

Dated this 11th day of March, 2020.

THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

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Bill Baertlein, Chair

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David Yamamoto, Commissioner

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County Clerk

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By: Tassi O'Neil
Special Deputy

Joel W Stevens
Joel W Stevens, County Counsel





TILLAMOOK COUNTY

REAL PROPERTY MANAGEMENT POLICY

March 2020

INTRODUCTION

The primary method by which Tillamook County acquires title to real property is through foreclosure on delinquent taxes. Additionally, the County may acquire properties through purchase, exchange, donation, or bequest. The purpose of this manual is to describe the methods and practices in use by Oregon Counties, with specifics to Tillamook County, to convey title to these properties.

It is intended that this document be used solely for the purpose of obtaining information on the property management techniques and practices presently in use throughout the state. Any reference to legal procedures and requirements is provided for contextual purposes only and should not be relied upon by the reader. Questions concerning such procedures and requirements should be resolved by reference to the cited statutes and County Counsel.

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FORECLOSURE

A. Foreclosure Definition

Legal process a lender initiates to force the sale of a mortgaged property when the borrower has not met the terms of the loan agreement. Foreclosures can also be initiated by others having a lien on a property, such as the County, if property taxes are not paid.

B. Foreclosure Process Generally

Since 1939, the County is required to institute tax foreclosures if the property is 3 or more years delinquent on tax payments.

Judicial or Non-Judicial Foreclosure:

- Governed by statutes in ORS Chapter 86 (Mortgages; Trust Deeds) and Chapter 88 (Foreclosure of Mortgages and Other Liens).
- Lenders may foreclose on deeds of trusts or mortgages in default using either a judicial or non-judicial foreclosure process.
- In a judicial foreclosure, which the County uses, the servicer or its representative takes you to court to recover the money you owe by selling the house. Both the servicer and its representative act on behalf of the owner of the loan, commonly known as the investor. The judicial process of foreclosure, which involves filing a lawsuit to obtain a court order to foreclose, is used when no power of sale is present in the mortgage or deed of trust. Generally, after the court declares a foreclosure, your home will be auctioned off to the highest bidder.

C. County Process

- If taxes are delinquent for more than three years, the property goes into the foreclosure process.
- Annually around August, County Counsel files an Application for General Judgment of Foreclosure (lawsuit) with the Circuit Court. This process takes 3-6 months, during which time the owners are served by publication in the local newspaper, the Headlight-Herald. The County contracts with a local Attorney to identify any properties owned by active duty military personnel. If such properties are identified, s/he represents the owner under the Soldiers and Sailors Relief Act of 1940, currently the Servicemember Civil Relief Act.
- Annually around October, the Tax Collector runs title reports (JEL Reports) on the list of properties in the prior year's active foreclosures pursuant to ORS 312.125, which requires a one-year notice to the property owner and lienholder of the redemption period expiration. However, if there are any IRS liens that appear, then the County will be responsible for them because the County did not give the IRS proper notice before

obtaining the General Judgment of Foreclosure. If the County names the IRS in the foreclosure action, then the IRS has the right to redeem the property within the redemption period and the lien goes away once the County takes deed. If the County does not name the IRS in the foreclosure action, then IRS still has the right to redeem the property, but the IRS lien still attaches to the property even after County takes deed. Therefore, to minimize risk and the cost of paying for title reports, the County conducts federal tax lien searches in the Clerk’s recording database (search by name under document type “FLIEN”) in July or August right before the Application for General Judgment of Foreclosure is filed so that the County can properly notice the IRS.

- Annually around November, Circuit Court issues a General Judgment of Foreclosure (court order) that orders the Tax Collector to sell the properties. The Judgment also enables the court to retain jurisdiction to enforce its terms and issue a Writ of Assistance or Writ of Execution if possession to the property is being unlawfully withheld from the County (i.e., squatters). Before the General Judgment is signed, an account can be redeemed by paying off the earliest year of delinquency. After the General Judgment is signed, an account can be redeemed only by paying off the full amount of delinquency.
- The two-year redemption period begins on the date of General Judgment and lasts exactly two years from that date. At any time during that period, the owners and interested parties can avoid foreclosure by paying all taxes, interest, penalties, and foreclosure costs to receive a certificate of redemption. There are typically 25-100 properties in the annual Judgment and by the end of the year 95% have been paid and avoid foreclosure.
- Annually around January, the Tax Collector’s Deed is signed by the Tax Collector and the Board conveying to the County the foreclosed properties that were not redeemed during the two-year redemption period. By this time, no taxes have been paid for approximately 6 years.
- Annually around February, the Property Manager (PM) begins preparing for the annual land sale auction, including the new properties. The goal is to convey the properties before July 1, so the properties are on the tax rolls and available for valuation for the November tax collection.
- The County forecloses on the surface of the property. Mineral rights and easements transfer with the property.

D. County Process Summary Example

2015	
November	Taxes due for FY 15-16
2016	
May	Taxes final deadline for FY 15-16
November	Taxes due for FY 16-17
2017	
May	Taxes final deadline for FY 16-17 (1 year delinquent)

November	Taxes due for FY 17-18
2018	
May	Taxes final deadline for FY 17-18 (2 years delinquent)
November	Taxes due for FY 18-19
2019	
May	Taxes final deadline for FY 18-19 (3 years delinquent)
August	Counsel files Application for Judgment and names IRS if any federal tax liens found in Clerk's recording database
November	Obtain Judgment
2020	
November 2019 – November 2020	Redemption period – Year One
November 2020	List of lienholders prepared and sent a notice of redemption period expiration in one year (JEL Report)
2021	
November 2020 – November 2021	Redemption period – Year Two (expiration)
November 2021	Supplemental list of lienholders prepared (JEL Report)
2022	
January 2022	Tax Collector's Deed
February 2022	Prepare for Land Sale
April-May 2022	Land Sale

E. Possession During Redemption Period; Forfeiture for Waste (ORS 312.180)

The sale of property to the County on foreclosure for delinquent taxes does not affect the former owner's right to possession of the property during the period of redemption. However, any waste of the property, committed by the former owner or by anyone acting under permission or control of the former owner, shall work a forfeiture to the County of the right to such possession under ORS 312.180. The commission of waste is also punishable, upon conviction, by a fine of not less than twice of value of waste under ORS 312.990.

Foreclosure does not affect personal property. County Counsel must first send a written notice to the former owner of record noticing them of how many days they have to retrieve the personal property. If they fail to do so, the property is considered abandoned and the County disposes of it as it sees fit. This is an important statutory step that should not be overlooked.

Once all the proper notification is completed, the County shall evaluate the amount of personal property and estimate the time that it will take to remove everything. The PM shall then establish days/times with the individual that correspond to when the County can be on the property to monitor the progress. The amount of personal property varies, thereby requiring more or less time in each instance. The overall goal is to be flexible because the County does

not want to be left with the problem of removing, storing, selling, etc. the remaining personal property. The best option is for the individual to take everything.

Once a property is in foreclosure and during the two-year redemption period, ORS 312.122, ORS 312.180, and County Ordinance 63 allow the County to take an early deed if there is waste or abandonment. Waste is not necessarily defined as solid waste, but could be negligence that diminishes the value of the property.

F. Constructive Possession by the County; Remedy of Ejectment (ORS 312.218)

As against the claims of all persons owning or claiming to own, or having or claiming to have, any interest in real property subject to foreclosure for delinquent taxes, the following shall be presumed conclusively:

- (1) That from and after the date of the execution of any such deed to the County, the County shall be deemed to have constructive possession of the real property therein described to the same extent and legal effect as if the County were in the actual, physical and exclusive possession of such property, and for all purposes such constructive possession shall be deemed the equivalent of actual and physical possession of such property that is hostile, adverse, actual, visible, notorious, and exclusive.
- (2) That the recording of a deed to the County pursuant to ORS 312.200, gave and hereafter shall be deemed to give notice to the public of the County's constructive possession as provided and defined in ORS 312.214 to 312.220. (ORS 312.218)

Under ORS 312.218(1), this shall not apply to persons who were in the actual and physical possession of any such real property at the time of the execution of a deed thereto to the County pursuant to a foreclosure proceeding.

Under ORS 312.218(2), the remedy of ejectment, in addition to *all other remedies made available to the person by law*, is hereby made available to any person claiming to be the owner of any property as against the County which is in the constructive possession of the County as provided and defined in ORS 312.214 to ORS 312.220.

The ejectment process when dealing with a property containing squatters that the County obtained through tax foreclosure is as follows:

- (1) County Counsel and Sheriff visit the property to determine the names of all who are unlawfully occupying the property (i.e., last owner, last owner's tenant, transients, etc.) and give them verbal notice to vacate. Depending on the circumstances, County Counsel may elect to skip this step and proceed directly with step two. For example, if County Counsel already knows which individuals unlawfully remain on the premises.

- (2) If they do not leave, then County Counsel drafts a formal Notice to Vacate letter addressed to each person “and all others occupying and claiming an interest at this address” who are unlawfully possessing the property.
 - a. In some counties, naming “all others” requires filing a motion for alternative service by posting and then following up with posting notice of the action at the improperly occupied property. Tillamook County Counsel will decide if this is necessary on a case-by-case basis.
 - b. The letter needs to identify the property address, tax lot #, account #, and the last owner of record.
 - c. The letter also needs to give the number of days (usually between 10 and 30 days) that they have to vacate or else the County will proceed with an ejectment or trespass action against them.
 - d. A copy of the Tax Collector’s Deed needs to be attached to it showing that the County now owns the property.
- (3) Contact the Sheriff’s Office civil division to arrange for service of the letter. The Sheriff’s officer will give us a Sheriff’s Return of Service document confirming service.
- (4) If they still do not leave, then County Counsel files an ejectment summons and complaint with the Circuit Court against all persons.
 - a. Attach to the complaint a copy of the Tax Collector’s Deed and all of the Notices to Vacate and Sheriff’s Returns of Service.
 - b. Other counties have determined that an action for forcible entry or wrongful detainer (FED) under ORS 105.110 does not apply to these squatter situations because there is no landlord/tenant relationship once the County takes title. Tillamook County Counsel has taken this position as well.
- (5) Contact the Sheriff’s Office civil division to arrange for service of the summons and complaint. The Sheriff’s officer will give us a Sheriff’s Return of Service document confirming service.
- (6) If they do not leave or respond, then County Counsel moves forward with the ejectment process and obtains a Writ of Assistance from the court giving Sheriff the power to enter the property and physically remove the persons.
- (7) If they leave, then County Counsel files a motion and order to dismiss the ejectment complaint with the Circuit Court.
- (8) For more details, please review the Foreclosure Procedures in the Commissioners’ Office.

G. House Demolition

If there is a house or other structure on the property, the Board may decide to demolish it. Due to the high costs involved, the Board has pursued this option in very limited cases. Specifically, when a property meets the requirements for reduced redemption due to waste or abandonment as set forth in County Ordinance 63, which requires a public hearing, and there are extreme concerns about public health and safety.

The County procures for the demolition and cleanup of the property and enters into a general services contract with a contractor. In 2014, the cost for these services for a house that did not contain asbestos was \$29,360. There may be other associated expenses that could add hundreds or thousands of dollars to the overall cost, such as asbestos abatement, towing of any vehicles on the property, septic tank pumping, and heating oil tank decommissioning.

H. Unclaimed Personal Property and Vehicles

Ejectment Process:

At the time that Sheriff executes a Writ of Assistance that the County obtained through the Ejectment Process section, a personal property release agreement needs to be signed by County Counsel and by each person being evicted. County Counsel coordinates with Sheriff to attend the eviction to ensure that the release is properly executed. Depending on the situation, County Counsel may decide not to use the release (i.e., minimal items that are being removed contemporaneously) or to give the person signing the release a grace period of a few hours to a few days to collect their personal belongings. The release also contains a no-trespassing term stating that the person agrees not to enter the real property without prior written permission from County Counsel and when escorted by a County representative.

The purpose of the release is to enable the County and any subsequent purchasers or contractors (such as towing and recycling companies) to dispose of the personal property. Some counties pay for storage units to hold the personal property for a certain period of time (30 to 180 days) and take time to inventory each and every item. However, Tillamook County has determined that those measures are cost prohibitive and that the release is sufficient.

Towing Abandoned Vehicles (ORS 98.830 and ORS 819):

ORS 98.830 authorizes a person who owns or is in lawful possession of private property that contains an abandoned vehicle to tow the vehicle after a 72-hour notice period. This statute gives the towing company immunity from civility liability as long as all requirements are met. ORS 819.100 to 819.215 addresses abandoned vehicles from a public safety perspective by giving authority to take a vehicle into custody to the Department of State Police, Department of Transportation, county sheriffs, and city police depending on the vehicle location. However, Tillamook County Counsel has determined that the personal property release agreement explained in the Ejectment Process section is sufficient.

Homeless Camps:

ORS 203.077 requires local jurisdictions to develop and implement a humane policy relating to the removal of homeless individuals from camping sites on public property. However, ORS 203.081 excludes public property that is a day use recreational area or a designated campground that is occupied by an individual under agreement with the County or municipality.

Tillamook County established its policy regarding homeless camping sites under Order 10-054 on July 21, 2010. Under the County's policy, all unclaimed personal property removed from the campsite shall be given to law enforcement officials. The property shall be stored for a minimum of thirty (30) days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for thirty (30) days may be disposed of by the Sheriff. Personal property that has no apparent utility or is in unsanitary condition may be immediately destroyed, after making an effort to determine utility to person or persons on the campsite. Weapons, drug paraphernalia and items that appear to be stolen or evidence of a crime shall be given to law enforcement officials.

In addition, any County actions dealing with a homeless camp shall comply with all applicable state and federal laws.

I. Hardest Hit Funds Program

As of November 2016, the State of Oregon is offering delinquent homeowners a foreclosure assistance program called the Property Tax Benefit through the Oregon Homeownership Stabilization Initiative (OHSI). This program is federally funded through the U.S. Treasury's "Hardest Hit Fund" (HHF) of its Troubled Asset Relief Program (TARP) Program, which originated in 2008. Therefore, the Property Tax Benefit is commonly referred to as the HHF Program.

Under the HHF Program, qualified homeowners receive a benefit of up to \$40,000 to cure their property tax arrearage at any time until the County takes deed to the property and can even be applied after the two-year redemption period has expired. The money is paid directly to the County under a Memorandum of Understanding. This benefit is in the form of a 5-year, 0%, non-amortizing loan on the property, and it will take a junior lien if necessary. This loan is forgiven by 20% on January 1 of each year it is outstanding. If the property is sold or refinanced during those 5 years, the state will only recover the remaining funds owed if there is sufficient equity.

Applications are online only directly with OHSI, not through the County. To avoid a conflict of interest, County employees should not assist homeowners with their applications and should refer homeowners to Community Action Resource Enterprises, Inc. (CARE) for assistance and counseling services. The HHF program is expected to close permanently in the spring of 2020.

J. Disabled and Senior Citizen Property Tax Deferral Program (ORS 311.666 to 311.701)

The Disabled and Senior Citizen Property Tax Deferral Program is a state program through the Oregon Department of Revenue (DOR). Under this program, DOR pays the current and future annual property taxes directly to the County for disabled and senior citizens who have a recorded deed or property sales contract in their name thereby enabling them to retain their homes. The deferral occurs when DOR places a lien on the property that must be paid in full

plus 6 percent interest when the person moves or dies or when the property is sold or changes ownership. However, DOR does not pay any delinquent taxes and interest to the County, so the disabled or senior citizen must bring the property tax account current to qualify for the program.

If the property is conveyed to the County through tax foreclosure and the County sells the property, the County must reimburse the value of the lien to the DOR from the property proceeds. The deferral taxes often accumulate to a value that exceeds the property value. In such an instance, the County will lose money when the property is sold.

K. Sale to Record Owner or Contract Purchaser of Property (ORS 275.180)

In accordance with ORS 275.180, the Board may at any time, without publication of any notice, sell and convey by deed to the record owner or the contract purchaser of record any property acquired by the County for delinquent taxes for not less than the amount of taxes and interest accrued and charged against such property at the time of purchase by the County, with interest at the rate of 6% per annum from the date of such purchase.

All such sales are subject to all liens or claims arising out of any unsatisfied assessment for a local improvement levied against the property, and also are subject to any title or equity of the municipal corporation predicated upon any such lien or assessment.

Under ORS 275.180, a sale to a former owner is allowed at any time after the County takes title by a Tax Collector's Deed until the Sheriff's sale begins. The right of redemption expires when the Tax Collector's Deed is executed. Any later sale to the former owner is made solely at the Board's discretion.

The County is not required to sell the property to the former owner. It has been the County's policy not to do so, unless the County foreclosure notices were flawed or other extenuating circumstances exist. This policy is based on the belief that the former owner had sufficient time during the five- to six-year period leading up to the Tax Collector's Deed to resolve the tax delinquency. In addition, if a sale is made, the County requires a former owner to pay not only the outstanding taxes, interest penalty, and fees that are otherwise paid by a redeeming owner, but also the former owner must pay a 6% interest penalty on this amount from the date of the Tax Collector's Deed to the date of sale and a \$100 processing fee.

SET UP PROPERTY RECORD

Upon receipt of the deed from the Tax Collector, the PM should prepare a property file. A typical file may include information pertaining to taxes, former ownership (deeds), legal access, existing easements or encumbrances, a general property description, and maps.

The County may wish to obtain a title report as an initial step in preparing the property file. This may already have been provided by the Tax Collector in order to meet the notice requirements to the owner or lienholder of the redemption period expiration under ORS 312.125. If so, an updated report may be all that is necessary. Information such as current and past ownership, existing lienholders, and other clouds to the title can be ascertained through preliminary title reports.

A. Photographs

A photograph of the property may be included in the property file. The PM must inspect the site and decide whether or not photographs would be helpful in assessing the possible future uses, in avoiding potential liability, or in the preparation of advertising and sale materials. It is recommended that the PM visit any property containing suspected occupants with a Sheriff's Officer for personal safety purposes.

To prevent possible confusion in the communication of information concerning particular aspects of the property, each photograph should be labeled with a disclaimer stating:

This photograph is provided to assist in visualizing the property, its improvements, location, size, etc. The photograph may distort the scale and size of the property. It is not meant as a true representation of the property and should not be relied upon for its accuracy.

B. Legal Descriptions

The property file should contain the legal description of the property. This is taken from the Tax Collector's Deed or title report, or prepared by the County Surveyor or GIS Analyst. To avoid possible boundary disputes in the event that a discrepancy is discovered, it may be desirable in drafting the description to resolve the issue in favor of the adjoining taxpaying property owner.

The County typically sells property through the use of a quitclaim deed, thereby quitclaiming whatever interest it holds in the property to the buyer at the time of sale.

C. Buildability

The file should contain information pertaining to the property's buildability, including septic approval, rights of way, and liens.

D. Interdepartmental Review

The PM should solicit input from all departments having an interest in the property, specifically Parks and Public Works. Any department having other information relevant to the property should be requested to submit the information to the PM. This information could include, but not be limited to, prior permit approvals or denials, possible hazard limitations such as geologic hazards, flood zones and zoning information, etc. Justification to retain a parcel in County ownership should be submitted by any department having cause to believe it is within the best interest of the County to retain the property.

In addition, the County departments may wish to prepare a statement of possible public uses including parks or recreation sites, public roads, slope easements, wetland mitigation sites, fill or removal areas, and structures for use by housing agencies. Such determinations may necessarily require input from the county offices of Community Development, Surveyor, Public Works, County Parks, Tax, and any other department that deals with property, as well as local housing authorities and agencies. To facilitate such reviews, the PM may wish to assemble written packets of known information and then send copies to each department or agency to be returned with written comments by a specified date.

Pursuant to Order 00-44, the County shall retain all water related lands, including all ocean and bay beach front, tidelands, dunes, lakes, ponds, rivers, and streams as well as land adjacent to such water bodies, for public use, either under County management or by relinquishing title to another public agency or nonprofit organization for public use. There is an exception to this rule that allows for the sale of lands along rivers and streams where parcels are not capable of use by the public for access to or from the water due to the steepness of the stream bank, lack of legal access to the parcel, or other features which prevent public access.

E. Property Improvements

The County may continue to be charged for delinquent sanitary district fees, but the County is not required to pay the fees. Rather, the fees accumulate and when a new owner acquires the property, they must pay the back fees before the sanitary district will reconnect services.

ASSESS THE CONDITION OF THE PROPERTY

Upon completion of the property file, the PM may prepare a written assessment of the condition of the property. This initial assessment should focus on concerns and suggestions resulting from the investigation of the property. The PM may incorporate all or portions of the written assessment into the property file for each parcel or as part of a sales booklet for use by prospective bidders. Before such written information is provided to prospective purchasers, it should be reviewed by County Counsel for appropriateness or the inclusion of disclaimers where needed. In addition, this written information will be useful in determining which properties should be offered for sale and the procedure for such a sale.

The PM should assess the need for any immediate action by the County to secure the structures, protect assets, or minimize potential liabilities, particularly those involving the presence of hazardous materials.

All properties should be examined at least annually and reported to the Board to determine if property should be held for some purpose, transferred, or sold consistent with this document.

A. Risk Mitigation when Structures on Property

Upon County's possession of a property, OPPMA recommends that the PM take the following steps to mitigate any risk of unlawful use of the property (i.e., squatters) or vandalism when there are structures on the property:

- Cancel all utilities (unless needed for safety purposes)
- Change all locks
- Remove electronic door devices and disconnect garage door opener
- Install steel doors
- Board up doors and windows immediately
- Make sure exterior is well lit, both front and back (install lighting timers)
- Trim all vegetation, both front and back
- If there are any known or suspected occupants on the day the County takes deed, pursue the process set forth in the Constructive Possession by the County; Remedy of Ejectment section as needed.
- It is highly recommended that the PM visit any property containing suspected occupants with a Sheriff's Officer for personal safety purposes.

B. Strict Liability for Toxic Waste

The PM should be aware of potential legal issues regarding the existence of toxic waste. Under ORS 465.255(3), there is a limited exclusion to strict liability for a unit of state or local government that acquired ownership or control of a facility involuntarily, through escheat, bankruptcy, tax delinquency, abandonment, or through the exercise of eminent domain. The County is not liable for the release of hazardous materials if acquired involuntarily through foreclosure on tax delinquency, unless the County:

- (1) Obtains actual knowledge of the hazardous material at the site and then sells property without disclosing knowledge of hazardous materials to innocent purchasers; or
- (2) Contributes to the problem by acts or omissions which increase the extent of contamination at the site; or
- (3) Hinders or delays entry, investigation or remedial action on the property, causing an increase in the contamination.

The County shall not be liable for costs or damages as a result of emergency action taken in response to the release of a hazardous substance owned by another person. This does not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. Reckless, willful, or wanton misconduct shall constitute gross negligence.

The County may require a person liable for injury or destruction of property under this section to conduct any removal or remedial action or related actions necessary to protect the public health, safety, welfare and the environment. If any person liable without sufficient cause shall fail to conduct a removal or remedial action as required, the person shall be liable for the remedial action costs and for punitive damages not to exceed three times the amount of the state remedial costs.

The current statutes mandate foreclosure even though the foreclosure may not recover unpaid taxes. When a property is contaminated, foreclosing may have the effect of forgiving taxes owed because the receipts upon sale may not cover the costs of both the cleanup and the unpaid taxes. While the proceeds of the sale of tax foreclosed property may be sizable, they will not pay for a major cleanup.

If the County forecloses on a property made worthless by hazardous materials, the tax revenues are lost. Where the property is worth less than the cost to clean it up, the present foreclosure procedure provides an incentive to the owners to let the taxes go to the point of foreclosure. One possible solution is for the County to foreclose on the property, but delay the delivery of the deed to the County until the property is determined to be clean. If the property cannot be cleaned, other methods of recovering the taxes should be pursued, and the deed to the property should be retained by the former owners. In the event that this situation arises, the County is advised to defer to County Counsel.

When implementing a property clean-up, the County shall utilize the services of the franchise hauler that serves the area where the property is located.

C. Cleanup of Toxic Contamination from Illegal Drug Manufacturing - "Drug House" (ORS 453.855-453.888)

In the event that the PM suspects that the property may have been involved in the manufacture or distribution of illegal drugs, specific steps must be taken. Oregon statutes outline the procedures required when illegal drug activity has taken place on the property. ORS 453.858(3) defines "property" as real property, improvements on real property or portions of the improvements; boat, trailer, motor vehicle or manufactured dwelling; or contents of the items listed in the above property. It is recommended that the PM visit any property containing suspected occupants with a Sheriff's Officer for personal safety purposes.

These procedures apply to any property known or reasonably believed to have been used as an illegal drug manufacturing site, except to the extent that the devices, equipment, things or substances that are used for delivery, manufacture or possession of a controlled substance are kept, stored or located in or on the property for the purpose of lawful sale or use of these items.

Under ORS 453.867, no person may transfer, sell, use or rent any property knowing or having reasonable grounds to believe it was used as an illegal drug manufacturing site unless the property is determined fit for use, pursuant to ORS 105.555, 431.175, and 453.855 to 453.912 and rules of the Oregon Health Authority (OHA), or as authorized by ORS 453.870.

Under ORS 453.870, any property that is not fit for use may be transferred or sold if full, written disclosure, as required by the OHA, is made to the prospective purchaser. This notice is to be attached to the earnest money receipt and must accompany the sale document but is not to be recorded.

Under ORS 453.876, the Director of the OHA or a designee thereof, the State Fire Marshal or a designee thereof or any law enforcement agency may determine that property is not fit for use pursuant to ORS 431.175 and 453.855 to 453.912. The determination is effective immediately and renders the property not fit for use. The owner may appeal the determination within thirty working days after the determination.

Under ORS 453.873, for purposes of enforcement of ORS 105.555, 431.175 and 453.855 to 453.912, the Director of the OHA or a designee thereof or the State Fire Marshal or a designee thereof, upon presenting appropriate credentials and a warrant, if necessary, issued under ORS 431.175 to the owner or agent of the owner, may:

- (1) Enter, at reasonable times, any property that is known to have been used as an illegal drug manufacturing site or for which there are reasonable grounds to believe that the property has been used as an illegal drug manufacturing site.
- (2) Inspect, at reasonable times, within reasonable limits and in a reasonable manner, property known to have been used as an illegal drug-manufacturing site or for which

there are reasonable grounds to believe the property has been used as an illegal drug-manufacturing site.

Use of contaminated property constitutes a public nuisance and is subject to being enjoined or abated under ORS 105.570. Under ORS 453.885, the owner of property determined to be not fit for use must use the services of a contractor licensed by the OHA to decontaminate the property pursuant to ORS 431.175 and 453.855 to 453.912. The contractor must prepare and submit a written work plan for decontamination to the OHA. Upon receipt of the certificate and a request by the property owner to remove the property from the list, the Director of the Department of Consumer and Business Services (i.e., the state's building code administrator) must cause the property to be removed from the list.

Where the responsibility for decontamination and removal is on the owner, abandonment frequently occurs and the County becomes the owner and the responsible party for either the payment of these decontamination costs or making the required disclosures prior to sale of the property. Under ORS 453.912, the County is not liable for loss or injury resulting from the presence of any chemical or controlled substance at a site used to manufacture illegal drugs or from actions taken to carry out the provisions of ORS 105.555, 431.175 and 453.855 to 453.912, except for damages arising from gross negligence or intentional misconduct by the state or local government.

Generally, the Oregon Department of Environmental Quality (DEQ) addresses contaminated land issues (i.e., outside of the building), while the OHA and Occupational Safety and Health Administration (OSHA) address contaminated structure issues (i.e., inside of the building).

D. Brownfields

The definition of Brownfield is "...real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."

Technical assistance, bridge loans, and grants are available through the Oregon Department of Environmental Quality (<http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Brownfields.aspx>) and the US Environmental Protection Agency (<https://www.epa.gov/brownfields>). Call Karen Homolac at Oregon Business Development Department for assistance at 503-986-0191.

MANUFACTURED STRUCTURES

In the event that a property acquired by the County has a manufactured structure placed on the land, specific concerns arise relating to the classification of the manufactured structure, as either real or personal property. These concerns relate to the movement, sale, or disposal of the property. Manufactured structures are often present due to abandonment by the owner of the property. ORS Chapter 446, which covers manufactured dwellings and structures, does not allow the sale of the manufactured structure if it does not meet its specified state building code requirements. The cost to remove, decontaminate (if a drug house), or repair these properties can outweigh any receipt upon sale of the property.

Currently, no provision exists to provide for full reimbursement to the County for the potential costs associated with acquiring manufactured structures that are classified as personal property. The lack of a designated funding source impairs the County's ability to demolish, if necessary, a non-inhabitable unit or to sell a habitable unit with assurance that the costs of management can be recovered.

OPPMA has long believed an amendment is needed to provide for full reimbursement from receipts upon sale of these properties. In the event that these properties cannot be removed, repaired, or decontaminated for an amount that is likely to be recovered upon sale, the County may elect to limit its expenditures to the minimum required by law. The problem increases in severity when the determination is made that the mobile home may have been or actually was a drug house or lab.

Issues can arise when the owner of the real property is different than the owner of the manufactured structure (personal property) that is located on the real property. The Department of Revenue advises that the County Assessor does not change the designation from personal property to real property unless the names of the owners are identical, ie, "unity of ownership". Also, the County does not have the authority to change the titling on manufactured homes. Instead, this happens at the state level by the Department of Consumer and Business Services' Building Codes Division through their Manufactured Home Ownership Document System (MHODS). As part of the application process to establish or change used manufactured homeownership, the state requires the applicant to complete their form #5158, which includes a county certification that any outstanding taxes have been collected. Therefore, the county cannot change a designation on a manufactured structure from personal property to real property until the state changes the titling to the same owner, which can only occur if the taxes are current.

It is worth noting that the authority to create improvement-only accounts comes from ORS 308.115(3). For example, someone who rents a space in a mobile home park can build a garage as a permanent structure, which is considered personal property, and that property could go into foreclosure.

A. Classification – Real Property or Personal Property

Ownership of manufactured structures and the property it is located on impacts how it is assessed and taxed (ORS 308.875):

- (1) If the manufactured structure and the land upon which the manufactured structure is situated are owned by the same person, the Assessor must assess the manufactured structure as real property (included in the same account as the land).
- (2) If the manufactured structure is owned separately and apart from the land upon which it is located, it shall be assessed and taxed as personal property (separate account as the land).

The collection of taxes on manufactured structures depends on the classification. Under ORS 311.512(1), taxes on manufactured structures assessed as real property shall become due, become delinquent, and be collected at the same time and in the same manner as taxes on other real property, while taxes on manufactured structures assessed as personal property are subject to all the provisions of law relating to the assessment, taxation and collection of personal property taxes.

If the County forecloses on a property with a manufactured structure on it, the County needs to determine if it is real or personal property. Real property can be foreclosed on, but personal property is different. Manufactured structures, which include a dwelling, that are deemed personal property are subject to property taxes as administered by the Oregon Department of Revenue under the Oregon building code, not by the County.

B. Seizure and Sale of Personal Property

Taxes on a manufactured structure that is classified as personal property become delinquent when any third of the taxes is not paid on or before its due date pursuant to ORS 311.510. Under ORS 311.610, the Tax Collector issues a warrant to enforce payment that must be recorded in the County Clerk lien record pursuant to ORS 311.625.

Under ORS 311.512(2), the seizure and sale for tax delinquency of a manufactured structure assessed as personal property must be conducted and carried out in the same manner as provided by law for the seizure and sale of other personal property for the collection of taxes due thereon, except for certain noticing and redemption requirements.

The seizure and sale of personal property must be conducted in accordance with the noticing, redemption, and sale procedures set forth in ORS 311.644. Seizure can be done by taking actual possession and removing the property for safekeeping, by changing the locks, or by placing a sticker on a window or door. The sale may include conditions, such as removal of the personal property from the real property within a certain amount of time.

Under ORS 311.644(4), if no bidder at the sale offers to pay the amount due against the property at the time set for the sale or at any adjournment of the sale, title to the property shall immediately vest in the county free and clear of all liens and encumbrances. Thereafter, the county governing body may sell the property, or any part of the property, at private sale, without further notice, for a price and on such terms as the governing body considers reasonable. Any sale shall be absolute and without right of redemption.

If the County owns the real property on which the personal property, especially a manufactured structure, lies, then the County shall combine the real and personal property accounts at the time the County takes title to the personal property.

COORDINATION BETWEEN COUNTY AND LOCAL GOVERNMENTS

A. Title of County Purchasing Property; Title of Purchaser on Resale (ORS 312.270)

When the County acquires real property by foreclosure for delinquent taxes, the conveyance vests in the County title to the property, free from all liens and encumbrances except assessments levied by a municipal corporation for local improvement to the property. A private purchaser at resale of such property by the County acquires title free and clear of all assessments for local improvements levied by any municipal corporation.

B. Sale of Land Against Which Claims of Municipal Corporations Have Been Filed (ORS 275.130)

Any municipal corporation claiming liens for local improvements may assert such claims when the property subject to those liens is sold by the County. Provision is made under ORS 275.130 for a municipal corporation to assert their lien rights.

Prior to the date set for the sale of property as indicated in the notice of sale required under ORS 275.120, a municipal corporation may file with the County Clerk notice that the municipal corporation has a lien arising out of an assessment for local improvement against the property described in the notice. The notice shall identify each property described in the notice to which a lien for assessment for local improvement has attached and shall state the principal amount of the lien and the interest thereon to date. Upon receipt of the notice, the County Clerk shall forward a copy of the notice to the County Treasurer and to the PM. A notice filed within the time and in the manner permitted shall preserve the rights of a municipal corporation to a distribution under ORS 275.275(3)(a)(A).

C. Local Government Sale of Property for Delinquent Liens and Assessments (ORS 223.510)

Under ORS 223.510, local governments (which means all cities, counties, and local service districts per ORS 174.108) have the authority to sell property for delinquent liens and final assessments. Upon sale, the local government issues a certificate of sale to the purchaser pursuant to ORS 223.550. There is a one-year redemption period from the date of the certificate of sale pursuant to ORS 223.565. If there has been no redemption at the expiration of one year, then the local government executes a deed pursuant to ORS 223.570. At the time of recording, a certificate of taxes paid needs to be completed by the Assessor's office.

D. Agreements Between County and Municipal Corporations

Some counties have entered into intergovernmental agreements with their local municipal corporations for payment of the liens. Under these agreements, provision is made for payment of municipal liens by the County from the proceeds of sale to private purchasers.

ORS 312.170(3) specifically authorizes the County and cities to enter into agreements to facilitate sale for collection of delinquent property taxes and municipal liens. ORS 190.003-010

specifically authorizes an agreement to further economy and efficiency of local government. A number of County Councils, however, have questioned the legality of such agreements and have declined to use them for their county.

E. Sale of Property on Which There Are Unpaid Assessments Applicable to Defaulted Bonds of a City or Town (ORS 312.290)

If a city or town has defaulted in payment of its outstanding bonds or interest thereon, or has refunded any such special assessments applicable to the defaulted or refunded bonds, and real property on which there are unpaid special assessments applicable to the defaulted or refunded bonds has been acquired by the county through foreclosure for delinquent taxes, the Board may sell such property, without notice of any kind, to the city or town on payment in cash of the total amount of all taxes levied by the state and applying to the property at the time of its conveyance to the County on foreclosure for delinquent taxes.

F. Effect of Irregularities and Omissions on Sales Made Pursuant to ORS 312.270 or ORS 312.290 (ORS 312.300)

Under ORS 312.300, no proceedings subsequent to a judgment foreclosing a tax lien or liens upon property purchased under subsection A (ORS 312.270) or subsection D (ORS 312.290) of this section, whether by a private purchaser or by a municipal corporation, must be invalidated and no deed will be declared void or set aside for irregularities, omissions or defects, unless the record owner of the property sold actually has been misled by the irregularities, omissions or defects to the injury of the record owner.

G. When Cities Exempt from Penalty and Interest (ORS 311.520)

Under ORS 311.520, if incorporated cities have acquired or acquire title to real property, through foreclosure or settlement of any lien, upon which property taxes have become a lien prior to the acquisition, interest and penalties on the taxes are canceled. However, the lien or liens for the taxes remain on the property and will be satisfied only by full payment of the principal amount. Any lien for taxes attaching to any such real property prior to the execution of the deed to the incorporated city will become a valid and subsisting lien.

This does not apply to real property which an incorporated city acquired title to, prior to June 15, 1987, through foreclosure or settlement of any lien, if the incorporated city did not hold title to that property on June 15, 1987.

DISPOSAL PROCEDURES

Real property acquired by the County in any manner, which is not needed for County use, shall be declared surplus, except as otherwise provided for by statute or deed restriction. The disposition of surplus County-owned real property shall be disposed of according to the guidelines contain herein and state and federal laws.

Due to the increasing land values and overall scarcity of undeveloped land, the public sector use will be generally favored over potential private use. If there are competing public uses for a County owned parcel, then the use that provides the greatest public benefit will generally receive preference.

The primary goal for disposing of property to the private sector is to receive a satisfactory financial return relative to the value of the property. The County is not in the development or landlord business and does not desire to compete with the private sector. Therefore, property should be disposed of as quickly as possible due to the inherent risks and operating costs of maintaining a large inventory of property.

A. Disposition Preparation

(1) Selection of Parcels

The first step in preparation of any transfer is the selection by the PM of the parcels to be offered for disposition.

There may be a number of reasons that the County may decide not to dispose of a particular property. Under ORS 275.090, the County is given broad discretion in the management and disposition of County-owned lands. In fact, there is no specific requirement that the County dispose of any property.

The County holds tax foreclosed property in a proprietary or corporate capacity rather than in a governmental capacity. Prior to any decision to dispose of a property, the Board first must determine whether a conveyance is "to be in the best interests of the County" under ORS 275.110.

The County may determine that it is in its best interest to retain a property or a portion thereof for several reasons, including:

- Rock quarry or mineral aggregate sites;
- Wetlands or wetland mitigation sites;
- Prior lease commitment by the County to a private person or a private or public entity;
- Geologically unstable or hazardous sites;
- Properties on which permits have been previously denied;

- Resource lands not meeting the minimum size requirement for the zoning;
- Zoning requirements; or
- Coastal high hazard or regulatory floodway.

Some counties regularly retain properties in the latter four categories in an effort to avoid confrontations at the permit counter with subsequent purchasers. Such properties, however, may be offered for private sale to adjoining owners providing the parcel meets the requirements of ORS 275.225.

In addition, some counties may retain property under ORS 271.330(2) if it is improved with a house suitable for transfer to a qualifying nonprofit or municipal corporation for the purpose of providing low income housing, social services, or childcare services. ORS 271.330(2)(b)(A) provides a specific definition of the term “qualifying nonprofit corporation”. Per ORS 271.330(2)(b)(B), the terms “social services” and “child care services” include but are not limited to education, training, counseling, health and mental health services and the provision of facilities and administrative services to support social services and child care services.

However, the term “low income housing” is not specifically defined in ORS Chapter 271. Some counties have decided to donate properties only to qualifying nonprofit organizations that specialize in low income and/or affordable housing, such as Habitat for Humanity or a regional housing authority, or to municipalities that have specific affordable housing programs. Other counties include a condition in the conveyance document that the property be used for low income housing for a specific period of time (for example, a minimum of 10 years) to protect against the property being sold to a third party and not being used for that purpose. These counties may even include a condition that the property has to be used for low income housing within a certain amount of time after the transfer to a third party (for example, three years). Many counties include a reversionary clause in the conveyance document to further protect the statutory intent and the county’s best interests. There are definitions elsewhere in statute that may provide guidance:

- ORS 458.610(3) defines “low income” as “income that is more than 50 percent and not more than 80 percent of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development”.
- ORS 456.055(8) defines “housing” as “housing of all kinds, including but not limited to single-family dwellings, multifamily dwellings, emergency shelters, dwelling accommodations, living accommodations, manufactured dwelling parks, residential units, housing projects or other dwellings”.

Parcels may also be retained if they are suitable for transfer to another governmental body for a public use under ORS 271.330(1) providing the property shall be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon. Similarly, under ORS 530.010, County-owned forest land may be transferred to the Oregon Board of Forestry to be managed by the state as County forest trust lands.

Property selected for disposition may be sold either separately or by combining several parcels. This decision is usually determined on the basis of achieving the highest value at the time of sale. Although the County may offer less than a whole fee for sale, if partitioning is to occur caution should be exercised to ensure that the County and/or City land partitioning ordinances are followed. In addition, action may be required by the Planning Commission or a permit may be required for a particular use.

Properties that have been set aside and designated by County for county forest, public park, or recreational area may need to have the designation removed prior to the conveyance depending on the land's intended use after the transfer.

B. Criteria for Selecting a Disposal Statute

In determining how to select and proceed with the appropriate conveyance process, the following questions need to be answered:

(1) Does the property have a dedication by a Board order or deed?

- Parks and Recreation
- Forest

(2) How was the property acquired?

- Tax Foreclosure
- Purchase, Donation, or Exchange

(3) Who will the property be conveyed to?

- Governmental Body (including a Tribe)
- District
- Nonprofit Organization
- Corporation
- Partnership
- Private Individual

(4) What type of conveyance is proposed?

- Sale
- Exchange

- Donation
- Lease
- Purchase Option or Contract

Refer to the Disposal Procedures Summary Table to select the most applicable disposal statute.

C. Guiding Disposal Statutes

Based on the questions answered above, the PM will recommend one of the conveyance processes below as permitted by statute. Each scenario requires the Board's formal authorization of the disposition.

- (1) **Transfers to a Governmental Body:** ORS 271.310/275.030, 271.330(1), 275.070, or 275.330(1)
- (2) **Transfers to A Nonprofit Organization:** ORS 271.330(2)
- (3) **Private Sale:** ORS 275.225
- (4) **Sheriff's Auction:** ORS 275.090/275.110
- (5) **Sale of Land Not Sold at Sheriff's Auction:** ORS 275.200
- (6) **Other Non-Governmental Conveyances:** ORS 271.310/275.030, 275.060, 275.330(2), 275.335

TRANSFERS TO A GOVERNMENTAL BODY

ORS 271.310/275.030, 271.330(1), 275.070, or 275.330(1)

- A. In evaluating whether to approve a request for transfer, the foremost consideration shall be whether the use proposed by the requestor is the highest and best use for the property.
- B. Requests for transfer of a property may be submitted to the PM any time and will be reviewed by the PM and County Counsel. After review, a recommendation will be drafted and attached to each request before it is submitted to the Board for discussion.
- C. Transfer of property to a governmental body must be designed to minimize liability or risk to the County. As a result, certain additional restrictions may apply before transferring property to a public agency.
- D. On occasion, the County may wish to retain ownership of a property that may serve some future preeminent public good even though there may not be a public agency that can adequately fund or develop its ultimate envisioned use (i.e., parks, open space, etc.) in the near term. The public agency that ultimately would use the property must show a strong interest and preferably would have long-term formal plans for the property. This analysis will only be done on a case-by-case basis.
- E. Except for properties conveyed for low income housing purposes under ORS 271.330(2)(a)(A), properties shall require a reversionary clause under ORS 271.330(5) unless the Board waives and relinquishes any reversionary interest by a resolution according to the terms set forth in ORS 271.335. Additionally, the County may require a reversionary clause any time it deems appropriate.
- F. ORS 311.411 (certificate of taxes paid required to record instrument conveying real property to public entity) states that the County Clerk may not record or cause to be recorded an instrument conveying or contracting to convey fee title to real property to an entity whose property is exempt from taxation under ORS 307.040 (Property of the United States) or ORS 307.090 (Property of the state, counties, and other municipal corporations) unless the instrument is accompanied by a certificate issued by the assessor of the County in which the real property is located attesting that all charges against the real property as of the date of the recording have been paid.

2015 Oregon Laws Chapter 96 (HB 2127) relates to the transfer of fee title interest in real property to a governmental entity or public corporation that may have property exempt from taxation under ORS 307.040 or ORS 307.090. It requires that in order to record an instrument conveying the fee title, it must be accompanied by a certificate from the Assessor that all "charges" and estimates of such charges have been paid as of the date of recording. If a certificate is required, the Assessor must complete the Oregon Department

of Revenue form #150-310-411 "Certification of Charges Paid". The Clerk considers this form an additional page at recording and charges \$5.

A certificate is required if:

- (1) an entire property is transferred to a public entity;
- (2) a property is transferred from an exempt (private or public) entity to a public entity;
or
- (3) a property is acquired through tax foreclosure (included in Tax Collector's Deed).

ORS 271.310/275.030:

For properties not acquired by tax foreclosure, ORS 275.030 allows the County to convey property in ORS 271. ORS 271.310 authorizes the County's sale, exchange, conveyance, or lease (for any period not exceeding 99 years) of all or part of the property to a governmental body. The consideration may be cash or real property, or both. This statute also applies to situations involving a private individual or corporation, which is discussed in the Other Non-Governmental Conveyances section.

Board's Authorization and Noticing Requirements: Statutes do not require an order authorizing conveyance, but it is a best practice to execute an order to transfer the property to a governmental body. Statutes also do not require a public notice or hearing, but it is a best practice to do so pursuant to ORS 271.330(5).

ORS 271.330(1):

Pursuant to ORS 271.330(1), the County may relinquish the title to any property not needed for public use to any governmental body, providing the property shall be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon.

Board's Authorization and Noticing Requirements: Statutes do not require an order authorizing conveyance, but it is a best practice to execute an order to transfer the property to a governmental body. Statutes also do not require a public notice or hearing, but it is a best practice to do so pursuant to ORS 271.330(5).

ORS 275.070:

ORS 275.070 allows the County to sell, grant an option to purchase, contract to sell, or donate a property to state and federal governments and eligible Indian tribes if the County deems it is in its best interests. This statute also applies to any County property, including tax foreclosed properties. Aside from the requirement of a County resolution under ORS 275.070(2), there are minimal conditions, including no requirements for a notice or hearing. The County may receive partial or full consideration, other real property, or stumpage at a value as determined by inspection and appraisal.

Board's Authorization and Noticing Requirements: ORS 271.330(1) allows the transfer for public purposes of real property, including tax foreclosed properties, to any governmental body as long as the requirements of public notice and a hearing in ORS 271.330(5) are met.

ORS 275.330(1):

Once a property has been designated for county forest, public park, or recreational area purposes by Board order pursuant to ORS 275.320, it may be transferred to the state, an incorporated city, a park and recreation district, or federal government for public use. The conveyance may be made with or without compensation. The County also applies this statute when conveying properties designated by deed.

Board's Authorization and Noticing Requirements: ORS 275.330(3) requires a public notice, hearing, and Board order prior to the conveyance.

TRANSFERS TO A NONPROFIT ORGANIZATION

ORS 271.330(2)

- A. The below criteria will help the County ensure that any proposed transfer to a nonprofit organization for affordable housing purposes is consistent with the County Housing policies, Housing Study, and zoning requirements. These requirements will provide a vehicle to communicate to the nonprofit organization the County's expectations and the Oregon Housing and Community Services Department's role in the County.
- B. When transferring property for affordable housing, ORS 271.330(2) and ORS 456.365 should be adhered to and cited. Specifically, ORS 271.330(2) allows the County to relinquish title of property to a qualifying nonprofit corporation for the purpose of providing low income housing, social services, or childcare services. ORS 456.365 covers the County's powers in aiding or cooperating on housing projects.
- C. In furthering the 2017 Housing Study, the PM will collaborate with the County Housing Commission, Department of Community Development, and Housing Coordinator to review tax foreclosed properties for their suitability as affordable housing as well as any proposals received from nonprofits seeking surplus property for affordable housing.
- D. The proposed housing shall be consistent with the goals and objectives set forth by the County Housing Commission and in the 2017 Housing Study.
- E. The proposed housing shall include a commitment by the nonprofit community organization to guarantee that the housing produced will remain affordable for the life of the structure(s), including a deed restriction or reversionary clause, unless otherwise approved by the County. It is worth noting though that Multnomah County does not use reversionary clauses or perpetuity language due to the difficulty and costs associated with enforcing them, not to mention the potential for abuse and neglect that can occur in unmonitored properties (i.e., their "Give Us This Day" foster home abuse scandal).
- F. Board's Authorization and Noticing Requirements: Statutes do not require an order authorizing conveyance, but it is a best practice to execute an order to transfer the property to a nonprofit. Statutes also do not require a public notice or hearing, but it is a best practice to do so pursuant to ORS 271.330(5).

PRIVATE SALE

ORS 275.225

In accordance with ORS 275.225 and any other applicable policies set forth in these guidelines, the County may authorize the sale of County land by private sale if each parcel of the County land to be sold:

- (1) Has a real market value of < \$15,000 on the assessment roll prepared for the County;
and
- (2) Is unsuited for the construction or placement of a dwelling thereon under applicable zoning ordinances and building codes of the County.

The statutes provide for a varying degree of discretion as to how the PM determines whether the offer and terms of the sale and purchase price are acceptable. In some counties, the PM has full discretion and the governing body merely signs the deed or contract of sale. The degree of involvement by the Board in private sales largely depends upon several factors, including the size of the county, the inclination of the Board, and whether or not written policies that govern private sales exist. Larger counties tend to vest full authority for private sales in the PM.

In handling private sales under ORS 275.225 following a tax foreclosure, many counties publish a single notice for all of the properties meeting the criteria contained in ORS 275.225(1). Thereafter, sales are handled in the same manner as private sales under ORS 275.200.

Prior to proceeding with a private sale, the PM should attain written confirmation from the Assessor and the Community Development Department (or a municipality's planning department) that the parcel meets the criteria established in ORS 275.225(1)(a) and (b).

Board's Authorization and Noticing Requirements: When the County has determined that it is in its best interest to sell real property that meets the private sale criteria, it enters an order upon its records authorizing the sale and stating the conditions and terms of sale. Although an order is not required by statute, the County considers it best practice. The payment terms are the same as indicated in the Sheriff's Auction section. All sales are considered final and no refunds will be made.

A. Sealed Bidding Process

Pursuant to ORS 275.225(2), the County may publish a notice of the private sale of County land in a newspaper of general circulation in the County according to the following requirements:

- The notice must contain a description of the land and must indicate the real market value of the land. (ORS 275.225(2))

- Not earlier than **15 days** after publication of the notice, the PM may sell the land, or any part thereof, at private sale without further notice at such price as the County considers reasonable. (ORS 275.225(3))

The PM may also mail written notification of the private sale to all adjoining owners stating the conditions of the sale as set forth in the order and notice.

Interested purchasers must submit their offer under seal to the PM on the Letter of Intent for Purchase of Real Property form along with the \$100 nonrefundable processing fee. Following the 15-day holding period, the Board will consider any offers. The PM may extend the bidding period as appropriate until all properties are sold or terminate the bidding period if any property remains unsold.

B. Online Auctions

County Counsel allows private sale properties that remain unsold to be listed on the www.publicsurplus.com online auction website as a means of last resort. The PM shall adhere to the following process:

- The auction shall be open for **21 calendar days** with a reserve price that is the minimum bid price as set forth in the Board order. The County must not accept any bids that are less than the reserve price even if the reserve is not met.
 - The auction must contain all of the relevant disclaimers that appear in the Land Sale Website section and must indicate that there are no refunds.
 - The auction should include parcel forms, maps/aerials, pictures (if any), and links to the relevant County resources that appear in the Land Sale Website section.
 - The winning bid is the purchase price. The buyer submits payment directly to Public Surplus via their website (usually within a few days), and the County receives an email notification. Although the County receives the money from Public Surplus roughly 30 to 60 days later via a monthly ACH batch to the Treasurer's Office, the payment is considered good funds upon receipt of the email notification.
- Within **14 calendar days** of the auction close date, the buyer must mail us a money order or certified check for the \$100 Nonrefundable Processing Fee (made payable to Tillamook County) and the Recording Fee (made payable to Tillamook County Clerk).
- Within **10 business days** of receipt of those fees, the County executes and records the deed and sends the original to the buyer by certified mail. Board approval of the highest bid is not required to execute the deed.

SHERIFF'S AUCTION

ORS 275.090/275.110

ORS 275.090 provides the County with the right to sell, exchange, and lease properties acquired by tax foreclosure, exchange, donation, or will.

Board's Authorization and Noticing: When the County has determined that it is in its best interest to convey one of the above listed properties, and there are no other statutes that may allow the conveyance, ORS 275.110 requires the Board to execute an order directing the Sheriff's auction. The order shall fix the minimum price for each parcel or group of parcels and the conditions and terms of sale. The PM prepares the order. The property to be sold is included within the order by reference to an exhibit giving the general description of each property.

The exhibit is also used for the Sheriff's notice of sale and published legal notice (ORS 275.120). The Sheriff must publish a notice of sale in a newspaper of general circulation, printed and published in the County where the land is situated, once each week for four consecutive weeks prior to such sale. The PM prepares the notice and County Counsel approves it.

The notice must state the time and place of sale, parcel number, taxlot number, general property description, or interest therein to be sold, if available from the tax roll, the real market value of the property or interest to be sold as evidenced by the last roll certified under ORS 311.105 on which the property was included; the minimum price for the property or interest to be sold, as fixed by the Board, which may be lower than the tax roll value; the date of the order directing the sale; and such other matters as the Board deems pertinent.

Proof of publication of notice must be filed by the Sheriff with the County Clerk, and then recorded in the deed records (ORS 275.120(3)). The PM's staff handles this step.

All sales must be made in the County in which the land is situated between the hours of 10 a.m. and 4 p.m. and may be adjourned from day to day for not to exceed 30 days by the Sheriff, by public announcement made by the Sheriff at the time and place designated in the notice of sale or at the time and place to which the sale may be adjourned (ORS 275.140).

Properties suitable for a Sheriff's auction are typically foreclosed properties that are not of interest to the County, governmental entities, or nonprofits.

A. Marketing

In addition to the Sheriff's notice of sale, supplemental advertising helps to ensure strong attendance at the auction. The PM handles this effort. These supplemental efforts may include:

(1) Neighboring Owner Mailing List

The County distributes a letter to neighboring parcel owners informing them of the parcel for sale. A summary sheet of all the parcels for sale is included with the letter.

(2) Property Prospectus

Information assembled on each property may be compiled in a prospectus, listing the properties to be included in the auction. The material may include a photograph of the properties and must be edited by County Counsel. These property profiles can be sold to prospective bidders for the total cost calculated at the County's current price per page.

(3) Land Sale Website

The PM is responsible for maintaining a website that is dedicated to the County's real property sales as a means of sharing information with prospective buyers and the public and promoting sales. The URL is <https://www.co.tillamook.or.us/gov/Bocc/Land%20Sales/NEW/PublicLandSales%20REVISED.htm>. The website can also be accessed from the County's homepage ("Public Land Sales" link in the Public Information section) and the BOC's website ("Public Land Sales" button).

The land sale website contains a list of the current inventory of properties for sale. The PM is authorized to update and remove properties from the list as changes occur that are in the best interest of the County. Once the Board accepts an offer in accordance with the Sale of Land Not Sold at Sheriff's Auction section, the PM shall remove the property from the list. If the bidder defaults, then the PM shall return the property to the list.

There are three sets of instructions:

- Bidder Instructions – Annual Public Auction
 - Posted on the website when the Order to Sell is signed.
 - Removed from the website when the auction closes.
- Bidder Instructions – Between Annual Public Auctions
 - Posted on the website when the auction closes along with the Letter of Intent for Purchase of Real Property form.
 - Removed from the website when the Order to Sell is signed.
- Bidder Instructions – Private Sales
 - Posted on the website when the Private Sale Order is signed.
 - Removed from the website if all properties in the order are sold or at the PM's discretion if any property in the order remains unsold.

The website also contains disclaimers, such as "sold as is, where is", no title or appraisal reports, no closing, no legal advice, and due diligence. There are links to the Clerk's Office, Assessment and Taxation Office, GIS mapping tool, Department of Community Development, and Public Works (Roads) to aid prospective buyers in their research.

(4) Auction Agency

The County may elect to procure the services of an auction agency to broaden the advertising.

(5) Other

The County does not conduct open houses or utilize for sale signs. If a prospective purchaser wants to view a property with a home, they should be accompanied by the PM.

B. Withdrawal of Properties from Sale (ORS 275.110)

In the weeks prior to sale, it may become necessary to remove one or more parcels from the list for sale. The reasons for removal vary, but they generally include many of the same reasons considered in the selection process.

Whatever the reason for removal, it is implied under ORS 275.110 that up until the date of the sale, the Order to Sell may be amended by an order at the Board's discretion if it considers it to be for the best interest of the County. Otherwise, the removal of properties is done in a single order prepared by the Board during the last meeting prior to the auction.

C. Oral Public Auction

The PM and staff orchestrate the necessary details on sale day. Support is needed to register bidders and complete the Sheriff's certificates of sale. The County Treasurer's staff processes the money and issues sale receipts.

The County registers bidders on the day of the sale, prior to opening of the auction. To be eligible for registration, bidders must have never defaulted on a County land sale. The bidder's full name as it should appear on a deed or contract, address for mailing tax statements and other County communications, and phone number are provided, along with the bidder's preference for pursuing a deed or contract for sales of \$20,000 or over. The County allows for proxy bidders to register and bid on properties upon the County's receipt of an original, notarized, written authorization from the purchaser.

Prior to the start of bidding, the PM will open the auction with an introduction of the process. This is an opportune time to state any disclaimers or other limitations on any of the properties and answer any questions.

The auctioneer can be the Sheriff, a civil deputy, or another individual, including the PM if deputized for the purpose of conducting the sale. The properties are auctioned in the order in which they appear in the notice of sale. The parcel number, taxlot, and general description contained in the notice of sale are read to ensure against any mistake in the identification of

the specified property open for bidding. During the bidding process, the PM records the bidder number and the amount of each bid on a bid sheet.

D. Certificate of Sale

At the end of the Sheriff's sale and after the required payments are made, winning bidders are issued a certificate of sale, which is good for 30 calendar days, and a receipt. Instead, ORS 275.150 requires that the certificate of sale, rather than a contract or deed, be issued at the time of sale. The PM handles this step. Although it is not necessary to prepare a deed or contract prior to the sale or on the day of the sale, it is recommended to determine the recording fee amount to be collected at the day of sale.

Staff prepares the certificate of sale prior to the auction, leaving blanks to be filled in during the sale for the purchaser's name, signature, address, telephone number, general property description, and the amount of the whole purchase price, down payment paid (if applicable), fees paid, the form of conveyance (either deed or contract), and the dates upon which future payment will become due as required by ORS 275.150. Also, signature lines should be placed on the certificate for the Sheriff or designated deputy auctioneer and for the buyer(s).

As each parcel is sold during the oral auction, staff will take the final bid sheet to the office and complete the certificate of sale with the information taken from the bid sheet and bidder registration roster. This procedure limits confusion by keeping all of the bidders in the bidding room during the auction. At the conclusion of the bidding period, all that remains to be done is to collect the purchase money along with the recording and administrative fees from the successful bidders. Successful bidders sign and receive the original certificates of sale (also signed by the Sheriff or designated deputy auctioneer) and the County retains a copy. It is recommended to obtain a copy of the bidder's photo ID, especially for contract buyers. Using this procedure, minimal post-sale work is required, and the entire process should be completed in approximately two to three hours.

E. Sheriff's Return

Pursuant to ORS 275.160, upon the close of the oral auction, the Sheriff will return to the County the Sheriff's proceedings of the sale pursuant to the commands of the Order to Sell. The Sheriff's Return is a document, which is signed by the Sheriff or designated deputy auctioneer and notarized, that recites the salient terms of the Order to Sell, as well as the description of each parcel sold and the purchase price. The Sheriff's Return is required to be both filed with the County Clerk in the County court journals and recorded in the County deed records. The PM's staff handles this step.

F. Cash or Contract Sale

After the certificate of sale is provided to the purchaser, the PM's staff prepares the deeds and contracts for execution.

In accordance with ORS 275.190, all sales must be to the highest and best bidder and for cash or, for not less than 20% of the purchase price in cash, the remainder to be paid under a purchase agreement with the purchaser in equal installments over a term not exceeding 20 years from the date of sale with all deferred payments to bear interest from the date of sale at a rate set by the Board, payable annually. The County's terms are defined below.

All sales are considered final and no refunds are made. The County does not issue title policies. Three payments are required by 4:00 p.m. on the date of sale:

- Purchase Price (Deed) or Down Payment (Contract)
- \$100 Nonrefundable Processing Fee
- Recording Fee, made payable to Tillamook County Clerk

(1) Purchase Price (Deed)

One payment in the full amount of the winning bid must be by cash, money order or cashier's check made payable to the County. Personal checks will be accepted only when accompanied by a letter of credit from an authorized financial institution. Business checks are acceptable with no additional documentation.

The PM will present the deed to the Board for approval, record the deed with the Clerk's office, retain a copy of the recorded deed in the PM's files, and send the original recorded deed to the purchaser. To expedite the process, the Board gave authorization to the PM on December 5, 2018 to execute land sale deeds on their behalf, so this is the County's current preferred method.

(2) Down Payment (Contract)

A monthly installment contract is available to purchasers if the property's purchase price is \$20,000 or greater. If a purchaser selects the contract purchase option, a minimum 20%, nonrefundable down payment of the full purchase price is required on the date of sale. One payment in the full amount of the winning bid must be by cash, money order or cashier's check made payable to the County. Personal checks will be accepted only when accompanied by a letter of credit from an authorized financial institution. Business checks are acceptable with no additional documentation. The balance of the down payment will be amortized over a period not to exceed 5 years at 10% interest.

The purchaser must submit monthly payments on or before the 1st of the month starting on the month following the date of execution to the Tillamook County Treasurer's Office, 201 Laurel Avenue, Tillamook, OR 97141. Payments shall be made by cash, money order, personal check, business check or cashier's check made payable to Tillamook County. Coupon books and monthly statements are not provided to the

purchaser. For those purchasers who pay more than \$600 interest in any calendar year, the purchaser must provide a W-9 to the County Treasurer for issuance of a Form 1099Int for income tax purposes.

During the 30-day time period following the auction, staff will prepare the contract and deliver it to the purchaser for notarized signature. The purchaser must then return the executed contract of sale immediately so that it can be executed by the Board by the end of the 30-day window for which the certificate of sale is valid.

Upon receipt of the contract signed by the purchaser, the PM will present the contract to the Board for approval, record the contract with the Clerk's office, retain a copy of the contract in the PM's and Treasurer's files, and send the original recorded contract to the purchaser. To expedite the process, the Board gave authorization to the PM on December 5, 2018 to execute land sale contracts on their behalf, so this is the County's current preferred method.

When one purchaser buys more than one property under contract, the County shall prepare separate contracts of sale for each individual property.

The purchaser has possession of the property so long as the purchaser is not in default in the performance of the purchaser's contract with the County. However, the purchaser forfeits his/her rights and payments under such agreement if the purchaser fails to pay the purchase price, principal or interest, fails to pay, before delinquency, the taxes thereafter levied against the property, commits or suffers any strip or waste of or on the premises, or violates any other reasonable provision of such agreement. The purchaser has the privilege of prepayment without penalty. All such provisions are incorporated into the written agreement.

(3) Fees

- **\$100 Nonrefundable Processing Fee:**
This payment must be by cash, money order or cashier's check made payable to Tillamook County and can be combined with the Purchase Price or Down Payment. Business checks are acceptable with no additional documentation.
- **Recording Fee:**
Fee for recording the deed or contract is calculated based on the Clerk's fees of \$87 for the first page and \$5 for each additional page. This payment must be by cash, money order, personal check, business check, or cashier's check made payable to Tillamook County Clerk.

G. Default

(1) Execution Breach

In the event that neither cash nor money order nor a cashier's or business check is tendered to the County on time, the bidder forfeits all rights to the property and the property will go to the next highest bidder or will be withdrawn from sale, at the discretion of the County. The defaulted bidder is added to the County's defaulted bidder list and prohibited from bidding on future properties.

(2) Contract Breach

Under ORS 275.220, in the event of breach of a condition under the contract or other default in the performance of any contract made pursuant to ORS 275.190 or 275.200, the Board may, by order made and entered in its records, declare such breach or default and cancel the contract or enter into a new agreement in writing. A Board order must be served as a summons by the Sheriff upon the holder of the contract if the holder is found within the county, and if the holder is not so found, then by mailing to the holder by registered mail or by certified mail to the last known address of the holder.

Within 20 days after service of the order of cancellation, the holder of the canceled contract may appeal to the Circuit Court for the county in which the land is located. The appeal must be tried by the court as an action not triable by right to jury. Absent appeal, the order becomes absolute and the real property so forfeited again may be sold, without notice.

In short, ORS 275.220 outlines a simple and straight forward process for the County to reclaim full title from a defaulting purchaser, without resort to the more cumbersome legal requirements that must be followed by the private sector when dealing with mortgage foreclosure or contract default.

In 1985 the legislature enacted ORS 93.905 through 93.945 addressing forfeiture under a Land Sales Contract. Because these provisions make no specific reference to ORS 275.220, most County Counsels believe that these provisions relate exclusively to forfeiture of a land sale contracts in the private sector and, therefore, do not govern forfeiture proceedings upon any property owned by a county. Nevertheless, many counties are taking the precaution of providing notice of default and recording the documents in accordance with ORS 93.915, which is a supplement to procedures provided in ORS 275.220. In following these procedures, the County may avoid future claims based upon failure to give notice prior to the commencement of forfeiture proceedings under ORS 275.220(2).

H. Sale of Foreclosed Property to a County Employee

ORS 275.088 describes the rules that apply to the sale of county property acquired by tax foreclosure to county officers or employees. Under ORS 204.005, county officers include a sheriff, county clerk, county assessor, county treasurer, a county commissioner, and a county surveyor. Under ORS 275.088, a county officer, a family member of an officer, or an intermediary of either may not purchase from the county, directly or indirectly, real property obtained by foreclosure of delinquent tax liens.

However, any other county employee, a family member of that county employee, or an intermediary of either may purchase such property as long as there is no actual conflict of interest, as defined in ORS 244.020(1), on the part of the county employee that is related to the real property.

If there are violations to these rules, the county officer or employee may be subject to penalties or sanctions that may apply under ORS chapter 244 or otherwise and shall either transfer the property to the county for the amount paid less county expenses or transfer the amount the county officer or employee received for the sale to a bona fide purchaser less the amount paid to obtain the property from the county.

SALE OF LAND NOT SOLD AT SHERIFF'S AUCTION

ORS 275.200

Any lands remaining unsold after a Sheriff's auction may be sold as provided in ORS 275.200. A sale under this section may be made for cash or under written agreement as provided by ORS 275.190.

The County may sell the land, or any part thereof, or any interest therein less than the whole fee, at private sale (not to be confused with a private sale under ORS 275.225) without further notice, but for not less than the largest amount bid at any such sale, or, if no bid was made, at such price as the governing body deems reasonable, but at a price not less than 15% of the minimum bid set under ORS 275.110 for the Sheriff's sale (ORS 275.200(2)). For example, a property that was offered at a minimum bid of \$100,000 could not be sold for less than \$85,000.

The County's policy is to consider reasonable written offers on unsold land parcels between Sheriff's auctions that are at least 85% of the minimum bid price that was set at the most recent auction. Interested purchasers must submit their offer to the Board on the Letter of Intent for Purchase of Real Property form along with the \$100 nonrefundable processing fee.

If more than one purchaser expresses interest in the same property at the same time prior to a Board-approved offer on that property, the PM will set a minimum 15 day sealed bidding period for any prospective buyers to submit a Letter of Intent for Purchase of Real Property form along with the \$100 nonrefundable processing fee. The PM will use discretion in determining whether to issue a public notice and the extent of adjoining landowner notification.

OTHER NON-GOVERNMENTAL CONVEYANCES

ORS 271.310/275.030, 275.060, 275.330(2), 275.335

ORS 271.310/275.030:

For properties not acquired by tax foreclosure, ORS 275.030 allows the County to convey property in ORS 271 and forgo a Sheriff's auction. ORS 271.310 authorizes the County's sale, exchange, conveyance, or lease (for any period not exceeding 99 years) of property to a private individual or corporation, and also a governmental body as described in the Transfers to a Governmental Body section. The consideration may be cash or real property, or both.

Board's Authorization and Noticing Requirements: Statutes do not require an order authorizing conveyance, but it is a best practice to execute an order to transfer the property to a private individual or corporation. Statutes also do not require a public notice or hearing, but it is a best practice to do so pursuant to ORS 271.330(5).

ORS 275.060:

The authority to exchange properties, including tax foreclosed properties, that have been offered for sale and were not sold is provided by ORS 275.060. The exchange may occur with an individual, partnership, or corporation and must be for property of equal value.

Board's Authorization and Noticing: Statutes do not require the Board to execute an order, but it is a best practice to do so. Public notice is required by ORS 275.060(2), but it is the Board's discretion to hold a public hearing.

ORS 275.330(2):

ORS 275.330(2) authorizes the County to sell or convey properties that are dedicated for county forest, public park, or recreational area purposes if it is in the best interest of the public. These properties may be sold to anyone or any entity at public or private sale, or in exchange for other lands that will be set aside for park or recreational purposes. Conveyance of these properties to a governmental body is described in the Transfers to a Governmental Body section. Tax foreclosed properties dedicated for parks and recreational purposes are not required to be first offered at a Sheriff's auction, as they can be sold to a private individual via this statute. However, the County typically prefers to offer them at Sheriff's auction first.

Board's Authorization and Noticing Requirements: ORS 275.330(3) requires a public notice, hearing, and Board order prior to the conveyance.

ORS 275.335:

This statute is similar to the authority provide in ORS 275.330(2), but additionally allows for the exchange of property, including tax foreclosed properties, that is designated for county forest purposes. The exchange must be for equal value and in the best interest of the County. Also, the property that the County acquires must be designated immediately as county forest.

Board's Authorization and Noticing Requirements:

ORS 275.335(2) requires a public notice and hearing, followed by an order as required in ORS 275.335(3).

A. Manner of Conveyance

There are several options available for the manner of conveying a County property to a non-governmental entity depending upon how the property was acquired, whether or not there is a County designation, and to whom the property is being transferred. There may be certain statutory conditions of each conveyance as described in this manual, but the following is a quick overview:

(1) Acquired by Tax Foreclosure

- **No designation:**
 - To Individual, Partnership, Corporation
 - Exchange (ORS 275.060)
- **Parks & Recreational designation:**
 - To Individual, Partnership, Corporation
 - Exchange (ORS 275.060)
 - To Anyone
 - Convey, Alienate, Sell, or Exchange (ORS 275.330(2))
- **Forest designation:**
 - To Individual, Partnership, Corporation
 - Exchange (ORS 275.060)
 - To anyone
 - Convey, Alienate, Sell, or Exchange (ORS 275.330(2))
 - Exchange (ORS 275.335)

(2) Acquired by Purchase, Donation, or Exchange

- **No designation:**
 - To Individual or Corporation
 - Sell, Exchange, Lease, Convey (ORS 271.310, 275.030)
 - Exchange (ORS 275.060)
 - To Partnership
 - Exchange (ORS 275.060)
- **Parks & Recreational designation:**
 - To Individual, Partnership, Corporation
 - Exchange (ORS 275.060)
 - To Individual or Corporation
 - Sell, Exchange, Lease, Convey (ORS 271.310, 275.030)
 - To anyone
 - Convey, Alienate, Sell, or Exchange (ORS 275.330(2))

- **Forest designation:**
 - To Individual, Partnership, Corporation
 - Exchange (ORS 275.060)
 - To Individual or Corporation
 - Sell, Exchange, Lease, Convey (ORS 271.310, 275.030)
 - To anyone
 - Convey, Alienate, Sell, or Exchange (ORS 275.330(2))
 - Exchange (ORS 275.335)

B. Process of Conveyance

The County is not obligated to convey any property. If the conveyance is by sale, no property will be sold for less than the price that the County considers to be reasonable. If an appraisal of the property is available, the appraised value may be shared. In general, the process may take up to three months to complete.

When conveying property to a non-governmental entity, it is best practice to execute a Board order, provide public notice, and hold a public hearing even if not specifically required by statute. Aside from the Board's authorization and noticing requirements, below are the general steps that are to be followed depending upon who initiates the transaction.

(1) Non-governmental Entity Request:

- The entity must submit a formal written request that includes the manner of conveyance (sell, exchange, lease, convey, alienate) to the County asking that the property be conveyed to them.
- The PM reviews the request to make sure it meets statutory requirements and County policies.
- The PM may provide written notice to the adjacent property owners or any other entities of the request.
- Depending on the situation and the Board's preference, the PM may do any of the following:
 - The PM enters into negotiations with the original requester and any interested entities, including adjacent property owners, then proceeds with the transaction;
 - The PM conducts a public auction for sale to the highest bidder (See the Sheriff's Auction section); or
 - The PM conducts a sealed bidding process (See the Private Sale section).

(2) County Solicitation:

- The PM provides a written solicitation notice that includes the manner of conveyance (sell, exchange, lease, convey, alienate) to any identified entities.
- The PM may provide written notice to the adjacent property owners.

- Depending on the situation and the Board's preference, the PM may do any of the following:
 - The PM enters into negotiations with any interested entities, including adjacent property owners, then proceeds with the transaction;
 - The PM conducts a public auction for sale to the highest bidder (See the Sheriff's Auction section); or
 - The PM conducts a sealed bidding process (See the Private Sale section).

DISTRIBUTION OF PROCEEDS

The distribution of proceeds from any property sale is determined by:

- (1) Whether the property is designated, by Board order pursuant to ORS 275.320 or deed, as a County park or recreational area or county forest;
- (2) How the County acquired the property;
- (3) Who the property is being conveyed to; and
- (4) How the property is disposed.

Answers to these questions will lead to one of two statutes, ORS 275.275 or ORS 275.330(2), that determine how proceeds are distributed. For a sale where statutory guidance is lacking, proceeds are distributed to the County General Fund.

Use the *Disposal Procedures Summary Table* as a guide to select the most applicable disposal statute.

ORS 275.275:

The ORS 275.275 distribution is a tiered formula generally focused on properties acquired through tax foreclosure and then sold at private sale, Sheriff's auction, or after Sheriff's auction. This statute does not apply to properties designated a county park, recreational area, or forest.

Given the applicability of other statutes and the irrelevance of some of the ORS 275.275 provisions for typical County conveyances, the provisions of this formula that are in bold are the ones that are mostly likely to apply for a sale that triggers the formula. Four of the subsections, their provisions, and brief descriptions are provided in the table below.

ORS 275.275 Distribution

(1)	(a)	Proceeds arising under 275.090 - 275.290 and 275.296 - 275.310 must be applied:	
		(A)	Refund General Fund for State Tax for properties which County foreclosed lines for delinquent taxes
		(B)	Refund General Fund for amount equal to penalty and fee described in ORS 312.120 for which County foreclosed lines for delinquent taxes*
		(C)	Refund General Fund for all County expenses in maintenance, supervision, management, and quieting and defending title*
	(b)	Refunds from (1)(a)(A) and (C) cannot exceed actual County expenses	
	(c)	For properties acquired in a manner other than tax foreclosure, credit General Fund	

(2)	(a)-(d)	Proceeds arising under ORS 275.294 (sale, lease, or prospect rights for minerals, oil, gas)	
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(3)	(a)	Balance of proceeds must be distributed to:	
		(A)	A municipal corporation that has filed notice relating to local improvement lien
		(B)	Governmental units pursuant 311.390 tax distribution formula, results in the County's share of approximately 25%, which goes to the General Fund (formula includes County's share)

(4)		Distribution of proceeds under (2) and (3) must be made annually on or before June 30	
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**These costs are cumulative; proceeds from one property can support management of another.*

Refer to the **Land Sale Distribution Tracking** spreadsheet maintained by the Board and Treasurer (located in M:Treasurer).

ORS 275.330(2):

If a property is designated by deed or Board order for county forest, public parks, or recreational area purposes and is disposed of by the County, regardless of the statute authorizing its disposal, the proceeds must be distributed in accordance with ORS 275.330(2). This statute requires that the proceeds be held for maintenance and improvement of existing park and recreation lands or future acquisition of lands to be set aside for park or recreational purposes. The County does retain 15% of the proceeds as an indirect cost allocation for General Fund department services managing the property.

Other Distributions:

For properties conveyed under statutes where no distributions of proceeds are explicit (ORS 271.310, 271.330, 275.060, and 275.070), funds may go to the General Fund and/or to a fund(s) at the discretion of the Board.

If a County special revenue fund department, such as the Health Department, purchased a property with special revenue funds, it has been the County's practice to distribute allowable proceeds back to that fund. This distribution is often captured in a sales agreement or deed.

ASSESSMENT AND TAXATION

A. Appraisals

The County Assessor's appraised property values are for assessment and taxation purposes only. The Assessor uses the best information available to determine values throughout Tillamook County. The County does not have the resources available to do an individual analysis of each property. To acquire this level of information, the County recommends that a prospective purchaser hire a professional appraiser.

Property values are determined based on the highest and best use analysis, which is the use that is:

- (1) Physically possible;
- (2) Legally permissible;
- (3) Financially feasible; and
- (4) Maximally productive.

It is the use of the land that drives the value. The Assessor must have a certain confidence level based on the current real estate market, which includes sales to verify depreciated replacement cost value conclusions.

Since almost 80% of the property taxes levied are on residential property, the Assessor has a high confidence in the values because sales data are available to verify the Assessor's conclusions.

The "Official Record of Descriptions of Real Properties" is for tax purposes only, so the legal description on them should not be relied upon. There may be multiple book/pages listed.

B. Tax Exemptions

There are very few statutory allowances for the cancellation of taxes.

Pursuant to ORS 311.410, real property that is subject to taxation on July 1 remains taxable and the taxes for the ensuing year remain due and payable even if it is subsequently transferred to an exempt owner, such as the County.

Pursuant to ORS 307.112, when the County enters into a lease agreement, the County must file a tax exemption application with the Oregon Department of Revenue (See the Transfers to Governmental Bodies section of this document that discusses this procedure and form #150-310-087).

CLERK'S RECORDS

The Clerk's deeds are maintained in three forms:

- (1) Paper: 1800's – 1970's, beginning with Books A-Z then Books 1-210
Left side of deed room is Direct (by Grantor).
Right side of deed room is Indirect (by Grantee).
- (2) Microfilm: 1970 – March 2003
View face up and heads down.
Instrument numbers used to be only Book/Page.
In 1993, began using instrument number (e.g. 2008-58477).
- (3) Clerk's Webpage: April 2003 – Present
Index of deeds is available from 1994, but no images until 4/2003.

The Clerk's plat maps are maintained for partitions and subdivisions and are indexed.

The Clerk's county court journal files are maintained in two forms:

- (1) Paper: 1800s – 1991 (Commission Proceedings)
- (2) ActiveDox: 1946 – Present (Board Minutes – written only)
 - Board minutes began being filed in October 1991. Prior to then, Commission Proceedings were being filed pursuant to state law.
 - The Clerk's Office started using ActiveDox in 1994.
 - In 2004-2005, Board minutes from 1979-1986 and 1988 (as available) were filed in ActiveDox.
 - In 2015, Board minutes from 1992-1993 (as available) were filed in ActiveDox.
 - In 2017, Board minutes from 1946-1978, 1987, and 1989-1991 (as available) were filed in ActiveDox.
 - Board agendas started being included with minutes in June 2003.
 - Board audio minutes started on January 9, 2008. A written log of the audio minutes is filed with the Clerk. The audio minute files are stored in the Secretary of State's Oregon Records Management Solution (ORMS) program using its records management software called HPE Records Management, which the County refers to as HP Trim.

PROPERTY LINE ADJUSTMENTS

The PM does not initiate a property line adjustment process unless it pertains to a County property or project. The process is as follows:

- (1) The County Surveyor or contracted surveyor completes a survey of the new/adjusted property boundary(ies).
- (2) The survey is submitted to the Department of Community Development (DCD), along with the DCD application and DCD fee of \$409 (pursuant to Order #15-060).
- (3) The DCD completes Property Line Adjustment application review (Type I review), followed by a 12-day appeal period (only for property owner(s) and applicant(s)).
- (4) Provided there are no appeals filed within the appeal period, the contracted surveyor can submit the proposed property line adjustment survey/deeds (including the adjusted property line descriptions) to the Surveyor's office once the appeal period has ended.
- (5) The County Surveyor reviews the survey map, deeds, and adjusted legal descriptions and provides comments/edits, as necessary, to the contracted surveyor for updating. The County Surveyor's fee for this process is \$350, which includes the map filing fee (pursuant to Order #18-027).
- (6) The County Surveyor files the maps in the Surveyor's office upon receipt of the final map. A copy of the filed map is provided to the contracted surveyor and/or the PM.
- (7) The PM incorporates the legal description(s) into a deed(s) for the Board to sign.
- (8) The deed(s) with the adjusted legal descriptions describing the new boundaries or the boundaries of that area of land adjusted is recorded in the Clerk's office and recording fees are paid. The Surveyor's office does not record deeds that accompany property line adjustments. It is the responsibility of the PM or hired surveyor to record the deed(s).
- (9) Fee Summary:
 - \$409 DCD;
 - \$350 Surveyor;
 - Clerk's recording fees (\$87 for first page, \$5 for each additional page); and
 - If applicable, the value of land conveyed.
- (10) The Assessor's office and GIS Cartographer are provided with copies of the recorded deed(s) from the Clerk's office and a copy of the filed survey from the Surveyor's

office. Once both documents are received, the Cartographer verifies that the taxes are current and if so, adjusts the Assessor's map to reflect the property line adjustment(s).

OTHER REAL PROPERTY MANAGEMENT CONSIDERATIONS

CONVEYANCE

- Statutory language for deeds
 - *ORS 93.040 Mandatory statements for sales agreements, earnest money receipts or other instruments for conveyance of fee title to real property (used in the Tax Deeds, Tax Land Installment Contracts, and Certificates of Sale)*
 - *ORS 93.260 Tax statement information required in conveyancing instrument*
- Acceptance
- Donation to nonprofit
- Donation to the County
 - *The County does not accept land donations because of the potential future liabilities.*
- Sale to state or municipalities
- Reversionary interest

EASEMENTS

- Temporary Construction Easement
 - *Per County Counsel, the easement needs to be an original and notarized, but does not need to be recorded with the Clerk.*
- Exclusive Easement

LAND EXCHANGES

- Process for Land Exchange
- Resolution

LEASES AND LICENSES

- License – Right of Entry
 - *Temporary Right of Entry Agreement*
 - *Woodcutting Permit*
- Revocable License – Mobile Food Unit
- Lease
 - *When the County does a long-term lease, typically the whole lease is paid up front. \$10/year is the going rate. 99-year leases were from common law, but now are viewed as an alienation of title. Courts frown upon 99-year leases and 49-year leases are more common.*
 - *Commercial leases – lessee pays utilities (per Bill Sargent), 307.112*

LAND USE APPLICATIONS

- Code Enforcement
- Tank Abandonment
- Lot of Record

MAINTENANCE AND SUPERVISION

- Fuel reduction; mowing; weed abatement
- Illegal dumping
- Abandoned vehicles

ROADS

- Deed of Dedication
- Accepting an old dedication
- Legalization
 - *Occurs when the legal description is recorded in a deed with the Clerk's office.*

PARKS AND FOREST

- Order Designating Real Property as County Park or Forest
- Disposition of County Park or Forest
 - *The County often extinguishes a park or forest designation prior to conveyance. Title companies typically do not recognize or acknowledge Board orders.*
 - *If a property is donated (ORS 271) and dedicated (ORS 275), it should be conveyed under ORS 275 because it is more restrictive.*
- Fire Patrol
 - *The Oregon Department of Forestry provides fire suppression support to forested County owned lands. ODF annually sends a list of applicable parcels and acres to the County for verification. Following verification, ODF sends an invoice based on a price per acre (about \$10k - \$12k/year).*
- County Trust Lands (Managed by ODF) (ORS 530.010)
 - *The County once owned more than 450,000 acres of forest lands before deeding more than 300,000 to ODF.*

COUNTY POLICIES & PROCEDURES

- Facilities Use Policy
- Room Use Agreement
- Facilities Leasing Policy
- Use of County Lands by the Public
- Surplus Property Procedures

WATER RIGHTS & SUPPLY

- Water Rights Act (ORS 537.010 to 537.992)
- Search for Water Rights on a Property via Oregon's Water Resource Department website:
 - http://www.oregon.gov/owrd/Pages/wr/property_wr_info_TBA.aspx
- Sale of county lands for public water supply purposes (ORS 275.080)

- *County may sell and convey to any person or corporation impounding and selling water to the public, any lands acquired by such county through foreclosure of tax liens or otherwise, when, in the discretion of the governing body of the county, the conveyance is necessary for the preservation or protection of any watershed from which water is being impounded and sold to the public by such person or corporation.*
- *Legal title to timber on such lands shall remain in the county and such timber shall not be removed therefrom except with the express written consent of and under the direct supervision of the State Board of Forestry.*
- *If those lands cease to be used to preserve and protect the watershed for which it was conveyed, or if the person or corporation does not take water from the watershed for a period of one year, legal title to such land shall immediately revert to and revest in the county without the necessity of reentry.*

MINERAL RIGHTS

- Mineral Rights lease / sale (ORS 275.294 to 275.370)
 - *See Douglas County's procedures*

DECEASED PROPERTY OWNERS

- Oregon Department of State Lands has an Estates Administration Unit (ORS 113.238)
 - *A person who has knowledge that a decedent died wholly intestate (without a known will), that the decedent owned property subject to probate in Oregon and that the decedent died without a known heir shall give notice of the death within 48 hours after acquiring that knowledge to an estate administrator of the DSL.*
 - *Under ORS 115.125, the DSL as estate administrator can use any applicable assets to pay all expenses and claims, including property taxes.*

DEFINITIONS

LEGAL DESCRIPTIONS

- Defined in ORS 93.600
 - PLSS: T/R/S (may not equal what is on the ground, 640 ac square map not 640 on ground)
 - PLSS stands for Public Land Survey System (rectangular grid system)
 - T/R/S stands for Township/Range/Section
 - Metes and Bounds: Free form (a tract of land...to a point of beginning)
 - Point to point
 - Plats: Subdivision and partition plats (Lots 32 and 33, Block 21)
 - Partition Plat: 3 or fewer lots
 - Subdivision: >4 lots (but can be less)
 - Blocks not used much anymore
- Strips: Legal descriptions are often written vaguely. If a metes and bounds description does not align to the PLSS lines, then strips are created.
 - 'More or less' language helps avoid strips.
 - Extraneous references to deeds and other instruments are often not needed to describe a property, but they mitigate risk. A call to a deed, road, or otherwise supersedes a number call in feet.
 - Multnomah County Counsel decided to assign zero value to all the remnants they had as a solution as case law is not very helpful.

PARCEL/LEGAL LOT/TAX LOT

- Parcel: Generic term describing a contiguous area of land. Parcel does not necessarily equal legal lot or tax lot. Used by realtors.
- Legal Lot: Created by the planning/surveying department. Tax foreclosure also creates a legal lot.
- Tax Lot: Created by Assessor's office to show ownership and provide for accounting of a legal lot. Also considered a 'cartoon' of a legal lot and is not used for identifying true recorded boundaries. One tax lot could include multiple legal lots, merged into one account for taxation and billing purposes. The Assessor can independently change a tax lot to ensure consistency with the Clerk's deed records.

DEEDS

A "warranty deed" is usually the most beneficial to a buyer of real estate, while a "quitclaim deed" may be most beneficial to a seller. However, each deed may serve a specific desired purpose in certain circumstances.

(1) Warranty Deed (has the strongest protection for the purchaser)

A "warranty deed" contains warranties concerning the seller's right and ability to transfer the property. Usually, the warranties included in a "warranty deed" promise that

- a. the seller owns the property; and

- b. the property is free from all encumbrances (unless the encumbrances are mentioned in the deed).

A warranty deed is a document that transfers the title to a property from the seller to the buyer. It protects the buyer from the chance that someone will come along and lay claim to the property by saying the seller had no right to sell it. A statutory warrant deed is an abbreviated version of a warranty deed written in accordance with state law.

A typical warranty deed names the seller of the property, called the *grantor*, and the buyer, called the *grantee*. It identifies the property being transferred, and it includes legal language in which the seller guarantees – or "warrants" – that he is the rightful owner of the property, that no one else can lay a claim to the property, that he is transferring all his ownership rights to the buyer, and that if he is wrong about any of this, he will compensate the buyer and defend her against any claims.

(2) Statutory Warranty Deed

The guarantees in a warranty deed are usually spelled out in legal jargon. For example, the deed might say, "the Grantor is lawfully seized in fee simple of the above-described premises." Translated: The seller is the rightful owner of the home identified in the deed. Because such language can give rise to disputes, and because legal problems can also arise from errors or leaving out certain words or guarantees, states have statutes identifying exactly what a deed should include in order to be legally enforceable. A deed written to the minimum standards of the law is a statutory warranty deed.

A statutory warranty deed conveys the property together with certain specified covenants from the grantor to the recipient. By using this deed, the grantor promises the transferee

- a. that he or she is the owner of the property and has the right to convey it;
- b. that no one else is possessing the property;
- c. that there are no encumbrances against the property;
- d. that no one with a better claim to the property will interfere with the transferee's rights; and
- e. to defend certain claims regarding title to the property.

Warranty deeds are commonly used in purchase transactions where the buyer wants assurances as to the title of the property.

(3) Bargain and Sale Deed

By contrast, a "bargain and sale deed" promises

- a. that the seller owns the property; and
- b. that the property is free of encumbrances only created by the seller (unless the encumbrances are mentioned in the deed).

The bargain and sale deed has no guarantee that the land being sold is free of encumbrances; the only implication is that the grantor has title, and not one that is necessarily free of defects. The bargain and sale deed is most often the deed that is transferred from a foreclosure or tax sale—hence, the name. Since the grantor, usually a bank or tax authority, did not occupy the land, it would not necessarily know of any encumbrances that may have been attached to the land by the previous owner, and, thus, the grantor does not want to guarantee against any encumbrances. Generally, the bargain and sale deed are conveyed with the words that grantor *grants and releases* or *grants, bargains, and sells*.

Both, a “warranty deed” and a “bargain and sale deed” allow the buyer to claim title to the property if the seller happens to receive “after-acquired title.” A seller receives after-acquired title if he or she does not actually own the property that he or she purports to sell, but receives title after the attempted sale. A bargain and sale deed in Washington would be called a special warranty deed in many other states.

By using a bargain and sale deed, the grantor makes some promises regarding title, but the covenants only relate to the period that the grantor owned the property. Thus, the grantor promises

- a. that he or she is the owner of the property;
- b. that there are no encumbrances against the property during the time the grantor owned it; and
- c. that the grantor will not interfere with the transferee’s rights to the property.

Bargain and sale deeds are commonly used by banks that have acquired property after foreclosure. A bargain and sale deed could also be used in other situations where the grantor is unwilling to make the broad covenants that go along with a warranty deed.

(4) Quitclaim Deed (tax deed template)

A “quitclaim deed” differs from the other deeds in that it makes no warranties at all – it only conveys the interest that the grantor had in the property, whatever that may be. The real estate interest may be full title, but the grantor makes no guarantees of it.

Additionally, a “quitclaim deed” does not allow the buyer to claim “after-acquired title” unless the deed expressly provides for after-acquired title. A “quitclaim deed” simply gives the buyer the “present interest” that the seller has in the property. In some circumstances, this could mean that the deed transfers no interest in the property at all.

Quitclaim deeds are used for many purposes, including gifts of property, conveyances to correct prior deeds, and conveyances to settle a legal dispute. Quitclaim deeds are also used simply to confirm that the grantor does not claim any interest in the described property.

The quitclaim deed is used in those cases where the grantor does not want to assume further liability, or feels no need to guarantee title, such as when a family member transfers title to another family member or the grantor is only transferring some of his rights and not conveying a fee simple estate. A quitclaim deed is also used to cure a title defect, such as a misspelled name on the deed.

The quitclaim deed is used when the grantor's title is not clear. For example, if the grantor inherited the property and wants to sell it for the cash, she doesn't want to guarantee something that cannot be known with certainty. Therefore, to limit her liability, she sells only her interest in the property—whatever it is. If the title later proves defective or if the grantor did not even own the property and only thought that she did, the grantee of the quitclaim deed has no legal recourse against the grantor of the quitclaim deed.

A quitclaim deed conveys title with no covenants at all. The grantor of a quitclaim deed does not even promise that he or she owns the property described in the deed or that he or she has the right to convey it.

LIENS

- A right to keep possession of property belonging to another person until a debt owed by that person is discharged. In law, a lien is a form of security interest granted over an item of property to secure the payment of a debt or performance of some other obligation.
- The owner of the property, who grants the lien, is referred to as the *lienee* and the person who has the benefit of the lien is referred to as the *lien holder*.
- Every year contractor Julie Lafoon does a search on all liens (i.e., JEL Reports) and notices are sent by the Assessor's office. Then, 1 year before the end of the two-year redemption period, another notice is sent. Any lien holder can pay taxes and redeem the property. When County takes deed to property it is free and clear of liens. The lien holders are notified prior to taking deed and have had the right to purchase prior to the County taking deed.
- The County needs to ensure that we know who to notify, that they are notified, and that we keep a record of that notice. (Example: County took possession of the Fuller store and burnt it down. Bank had a lien. County had to pay \$75,000 in insurance claims.)
- All liens existing on a property are extinguished at closing if it is a tax foreclosure. The agency with a lien must file with the Clerk's office a notice to get the proceeds at closing. They will get reimbursed at closing if there are proceeds available after the Treasurer distributes proceeds (see the Distribution of Proceeds section of this document).

HISTORICAL PERSPECTIVE

PATENTS

Federal conveyance (deed) documents that transfers to private ownership.

A land patent (certificate) is an exclusive land grant made by a sovereign entity with respect to a particular tract of land. To make such a grant "patent", a sovereign (proprietary landowner) must document the land grant, securely sign and seal the document (patent), and openly publish the documents for the public to see. An official land patent is the highest evidence of right, title, and interest to a defined area. It is usually granted by a central, federal, or state government to an individual or to a private company. A land patent is known in law as "letters patent", and usually issues to the original grantee and to their heirs and assigns forever. The patent stands as supreme title to the land because it attests that all evidence of title existent before its issue date was reviewed by the sovereign authority under which it was sealed and was so sealed as irrefutable; thus, at law the land patent itself so becomes the title to the land defined within its four corners.

As Great Britain began to colonize colonial America, the Crown made large grants of territory to individuals and companies for free. The purpose was to encourage settlement and agriculture. In turn, those companies and colonial governors later made smaller grants of land based on actual surveys of the land. Thus, in colonial America on the Atlantic seaboard, a connection was made between the surveying of a land tract and its "patenting" as private property.

Many original colonies' land patents came from the corresponding country of control (e.g., the United Kingdom). Most such patents were permanently granted. Those patents are still in force; the United States government honors those patents by treaty law, and, as with all such land patents, they cannot be changed (boundaries cannot be changed). They will also be valid and establish the original owner. Under the 1845-1865 land laws, once occupied for 2 years, you can apply for patent. If you meet the criteria (house, etc.), then the Government surveys the land and you get a patent.

Tillamook County had many historic fraudulent entries. Numerous officers and surveyors were convicted of fraud which resulted in many patents being voided.

FORECLOSURE PROCESS

Oregon has had 3 periods of dealing with tax foreclosures:

- (1) Warrant System: Sheriff issues a warrant if taxes are not paid. If not collected, Sheriff sells property. No County involvement.
- (2) Certification of Delinquency: In the early 20th century, cut over lands and other factors made foreclosure problematic. Certificates were issued on an individual basis and the County foreclosed and sold if taxes were not paid. In the 1920's, foreclosures

significantly increase. Too many for the County to process, so the County stopped foreclosures.

- (3) Modern: The 1929 Legislature overhauled the system and created the one we know today, where foreclosures occur annually. A backlog from the certificate of delinquency period and increasing delinquencies (~100,000 acres/year) created long Book/Page sections. By 1937, the Legislature gave the County broad powers through ORS 275 to manage property.

ANNUAL LAND SALE CALENDAR

Timeframe	Task
Early January	Prepare Tax Collector's Deed and send to Assessor for signature --> mid January agenda
Mid January	Board reviews and signs Tax Collector's Deed
Late January	Schedule Order Transferring Property & Quit Claim Deed on Board agenda
February	Confirm sale date with Treasurer (need staff to accept money)
February	Confirm sale date with Sheriff
February	Set date for Land Sale and reserve room --> update website
February	Send list to Public Works
February	Send list to Parks
February	Property Manager visits sites
Late February	Prepare Order to Sell --> early March agenda (at least 4 weeks before sale)
Early March	Prepare auction packet for Board (Order, Parcel Form, Tax & aerial maps)
March	Start preparing list of adjoining property owners (GeoMoose)
March	Board reviews parcels at Workshop & signs Order to Sell at Board Meeting
2 Days after Order to Sell	Send auction packet to Community Development & Tax Assessor
2 Days after Order to Sell	Prepare Public Notice for Sale
2 Days after Order to Sell	Send Public Notice to Headlight Herald (4 weeks)
2 Days after Order to Sell	Post Notice & Order to Sell on BOCC/Public Land Sales website --> update inventory list on website, add "Bidder Instructions – Annual Public Auction", remove "Bidder Instructions – Between Land Sale Auctions"
1 Week after Order to Sell	Prepare prospectus letters (adjoining landowner letter) for each parcel
1 Week after Order to Sell	Mail notices and inventory list to adjoining property owners
1 Week after Order to Sell	Publish notice, verify
As needed	Notify Headlight Herald to modify Notice for remaining 3 weeks
2 Weeks after Order to Sell	Publish notice, verify
3 Weeks after Order to Sell	Publish notice, verify
4 Weeks after Order to Sell	Publish notice, verify
Upon Receipt of Affidavit of Publication	File & Record the Public Notice for Sale and Affidavit of Publication (prep IPA for recording fees)

Timeframe	Task
1 Week before Auction	Prepare/update Certificate of Sale and determine recording fees (draft Tax Deeds & Contracts)
1 Week before Auction	Prepare Bid Tally Sheets & Bidder Registration Sheet
Day of Auction	Land Sale in the County Courthouse: <ul style="list-style-type: none"> • Write on white board where to sign up and where sale will be • Bid Tally Sheets & Bidder Registration Sheet • Land Sale Auction outline for Property Manager to read • Copies of instructions for bidders (10) • Exhibit B from Order to Sell for the Sheriff to read off • Register bidders (registration opens 30 mins before auction start)
Day of Auction	At close, complete Certificates of Sale (Treasurer's office handles money) and record the Sheriff's Return by 4pm (prep IPA for recording fees)
Day after Auction	Remove Order and Notice from BOCC/Public Land Sales website --> update inventory list on website, add " Bidder Instructions – Between Land Sale Auctions", remove "Bidder Instructions – Annual Public Auction"
Day after Auction	Prepare contracts and send to County Counsel for review
1 Week after Auction	Complete contracts and send to purchasers for execution
1 Week after Auction	Complete preparation of deeds
Within 30 days of Auction	BOC or Chief of Staff (who is the Property Manager) executes deeds and contracts
Within 30 days of Auction	Record deeds and contracts --> mail original to buyer by certified mail using \$100 processing fee
After Deed/Contract Recorded	File hard copy folders of Sold lots in the "closed properties files"
After Deed/Contract Recorded	Save hard copy folders of Unsold lots for next year's auction and send list to Habitat for Humanity and Housing Commission if appropriate --> update inventory list on website as needed

DISPOSAL PROCEDURES SUMMARY TABLE

Property Type	Acquired Through	Convey To	Conveyance Type	Disposal Statutes to Consider	Notes	Distribution of Proceeds Statute	Distribution of Proceeds
Parks & Recreational, Forest	Tax Foreclosure	governmental body	relinquish title	ORS 271.330(1)	< 20 yr public use	ORS 275.330(2)	15% General Fund, 85% Parks
		nonprofit	relinquish title	ORS 271.330(2)	3 qualifying purposes	ORS 275.330(2)	
		individual, partnership, corp	exchange	ORS 275.060	if offered but not sold, exchange not required to be equal	ORS 275.330(2)	
		US, state, corp, Tribe	purchase option, contract to sell, sell, convey, donate	ORS 275.070		ORS 275.330(2)	
		not stated (anyone)	sell, exchange, lease	ORS 275.090, 275.110	Sheriff's auction	ORS 275.330(2)	
		not stated (anyone)	sell	ORS 275.200	not sold at Sheriff's auction (85% of min bid)	ORS 275.330(2)	
		not stated (anyone)	sell	ORS 275.225	<\$15,000 RMV and unbuildable	ORS 275.330(2)	
		US, state, city, park/rec district	convey	ORS 275.330(1)(b)	can be without compensation	ORS 275.330(2)	
Parks & Recreational, Forest	Purchase, Donation, Exchange	governmental body, private individual, corp	sell, exchange, lease	ORS 271.310, 275.030	lease max 99 yrs, 271.340 equal exchange	ORS 275.330(2)	15% General Fund, 85% Parks
		governmental body	relinquish title	ORS 271.330(1)	< 20 yr public use, 271.340 equal exchange	ORS 275.330(2)	
		nonprofit	relinquish title	ORS 271.330(2)	3 qualifying purposes, 271.340 equal exchange	ORS 275.330(2)	
		individual, partnership, corp	exchange	ORS 275.060	if offered but not sold, exchange not required to be equal	ORS 275.330(2)	
		US, state, corp, Tribe	purchase option, contract to sell, sell, convey, donate	ORS 275.070		ORS 275.330(2)	
		not stated (anyone)	sell, exchange, lease	ORS 275.090, 275.110	Sheriff's auction (excludes properties acquired by purchase)	ORS 275.330(2)	
		not stated (anyone)	sell	ORS 275.200	not sold at Sheriff's auction (85% of min bid)	ORS 275.330(2)	
		not stated (anyone)	sell	ORS 275.225	<\$15,000 RMV and unbuildable	ORS 275.330(2)	
Tax Foreclosure	Tax Foreclosure	US, state, city, park/rec district	convey	ORS 275.330(1)(b)	can be without compensation	ORS 275.330(2)	100% General Fund
		not stated (anyone)	convey, alienate, sell, exchange	ORS 275.330(2)	can be without compensation, exchanged property is designated parks/rec	ORS 275.330(2)	
		not stated (anyone)	exchange	ORS 275.335	exchange equal, acquired property is designated forest	ORS 275.330(2)	
		governmental body	relinquish title	ORS 271.330(1)	< 20 yr public use	None	
		nonprofit	relinquish title	ORS 271.330(2)	3 qualifying purposes	None	
		individual, partnership, corp	exchange	ORS 275.060	if offered but not sold, exchange not required to be equal	None	
		US, state, corp, Tribe	purchase option, contract to sell, sell, convey, donate	ORS 275.070		None	
		not stated (anyone)	sell, exchange, lease	ORS 275.090, 275.110	Sheriff's auction	ORS 275.275	
Purchase, Donation, Exchange	Purchase, Donation, Exchange	not stated (anyone)	sell	ORS 275.200	not sold at Sheriff's auction (85% of min bid)	ORS 275.275	ORS 275.275
		not stated (anyone)	sell	ORS 275.225	<\$15,000 RMV and unbuildable	ORS 275.275	ORS 275.275
		governmental body, private individual, corp	sell, exchange, lease	ORS 271.310, 275.030	lease max 99 yrs, 271.340 equal exchange	None	100% General Fund
		governmental body	relinquish title	ORS 271.330(1)	< 20 yr public use, 271.340 equal exchange	None	100% General Fund
		nonprofit	relinquish title	ORS 271.330(2)	3 qualifying purposes, 271.340 equal exchange	None	100% General Fund
		individual, partnership, corp	exchange	ORS 275.060	if offered but not sold, exchange not required to be equal	None	100% General Fund
		US, state, corp, Tribe	purchase option, contract to sell, sell, convey, donate	ORS 275.070		None	100% General Fund
		not stated (anyone)	sell, exchange, lease	ORS 275.090, 275.110	Sheriff's auction (excludes properties acquired by purchase)	ORS 275.275	ORS 275.275
not stated (anyone)	sell	ORS 275.200	not sold at Sheriff's auction (85% of min bid)	ORS 275.275	ORS 275.275		
not stated (anyone)	sell	ORS 275.225	<\$15,000 RMV and unbuildable	ORS 275.275	ORS 275.275		