

# City of Canby

March 26, 2008

*Municipal Court*

Mr. Mark Adcock, City Administrator  
 Mr. John Kelley, City Attorney  
 City of Canby  
 150 N. Holly  
 Canby, OR 97013

RE: Prohibition on Firearms in Municipal Court Facility

Dear Mr. Adcock and Mr. Kelley:

I have been referred a question presented by Mr. Kevin Starrett, challenging the posted prohibition on carrying firearms in the municipal court extending to persons licensed to carry concealed weapons. For the reasons set forth below, the prohibition is lawful and entirely appropriate.

Generally, Mr. Starrett correctly states that Oregon Law prohibits localities stands in the way of such a prohibition in a public building. In this case there is a public building, utilized as a Municipal Court facility. ORS 166.370(2) criminalizes possession of a firearm in a "court facility".

The basis for the challenge is excerpted by Mr. Starrett from ORS 166.370 which defines "Court Facilities" at subsection 2 as:

...a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

This definition, however, is not intended to be blindly applied in a vacuum. In fact, the introductory sentence in ORS 166.360 states as much when it says "(A)s used in ORS 166.360 to 166.380, **unless the context requires otherwise...**" (emphasis added).

The "context" here clearly requires "otherwise". No one questions that the Canby Municipal Court presides over crimes, violations and city code issues, operating as a

Mr. Adcock  
Mr. Kelley  
March 26, 2008  
Page 2

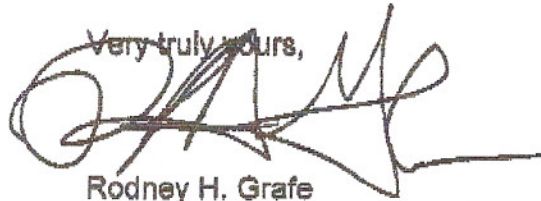
"Court" as that term is commonly understood. Fines are levied and jail sentences imposed, arrest warrants are issued and honored throughout the state.

Under the mandate of ORS 221.339 a Municipal Court has concurrent jurisdiction with [state] circuit courts over all violations, traffic crimes (other than felonies) and misdemeanors committed or triable in the city. Because of that concurrent jurisdiction, Municipal Court personnel are "personnel related to the operations of" the state courts and the proceedings are "activities related to the operations" of the state court, within the definition of ORS 166.370. The Municipal Court facility is a "Court Facility" within the definition of ORS 166.370(2), because the context so requires.

Secondly, common sense dictates a similar result even without the concurrent jurisdiction mandate. The broad introductory language of ORS 166.360 extends the scope of the definitions to include the activities of this court. Nothing in the case of Starrett v. City of Portland 196 Or.App. 534 leads me to a different conclusion.

The posted prohibition will stay in full force and effect.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Rodney H. Grafe', written over the typed name below.

Rodney H. Grafe  
Municipal Judge  
City of Canby

RHG:ms