

ORDINANCE NO. 862

AN ORDINANCE GRANTING AUTHORITY AND ESTABLISHING PROCEDURES FOR INVENTORY SEARCHES BY THE STAYTON POLICE DEPARTMENT; AND, DECLARING AN EMERGENCY.

WHEREAS, the Stayton City Council finds that when a Stayton police officer takes a person into custody or impounds a vehicle, it is necessary to make an inventory of the property found in the possession of the person and inventory the property in the vehicle;

WHEREAS, these inventory searches are necessary to: locate weapons and instruments that facilitate escape; locate toxic substances, flammables and explosives; identify property to establish accountability and avoid spurious claims of ownership of that property; assist in the prevention of theft of property and the location and identification of stolen property; and reduce the danger to persons and property;

WHEREAS, the Council believes it necessary, in order to comply with court decisions such as State v. Custer, 126 Or App 431 (1994), to enact this ordinance specifically granting authority for Stayton police officers to conduct inventory searches;

WHEREAS, this ordinance grants authority for Stayton police officers to conduct inventory searches and establishes a systematic procedure so that the inventory involves no exercise of discretion by the law enforcement personnel directing or taking the inventory;

WHEREAS, this ordinance establishes the authority and procedure for inventory searches legislatively, based upon the City of Stayton's powers and home rule authority, but is not intended to limit or restrict, and does not limit or restrict, any other legal basis for a search which presently exists or may hereinafter be deemed to exist; and

WHEREAS, it is appropriate that an emergency be declared as to the enactment of this Ordinance so that it is in full force and effect immediately from and after its adoption by the Stayton City Council.

NOW, THEREFORE, the Stayton City Council does ordain as follows:

SECTION 1. Purpose. This Stayton Municipal Code "Chapter" is meant to exclusively apply 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 that police officers may employ to search persons or search or seize possessions for other purposes.

SECTION 2. Definitions. For the purpose of this Stayton Municipal Code "Chapter", the following definitions shall apply:

- A. "Valuables" means:
1. Cash in an aggregate amount of \$50. or more; or,
 2. Individual items of personal property with a value of over \$500.
- B. "Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.
- C. "Closed container" means a container the contents of which are not exposed to view.
- D. "Police Custody" means either:
1. The imposition of restraint as a result of an 'arrest' as that term is defined in Oregon law;
 2. The imposition of actual or constructive restraint by a police officer pursuant to a court order; or,
 3. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement of persons pursuant to Oregon law.
- E. "Police officer" means any peace officer, as defined by Oregon law who is employed by the Stayton Police Department or affiliated law enforcement agency.

SECTION 3. Inventories of Impounded Vehicles.

- A. The contents of all vehicles impounded by a police officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party for towing or otherwise, except under the following circumstances:
1. If there is reasonable suspicion to believe that the safety of either the police officer or another person is at risk, a required inventory shall be done as soon as safely practical; and,
 2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory shall be done after such investigation is completed.
- B. The purposes for the inventory of an impounded vehicle are:
1. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel;

2. To locate toxic, flammable or explosive substances;
 3. To promptly identify property to establish accountability and avoid spurious claims to property;
 4. To assist in the prevention of theft of property, and the location and identification of stolen property;
 5. To reduce the danger to persons and property; or,
 6. To fulfill the requirements of Oregon law to the extent that such law may apply to certain property held by the police officer for safekeeping.
- C. Inventories of impounded vehicles shall be conducted according to the following procedure:
1. An inventory of personal property and the contents of open containers shall 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;
 2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers shall also be conducted in the following locations:
 - a. 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
 - b. 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 for towing or otherwise or an unlocking mechanism for such compartment is available within the vehicle.
 3. Unless otherwise provided in this ordinance, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.
 4. Upon completion of the inventory, the police officer shall complete an Inventory Report.

5. Any valuables located during the inventory process shall be listed on a property receipt. A copy of the property receipt shall be left in the vehicle or tendered to the person in control of the vehicle if such person is present.

SECTION 4. Inventories of Persons in Police Custody.

- A. A police officer shall inventory the personal property in the possession of a person taken into police custody and said inventory will occur:
 1. At the time of booking; or,
 2. At the time custody of the person is transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in Oregon laws or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon laws.
- B. The purposes for the inventory of a person in police custody are:
 1. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel;
 2. To locate toxic, flammable or explosive substances;
 3. To promptly identify property to establish accountability and avoid spurious claims to property;
 4. To assist in the prevention of theft of property, and the location and identification of stolen property;
 5. To reduce the danger to persons and property; or,
 6. To fulfill the requirements of Oregon law to the extent that such law may apply to certain property held by the police officer for safekeeping.
- C. Inventories of the personal property in the possession of persons in police custody shall be conducted according to the following procedures:
 1. An inventory shall occur at the time of booking. However, if reasonable suspicion exists to believe that the safety of either the police officer 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.

2. To complete the inventory of the personal property in the possession of such person, the police officer shall remove all items of personal property from the clothing worn by or in the possession of such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
 3. A closed container in the possession of such person will have its contents inventoried only when:
 - a. the closed container is to be placed in the immediate possession of such person at the time that the person is placed in the secured area of a custodial facility, police vehicle or secure police holding room; or,
 - b. such person requests that the closed container be kept by the person in the secure area of a police vehicle or a secure police holding room; or,
 - c. 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.
- D. Valuables found during the inventory process shall be noted by the police officer in a report.
- E. All items of personal property not left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person shall be handled by preparing a property receipt listing the property to be retained in the possession of the agency. 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.
- F. All items of personal property not left in the immediate possession of the person in custody nor dealt with as provided in section 4(E) above, will be released to the facility or agency accepting custody of the person so that it may:
1. Hold the property for safekeeping on behalf of the person in custody; and
 2. Prepare and deliver a receipt, if required by Oregon law, for any valuables held on behalf of the person in custody.


SECTION 5.

An emergency is hereby declared and, upon adoption by the Stayton City Council and the Mayor's signing, this Ordinance shall become immediately effective.


ADOPTED BY THE STAYTON CITY COUNCIL this 5th day of April, 2004.

CITY OF STAYTON

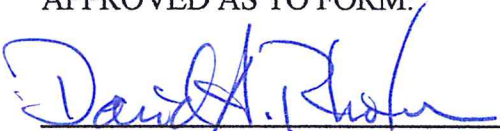
Signed: APRIL 6, 2004

By: 
Gerry Aboud, Mayor

Signed: April 6,, 2004

ATTEST: 
Chris Childs, City Administrator

APPROVED AS TO FORM:


David A. Rhoten, City Attorney