

ORDINANCE NO. 2287

AN ORDINANCE AMENDING SECTIONS 33.01, 33.02, 33.03, 33.04, 33.05, 33.06 AND 33.07 AND REPEALING SECTIONS 33.08 AND 33.09 OF CHAPTER 33 OF THE HERMISTON CODE OF ORDINANCES DEALING WITH FOUND AND UNCLAIMED PROPERTY

WHEREAS, the staff of the City of Hermiston is conducting a major review of the City's ordinances, now, therefore,

The City of Hermiston ordains as follows:

(Language amending a section or chapter is in *italics* and language that has a ~~line through it~~ is repealed.)

**Section 1.** Section 33.01 of Chapter 33 of the Hermiston Code of Ordinances is amended to read as follows:

33.01 DEFINITIONS.

For the purpose of this sub-chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**FOUND PROPERTY.** Money or personal property *that appears to be lost or abandoned and the owner thereof is not readily apparent, except for motor vehicles and animals.* ~~of any description other than contraband, firearms used in commission of a crime, other property being held as evidence in any civil or criminal proceeding, animals, or motor vehicles, the true owner of which cannot be readily ascertained, and which is:~~

~~(1) Found by any officer or employee of the city in or about any vehicle, structure, park, lot, street, or other place or premises owned by or under control of the city; or~~

~~(2) Surrendered to an officer or employee of the city by any person reporting it to have been found at any place.~~

**PERSONAL PROPERTY.** ~~Includes goods but not money.~~

**SURPLUS PROPERTY.** ~~Any personal property belonging to and owned by the city, which has been determined by the City Manager to be of no further use to the city.~~

**UNCLAIMED MOTOR VEHICLE.** ~~Any motor vehicle taken into custody after notice as provided herein.~~

**UNCLAIMED PROPERTY.** Money or personal property *that remains unclaimed* ~~of any description other than contraband, firearms used in the commission of a crime, animals or motor vehicles, and which has, for any reason, come into the custody, actual or constructive, of the city~~

and is no longer required to be held by the city for any purpose, and remains unclaimed for 30 days after notice to the owner or other interested person(s) as provided herein.

*VEHICLE. Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. "Vehicle" does not include a manufactured structure.*

**Section 2.** Section 33.02 of Chapter 33 of the Hermiston Code of Ordinances is repealed and a new Section 33.02, containing the desired amendment, is substituted in its place:

### ~~33.02 SURRENDER OF FOUND PROPERTY~~

~~33.02 Any person (hereinafter called "finder") who reports having found property, at any place in the city limits, to any officer or employee of the city and, if the owner of the found property is unknown, the finder may exercise his or her rights under ORS 98.005 and retain the found property. Or, after being provided with a copy of ORS 98.005, Finders' Rights and Duties, the finder may surrender the found property to the custody of any officer or employee of the city and thereby surrenders and waives any claim of right, title, or interest in the found property.~~

### *33.02 DUTIES OF FINDER OF FOUND PROPERTY*

*A. Except as provided in paragraph B, any person who finds personal property valued at \$250 or more, or finds intangible property, shall comply with the provisions of State law regarding lost or abandoned property including ORS chapter 98, as amended;*

*B. Any person who finds personal property of any discernible value on property owned or managed by the City shall report it to the City. The City in its discretion may hold the property and provide a receipt therefore. The City shall keep a record of the finder, the location and a description of the property. The City shall have 14 days to determine if it is City property or take steps to find the lawful owner and notify the finder. If not claimed by the City or within 14 days, the finder shall comply with state law as provided in paragraph A.*

**Section 3.** Section 33.03 of Chapter 33 of the Hermiston Code of Ordinances is repealed and a new Section 33.03, containing the desired amendment, is substituted in its place:

### ~~33.03 RECORDS AND REPORTS.~~

~~(A) The officer or employee of the city into whose custody found property first comes shall deliver to the custody of the Police Department the property together with a report. The report shall set forth the following information as is known to the author:~~

- ~~(1) The date, time, name and address of finder, and place of the finding;~~
- ~~(2) The date and time the property came into the custody of the city; and~~
- ~~(3) A description of the property; the location where the property is kept.~~

~~(B) When found property comes into the custody of the Police Department the Police Department shall cause an identification tag to be attached to the property.~~

~~(Ord. 1817, passed 5-93)~~

### *33.03 TREATMENT OF FOUND, STOLEN OR SEIZED PROPERTY.*

*(A) Any officer or employee of the City who has, for any reason, custody of found, stolen or seized property shall deliver the property to the employee's department head or designee, or the Police Department. If the department head or designee deems the property to be of such value that more secure storage is advisable, the property shall be delivered to the custody of the Police Department.*

*(B) Within ten days of found or stolen property coming into the custody of the City, the City shall make reasonable efforts to discover the name and address of the owner, or any person(s) with an interest therein.*

*(C) If the owner or other interested person(s) is ascertained the City shall provide written notice to the owner or interested persons that the property may be claimed within 30 days of the date on which the notice is sent. Property shall be held for at least 30 days following the notice to the owner or other interested person(s), if any, during which time the owner or interested person may redeem the property by satisfactorily establishing their ownership thereof or right thereto and payment of costs as provided herein. Thereafter the City Manager or designee may deem the property abandoned or surplus.*

*D. Property seized by the police department as the removing authority under ORS 98.245, or for other law enforcement purposes may be held by the City or transferred to the District Attorney or other law enforcement agency. If returned to the City, property seized by the City police department as the removing authority shall be disposed of as provided in ORS 98.245. Any other property shall be disposed of as provided in (A) through (C) above.*

*(E) Seizure of property from homeless camps on private property, such as in conjunction with a clean-up, shall be carried out as required by state law but at a minimum:*

- 1. Posted notice shall be provided in English and Spanish at least 24 hours in advance;*
- 2. Notice of the posting shall be provided to appropriate social service agencies;*
- 3. Seized property shall be stored for a minimum of 30 days and be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for 30 days may be disposed of. For purposes of this Section, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to the police department or County sheriff;*
- 4. The 24-hour notice shall not apply when there are grounds for law enforcement officials to believe that illegal activities, other than camping, are occurring or in the event of an exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.*

5. *A person authorized to issue a citation for unlawful camping under state law, administrative rule or City or county ordinance may not issue the citation if the citation would be issued within 200 feet of the notice described in this Section and within two hours before or after the notice was posted.*

(F) *The City shall have no obligation to return property deemed by law to be contraband or otherwise illegal to possess and may dispose of or destroy such property as the Chief of Police deems appropriate, consistent with any applicable laws.*

(G) *The Chief of Police, whenever deemed necessary, shall transmit to the evidence/property manager a list of all found, seized or unclaimed property in their possession. After this transmittal, the property shall come into the custody and control of the Evidence/Property Manager.*

**Section 4.** Section 33.04 of Chapter 33 of the Hermiston Code of Ordinances is repealed and a new Section 33.04, containing the desired amendment, is substituted in its place:

**~~33.04 TREATMENT OF SURPLUS PROPERTY.~~**

~~(A) Determination that personal property is surplus and of no further use to a using agency is within the exclusive jurisdiction of the City Manager.~~

~~(B) Disposition of surplus property is within the exclusive jurisdiction of the City Manager. (Ord. 1817, passed 5—93)~~

**33.04 TREATMENT OF UNCLAIMED PROPERTY.**

(A) *Determination that personal property is unclaimed after any redemption period is within the exclusive authority of the City Manager or designee.*

(B) *Unclaimed property shall be considered surplus and the City Manager or designee may dispose of unclaimed property as provided in Chapter 35 or as provided by City rule or policy.*

**Section 5.** Section 33.05 of Chapter 33 of the Hermiston Code of Ordinances is repealed and a new Section 33.05, containing the desired amendment, is substituted in its place:

**~~33.05 TREATMENT OF UNCLAIMED PROPERTY.~~**

~~(A) Any officer or employee of the city who has, for any reason, the actual or constructive custody of unclaimed property shall deliver the property to be held under the jurisdiction of his department head. After ten days from time of delivery, or sooner if the department head or his designee deems the property to be of such value that more secure storage is advisable, the property shall be delivered to the custody of the Police Department.~~

~~(B) Within ten days of the property coming into the custody of the Police Department, the Department shall make diligent inquiry, including, but not limited to, an examination of the property for identifying markings, to discover the name and address of the owner, conditional vendor, mortgagee, or any person(s) interested therein.~~

~~(C) If the owner or other interested person(s) can be readily ascertained, or has been~~

ascertained within ten days of the Police Department custody, the Department shall cause notice to be sent by certified mail to the owner or interested person(s) so that he or she may claim the property within 30 days of the date on which the notice is sent.

(D) ~~Unclaimed property shall be held for at least 30 days following the notice to the owner or other interested person(s), during which time the owner may redeem the property by satisfactorily establishing his or her ownership thereof and payment of costs as provided herein.~~

(E) ~~The Chief of Police, whenever he or she deems necessary, shall transmit to the evidence/property manager a list of all found and unclaimed property in his or her possession. After this transmittal, the property shall come into the custody and control of the Evidence/Property Manager.~~

(F) ~~Unclaimed property valued at \$25 or more and which remains unclaimed and not redeemed after the redemption period set forth in divisions (C) and (D) above shall be disposed of by the Evidence/Property Manager as follows:~~

(1) ~~At a time set by the City Manager, all unclaimed property shall be sold at public auction to the highest bidder for cash.~~

(2) ~~In default of bids from others, the City Manager may dispose of the property at his discretion without necessity of taking further bids.~~

(3) ~~Notice of the time and place of the auction shall be given by one publication in a newspaper of general circulation in the city not less than five days nor more than 15 days before the date of the sale. The notice shall contain a general description of the property to be sold.~~

(4) ~~At the time of the payment of the purchase price for property sold under this section, the City Manager or a representative of the City Manager shall make, execute, and deliver, on behalf of the city, a bill of sale, in duplicate, the original to be delivered to the purchaser and the copy to be kept on file in the office of the City Manager. The bill of sale shall include the following:~~

(a) ~~The name and address of the purchaser;~~

(b) ~~The date of the sale;~~

(c) ~~The consideration paid;~~

(d) ~~A brief description of the property; and~~

(e) ~~A stipulation that the city does not warrant the condition or title of the property.~~

(5) ~~The sale and conveyance of unclaimed property shall be without redemption.~~

(6) ~~Property sold pursuant to this section shall be delivered to the purchaser only upon presentation of the bill of sale therefor, issued pursuant to division (D) of this section.~~

(G) ~~Found and unclaimed property valued at less than \$25 and not redeemed may be disposed of by the City Manager in a manner most advantageous to the city.~~

(H) ~~The proceeds of any sale under this section shall be applied as follows: First, to the payment of the cost of the sale and expenses incurred in the preservation and custody of the property, and; second, the balance, if any, shall be paid to the Finance Director/Recorder of the city and shall be credited to the general fund.~~

### 33.05 ABANDONED VEHICLES.

*Vehicles shall be held and disposed of as provided by state law. Manufactured structures, as defined by state law, shall be subject to state law.*

**Section 6.** Section 33.06 of Chapter 33 of the Hermiston Code of Ordinances is repealed and a new Section 33.06, containing the desired amendment, is substituted in its place:

### ~~33.06 ABANDONED MOTOR VEHICLES.~~

~~Motor vehicles shall be held and disposed of as provided by ORS Chapter 819.~~

### *33.06 OWNER'S RESPONSIBILITY AND EXPENSE.*

*Found property shall be held at the expense of the owner and any costs incurred by the City in finding, transportation, giving of notice, storage, care, and custody of the property may be charged to the owner or other person(s) lawfully entitled to possession and upon payment of same the property may be released. Charges associated with vehicles or manufactured structures shall be as provided by state law.*

**Section 7.** Section 33.07 of Chapter 33 of the Hermiston Code of Ordinances is repealed and a new Section 33.07, containing the desired amendment, is substituted in its place:

### ~~33.07 OWNER'S RESPONSIBILITY AND EXPENSE.~~

~~Found property, unclaimed property and unclaimed motor vehicles which come into the custody, actual or constructive, of the city for any reason, shall be held at the expense of the owner and any costs incurred by the city in finding, transportation, giving of notice, storage, care, and custody of the property shall be paid by the owner or other person(s) lawfully entitled to possession and upon payment of same the property may be released.~~

### *33.07 MISCELLANEOUS*

*(A) Nothing in this subchapter precludes the City from pursuing civil forfeiture of any property as provided by law.*

*(B) Impounded dogs shall be addressed as provided in Chapter 90. Lost or abandoned animals may be addressed as provided in this Chapter or as provided by City rule or policy.*

**Section 8.** Section 33.08 of Chapter 33 of the Hermiston Code of Ordinances is repealed:

### ~~33.08 REDEMPTION OF PROPERTY.~~

~~(A) The property shall be held by the city for a minimum period of 30 days after the property comes into the custody of the city, during which time the owner may redeem the property by satisfactorily establishing his ownership thereof, and the payment of any costs as provided herein.~~

~~(B) Found property which remains unclaimed and not redeemed after the redemption period set forth in division (A) above shall be disposed of as unclaimed property pursuant to city ordinance.~~

**Section 9.** Section 33.09 of Chapter 33 of the Hermiston Code of Ordinances is repealed:

### ~~33.09 DISCRETION OF CITY MANAGER.~~

~~The City Manager may, but is not required to, use additional or extraordinary efforts to locate owners or sell property as he or she sees fit in his or her sole discretion.~~

**Section 10.** This ordinance shall take effect on the 30<sup>th</sup> day after its adoption.

ADOPTED by the Common Council this 25<sup>th</sup> day of November 2019.

SIGNED by the Mayor this 25<sup>th</sup> day of November 2019.

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Dr. Dave Drotzmann, MAYOR

ATTEST:

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Lilly Alarcon-Strong, CMC, CITY RECORDER