

**CHAPTER 33: SHERIFF'S DEPARTMENT**

Section

***DISPOSITION OF UNCLAIMED PROPERTY***

***Disposition of Unclaimed Property***

- 33.01 Sheriff to submit inventory of property and request for disposition
- 33.02 Disposition by sale
- 33.03 Disposition by transfer to county
- 33.04 Claims by owner subsequent to sale; Sheriff not liable

**§ 33.01 SHERIFF TO SUBMIT INVENTORY OF PROPERTY AND REQUEST FOR DISPOSITION.**

Whenever the Sheriff of the county has any property in his possession, the ownership of which is unknown, and which is unclaimed for six months (180 days) after the said property came into his possession, he shall, unless the disposition of such property is otherwise specifically provided for by law, submit an inventory of the property to the Board of County Commissioners. The Sheriff shall also submit a request to dispose of the property as provided in this subchapter and the County Commissioners shall act upon this request within 30 days after its receipt.  
(Ord. 79-15, passed 4-18-79)

***Drug and Narcotics Trafficking; Property Forfeiture***

- 33.15 Title
- 33.16 Findings
- 33.17 Purpose; intent
- 33.18 Definitions
- 33.19 Enumeration of property to be forfeited
- 33.20 Seizure of property without issuance of court process
- 33.21 In rem forfeiture proceeding; notice to owner; owner entitled to trial by jury
- 33.22 County to hold property during proceedings
- 33.23 Judgment of forfeiture; disposition of property
- 33.24 Property owner unaware of illegal activity exempted from forfeiture
- 33.25 Application of provisions

**§ 33.02 DISPOSITION BY SALE.**

The Sheriff may request to have the property disposed of by public sale.

(A) *Notice.* If the Board approves the request, the Sheriff shall post written or printed notice of sale in three public places within the county at least 10 days before the sale. The notice shall describe the property to be sold with reasonable specificity and shall state the time and place of public sale. These notice requirements shall not preclude the Board of County Commissioners from giving additional notice through the various news media.

(B) *Sale.* All sales of property shall be by auction, at which the property shall be awarded to the highest bidder.

(C) *Claims by owner.* Until the date of the sale, the property may be claimed at the Sheriff's Office. If ownership is proved to the satisfaction of the Sheriff, the Sheriff shall give the property to

***Procedures for the Inventory of Personal Property of Inmates of the County Jail***

- 33.35 Inmates procedures
- 33.36 Frisk search
- 33.37 Strip search
- 33.38 Corrections searches
- 33.39 Personal property inventory

the owner, and cancel the sale insofar as the claimed property is concerned.

(D) *Government employees not to bid.* Members of the county government, including officials and employees, shall not be allowed to bid at the sale.

(E) *Proceeds to General Fund.* The Sheriff shall conduct the sale and shall deposit the proceeds thereof with County Finance to the credit of the General Fund.  
(Ord. 79-15, passed 4-18-79)

**§ 33.03 DISPOSITION BY TRANSFER TO COUNTY.**

In lieu of a sale of the property under § 33.02 of this subchapter, the Sheriff, with the approval of the Board of County Commissioners, may transfer any portion of unclaimed property to the county for use by the county or other governmental agencies, or by destruction after giving notice of transfer or destruction in the same manner as set forth in § 33.02(A) of this subchapter.  
(Ord. 79-15, passed 4-18-79)

**§ 33.04 CLAIMS BY OWNER SUBSEQUENT TO SALE; SHERIFF NOT LIABLE.**

If the property is sold as provided herein and if within six months after the sale, the owner of the property files with the Board of County Commissioners a claim for the property, proving his right to the same to the satisfaction of the Board, the Board shall direct that the amount received for the property, less expenses of the sale, shall be paid to the owner from the county treasury. The Board shall not approve any claims filed more than six months after the sale. If the property is transferred to the county or other governmental agency in lieu of sale, it may be claimed by the lawful owner thereof at any time within one year from the transfer to the county, or other governmental agency. The Sheriff in disposing of property in the manner provided herein shall not be liable to the owner thereof.  
(Ord. 79-15, passed 4-18-79)

***DRUG AND NARCOTICS TRAFFICKING;  
PROPERTY FORFEITURE***

**§ 33.15 TITLE.**

This subchapter shall be known as the “Drug and Narcotics Trafficking Forfeiture Ordinance.”  
(Ord. 87-15, passed 4-1-87)

**§ 33.16 FINDINGS.**

The Board of County Commissioners finds that:

(A) When property that constitutes the proceeds or instrumentalities of illegal drug or narcotics activity is seized from persons arrested in connection with criminal proceeding involving those activities it frequently must be returned to the person from whom it was seized at the conclusion of the criminal proceedings; and

(B) This property is often used in connection with additional illegal drug or narcotics activity. Thus, the return of the property serves to encourage and perpetuate the commission of crime in the county.  
(Ord. 87-15, passed 4-1-87)

**§ 33.17 PURPOSE; INTENT.**

The Board of County Commissioners therefore declares that to protect the safety and welfare of county residents it is in the best interest of the county to:

(A) Cripple illegal drug and narcotics trafficking and activity within this county by depriving narcotics dealers, and those persons dealing with them, of the instrumentalities and proceeds of their activity; and

(B) Otherwise deter such activity and remove the operating instrumentalities, profits, and proceeds of illegal narcotics transactions from dealers; and

(C) Use the forfeited property to further law enforcement and criminal prosecutions.  
(Ord. 87-15, passed 4-1-87)

### § 33.18 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONSPIRACY.** As defined in ORS 161.450.

**CONTROLLED SUBSTANCES.** As defined in ORS 475.005(6), except that this shall not include less than one avoirdupois ounce of marijuana.

**DELIVER or DELIVERY.** As defined in ORS 475.005(8).

**FACILITATE.** The property must have had some direct connection to, or be instrumental in, the commission of the underlying illegal activity which this subchapter seeks to prevent.

**MANUFACTURE.** As defined in ORS 475.005(14).

**MARIJUANA.** As defined in ORS 475.005(15).

**POSSESSION OF CONTROLLED SUBSTANCES WITH THE INTENT TO DISTRIBUTE.** As defined as a federal offense at 21 USC 841(a)(1).

**PRODUCTION.** As defined in ORS 475.005(19).

**PROHIBITED ACTIVITY.** To manufacture or deliver a controlled substance or substances or the possession of controlled substance or substances with the intent to deliver.  
(Ord. 87-15, passed 4-1-87)

### § 33.19 ENUMERATION OF PROPERTY TO BE FORFEITED.

Any person who engages in or enters into a

conspiracy to engage in prohibited activity within the county shall forfeit to the county the following described property:

(A) All controlled substances which are intended for or have been manufactured or delivered as defined in § 33.18.

(B) All raw materials, products, containers, equipment, books, records, research materials (including formulas, microfilms, tapes, and data) of any kind which are used, or intended to be used, to manufacture, compound, store, process, or deliver any controlled substance.

(C) All conveyances, including aircraft, vehicles, or vessels which are used to manufacture or deliver or in any manner to facilitate the manufacture or delivery of any controlled substance or any such conveyance which is used to transport or conceal any controlled substance.

(D) All moneys, negotiable instruments, securities, or other things of value furnished or exchanged or intended to be furnished or exchanged by or to any person to facilitate any prohibited activity, and all proceeds and profits traceable to such furnishment, exchange or prohibited activity.

(E) All proceeds and profits and things of value traceable to any prohibited activity.

(F) All real property including any right, title, or interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used to commit or facilitate the commission of a violation of this subchapter.  
(Ord. 87-15, passed 4-1-87)

### § 33.20 SEIZURE OF PROPERTY WITHOUT ISSUANCE OF COURT PROCESS.

Any property subject to forfeiture to the county under this subchapter may be seized by any law enforcement officer on behalf of the county without issuance of court process when:

(A) The seizure is incident to an arrest or search pursuant to a search warrant or an

inspection under an administrative search; or

(B) The property subject to seizure has been the subject of a judgment in favor of the county in a forfeiture proceeding under this subchapter; or

(C) A law enforcement officer lawfully seized the property pursuant to ORS 133.525 to 133.703, and has probable cause to believe that the property has been used or is intended to be used in or to facilitate prohibited activity as defined by this subchapter.

(Ord. 87-15, passed 4-1-87)

**§ 33.21 IN REM FORFEITURE PROCEEDING; NOTICE TO OWNER; OWNER ENTITLED TO TRIAL BY JURY.**

(A) In the event of a seizure pursuant to this subchapter, the District Attorney, acting in the name of the county, may institute an in rem forfeiture proceeding to obtain a judgment of forfeiture against the seized property.

(B) The District Attorney shall, not less than 15 days before bringing a forfeiture proceeding against any property, notify any record owner of the property that he intends to bring such an action. Then notice may be given by personal notice or by certified or registered mail to the last known address of the record owner.

(C) The proceeding shall be a civil proceeding in an Oregon court of competent jurisdiction.

(D) Any proceeding pursuant to this subchapter shall be instituted within 30 days after the property is seized on behalf of the county.

(E) The owner of the property is entitled to a jury trial in any action brought pursuant to this subchapter.

(Ord. 87-15, passed 4-1-87)

**§ 33.22 COUNTY TO HOLD PROPERTY**

**DURING PROCEEDINGS.**

(A) Prior to obtaining any judgment of forfeiture any money, securities, or negotiable instruments that are not required or retained for evidence in other pending litigation shall be deposited with County Finance Director pending the outcome of forfeiture proceedings.

(B) Any other property may be kept in the custody of the county. The District Attorney may hold the property for the county or may deliver it to the County Sheriff for safe keeping until a forfeiture judgment is obtained.

(Ord. 87-15, passed 4-1-87)

**§ 33.23 JUDGMENT OF FORFEITURE; DISPOSITION OF PROPERTY.**

If a judgment of forfeiture is obtained the property shall be disposed of as follows:

(A) At the discretion of the Sheriff, the forfeited property may be retained for use in law enforcement activities. When the Sheriff determines that the property is no longer needed for law enforcement purposes, it shall be sold in accordance with divisions (B) and (C) of this section.

(B) Property except money, securities, and negotiable instruments, which is not required by law to be destroyed and which is not harmful to the public shall be sold by the Sheriff. The sale shall be in any commercially feasible manner which is likely to obtain a reasonable selling price. County employees and their immediate families shall not be entitled to purchase any of the forfeited property.

(C) Umatilla County shall deposit the property or proceeds distributed to Umatilla County under Oregon Constitution Article XV 10(7)(c) to the General Fund of Umatilla County to be available for all lawful General Fund purposes.

(D) In the event any section, clause, sentence or provision of this section should be declared for any reason to be invalid, such declaration of invalidity shall not affect the validity of any other

section, clause, sentence or provision of this section that can be given effect without such invalid part or parts.

(Ord. 87-15, passed 4-1-87; Ord. 2002-09, passed 10-2-2002)

**§ 33.24 PROPERTY OWNER UNAWARE OF ILLEGAL ACTIVITY EXEMPTED FROM FORFEITURE.**

No property shall be forfeited pursuant to this subchapter to the extent of an owner who did not consent to or was not aware of the use of the property in the prohibited activity. Specifically, no right of any lien holder or co-owner of the property may be affected by a forfeiture pursuant to this subchapter if the co-owner or the lien holder was not aware of or did not consent to the prohibited activity.

(Ord. 87-15, passed 4-1-87)

**§ 33.25 APPLICATION OF PROVISIONS.**

This subchapter shall not apply to those unlawful acts defined in ORS 166.720(1) and (2).  
(Ord. 87-15, passed 4-1-87)

***PROCEDURES FOR THE INVENTORY  
OF PERSONAL PROPERTY OF INMATES  
OF THE COUNTY JAIL***

**§ 33.35 INMATES PROCEDURES.**

Inmates booked into the Umatilla County Jail will be searched and their personal property inventoried, seized and held for safe keeping in accordance with the procedures that follow.

(Ord. 98-05, passed 7-22-98)

**§ 33.36 FRISK SEARCH.**

All prisoners being held or booked into the jail will be frisk searched by a corrections officer prior to being booked and admitted to the jail.

(Ord. 98-05, passed 7-22-98)

**§ 33.37 STRIP SEARCH.**

(A) Inmates arrested for minor offenses may only be strip searched if corrections officials have a reasonable suspicion that the inmate is carrying or concealing a weapon or contraband, or is suffering from a communicable disease. A reasonable suspicion is less justification than is necessary to authorize an arrest. A minor offender is one arrested for something other than a felony, a Class A misdemeanor, or an offense involving drugs or weapons.

(B) There must be an “individualized suspicion” that a specific inmate arrested for a minor offense is a threat to jail security or is suffering from a communicable disease before a strip search is justified.

(C) If a strip search is conducted on an inmate being lodged for a minor offense, the book-in officer must document the reason for the strip search on a form designated for that purpose, placing a copy in the inmate's file and submitting a copy to the jail commander before the end of his/her shift.

(D) Justification for a strip search on an inmate arrested for a minor offense may include, but is not limited to:

(1) Assaultive or combative behavior during book-in.

(2) Smell of chemicals known to be present in methamphetamine laboratories.

(3) An inmate that appears to be hiding contraband by swallowing something during the frisk search, or by attempting to avoid a search of clothing during the frisk search.

(4) Evidence of prior use of drugs will not justify a strip search, however, prior arrests or convictions for drug use will justify a strip search.

(E) An inmate arrested for a felony, or a misdemeanor involving drugs or weapons, will be

strip searched.

(F) Inmates will only be strip searched in a private, clean, warm place that allows for privacy from persons of the opposite sex and other inmates.

(Ord. 98-05, passed 7-22-98)

**§ 33.38 CORRECTIONS SEARCHES.**

These searches may be conducted for the following reasons:

(A) Health and sanitation in the jail.

(B) Safety and security of the jail.

(C) To inventory personal property of an inmate.

(Ord. 98-05, passed 7-22-98)

**§ 33.39 PERSONAL PROPERTY INVENTORY.**

A corrections officer will inventory all the personal property of an inmate and record the inventory on the booking form. The inmate will sign a receipt for his/her personal property and receive a duplicate copy of the signed receipt. If the inmate is unable to sign during book-in, he/she will sign the receipt as soon as reasonably possible. Personal property receipts will be maintained for at least six months after the property is returned to the inmate.

(Ord. 98-05, passed 7-22-98)