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IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

87-048

In the Matter of an Ordinance)
Amending Ordinance 419, the)
Yamhill County Civil Forfeiture Ordinance, as Amended by)
Ordinance 424, to Modify Provisions Relating to the)
Limitation Period and to the)
Forfeiture of Real Property)
ORDINANCE NO. 441

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on the 11th day of February, 1987, Commissioners David E. Bishop, Ted Lopuszynski, and Donald D. Porter being present.

WHEREAS, on the 28th day of August, 1985, the Board adopted Ordinance 419, known as the Yamhill County Civil Forfeiture Ordinance, for the purpose of providing for the forfeiture of instrumentalities and proceeds of illegal activities committed within Yamhill County; and

WHEREAS, on the 11th day of December, 1985, the Board adopted Ordinance 424 which amended the distribution procedure set forth in Ordinance 419; and

WHEREAS, since August, 1985, five civil forfeiture proceedings have been instituted in the name of Yamhill County to recover proceeds and instrumentalities related to the commission of illegal activities within Yamhill County; and

WHEREAS, experience gained in prosecuting said forfeiture actions has indicated a need for certain amendments to Ordinance 419 as follows:

- a. The five day limitation period in Ordinance 419 within which time an action must be instituted should be increased to 30 days in order that a broader investigation may take place as to whether a forfeiture action should be filed in the first instance;
- b. A provision allowing the county to seize property subject to forfeiture, after obtaining a court order, should be included;
- c. Section 3.01(7)(iv) should be amended to comply with statutory modifications;
- d. Section 4.01(7) should be amended to allow forfeiture of real property when a person possesses a controlled substance with intent to deliver, because the current language would not allow a forfeiture except in cases of manufacture of a controlled substance; and

WHEREAS, the Board finds that the enactment of this ordinance is necessary to preserve the health, welfare, and safety of the citizens of Yamhill County, and thereby declare an emergency to exist; and

WHEREAS, it is in the best interests of the citizens of Yamhill County to amend the Yamhill County Civil Forfeiture Ordinance as set forth below, NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Yamhill County Ordinance 419 is and shall be amended by deleting subsection 6.02 in its entirety and replacing it with the following language:

"6.02. The proceedings provided for in Section 6.01 above shall be instituted promptly and in accordance with the Oregon Rules of Civil Procedure and the Oregon Rules of Evidence Relating to Civil Actions. Within 30 calendar days after the seizure, county counsel shall file a complaint and may initiate an application for a temporary order restraining either the return of seized property or the dissipation of seized property by the defendant or property owner. The defendant or the owner of the property may demand a trial by jury in any civil action brought pursuant to this section."

Section 2. Yamhill County Ordinance 419 is and shall be amended by adding Section 5.02 to said ordinance, said subsection reading in its entirety as follows:

"5.02. Nothing in this section shall prohibit the seizure of property subject to forfeiture to Yamhill County under this ordinance pursuant to issuance of court process as provided in the Oregon Rules of Civil Procedure or any other provision of Law.

Section 3. Yamhill County Ordinance 419 is and shall be amended by deleting subsection 3.01(7)(d)(iv) in its entirety and replacing it with the following language:

"3.01(7)(d)(iv). Chapter 166 relating to unlawful possession of firearms, destructive devices or other weapons.

Section 4. Yamhill County Ordinance 419 is and shall be amended by deleting Section 4.01(7) in its entirety and replacing it with the following language:

"4.01(7). All real property which is used to manufacture any controlled substance, all real property in or upon which a person possesses a controlled substance with intent to deliver, and all real property which is used to facilitate the promotion of gambling as defined in ORS 167.127[1985 edition]. Notwithstanding any language to the contrary, no residential real property which is used to manufacture less than one pound of marijuana when dried shall be subject to forfeiture under this ordinance. Further, no residential real property upon which a person possesses with intent to deliver less than one pound of marijuana when dried shall be forfeited under this ordinance.

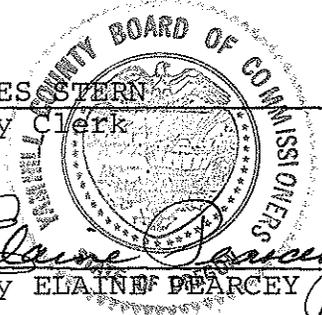
Section 5. This ordinance being necessary to preserve the health, welfare, and safety of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective immediately upon passage hereof.

DATED this 11th day of February, 1987, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



David E. Bishop
Chairman DAVID E. BISHOP

By: *Elaine Pearcey*
Deputy ELAINE PEARCEY

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

APPROVED AS TO FORM BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Donald D. Porter
Commissioner DONALD D. PORTER