular includes the plural, and the masculine includes the feminine.

Section 15. Emergency clause. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety, and an emergency is hereby declared to exist,

and this ordinance shall take effect and be in full force and effect from and after its passage.

PASSED by the Council and approved by the Mayor this 26th day of May, 1987.



Mayor

ATTEST:



City Manager - Ex Officio City Recorder