

ORDINANCE NO. 759

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

WHEREAS, the 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, and

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, and

WHEREAS, the Council believes it necessary, in order to comply with recent court decisions such as State v. Custer, 126 Or App 431, 868 P 2d 1363 (1994), to pass this ordinance specifically confirming the procedure for Stayton police officers, upon a lawful detainment or arrest, in conducting inventory searches pursuant to a properly administered program; and

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

WHEREAS, this ordinance establishes this procedure for inventory searches legislatively, based upon the City of Stayton's powers and Oregon law, but is not intended to limit or restrict, and does not limit or restrict, any other legal bases for a search which presently exist or may hereinafter be found to exist in law; and,

WHEREAS, this ordinance is intended to establish procedures for conducting an inventory of personal property in a vehicle or in the possession of a person taking into police custody; it is not intended to establish authority to conduct the search itself.

NOW, THEREFORE, the Stayton City Council hereby ordains as follows:

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SECTION 1. PURPOSE

This ordinance 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 that police officers may employ to search persons or seize possessions for other purposes. Lawful authority to conduct a search of a vehicle or person must be granted under other provisions of law.

SECTION 2. DEFINITIONS

For the purposes of this code, terms, phrases, words, abbreviations, and their derivatives shall be construed as specified herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

CLOSED CONTAINER: A container, the contents of which are not exposed to view.

OPEN CONTAINER: A container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

POLICE CUSTODY: This term shall be defined as:

1. The imposition of restraint as a result of an "arrest" as that term is defined in law; or,
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.

POLICE OFFICER: Any peace officer who is employed by or is under contract with the Stayton Police Department.

VALUABLES

SECTION 3. INVENTORIES OF IMPOUNDED VEHICLES

1. 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 towing company except under the following circumstances:
 - a. If there is reasonable basis to believe that the safety of either the police officer or another is at risk, a required inventory shall be done as soon as safely practical; and,
 - b. 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.
2. The purposes for the inventory of an impounded vehicle are:
 - a. To promptly identify property to establish accountability and avoid spurious claims to property;
 - b. To assist in the prevention of theft of property;
 - c. To locate toxic, flammable or explosive substances; or,
 - d. To reduce the danger to persons and property.
3. Inventories of impounded vehicles shall be conducted according to the following procedure:
 - a. 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;
 - b. In addition to the passenger and engine compartments as describe above, an inventory of personal property and the contents of open containers shall also be conducted in the following locations:
 - i. Any other type of unlocked compartments that are part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and,

- ii. Any unlocked 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 ordinance, closed containers located either within the vehicle or any of the vehicle's compartments shall not be opened for inventory purposes.
- d. Upon completion of the inventory, the police officer shall complete a report.
- e. Any valuables located during the inventory process shall be listed on a property receipt. A copy of the property receipt shall either be left in the vehicle to the person in control of the vehicle if such person is present.

SECTION 4. INVENTORIES OF PERSONS IN POLICE CUSTODY

- 1. A police officer shall inventory the personal property in the possession of a person taken into police custody and said inventory will occur:
 - a. At the time of booking; or,
 - b. 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 law or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon law.
- 2. The purposes for the inventory of a person in police custody are:
 - a. To promptly identify property to establish accountability and avoid spurious claims to property;
 - b. To fulfill the requirements of Oregon law to the extent that such statute may apply to certain property held by the police officer for safekeeping;
 - c. To assist in the prevention of theft of property;
 - d. To locate toxic, flammable or explosive substances;

- e. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or,
 - f. To reduce the danger to persons and property.
 3. Inventories of the personal property in the possession of such persons shall be conducted according to the following procedures:
 - a. An inventory shall occur at the time of booking. However, if reasonable basis 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 practicable 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 shall 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 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 shall be noted by the police officer in a report;
 5. 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 police department. 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;

6. 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, shall be released to the facility or agency accepting custody of the person so that the facility or agency may:
- a. Hold the property for safekeeping on behalf of the person in custody, and
 - b. Prepare and deliver a receipt, if required by law, for any valuables held on behalf of the person in custody.

SECTION 5. EMERGENCY CLAUSE

An emergency is hereby declared due to recent decisions of the Oregon Court of Appeals and the Oregon Supreme Court declaration that procedures for inventory searches be mandated by an appropriate legislative body; therefore, this ordinance shall be in full force and effect from and after its passage by the Stayton City Council and execution by the mayor.

PASSED BY THE STAYTON CITY COUNCIL this 15th day of April 1996.

Date: 4-16-96 ^{8:44 AM} By: Willmer Van Vleet
 WILLMER VAN VLEET, Mayor

Date: 4/16/96 Attest: [Signature]
 THOMAS L. BARTHEL, City Administrator

APPROVED AS TO FORM:

Date: APR 10 1996 David A. Rhoten
 DAVID A. RHOTEN, City Attorney

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