

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
BILL NO. 2225

By: Moore of the House

and

Weaver of the Senate

7 An Act relating to cities and towns; amending 11 O.S.  
2011, Section 34-104, as amended by Section 1,  
8 Chapter 166, O.S.L. 2012 (11 O.S. Supp. 2020, Section  
34-104), which relates to disposition of property or  
9 money; \*\*\*\* modifying required hearing timeline;  
modifying certain notice requirements; specifying  
10 entity to dispose of property; \*\*\*\* authorizing  
transfer of certain currency; \*\*\*\* providing that  
11 notice is effective under certain circumstances; and  
providing an effective date.

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and  
entire bill and insert

16 "An Act relating to cities and towns; amending 11  
O.S. 2011, Section 34-104, as amended by Section 1,  
17 Chapter 166, O.S.L. 2012 (11 O.S. Supp. 2020, Section  
34-104), which relates to disposition of property or  
18 money; modifying process for disposing of certain  
property or money; specifying certain notice is  
19 required; determining whether property was seized in  
connection to criminal investigation; specifying  
20 entity that shall file certain application; modifying  
required hearing timeline; modifying certain notice  
21 requirements; specifying entity to dispose of  
property; clarifying process involving sale or  
22 donation to third parties; authorizing transfer of  
certain currency; directing certain processes for  
23 disposition of property under other circumstances;  
authorizing certain notice; providing notice not  
24 required for property of certain value; providing

1 that notice is effective under certain circumstances;  
2 amending 22 O.S. 2011, Sections 1321, 1322 and 1326,  
3 which relate to the return of stolen property or  
4 money taken from defendants; clarifying hearing  
5 procedures for returning property to lawful owners;  
6 providing option of filing affidavits with the court  
7 clerk; requiring notices be sent by first-class mail;  
8 specifying when hearings shall be held; requiring the  
9 filing of proof of service or publication with the  
10 court clerk; extending time by which property shall  
11 be made available for release; directing property  
12 owners to provide proof of title to property;  
13 requiring claimants to sign indemnification agreement  
14 under certain circumstances; requiring filing of  
15 affidavits of service or publication with the court  
16 clerk; extending date by which objections must be  
17 filed; authorizing retention of evidence or exhibits  
18 pending the outcome of actions for postconviction  
19 relief; authorizing government entities to seek a  
20 hearing regarding disposition of property;  
21 establishing hearing requirements; providing for the  
22 destruction of property under certain circumstances;  
23 extending time limitation for making property  
24 available to owners; providing gender-neutral  
language; clarifying procedures for providing  
receipts to defendants when money or other property  
is seized; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2011, Section 34-104, as  
amended by Section 1, Chapter 166, O.S.L. 2012 (11 O.S. Supp. 2020,  
Section 34-104), is amended to read as follows:

Section 34-104. A. Any chief of police or designee is  
authorized to dispose of personal property or money or legal tender  
as provided in this section or the ~~charter~~ ordinances of the  
municipality, which has come into the possession of the ~~chief of~~  
police ~~in any manner~~ department of the municipality if:

1 1. The owner of the personal property or money or legal tender  
2 is unknown or has not claimed the property after any required  
3 notice;

4 2. The property or money or legal tender has been in the  
5 custody of the chief of police for at least ninety (90) days; and

6 3. The property or money or legal tender or any part thereof is  
7 no longer needed to be held as evidence or for any other purpose in  
8 connection with any litigation. In the event the property, money or  
9 legal tender was seized by the police department in connection with  
10 a criminal investigation or arrest, this determination shall be made  
11 by the court which has jurisdiction over the criminal offense, if an  
12 information or indictment is pending, pursuant to Section 1321 of  
13 Title 22 of the Oklahoma Statutes, or by a prosecuting authority if  
14 charges have been disposed of or have been declined.

15 B. ~~The chief of police shall~~ municipality may file an  
16 application in the district court in which the situs of government  
17 of the municipality is located requesting the authority of the court  
18 to conduct a sale of the personal property which has a ~~fair~~ market  
19 value ~~of more than its face value.~~ ~~The chief of police shall attach~~  
20 ~~to the~~ application shall contain a list describing the property  
21 ~~including any identifying numbers and marks,~~ the date the property  
22 came into the possession of the ~~chief of police~~ municipality, and  
23 the name of the owner and the person in last possession, if  
24 different, and the address of the person, if known. The court shall

1 set the application for hearing not less than ~~ten (10)~~ fifteen (15)  
2 days ~~nor more than twenty (20) days~~ after filing of the application.

3 C. In any instance where the property has an actual or apparent  
4 value of more than Two Hundred Fifty Dollars (\$250.00), at least ~~ten~~  
5 ~~(10)~~ eleven (11) days prior to the date of the hearing, written  
6 notice of the hearing shall be sent by first-class mail, postage  
7 prepaid, to each owner and person last in possession of the property  
8 at the address as listed in the application. If the owner of any  
9 property with an actual or apparent value exceeding Five Hundred  
10 Dollars (\$500.00) is unable to be served written notice by first-  
11 class mail, notice shall be provided by one publication at least  
12 three (3) days prior to the hearing in a newspaper of general  
13 circulation in the county where the property is in custody. The  
14 notice shall contain ~~a brief description of the property of the~~  
15 ~~owner and~~ the place and date of the hearing and a description of the  
16 property, or the location of a list available for review during  
17 business hours in which the property is described and any known  
18 owner identified. The notice shall be posted at the assigned place  
19 for the posting of municipal notices, and at two other public places  
20 in the municipality.

21 D. If no owner appears and establishes ownership to the  
22 property at the hearing, the court shall enter an order authorizing  
23 the ~~chief of police~~ municipality to dispose of the property as  
24 follows:

1 1. Donate the property having value of less than Five Hundred  
2 Dollars (\$500.00) to a not-for-profit corporation as defined in  
3 Title 18 of the Oklahoma Statutes for use by needy families;

4 2. Sell the personal property for cash to the highest bidder,  
5 after at least five (5) days' notice of the sale has been published;

6 3. Transfer the property to a third-party agent under contract  
7 with the ~~governing body of the chief of police~~ municipality for sale  
8 by Internet or other electronic means, regardless of whether the  
9 sale structure or distribution site is within the State of Oklahoma;  
10 or

11 4. By any other means as determined appropriate by the court,  
12 including but not limited to, destruction.

13 ~~Regardless of~~ If the means of disposition involve a sale or  
14 donation to the third party, the chief of police or designee shall  
15 make a return of the donation or sale and the order of the court  
16 confirming the donation or sale shall vest title to the property in  
17 the recipient or purchaser. After payment of court costs and other  
18 expenses, the remainder of money received from the sale of the  
19 personal property shall be deposited in the municipal general fund.

20 E. All money or legal tender which has come into the possession  
21 of the ~~chief of police~~ municipality pursuant to the circumstances  
22 provided for in subsection A of this section shall be transferred by  
23 the chief of police or designee to the municipal clerk or municipal  
24 treasurer for deposit in the municipal general fund. Prior to any

1 transfer, the ~~chief of police~~ municipality shall file an application  
2 in the district court requesting the court to enter an order  
3 authorizing the chief of police or designee to transfer the money  
4 for deposit in the municipal general fund. The application shall  
5 describe the money or legal tender, the date the same came into the  
6 possession of the ~~chief of police~~ department, and the name of the  
7 owner and the address of the owner, if known. Upon filing the  
8 application which may be joined with an application as described in  
9 subsection B of this section, a hearing shall be set not less than  
10 ~~ten (10) days nor more than twenty (20)~~ fifteen (15) days from the  
11 filing of the application. Notice of the hearing shall be given as  
12 provided for in subsection C of this section. The notice shall  
13 state that upon failure of anyone to appear to prove ownership to  
14 the money or legal tender, the court shall order the same to be  
15 deposited in the municipal general fund. The notice may be combined  
16 with a notice to sell personal property as provided for in  
17 subsection B of this section. If no one appears to claim and prove  
18 ownership to the money or legal tender at the hearing, the court  
19 shall order the same to be transferred to the municipal general fund  
20 as provided in this subsection.

21 Notwithstanding any other provision of this section, if  
22 authorized by ordinance, the municipality may transfer any currency  
23 received into a depository account for the benefit of its known or  
24

1 unknown owners prior to any court order for disposition of the money  
2 or legal tender.

3 F. ~~The~~ Except as provided in this subsection, the provisions of  
4 this section shall not apply to any dangerous or deadly weapons,  
5 narcotic or poisonous drugs, explosives, or any property of any kind  
6 or character, ~~which~~ the possession of which is prohibited by law.  
7 By order of the trial court, any property filed as an exhibit or  
8 held by the municipality as evidence or as contraband shall be  
9 destroyed or sold or disposed of, pursuant to the conditions  
10 prescribed in the order. To the extent the provisions of this  
11 section do not apply, the court shall follow the procedures in  
12 Section 1321 of Title 22 of the Oklahoma Statutes. No forfeiture  
13 proceeding shall be necessary to authorize the destruction of  
14 property that cannot be returned lawfully to its owner.

15 G. The municipality is hereby authorized to establish a  
16 procedure for the registration of "lost and found" property. The  
17 procedure shall give the finder of any property the option of  
18 relinquishing any future claim to found property at the time its  
19 possession is surrendered to the police or other agent of the  
20 municipality, or of retaining possession of the property after  
21 registering its description and the ~~finders~~ finder's identity with  
22 the police department or other agent of the municipality. ~~Only~~ The  
23 municipality may require that only property in which the finder  
24

1 relinquishes any future claim to its ownership will be stored in  
2 municipal police property rooms.

3 H. The municipality may provide by ordinance that a percentage  
4 of the money or legal tender deposited in the municipal general fund  
5 as provided in subsection D or E of this section may be paid as a  
6 ~~finders~~ finder's fee for services rendered to any person who found  
7 the unclaimed personal property or money or legal tender and  
8 delivered it to, or registered it with, the chief of police or other  
9 agent of the municipality.

10 I. The municipality may provide written notice at the time of  
11 arrest or detention that certain property is available for return  
12 within ninety (90) days, if the property was not seized as evidence.  
13 If the property is or appears to be worth less than Two Hundred  
14 Fifty Dollars (\$250.00), no further notice is required prior to  
15 obtaining a court order for disposition of the property in  
16 accordance with this section. A notice left with a detainee's  
17 personal property at the detention facility shall be presumed to  
18 have been returned to the detainee at the time of his or her release  
19 and shall satisfy the officer's obligation to deliver a receipt to  
20 the detainee in connection with an arrest for a public offense.

21 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1321, is  
22 amended to read as follows:

23 Section 1321. A. It is the intent of the Legislature that any  
24 stolen or embezzled money or other property held in custody of a



1 municipality, county or the state in any criminal investigation,  
2 action or proceeding be returned to the proper person or its lawful  
3 owner without unnecessary delay.

4 B. If the property coming into the custody of a municipal,  
5 county or state peace officer is not alleged to have been stolen or  
6 embezzled, the peace officer may return the property to the owner  
7 upon satisfactory proof of ownership. The notice and hearing  
8 provisions of this section shall not be required for return of the  
9 property specified in this section if there is no dispute concerning  
10 the ownership of the property. Within fifteen (15) days of the time  
11 the owner of the property is known, the peace officer shall notify  
12 the owner of the property that the property is in the custody of the  
13 peace officer. The property shall be returned to the owner upon  
14 request, unless the owner, by law, is not permitted to possess such  
15 property.

16 C. Except as otherwise provided for property that is pawned,  
17 when money or property alleged to have been stolen or embezzled,  
18 comes into the custody of a peace officer, the peace officer shall  
19 hold it subject to the order of the magistrate authorized by Section  
20 1322 of this title to direct the disposal thereof. Within fifteen  
21 (15) days of the time the owner of the property is known, the peace  
22 officer shall notify the owner of the property that the property is  
23 in the custody of the peace officer. The peace officer shall make a  
24 good faith effort to locate and notify the owner of the property.

1 If the peace officer has made a good faith effort to locate and  
2 notify the owner of the property and has been unable to locate or  
3 notify the owner, the peace officer shall release the property to  
4 the last person in possession of the property within fifteen (15)  
5 days after the peace officer determines that an owner cannot be  
6 located or notified, ~~provided~~ unless there is evidence that the  
7 person who last had possession of the property ~~shows proof that the~~  
8 ~~person~~ is not a lawful possessor of the property. Such officer may  
9 provide a copy of a nonownership affidavit to the defendant to sign  
10 if the defendant is not claiming ownership of the money or property  
11 taken from the defendant and if the defendant has relinquished the  
12 right to remain silent. The affidavit is not admissible in any  
13 proceeding to ascertain the guilt or innocence of the defendant. A  
14 copy of this affidavit shall be provided to the defendant, and a  
15 copy ~~shall~~ may be filed by the peace officer with the court clerk.  
16 Upon request, a copy of this affidavit shall be provided to any  
17 person claiming ownership of such money or property. The owner of  
18 the property or designated representative of the owner may make  
19 application to the magistrate for the return of the property. The  
20 application shall be on a form provided by the Administrative  
21 Director of the Courts and made available through the court clerk or  
22 the victim-witness coordinator. The court may charge the applicant  
23 a reasonable fee to defray the cost of filing and docketing the  
24 application. Once an application has been made and notice provided,

1 the magistrate shall docket the application for a hearing as  
2 provided in this section. Where notice by publication is  
3 appropriate, the publication notice form shall be provided free of  
4 charge to the applicant by the Administrative Director of the Courts  
5 through the court clerk or the victim-witness coordinator with  
6 instructions on how to obtain effective publication notice. The  
7 applicant shall notify the last person in possession of the property  
8 prior to the property being seized by the state of the hearing by  
9 mailing a copy of the notice by certified mail return receipt  
10 requested at the last-known address of the person, unless the person  
11 has signed a nonownership affidavit pursuant to this section  
12 disclaiming any ownership rights to the property. If the last  
13 person in possession of the property is unable to be served notice  
14 by certified mail, notice shall be provided by first-class mail and  
15 by one publication in a newspaper of general circulation in the  
16 county where the property is held in custody. The applicant shall  
17 notify the district attorney and the court when notice has been  
18 served to the last person in possession of the property or published  
19 pursuant to this section. The hearing shall be held not less than  
20 ~~ten (10) days or more than twenty (20)~~ fifteen (15) days after ~~the~~  
21 ~~court has been notified that~~ the notice has been served or  
22 published. Proof of service or publication shall be filed with the  
23 court clerk before the hearing. For the sole purpose of conducting  
24 a due process hearing to establish ownership of the property,

1 "magistrate" as used in this section shall mean a judge of the  
2 district court, associate district judge, special judge or the judge  
3 of a municipal criminal court of record when established pursuant to  
4 Section 28-101 et seq. of Title 11 of the Oklahoma Statutes.

5 D. If the magistrate determines that the property is needed as  
6 evidence, the magistrate shall determine ownership or right of  
7 possession and determine the procedure and time frame for future  
8 release. The magistrate may order the release of property needed as  
9 evidence pursuant to Section 1327 of this title, provided however,  
10 the order may require the owner to present the property at trial.  
11 The property shall be made available to the owner within ~~ten (10)~~  
12 twenty (20) days of the court order for release. The magistrate may  
13 authorize ten (10) days additional time for the return of the  
14 exhibit if the district attorney shows cause that additional time is  
15 needed to photograph or mark the exhibit.

16 E. If the property is not needed as evidence, it may be  
17 released by the magistrate to the owner or designated representative  
18 of the owner upon satisfactory proof of ownership or to the person  
19 last in possession prior to seizure. The owner of the property or  
20 designated representative of the owner may make application to the  
21 magistrate for the return of the property. The owner shall provide  
22 satisfactory proof of title to the property or sign an affidavit of  
23 ownership if documents of title do not exist. If an affidavit of  
24 ownership or affidavit of right of possession is used to establish

1 ownership or right of possession, the claimant may also be required  
2 to sign an agreement to indemnify and defend the custodians of the  
3 property in the event of an adverse claim to the property. The  
4 applicant shall notify the last person in possession of the property  
5 prior to such property being seized by the state of the hearing by  
6 mailing a copy of the notice by certified mail return receipt  
7 requested at the last-known address of the person, unless the person  
8 has signed a nonownership affidavit pursuant to this section  
9 disclaiming any ownership rights to the property. If the last  
10 person in possession of the property is unable to be served notice  
11 by certified mail, notice shall be provided by one publication in a  
12 newspaper of general circulation in the county where the property is  
13 held in custody. The applicant shall notify the district attorney  
14 and the court when notice has been served to the last person in  
15 possession of the property or published pursuant to this section.  
16 The hearing shall be held not less than ~~ten (10)~~ fifteen (15) days  
17 ~~or more than twenty (20) days~~ after the court has been notified that  
18 the notice has been served or published. An affidavit of service or  
19 publication shall be filed with the court prior to the hearing.

20 F. The notice and hearing provisions of subsections C and E of  
21 this section shall not be required for return of the property  
22 specified in said subsections if:

23 1. There is no dispute concerning the ownership of the  
24 property;

1           2. The property is readily identifiable by the owner; and

2           3. The defendant has entered a plea of guilty or nolo  
3           contendere to the criminal charge, has executed a nonownership  
4           affidavit as provided by subsection C of this section or has been  
5           personally notified that the property will be returned to the owner  
6           and has failed to file an objection to such return within ~~ten (10)~~  
7           eleven (11) days of being notified. The owner shall provide  
8           satisfactory proof of title to the property or sign an affidavit of  
9           ownership or right of possession to be provided by the peace  
10          officer. If an affidavit of ownership or affidavit of right of  
11          possession is used to establish ownership or right of possession,  
12          the claimant may also be required to sign an agreement to indemnify  
13          and defend the custodians of the property in the event of an adverse  
14          claim to the property. The affidavit is not admissible in any  
15          proceeding to ascertain the guilt or innocence of the defendant. A  
16          copy of this affidavit shall be filed by the officer with the court  
17          clerk. The property shall then be returned to the owner or person  
18          with right of possession.

19          G. When property alleged to have been stolen comes into the  
20          custody of a peace officer and the property is deemed to be  
21          perishable, the peace officer shall take such action as appropriate  
22          to temporarily preserve the property. However, within seventy-two  
23          (72) hours of the time the property was recovered, the receiving  
24          agency shall make application for a disposition hearing before a

1 magistrate, and the receiving agency shall notify by first-class  
2 mail all persons known to have an interest in the property of the  
3 date, time and place of the hearing.

4 H. In any case, the magistrate may, for good cause shown, order  
5 any evidence or exhibit to be retained pending the outcome of any  
6 appeal or action for post-conviction relief.

7 I. Any time property comes into the custody of a municipality,  
8 a county, or this state as a result of any contact with any peace  
9 officer, criminal investigation or other situation where the return  
10 of the property is prohibited by any municipal, state or federal law  
11 or when the property has disputed ownership or multiple claimants,  
12 the municipality, county or state shall advise the claimant to file  
13 an application with the appropriate district court. Upon filing an  
14 application for a hearing, the claimant shall provide notice by  
15 first-class mail to all interested persons including the government  
16 entity having custody of the property. The government entity having  
17 custody of the property may also seek a hearing regarding the  
18 disposition of the property. The hearing shall be scheduled not  
19 less than fifteen (15) days after the notice is mailed. Unless the  
20 property is being held in connection with a filed criminal charge,  
21 the proceeding shall be considered a civil matter and shall be filed  
22 in the county where the property is being held. If a criminal  
23 charge has been filed, the matter shall be heard by the judge who  
24 has been assigned to the criminal case. At the hearing the court

1 shall make a judicial determination as to the proper and lawful  
2 release or other disposition of the property. If the property at  
3 issue is a firearm or other weapon, the court may order the property  
4 destroyed if the court determines that the owner of the firearm or  
5 weapon is mentally or emotionally unstable or disturbed or cannot  
6 legally possess the firearm or weapon.

7 J. The application, notice and hearing provisions of subsection  
8 I of this section shall include, but are not limited to, all  
9 situations where the peace officer has reason to believe:

10 1. One of the persons asserting a right to the return of any  
11 firearm or other weapon is or was mentally or emotionally unstable  
12 or disturbed at the time the weapon was placed in custody or at the  
13 time of the request for the return of the weapon;

14 2. One of the persons asserting a right to the return of a  
15 firearm or other weapon is subject to a victim protection order that  
16 would preclude the return of any weapon as a matter of law;

17 3. One of the persons asserting a right to the return of any  
18 firearm or other weapon is under indictment or has been convicted of  
19 a felony;

20 4. One of the persons asserting a right to the return of any  
21 firearm or other weapon has a misdemeanor conviction for domestic  
22 abuse as defined by law;

23

24



1           5. The ownership of the property is unclear due to multiple  
2 claimants or disputes among heirs or next of kin for the property of  
3 the deceased; or

4           6. The return of the property could subject the municipality,  
5 the county, or this state to potential liability for its return.

6           SECTION 3.           AMENDATORY           22 O.S. 2011, Section 1322, is  
7 amended to read as follows:

8           Section 1322. On satisfactory proof of title to the property,  
9 the magistrate before whom the information is laid, or who examines  
10 the charge against the person accused of stealing or embezzling the  
11 property, may order it to be delivered to the owner on his paying  
12 the reasonable and necessary expenses incurred in its preservation,  
13 to be certified by the magistrate. The order entitles the owner to  
14 demand and receive the property. Such property shall be made  
15 available to the owner within ~~ten (10)~~ twenty (20) days of the  
16 issuance of the order. The court, however, may keep the property as  
17 evidence or on the issuance of an order, require the owner to  
18 present such property at trial.

19           SECTION 4.           AMENDATORY           22 O.S. 2011, Section 1326, is  
20 amended to read as follows:

21           Section 1326. When money or other property is taken from a  
22 defendant arrested upon a charge of public offense, the officer  
23 taking it must at the time give duplicate receipts therefor,  
24 specifying particularly the amount of money or the kind of property



1 ENGROSSED HOUSE  
2 BILL NO. 2225

By: Moore of the House

and

Weaver of the Senate

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8 2011, Section 34-104, as amended by Section 1,  
9 Chapter 166, O.S.L. 2012 (11 O.S. Supp. 2020, Section  
10 34-104), which relates to disposition of property or  
11 money; modifying process for disposing of certain  
12 property or money; specifying certain notice is  
13 required; determining whether property was seized in  
14 connection to criminal investigation; specifying  
15 entity that shall file certain application; modifying  
16 required hearing timeline; modifying certain notice  
17 requirements; specifying entity to dispose of  
18 property; clarifying process involving sale or  
19 donation to third parties; authorizing transfer of  
20 certain currency; directing certain processes for  
21 disposition of property under other circumstances;  
22 authorizing certain notice; providing notice not  
23 required for property of certain value; providing  
24 that notice is effective under certain circumstances;  
and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 6. AMENDATORY 11 O.S. 2011, Section 34-104, as  
amended by Section 1, Chapter 166, O.S.L. 2012 (11 O.S. Supp. 2020,  
Section 34-104), is amended to read as follows:

Section 34-104. A. Any chief of police or designee is  
authorized to dispose of personal property or money or legal tender

1 as provided in this section or the ~~charter~~ ordinances of the  
2 municipality, which has come into the possession of the ~~chief of~~  
3 police ~~in any manner~~ department of the municipality if:

4 1. The owner of the personal property or money or legal tender  
5 is unknown or has not claimed the property after any required  
6 notice;

7 2. The property or money or legal tender has been in the  
8 custody of the chief of police for at least ninety (90) days; and

9 3. The property or money or legal tender or any part thereof is  
10 no longer needed to be held as evidence or for any other purpose in  
11 connection with any litigation. In the event the property, money or  
12 legal tender was seized by the police department in connection with  
13 a criminal investigation or arrest, this determination shall be made  
14 by the court which has jurisdiction over the criminal offense, if an  
15 information or indictment is pending, pursuant to Section 1321 of  
16 Title 22 of the Oklahoma Statutes, or by a prosecuting authority if  
17 charges have been disposed of or have been declined.

18 B. The ~~chief of police shall~~ municipality may file an  
19 application in the district court in which the situs of government  
20 of the municipality is located requesting the authority of the court  
21 to conduct a sale of the personal property which has a ~~fair~~ market  
22 value ~~of more than its face value~~. The ~~chief of police shall attach~~  
23 ~~to the~~ application shall contain a list describing the property  
24 ~~including any identifying numbers and marks~~, the date the property

1 came into the possession of the ~~chief of police~~ municipality, and  
2 the name of the owner and the person in last possession, if  
3 different, and the address of the person, if known. The court shall  
4 set the application for hearing not less than ~~ten (10)~~ fifteen (15)  
5 days ~~nor more than twenty (20) days~~ after filing of the application.

6 C. In any instance where the property has an actual or apparent  
7 value of more than Two Hundred Fifty Dollars (\$250.00), at least ~~ten~~  
8 ~~(10)~~ eleven (11) days prior to the date of the hearing, written  
9 notice of the hearing shall be sent by first-class mail, postage  
10 prepaid, to each owner and person last in possession of the property  
11 at the address as listed in the application. If the owner of any  
12 property with an actual or apparent value exceeding Five Hundred  
13 Dollars (\$500.00) is unable to be served written notice by first-  
14 class mail, notice shall be provided by one publication at least  
15 three (3) days prior to the hearing in a newspaper of general  
16 circulation in the county where the property is in custody. The  
17 notice shall contain ~~a brief description of the property of the~~  
18 ~~owner and~~ the place and date of the hearing and a description of the  
19 property, or the location of a list available for review during  
20 business hours in which the property is described and any known  
21 owner identified. The notice shall be posted at the assigned place  
22 for the posting of municipal notices, and at two other public places  
23 in the municipality.

24

1 D. If no owner appears and establishes ownership to the  
2 property at the hearing, the court shall enter an order authorizing  
3 the ~~chief of police~~ municipality to dispose of the property as  
4 follows:

5 1. Donate the property having value of less than Five Hundred  
6 Dollars (\$500.00) to a not-for-profit corporation as defined in  
7 Title 18 of the Oklahoma Statutes for use by needy families;

8 2. Sell the personal property for cash to the highest bidder,  
9 after at least five (5) days' notice of the sale has been published;

10 3. Transfer the property to a third-party agent under contract  
11 with the ~~governing body of the chief of police~~ municipality for sale  
12 by Internet or other electronic means, regardless of whether the  
13 sale structure or distribution site is within the State of Oklahoma;  
14 or

15 4. By any other means as determined appropriate by the court,  
16 including but not limited to, destruction.

17 ~~Regardless of~~ If the means of disposition involve a sale or  
18 donation to the third party, the chief of police or designee shall  
19 make a return of the donation or sale and the order of the court  
20 confirming the donation or sale shall vest title to the property in  
21 the recipient or purchaser. After payment of court costs and other  
22 expenses, the remainder of money received from the sale of the  
23 personal property shall be deposited in the municipal general fund.  
24

1 E. All money or legal tender which has come into the possession  
2 of the ~~chief of police~~ municipality pursuant to the circumstances  
3 provided for in subsection A of this section shall be transferred by  
4 the chief of police or designee to the municipal clerk or municipal  
5 treasurer for deposit in the municipal general fund. Prior to any  
6 transfer, the ~~chief of police~~ municipality shall file an application  
7 in the district court requesting the court to enter an order  
8 authorizing the chief of police or designee to transfer the money  
9 for deposit in the municipal general fund. The application shall  
10 describe the money or legal tender, the date the same came into the  
11 possession of the ~~chief of police~~ department, and the name of the  
12 owner and the address of the owner, if known. Upon filing the  
13 application which may be joined with an application as described in  
14 subsection B of this section, a hearing shall be set not less than  
15 ~~ten (10) days nor more than twenty (20)~~ fifteen (15) days from the  
16 filing of the application. Notice of the hearing shall be given as  
17 provided for in subsection C of this section. The notice shall  
18 state that upon failure of anyone to appear to prove ownership to  
19 the money or legal tender, the court shall order the same to be  
20 deposited in the municipal general fund. The notice may be combined  
21 with a notice to sell personal property as provided for in  
22 subsection B of this section. If no one appears to claim and prove  
23 ownership to the money or legal tender at the hearing, the court  
24

1 shall order the same to be transferred to the municipal general fund  
2 as provided in this subsection.

3 Notwithstanding any other provision of this section, if  
4 authorized by ordinance, the municipality may transfer any currency  
5 received into a depository account for the benefit of its known or  
6 unknown owners prior to any court order for disposition of the money  
7 or legal tender.

8 F. ~~The~~ Except as provided in this subsection, the provisions of  
9 this section shall not apply to any dangerous or deadly weapons,  
10 narcotic or poisonous drugs, explosives, or any property of any kind  
11 or character, ~~which~~ the possession of which is prohibited by law.  
12 By order of the trial court, any property filed as an exhibit or  
13 held by the municipality as evidence or as contraband shall be  
14 destroyed or sold or disposed of, pursuant to the conditions  
15 prescribed in the order. To the extent the provisions of this  
16 section do not apply, the court shall follow the procedures in  
17 Section 1321 of Title 22 of the Oklahoma Statutes. No forfeiture  
18 proceeding shall be necessary to authorize the destruction of  
19 property that cannot be returned lawfully to its owner.

20 G. The municipality is hereby authorized to establish a  
21 procedure for the registration of "lost and found" property. The  
22 procedure shall give the finder of any property the option of  
23 relinquishing any future claim to found property at the time its  
24 possession is surrendered to the police or other agent of the



1 municipality, or of retaining possession of the property after  
2 registering its description and the ~~finders~~ finder's identity with  
3 the police department or other agent of the municipality. ~~Only~~ The  
4 municipality may require that only property in which the finder  
5 relinquishes any future claim to its ownership will be stored in  
6 municipal police property rooms.

7 H. The municipality may provide by ordinance that a percentage  
8 of the money or legal tender deposited in the municipal general fund  
9 as provided in subsection D or E of this section may be paid as a  
10 ~~finders~~ finder's fee for services rendered to any person who found  
11 the unclaimed personal property or money or legal tender and  
12 delivered it to, or registered it with, the chief of police or other  
13 agent of the municipality.

14 I. The municipality may provide written notice at the time of  
15 arrest or detention that certain property is available for return  
16 within ninety (90) days, if the property was not seized as evidence.  
17 If the property is or appears to be worth less than Two Hundred  
18 Fifty Dollars (\$250.00), no further notice is required prior to  
19 obtaining a court order for disposition of the property in  
20 accordance with this section. A notice left with a detainee's  
21 personal property at the detention facility shall be presumed to  
22 have been returned to the detainee at the time of his or her release  
23 and shall satisfy the officer's obligation to deliver a receipt to  
24 the detainee in connection with an arrest for a public offense.

