

**Title 9**

**PUBLIC PEACE, MORALS AND WELFARE**

**Chapters:**

**9.04 Civil Offenses**

**9.08 Inventory of Property in Police Custody**



## Chapter 9.04

### CIVIL OFFENSES

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#### **9.04.010 General provisions.**

(1) Nature of Offenses. This chapter defines and punishes civil offenses against the public peace, health, safety, morals and general welfare of the city of North Bend, and none of such offenses shall be treated or construed to be criminal in nature, and anyone committing an offense defined in this chapter shall not suffer any legal disability or disadvantage which results from the conviction of a crime.

(2) Trial and Burden of Proof. The trial of any civil offense defined in this chapter shall be without a jury and the city of North Bend shall have the burden of proving such offense by a preponderance of the evidence.

(3) Civil Penalties. Upon conviction of a civil offense, the court may impose a civil penalty not to exceed \$500.00.

(4) Complaint or Citation. Any person who is to be charged with the commission of a civil offense may be issued a citation referring to such offense

by title, date of commission, ordinance number and requiring the defendant to appear before the court to answer to such charges, or a complaint may be filed with the court. Persons to be charged with the commission of civil offenses may be taken into custody and required to post bail and warrants may be issued requiring such persons to appear before the court to answer the charges made under this chapter.

(5) Attempting or Aiding in Commission of Offenses. Any person who shall attempt to commit any offense defined in this chapter but for any reason does not consummate the same shall be deemed to have committed an offense under this chapter, and any person who aids or abets another in the commission of an offense under this chapter may be charged with its commission.

(6) Severability. The provisions of this chapter are intended to be severable, and if any portion of this chapter is adjudged by a court of competent jurisdiction to be invalid, then such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 1547 § 1, 1977)

#### **9.04.020 Discharging a gun or device.**

It shall be an offense for a person to discharge or shoot any firearm, air gun, slingshot, bow and arrow, or other similar weapon or device. This section shall not apply to the discharge of a gun or device on a shooting range operated, supervised, or approved by the North Bend police department. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 2, 1977)

#### **9.04.030 Making unnecessary noise.**

It shall be an offense for a person to create, assist in creating, permit, continue, or permit the continuance of, any loud disturbing or unnecessary noise in the city of North Bend. The following acts are declared to be violations of this section, but such enumerations shall not be deemed exclusive:

(1) The keeping of any animal which by frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity; or

(2) The use of any automobile, motorcycle or other vehicle, any engine, stationary or moving instrument, device or thing so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling, or other noises; or

(3) The sounding of any horn or signal device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a

necessary warning of danger to property or person; or

(4) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled; or

(5) The erection, including excavation, demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the city council; or

(6) The use of any gong or siren upon any vehicle other than police, fire, or other emergency vehicle; or

(7) The operation of any gasoline engine without having the same equipped with a muffler; or

(8) The use of "muffler cutout" on any motor vehicle; or

(9) The use or operation of any phonograph, radio, loudspeaker, or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the city council permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment; or

(10) The conducting, operating, or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house, or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 3, 1977)

#### **9.04.040 Drinking in public places.**

It shall be an offense for any person to drink any intoxicating liquor upon any street or in any public place; provided, however, that this section shall not apply to the drinking of intoxicating liquor in any establishment wherein the same may be sold for premises consumption under the laws of the state of Oregon. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 4, 1977)

#### **9.04.050 Begging.**

It shall be an offense for any person to beg or solicit alms or other gratuities upon the streets or in any public place; provided, however, that this section shall not apply to the solicitation of gratuities by charitable or eleemosynary associations or institutions. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 5, 1977)

#### **9.04.060 Disorderly conduct at fires.**

It shall be an offense for any person at or near a fire to conduct himself in a disorderly manner or to refuse to observe promptly any order of any member of the fire department or to resist, obstruct, or hinder any member of the fire department. For the purposes of this section, all members of the fire department shall be endowed with the same powers of arrest as are conferred upon peace officers for violations of the ordinances of the city of North Bend. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 6, 1977)

#### **9.04.070 Taking or retention of public records.**

It shall be an offense for any person to take or remove any paper, document, or personal property owned by the city unless the permission of the legal custodian thereof is first obtained, and no person shall keep or retain any such paper, document, or other personal property after demand for the return thereof has been made by the legal custodian. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 7, 1977)

#### **9.04.080 Inhalation of toxic fumes.**

It shall be an offense for any person to intentionally inhale toxic fumes, and it shall also be an offense for any person to induce another to inhale toxic fumes. As used in this sentence, the term "toxic fumes" shall include the fumes and vapors from any drug or noxious substance or chemical containing ketones, aldehydes, organic acetates, ether, toluene, chlorinated hydrocarbons, or other substances containing solvents or other matter releasing or having the propensity to release toxic vapors including, but not limited to, fingernail polish, polish remover, model glue, and lighter fluid, but such term shall not include anesthesia when used for medical or dental purposes. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 8, 1977)

#### **9.04.090 Depositing injurious substance on a street.**

It shall be an offense for any person to place or deposit upon any street or public way any substance tending to mar the appearance or to detract from the cleanliness or safety of such street or public way. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 9, 1977)

#### **9.04.100 Contamination of water.**

It shall be an offense for any person to place or permit any contaminating, deleterious or offensive

substance in any stream, well, spring, brook, ditch, pond or other inland waters within the corporate limits of the city of North Bend, or to place any such substance in such a position that high water or natural seepage will carry the same into such waters. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 10, 1977)

**9.04.110 Permitting drainage on public streets and sidewalks.**

It shall be an offense for the owner, tenant or occupant of any building or structure to permit rainwater, ice or snow to fall from any building or structure onto any street or sidewalk, and it shall also be an offense for such owner, tenant or occupant to fail to maintain in a proper state of repair adequate drainpipes or drainage system sufficient to prevent water from falling upon a street or sidewalk. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 11, 1977)

**9.04.120 Maintenance of attractive nuisance.**

It shall be an offense for any owner, tenant, occupant or other person having control, custody or management of any premises to suffer or permit any machinery, equipment or other device having the characteristics of an attractive nuisance to children to remain unguarded upon such premises. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 12, 1977)

**9.04.130 Defacement of public notices.**

It shall be an offense for any person to deface or tear down any official notice or bulletin posted in conformity with law. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 13, 1977)

**9.04.140 Unauthorized posters.**

It shall be an offense for any person to affix a placard, bill or poster upon any real or personal property, whether private or public, without first obtaining permission of the owner, occupant or proper public authority. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 14, 1977)

**9.04.150 Curfew on use of city parks.**

It shall be an offense to any person to use or be within city parks after the hour of 10:00 p.m. until 6:00 a.m. the next morning. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 15, 1977)

**9.04.160 Use of public receptacles for household garbage.**

It shall be an offense for any person to dump or deposit household garbage in any public trash receptacle. (Ord. 1775 §§ 1, 2, 1991; Ord. 1547 § 16, 1977)

**9.04.170 Time limits on establishments serving alcoholic beverages.**

It shall be an offense for any person who owns, operates or is employed by a business establishment which serves alcoholic liquor or permit such establishment to remain open to the public between the hours of 2:30 a.m. and 6:00 a.m. whether or not alcoholic beverages are being served during such period of time. (Ord. 1775 §§ 1, 2, 1991; Ord. 1612 § 1, 1980; Ord. 1547 § 17, 1977)

**9.04.180 Use of motor-propelled vehicles off public ways and premises.**

(1) It shall be an offense for any person to operate or be a passenger in a motor-propelled vehicle in the city of North Bend except on public highways as defined in ORS 481.020 or premises open to the public as defined in ORS 487.535(2).

(2) Proof of ownership, right of possession, or written permission from the owner of the property on which the motor-propelled vehicle is operated shall be a defense to the offense described in this section.

(3) Nothing contained in this section prevents emergency or law enforcement vehicles from entering upon land herein closed to motor-propelled vehicles. (Ord. 1775 §§ 1, 2, 1991; Ord. 1664 § 1, 1983; Ord. 1547 § 18, 1977)

**9.04.190 Inherently dangerous animals.**

It shall be an offense for any person to raise, keep or breed any inherently dangerous animal in the city of North Bend. Inherently dangerous animals shall include full bred or mixed bred wolves. (Ord. 1781 § 1, 1991; Ord. 1547 § 19, 1977)

**9.04.200 Animals creating odor and noise.**

It shall be an offense for any person to raise or keep animals in such a manner or in such numbers that they create odors or noise offensive to any person in the vicinity. (Ord. 1781 § 2, 1991; Ord. 1547 § 20, 1977)

**9.04.210 Indecent exposure.**

It is unlawful for any person to expose his or her genitalia while in a public place or place visible

from a public place, if the public place is available or open to persons of the opposite sex. (Ord. 1804 § 1, 1993; Ord. 1547 § 21, 1977)

## Chapter 9.08

### INVENTORY OF PROPERTY IN POLICE CUSTODY

#### Sections:

- 9.08.010 Purpose.
- 9.08.020 Definitions.
- 9.08.030 Inventories of impounded vehicles.
- 9.08.040 Inventories of persons in police custody.

#### **9.08.010 Purpose.**

This chapter is meant to apply exclusively 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. (Ord. 1954 § 1, 2006)

#### **9.08.020 Definitions.**

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

- (1) "Valuables" means:
  - (a) Cash money of an aggregate amount of \$1.00 or more; or
  - (b) Individual items of personal property with a value of \$25.00 or more.
- (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 either:
  - (a) The imposition of restraint as a result of an arrest as that term is defined at ORS 133.005(1);
  - (b) The imposition of actual or constructive restraint by a police officer pursuant to a court order;
  - (c) The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 419B or 430; or
  - (d) The imposition of actual or constructive restraint by a police officer for purpose of taking the restrained person to an approved facility for the involuntary confinement or detaining of persons pursuant to Oregon Revised Statute or this code.
- (5) "Police officer" means any police officer employed or acting at the direction of or in collab-

oration with the North Bend police department. (Ord. 1954 § 2, 2006)

#### **9.08.030 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 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 the evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

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

(a) Promptly identify property to establish accountability and avoid spurious claims to property;

(b) Assist in the prevention of theft of property;

(c) Locate toxic, flammable or explosive substances; or

(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, 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 such officer's department.

(e) Any valuables located during the inventory process will be listed on a vehicle inventory report. A copy of the vehicle inventory report will be attached to the case report. (Ord. 1954 § 3, 2006)

#### **9.08.040 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 Statute.

(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 extent that such statute may apply to certain property held by the police officer for safekeeping; or

(c) Assist in 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 procedures:

(a) An inventory will occur prior to placing such person into a holding room or a police vehi-

cle, whichever occurs first. However, if there is 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.

(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 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;

(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 such officer's department.

(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 their 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;

(b) The property will be dealt with in such a manner as directed by the chief of such officer's department.

(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) of this section 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. (Ord. 1954 § 4, 2006)

